

# AGENDA ITEM SUMMARY

December 2, 2014

City Council

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## STAFF

Ted Shepard, Chief Planner

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## SUBJECT

First Reading of Ordinance No. 175, 2014, Making Various Amendments to the Land Use Code.

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## EXECUTIVE SUMMARY

The purpose of this item is to adopt a variety of revisions, clarifications and additions to the Land Use Code that have been identified since the last update in July 2014.

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## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

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## 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.

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## FINANCIAL / ECONOMIC IMPACTS

There are two new land uses: Food Truck Rally (allowed in nine zone districts) and Music Facility, Multi-Purpose (allowed in six zone districts). Also, Micro-breweries, distilleries and wineries are now allowed in the Harmony Corridor zone district. These additions allow the Land Use Code to respond to current trends and further enable economic activity.

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## ENVIRONMENTAL IMPACTS

There are no environmental impacts associated with the proposed revisions.

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## 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 September and November of this year. At its November 13, 2014 meeting, the Planning and Zoning Board considered the proposed revisions and voted unanimously to recommend to Council approval of all the changes.

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## PUBLIC OUTREACH

The proposed revisions were listed on "This Week in Development Review," the weekly online notice that is posted on the website and sent out to approximately 435 subscribers. In addition, the items were noted on the "Agenda" notice for the November Planning and Zoning Board public hearing, and then post-hearing, listed again under "Recent Outcomes." The items were also discussed at the Chamber of Commerce Local Legislative Affairs Committee.

**ATTACHMENTS**

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1. LUC Issues (PDF)
2. LUC Summary of Issues (PDF)
3. Cross Reference Report - Issues With Ordinance Section Numbers (PDF)
4. Powerpoint (PPTX)

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# Land Use Code Issues

Tuesday, November 25, 2014

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**Issue ID# Issue Name**

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- 152 Amend 5.1.2 - Definitions and Article Four - zone districts to create a new land use - Food Truck Rally - as a temporary or periodic permitted use and assign to eight zone districts as a Type One use.
- 154 Amend 3.8.3(10)(h) - Home Occupations - Prohibited Uses - to include the prohibition of retail marijuana, as defined in City Code, as a home occupation.
- 839 Amend 2.16.2(D) – Site Plan Advisory Review Procedures and 3.8.4(A) Child Care Regulations – to make two minor housekeeping revisions for verbiage consistency.
- 989 Amend 2.2.7(G)(2) - Recording of Decisions and Plats - and 2.2.11(D)(1) - Lapse - to further define and clarify what constitutes a Final Plan and exactly upon what event creates the three-year vesting.
- 990 Amend 2.2.3(C)(i) - Execution of Plats/Deeds; Signature Requirements - to remove an applicant's option of providing title insurance as a substitution for an attorney certification.
- 993 Amend 4.16(B) - Downtown Zone - Permitted Use List to address the limitation of no more than 4 single family attached dwellings in the Canyon Avenue and Civic Center Sub-districts.
- 995 Amend 4.26(B)(2) and (D) - Harmony Corridor Zone Permitted Use List to add Micro-Breweries, Distilleries and Wineries as permitted uses in Mixed-Use Activity Centers and as secondary uses in the Basic Industrial Non Retail Employment Activity Center.
- 996 Amend 5.1.2 - Definitions - to delete the requirement that the minimum size of a dwelling be 800 square feet to promote affordability and rely on specific life/safety minimums which are covered in the Building Code.
- 997 Amend 1.3.4 - Addition of Permitted Use - to add two review criteria, clarify the imposition of conditions, add a new section regarding changes and update the prohibition on marijuana uses.
- 998 Amend Article Five - Definitions - to create a new use, Music Facility, Multi-Purpose, to allow small venues for indoor and outdoor performances, and assign to seven zone districts.
- 999 Amend 2.1.1 - Decision Maker and Administrative Bodies and 2.1.3(A) - Types of Development Applications - in order to add two references to the Basic Development Review process.

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# Land Use Code Maintenance Process

## *Annotated Issue List*

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- 152 Amend 5.1.2 - Definitions and Article Four - zone districts to create a new land use - Food Truck Rally - as a temporary or periodic permitted use and assign to eight zone districts as a Type One use.**

*Problem Statement*

The growing national trend for food truck operators is to organize the gathering of numerous trucks (typically ten to twenty trucks or more) in one location on a regular basis (varies by city), commonly referred to as a “Rally”. The current City and Land Use Code requirements do not permit food truck rally events on private improved lots with more than eight vendors. In the past few years, rally events have taken place in public parks, as part of a Special Events Permit, with no limit to the number of vendors.

Food truck vendors have expressed interest in finding an appropriate location on private property to accommodate rallies of more than eight on a regular basis near commercial activity. Similar to other cities, food truck vendors claim the benefits of rallies by providing more food choices for patrons and unique dining experience as a community attribute. The National food truck industry has grown from \$324 million in revenue in 2000 to a projected \$804 million in 2014, according to IBISWorld Industry Research.

*Proposed Solution Overview*

The purpose of this item is to amend the Land Use Code regarding food truck rallies to further support the outdoor food vending community. In 2012, City Council adopted new outdoor vendor regulations based on a comprehensive study. Since the inception of the new regulations, staff has been monitoring the activity and working with the mobile food vending community to address opportunities for improvement to the Code. Staff is recommending Code revisions to address the opportunities, while clarifying language in the Land Use Code. Additional standards and requirements are proposed to be referenced in the Municipal Code.

*Related Code Revisions*

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
10	4.16(B)(2)	Adds Food Truck Rally as a Type One permitted use in all three sub-districts - Downtown zone.
11	4.17(B)(2)(c)(8)	Adds Food Truck Rally to R-D-R as a Type One.
12	4.18(B)(2)(c)	Adds Food Truck Rally to Community Commercial as a Type One.
13	4.19(B)(2)(c)	Adds Food Truck Rally to C-C-N as a Type One.
15	4.21(B)(2)	Adds Food Truck Rally to C-G as a Type One.
16	4.23(B)(2)(c)	Adds Food Truck Rally to N-C as a Type One.
17	4.24(B)(2)	Adds Food Truck Rally to C-L as a Type One.
18	4.26(B)(2)(c)	Adds Food Truck Rally to H-C as a Type One.
19	4.26(D)(2)	Adds Food Truck Rally as a secondary use in the H-C BINREAC.
22	5.1.2	Adds a definition of Food Truck Rally.

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- 154 Amend 3.8.3(10)(h) - Home Occupations - Prohibited Uses - to include the prohibition of retail marijuana, as defined in City Code, as a home occupation.**
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*Problem Statement*

Within the last year, the Land Use Code has added retail marijuana as a permitted use in certain zone districts. It was not the intent to include uses associated with marijuana as a home occupation. However, at the time that retail marijuana was added to the code, the home occupation section was not updated. Therefore, the code currently prohibits medical marijuana but not retail marijuana.

*Proposed Solution Overview*

Add retail marijuana as a prohibited use of a home occupation.

*Related Code Revisions*

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
8	3.8.3(10)(i)	Deletes retail marijuana from Home Occupations.

**839 Amend 2.16.2(D) – Site Plan Advisory Review Procedures and 3.8.4(A) Child Care Regulations – to make two minor housekeeping revisions for verbiage consistency.**

*Problem Statement*

Regarding Section 2.16.2 – Site Plan Advisory Review Procedures – Step 4, the code revisions for the Spring of 2014 omitted the revision to change the phrase Determination of Sufficiency to the new language Review of Application.

Regarding 3.8.4(A) – Child Care Regulations, the code revisions for Spring of 2014 omitted the revision to change the phrase Preschool Nurseries to Child Care Centers.

These two revisions are considered housekeeping and do not affect the substance of either provision.

*Proposed Solution Overview*

The solution is to make these two minor revisions in verbiage so that there is consistency throughout the Code.

*Related Code Revisions*

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
7	2.16.2(D)	Corrects the language in the standard for consistency.
9	3.8.4(A)	Corrects the language in the standard for consistency.

**989 Amend 2.2.7(G)(2) - Recording of Decisions and Plats - and 2.2.11(D)(1) - Lapse - to further define and clarify what constitutes a Final Plan and exactly upon what event creates the three-year vesting.**

*Problem Statement*

The Code contains several sections that address recording at the County and filing with the City the necessary final documents that constitute a Final Plan. In addition, the Code contains sections addressing expiration, vested rights and vested rights determinations; there is nothing that ties them all together. As a result, there has been some ambiguity as to what documents are needed to establish a Final Plan and when the clock starts on a three-year vesting period.

*Proposed Solution Overview*

The proposed solution is to add a section describing the necessary documents and timing of a Final Plan.

*Related Code Revisions*

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
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5	2.2.7(G)(2)	Adds clarification that establishes the effective approval date of a Final Plan.
6	2.2.11(D)(1)	Adds clarification that establishes the effective approval date of a Final Plan.

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**990 Amend 2.2.3(C)(i) - Execution of Plats/Deeds; Signature Requirements - to remove an applicant's option of providing title insurance as a substitution for an attorney certification.**

*Problem Statement*

2.2.3(C)(f) requires that plats and deeds of dedication are signed by an attorney (an "attorney certification") certifying to the City that all the necessary signatures are obtained as a means to ensure that the signatures on plats and/or deeds are proper. 2.2.3(C)(i) presently allows for title insurance to be used in substitution of an attorney certification. The option of title insurance has demonstrated to be a significant burden on City staff to review their entire title commitment and all title exceptions to make sure sufficient title insurance is obtained to cover the cost to repurchase easements and/or rights-of-way on the plat and/or deeds of dedication. City staff believes this burden should be directed solely upon the applicant by way of an applicant's attorney reviewing of the title and providing an attorney certification.

*Proposed Solution Overview*

The proposed solution removes 2.2.3(C)(i) in its entirety, requiring an attorney certification (and no longer allowing title insurance) to accompany plats and deeds of dedication.

*Related Code Revisions*

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
4	2.2.3(C)(i)	Delete the option of providing title insurance.

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**993 Amend 4.16(B) - Downtown Zone - Permitted Use List to address the limitation of no more than 4 single family attached dwellings in the Canyon Avenue and Civic Center Sub-districts.**

*Problem Statement*

Single-family attached dwellings (greater than four units per building) are not permitted in the Downtown District. However, multi-family dwellings greater than 50 units are permitted. The impacts created from a large multi-family development are equal or greater than those of a single-family attached development in terms of building height and mass, parking and traffic. Conversely, single-family attached dwellings are not as efficient of a land use in terms of density because they are platted separately each on their own piece of ground. Single-family attached dwellings are only permitted in the Downtown sub-districts at the perimeter: Civic Center and Canyon Avenue. This land use serves as an effective transition between the dense commercial center of Downtown and the adjacent Neighborhood Conservation Buffer (N-C-B) Districts.

*Proposed Solution Overview*

Amend 4.16 (B) Downtown District (D) Permitted Uses to remove the land use modifier - up to four units per building.

*Related Code Revisions*

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
10	4.16(B)(2)	Removes the cap of four units per building for single family attached in two sub-districts - Downtown.

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**995 Amend 4.26(B)(2) and (D) - Harmony Corridor Zone Permitted Use List to add Micro-Breweries, Distilleries and Wineries as permitted uses in Mixed-Use Activity Centers and as**

***secondary uses in the Basic Industrial Non Retail Employment Activity Center.***

***Problem Statement***

In 2012, the Microbreweries/distilleries/wineries were created and defined. Initially, the uses were permitted in the same districts and manner as bar/tavern, which is not permitted in the H-C District. Although microbreweries/distilleries/wineries share many characteristics with bars, they do not merely serve alcoholic beverages. Microbreweries/distilleries/wineries manufacture a consumer product on the premises and, in some instances, distribute the product. Therefore the use provides a greater spectrum of employment opportunities in a growing industry which is consistent with the types of uses envisioned for Shopping Centers in the Harmony Corridor.

***Proposed Solution Overview***

Amend 4.26 (B) – Harmony Corridor District (H-C) – Permitted Uses – to include Microbrewery/distillery/winery in Mixed-Use Activity Centers, as defined in the Harmony Corridor Plan, and permitted by administrative review (Type One), and as a Secondary Use (but limited to a maximum of 25% of the total gross area of the development plan) in the Basic Industrial Non-Retail Employment Activity Center.

***Related Code Revisions***

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
18	4.26(B)(2)[c]	Adds Micro-Breweries, Distilleries, Wineries as a permitted use in H-C Mixed-Use Activity Center.
19	4.26(D)(2)	Adds Micro-Breweries, Distilleries, Wineries as a secondary use in the H-C, BINREAC.

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**996 Amend 5.1.2 - Definitions - to delete the requirement that the minimum size of a dwelling be 800 square feet to promote affordability and rely on specific life/safey minimums which are covered in the Building Code.**

***Problem Statement***

The Land Use Code – Definitions – currently includes a minimum size requirement of 800 square feet for dwellings. This minimum does not have an identifiable rationale for meeting a health, safety, or other community need. In the City's Building Codes (I.B.C. and I.R.C.), there are separate minimums for specific rooms to protect health and safety, which establish a functional minimum for a dwelling or dwelling unit. Furthermore, numerous dwellings in the city, particularly older homes in and around the downtown, do not meet the minimum as defined in the Land Use Code.

***Proposed Solution Overview***

Removing the reference to a minimum dwelling size of 800 square feet would allow the Building Codes to govern the size of dwellings in order to meet health and safety needs. The removal of this minimum requirement would also allow for new dwellings to be constructed smaller than 800 square feet, which, in some cases, may be more compatible with adjacent properties or allow for greater flexibility in the provision of new housing in the city.

***Related Code Revisions***

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
21	5.1.2	Deletes the minimum size requirement from definition of Dwelling.

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**997 Amend 1.3.4 - Addition of Permitted Use - to add two review criteria, clarify the imposition of conditions, add a new section regarding changes and update the prohibition on marijuana uses.**

*Problem Statement*

Some members of the public continue to express concern that the degree of flexibility afforded to developing property owners under the APU process has been provided at the expense of neighborhood livability and character, and that the outcomes are too unpredictable.

*Proposed Solution Overview*

The proposed solution adds two general approval criteria for APU applications, introduces a possible range of conditions the Planning and Zoning Board may apply to an APU approval, and clarifies that a new APU application is triggered when changes to the location, design, operational characteristics of the new APU are inconsistent with neighborhood character.

*Related Code Revisions*

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
1	1.3.4(C)(3)(5)(8)(F)(G)	Adds criteria and clarifies conditions and changes.

**998 Amend Article Five - Definitions - to create a new use, Music Facility, Multi-Purpose, to allow small venues for indoor and outdoor performances, and assign to seven zone districts.**

*Problem Statement*

The Land Use Code does not provide a suitable definition for a proposed music-focused facility. The proposed use is not listed as a permitted use in any zone district nor does it specifically fall within any existing use classification. A new use "Music Facility, Multi-Purpose" has been added by the Director, as authorized under Section 1.3.4 (B)(1) specific to the development application for a property within the Community Commercial (C-C) zone district.

*Proposed Solution Overview*

Include a text amendment to the Land Use Code, defining the new use "Music Facility, Multi-Purpose", adding it to the Community Commercial (C-C), Community Commercial North College (C-C-N), Community Commercial River (C-C-R), Downtown (D), River Redevelopment (R-D-R), and Industrial (I) zone districts as a Type I (Administrative) Use, and creating supplementary standards that set upper limitations on the size of indoor and outdoor spaces within the facility and allow for Alternative Compliance provisions that will allow a degree of design flexibility.

*Related Code Revisions*

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
10	4.16(B)(2)	Adds Music Facility, Multi-Purpose as a Type One permitted use to all three sub-districts - Downtown.
11	4.17(B)(2)(c )(8)	Adds Music Facility, Multi-Purpose as a Type One permitted use to R-D-R.
12	4.18(B)(2)(c)	Adds Music Facility, Multi-Purpose as a Type One permitted use to C-C.
13	4.19(B)(2)(c)	Adds Music Facility, Multi-Purpose as a Type One permitted use to C-C-N.
14	4.20(B)(2)(c)	Adds Music Facility, Multi-Purpose as a Type One permitted use to C-C-R.
20	4.28(B)(2)(b)	Adds Music Facility, Multi-Purpose as a Type One permitted use in the Industrial zone.
23	5.1.2	Adds a definition for Music Facility, Multi-Purpose.

**999 Amend 2.1.1 - Decision Maker and Administrative Bodies and 2.1.3(A) - Types of Development Applications - in order to add two references to the Basic Development Review**

***process.***

*Problem Statement*

There are numerous uses listed in throughout the various zone districts in Article Four that are subject to review at the staff level and where the director (or the director's subordinate) is also authorized as the decision maker. Referred to as Basic Development Review, this process is not mentioned in either Section 2.1.1 or Section 2.1.3(A) where other processes are addressed.

*Proposed Solution Overview*

The proposed solution is to add two references to Basic Development Review so it is included in the same sections as Administrative Review (Type One) and Planning and Zoning Board review (Type Two).

*Related Code Revisions*

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
2	2.1.1	Adds Basic Development Review to the section.
3	2.1.3	Adds Basic Development Review to the section.

## Annotated Ordinance Index

Ord. Section #	Code Cite	Revision Effect	Issue
1	1.3.4(C)(3)(5)(8)(F)(G)	Adds criteria and clarifies conditions and changes.	997 Amend 1.3.4 - Addition of Permitted Use - to add two review criteria, clarify the imposition of conditions, add a new section regarding changes and update the prohibition on marijuana uses.
2	2.1.1	Adds Basic Development Review to the section.	999 Amend 2.1.1 - Decision Maker and Administrative Bodies and 2.1.3(A) - Types of Development Applications - in order to add two references to the Basic Development Review process.
3	2.1.3	Adds Basic Development Review to the section.	999 Amend 2.1.1 - Decision Maker and Administrative Bodies and 2.1.3(A) - Types of Development Applications - in order to add two references to the Basic Development Review process.
4	2.2.3(C)(i)	Delete the option of providing title insurance.	990 Amend 2.2.3(C)(i) - Execution of Plats/Deeds; Signature Requirements - to remove an applicant's option of providing title insurance as a substitution for an attorney certification.
5	2.2.7(G)(2)	Adds clarification that establishes the effective approval date of a Final Plan.	989 Amend 2.2.7(G)(2) - Recording of Decisions and Plats - and 2.2.11(D)(1) - Lapse - to further define and clarify what constitutes a Final Plan and exactly upon what event creates the three-year vesting.
6	2.2.11(D)(1)	Adds clarification that establishes the effective approval date of a Final Plan.	989 Amend 2.2.7(G)(2) - Recording of Decisions and Plats - and 2.2.11(D)(1) - Lapse - to further define and clarify what constitutes a Final Plan and exactly upon what event creates the three-year vesting.
7	2.16.2(D)	Corrects the language in the standard for consistency.	839 Amend 2.16.2(D) - Site Plan Advisory Review Procedures and 3.8.4(A) Child Care Regulations - to make two minor housekeeping revisions for verbiage consistency.
8	3.8.3(10)(i)	Deletes retail marijuana from Home Occupations.	154 Amend 3.8.3(10)(h) - Home Occupations - Prohibited Uses - to include the prohibition of retail marijuana, as defined in City Code, as a home occupation.
9	3.8.4(A)	Corrects the language in the standard for consistency.	839 Amend 2.16.2(D) - Site Plan Advisory Review Procedures and 3.8.4(A) Child Care Regulations - to make two minor housekeeping revisions for verbiage consistency.

<b>Ord. Section #</b>	<b>Code Cite</b>	<b>Revision Effect</b>	<b>Issue</b>
10	4.16(B)(2)	Adds Food Truck Rally as a Type One permitted use in all three sub-districts - Downtown zone.	152 Amend 5.1.2 - Definitions and Article Four - zone districts to create a new land use - Food Truck Rally - as a temporary or periodic permitted use and assign to eight zone districts as a Type One use.
10	4.16(B)(2)	Removes the cap of four units per building for single family attached in two sub-districts - Downtown.	993 Amend 4.16(B) - Downtown Zone - Permitted Use List to address the limitation of no more than 4 single family attached dwellings in the Canyon Avenue and Civic Center Sub-districts.
10	4.16(B)(2)	Adds Music Facility, Multi-Purpose as a Type One permitted use to all three sub-districts - Downtown.	998 Amend Article Five - Definitions - to create a new use, Music Facility, Multi-Purpose, to allow small venues for indoor and outdoor performances, and assign to seven zone districts.
11	4.17(B)(2)(c)(8)	Adds Music Facility, Multi-Purpose as a Type One permitted use to R-D-R.	998 Amend Article Five - Definitions - to create a new use, Music Facility, Multi-Purpose, to allow small venues for indoor and outdoor performances, and assign to seven zone districts.
11	4.17(B)(2)(c)(8)	Adds Food Truck Rally to R-D-R as a Type One.	152 Amend 5.1.2 - Definitions and Article Four - zone districts to create a new land use - Food Truck Rally - as a temporary or periodic permitted use and assign to eight zone districts as a Type One use.
12	4.18(B)(2)[c]	Adds Food Truck Rally to Community Commercial as a Type One.	152 Amend 5.1.2 - Definitions and Article Four - zone districts to create a new land use - Food Truck Rally - as a temporary or periodic permitted use and assign to eight zone districts as a Type One use.
12	4.18(B)(2)[c]	Adds Music Facility, Multi-Purpose as a Type One permitted use to C-C.	998 Amend Article Five - Definitions - to create a new use, Music Facility, Multi-Purpose, to allow small venues for indoor and outdoor performances, and assign to seven zone districts.
13	4.19(B)(2)[c]	Adds Music Facility, Multi-Purpose as a Type One permitted use to C-C-N.	998 Amend Article Five - Definitions - to create a new use, Music Facility, Multi-Purpose, to allow small venues for indoor and outdoor performances, and assign to seven zone districts.
13	4.19(B)(2)[c]	Adds Food Truck Rally to C-C-N as a Type One.	152 Amend 5.1.2 - Definitions and Article Four - zone districts to create a new land use - Food Truck Rally - as a temporary or periodic permitted use and assign to eight zone districts as a Type One use.

<b>Ord. Section #</b>	<b>Code Cite</b>	<b>Revision Effect</b>	<b>Issue</b>
14	4.20(B)(2)[c]	Adds Music Facility, Multi-Purpose as a Type One permitted use to C-C-R.	998 Amend Article Five - Definitions - to create a new use, Music Facility, Multi-Purpose, to allow small venues for indoor and outdoor performances, and assign to seven zone districts.
15	4.21(B)(2)	Adds Food Truck Rally to C-G as a Type One.	152 Amend 5.1.2 - Definitions and Article Four - zone districts to create a new land use - Food Truck Rally - as a temporary or periodic permitted use and assign to eight zone districts as a Type One use.
16	4.23(B)(2)[c]	Adds Food Truck Rally to N-C as a Type One.	152 Amend 5.1.2 - Definitions and Article Four - zone districts to create a new land use - Food Truck Rally - as a temporary or periodic permitted use and assign to eight zone districts as a Type One use.
17	4.24(B)(2)	Adds Food Truck Rally to C-L as a Type One.	152 Amend 5.1.2 - Definitions and Article Four - zone districts to create a new land use - Food Truck Rally - as a temporary or periodic permitted use and assign to eight zone districts as a Type One use.
18	4.26(B)(2)[c]	Adds Micro-Breweries, Distilleries, Wineries as a permitted use in H-C Mixed-Use Activity Center.	995 Amend 4.26(B)(2) and (D) - Harmony Corridor Zone Permitted Use List to add Micro-Breweries, Distilleries and Wineries as permitted uses in Mixed-Use Activity Centers and as secondary uses in the Basic Industrial Non Retail Employment Activity Center.
18	4.26(B)(2)[c]	Adds Food Truck Rally to H-C as a Type One.	152 Amend 5.1.2 - Definitions and Article Four - zone districts to create a new land use - Food Truck Rally - as a temporary or periodic permitted use and assign to eight zone districts as a Type One use.
19	4.26(D)(2)	Adds Food Truck Rally as a secondary use in the H-C BINREAC.	152 Amend 5.1.2 - Definitions and Article Four - zone districts to create a new land use - Food Truck Rally - as a temporary or periodic permitted use and assign to eight zone districts as a Type One use.
19	4.26(D)(2)	Adds Micro-Breweries, Distilleries, Wineries as a secondary use in the H-C, BINREAC.	995 Amend 4.26(B)(2) and (D) - Harmony Corridor Zone Permitted Use List to add Micro-Breweries, Distilleries and Wineries as permitted uses in Mixed-Use Activity Centers and as secondary uses in the Basic Industrial Non Retail Employment Activity Center.
20	4.28(B)(2)(b)	Adds Music Facility, Multi-Purpose as a Type One permitted use in the Industrial zone.	998 Amend Article Five - Definitions - to create a new use, Music Facility, Multi-Purpose, to allow small venues for indoor and outdoor performances, and assign to seven zone districts.

<b>Ord. Section #</b>	<b>Code Cite</b>	<b>Revision Effect</b>	<b>Issue</b>
21	5.1.2	Deletes the minimum size requirement from definition of Dwelling.	996 Amend 5.1.2 - Definitions - to delete the requirement that the minimum size of a dwelling be 800 square feet to promote affordability and rely on specific life/safety minimums which are covered in the Building Code.
22	5.1.2	Adds a definition of Food Truck Rally.	152 Amend 5.1.2 - Definitions and Article Four - zone districts to create a new land use - Food Truck Rally - as a temporary or periodic permitted use and assign to eight zone districts as a Type One use.
23	5.1.2	Adds a definition for Music Facility, Multi-Purpose.	998 Amend Article Five - Definitions - to create a new use, Music Facility, Multi-Purpose, to allow small venues for indoor and outdoor performances, and assign to seven zone districts.

ORDINANCE NO. 175, 2014  
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 1.3.4 of the Land Use Code is hereby amended to read as follows:

**1.3.4 Addition of Permitted Uses**

...

(C) ***Required Findings.*** In conjunction with an application for approval of an overall development plan, a project development plan, a final plan or any amendment of the foregoing, and upon the petition of the applicant or on the Director's own initiative, the Director (or the Planning and Zoning Board as specifically authorized and limited in subsection (D) below) may add to the uses specified in a particular zone district any other similar use which conforms to all of the following conditions:

- (1) Such use is appropriate in the zone district to which it is added.
- (2) Such use conforms to the basic characteristics of the zone district and the other permitted uses in the zone district to which it is added.
- (3) The location, size and design of such use is compatible with and has minimal negative impact on the use of nearby properties.

(34) Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences or any more traffic hazards, traffic generation or attraction, adverse environmental impacts, adverse impacts on public or quasi-public facilities, utilities or services, adverse effect on public health, safety, morals or aesthetics, or other adverse impacts of development, than the amount normally resulting from the other permitted uses listed in the zone district to which it is added.

(5) Such use will not change the predominant character of the surrounding area.

(46) Such use is compatible with the other listed permitted uses in the zone district to which it is added.

(57) Such use, if located within or adjacent to an existing residential neighborhood, shall be subject to two (2) neighborhood meetings, unless the Director determines, from information derived from the conceptual review process, that the development proposal would not have any significant neighborhood impacts. The first neighborhood meeting must take place prior to the submittal of an application. The second neighborhood meeting must take place after the submittal of an application and after the application has completed the first round of staff review.

(68) Such use is not a ~~retail marijuana store, retail marijuana cultivation facility, retail marijuana product manufacturing facility, retail marijuana testing facility, medical marijuana dispensary or a medical marijuana cultivation facility~~ medical marijuana business as defined in Section 15-452 of the City Code or a retail marijuana establishment as defined in Section 15-603 of the City Code.

...

(F) **Conditions.** When any use has been added to the list of permitted uses in any zone district in accordance with this Section, the Director (or the Planning and Zoning Board, if applicable) may impose such conditions and requirements (including, but not limited to, conditions related to the location, size and design) on such use as are necessary or desirable to: (1) accomplish the purposes and intent of this Code, (2) ~~to~~ ensure consistency with the City Plan and its adopted components and associated sub-area plans, or (3) ~~to~~ prevent or minimize adverse effects and impacts.

(G) **Changes to Approved Addition of Permitted Use.** Approvals under this Section are specific to the subject Addition of Permitted Use application. Any changes to the use or to its location, size and design, in a manner that changes the predominant character of or increases the negative impact upon the surrounding area, will require the approval of a new Addition of Permitted Use.

Section 2. That Section 2.1.1 of the Land Use Code is hereby amended to read as follows:

### 2.1.1 Decision Maker and Administrative Bodies

The City Council, Planning and Zoning Board, Zoning Board of Appeals and Community Planning and Environmental Services Director (the "Director") are frequently referenced in this Land Use Code. Reference should be made to Chapter 2 of the City Code for descriptions of these and other decision makers and administrative bodies, and their powers, duties, membership qualifications and related matters.

~~Either the~~ The Director or the Planning and Zoning Board will consider, review and decide all development applications for permitted uses (overall development plans, **basic development review plans**, project development plans and final plans) according to the provisions of this Land Use Code. **For those development applications subject to basic development review, the Director (or the Director's subordinate) is the designated decision maker.** For those development applications subject to administrative review (sometimes referred to as "Type 1 review"), the Director is the designated decision maker (see Section 2.2.7(A)(1)). For those development applications subject to P&Z review (sometimes referred to as "Type 2 review"), the Planning and Zoning Board is the designated decision maker (see Section 2.2.7(A)(2)). The permitted use list for a particular zone district and the development review procedure "steps" for a particular development application identifies which review, Type 1 or Type 2, will apply. For building permit applications, the Building and Zoning Director is the decision maker (see Section 2.6.3). (See "Overview of Development Review Procedures," Section 2.1.2, below, for a further description of different levels of review.)

Section 3. That Section 2.1.3(A) of the Land Use Code is hereby amended to read as follows:

### 2.1.3 Types of Development Applications

(A) **Applicability.** All development proposals which include only permitted uses must be processed and approved through the following development applications: **a basic development review; or** ~~first~~ through a project development plan (Division 2.4), then through a final plan (Division 2.5), then through a development construction permit (Division 2.6) and then through a building permit review (Division 2.7). If the applicant desires to develop in two (2) or more separate project development plan submittals, an overall development plan (Division 2.3) will also be required prior to or concurrently with the project development plan. Each successive development application for a development proposal must build upon the previously approved development application by providing additional details (through the development application submittal requirements) and by meeting additional restrictions and standards (contained in the General Development Standards of Article 3 and the District Standards of Article 4).

...

Section 4. That Section 2.2.3(C) of the Land Use Code is hereby amended by the deletion of subparagraph (i) as follows:

**2.2.3 Step 3: Development Application Submittal**

...

**(C) *Development Application Contents.***

...

~~(i) in substitution of the requirement of subparagraph (f) above, be accompanied by a policy of title insurance insuring the city, in an amount to be determined by the Director as sufficient to fully compensate the City for (a) any and all risk of liability for; and (b) all damages to the City arising from the execution of the plat (or deed) in any manner not in compliance with the requirements of this Section.~~

...

Section 5. That Section 2.2.7(G) of the Land Use Code is hereby amended to read as follows:

**2.2.7 Step 7: Public Hearing**

...

**(G) *Recording of Decisions and Plats.***

(1) *Filing with City Clerk.* Once approved, and after the appeal period has expired (if applicable), the decision of the decision maker shall be filed with the City Clerk.

(2) *Final Plats and Development Agreements Recorded with County Clerk and Recorder.* Once the final utility plans, ~~and final plat~~ and all other applicable Final Development Plan Documents are approved, and the development agreement has been executed, ~~the final plan has been approved,~~ and any applicable conditions of final plan approval have been met, and ~~(for projects processed under prior law)~~ after the appeal period has expired, the final plat and Development Agreement shall be recorded by the City in the Office of the Larimer County Clerk and Recorder and shall be filed with the City Clerk. The date that the recording with the Larimer County Clerk and Recorder of both the Final Plat and the Development Agreement is accomplished by the City shall establish the date of approval under Section 2.2.11(D)((1) of this Land Use Code.

Section 6. That Section 2.2.11(D)(1) of the Land Use Code is hereby amended to read as follows:

**2.2.11 Step 11: Lapse**

...

(D) *Final Plan and Plat and Other Site Specific Development Plans.*

(1) *Approval.* A site specific development plan shall be deemed approved upon the ~~approval by the decision maker relating thereto~~ recording by the City with the Larimer County Clerk and Recorder of both the Final Plat and the Development Agreement.

...

Section 7. That Section 2.16.2(D) of the Land Use Code is hereby amended to read as follows:

**2.16.2 Site Plan Advisory Review Procedures**

...

(D) *Step 4* (~~Determination of Sufficiency~~ **Review of Application**): Applicable.

...

Section 8. That Section 3.8.3(10) of the Land Use Code is hereby amended to read as follows:

(10) A home occupation shall not be interpreted to include the following:

...

(h) medical marijuana businesses ("MMBs"), as defined in Section 15-45+**2** of the City Code;

(i) **retail marijuana establishment as defined in Section 15-603 of the City Code;**

...

Section 9. That Section 3.8.4 of the Land Use Code is hereby amended to read as follows:

**3.8.4 Child Care Center Regulations**

(A)

<i>Minimum Outdoor Play Area for a Child Care Center</i>	
15 children or less	1,200 square feet
more than 15 children	75 square feet per child for 33% of the child capacity of the center

The outdoor play area shall not be required for drop-in child care centers.

For the purposes of this subsection, the capacity of the center is calculated based upon indoor floor space reserved for school purposes of forty (40) square feet per child. Any such play area on the site of the child care center within or abutting any residential district shall be enclosed by a decorative solid wood fence, masonry wall or chain link fence with vegetation screening, densely planted. The height of such fence shall be a minimum of six (6) feet and shall comply with Section 3.8.11. Where access to ~~preschool nurseries~~ child care centers is provided by other than local streets, an off-street vehicular bay or driveway shall be provided for the purpose of loading and unloading children.

Section 10. That the table contained in Section 4.16(B)(2) of the Land Use Code is hereby amended to read as follows:

<i>Land Use</i>	<i>Old City Center</i>	<i>Canyon Avenue</i>	<i>Civic Center</i>
<b>A. RESIDENTIAL</b>			
Two-family dwellings	Not Permitted	Type 1	Not Permitted
Single-family attached dwellings ( <del>up to four [4] units per building</del> )	Not Permitted	Type 1	Type 1
...	...	...	...
<b>C. COMMERCIAL/RETAIL</b>			
...			
Food truck rally	Type 1	Type 1	Type 1
Music facility, multi-purpose	Type 1	Type 1	Type 1
...			

Section 11. That Section 4.17(B)(2)(c)(8) of the Land Use Code is hereby amended by the addition of two new subparagraphs 16 and 17 which read in their entirety as follows:

16. Food truck rally.

17. Music facility, multi-purpose.

Section 12. That Section 4.18(B)(2)(c) of the Land Use Code is hereby amended by the addition of two new subparagraphs 29 and 30 which read in their entirety as follows:

29. Food truck rally.

30. Music facility, multi-purpose.

Section 13. That Section 4.19(B)(2)(c) of the Land Use Code is hereby amended by the addition of two new subparagraphs 28 and 29 which read in their entirety as follows:

28. Food truck rally.

29. Music facility, multi-purpose.

Section 14. That Section 4.20(B)(2)(c) of the Land Use Code is hereby amended by the addition of a new subparagraph 21 which reads in its entirety as follows:

21. Music facility, multi-purpose.

Section 15. That the table contained in Section 4.21(B)(2) 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>
<b>A. RESIDENTIAL</b>		
...	...	...
<b>C. COMMERCIAL/RETAIL</b>		
...		
Food truck rally	Not Permitted	Type 1
...		

Section 16. That Section 4.23(B)(2)(c) of the Land Use Code is hereby amended by the addition of a new subparagraph 22 which reads in its entirety as follows:

22. Food truck rally.

Section 17. 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>
<b>A. RESIDENTIAL</b>		
...		
<b>C. COMMERCIAL/RETAIL</b>		
...		
Food truck rally	Not Permitted	Type 1
...		

Section 18. That Section 4.26(B)(2)(c) of the Land Use Code is hereby amended by the addition of two new subparagraphs 10 and 11 which reads in their entirety as follows:

10. Microbrewery/distillery/winery (Community, Lifestyle, Regional, and Convenience Shopping Centers only).

11. Food truck rally.

Section 19. That Section 4.26(D)(2) of the Land Use Code is hereby amended by the addition of two new subparagraphs (r) and (s) which reads in their entirety as follows:

(r) Food truck rally.

(s) Microbrewery/distillery/winery.

Section 20. That Section 4.28(B)(2)(b) of the Land Use Code is hereby amended by the addition of a new subparagraph (8) which reads in its entirety as follows:

(8) Music facility, multi-purpose.

Section 21. That the definition “*Dwelling*” contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

*Dwelling* shall mean a building used exclusively for residential occupancy and for permitted accessory uses, including single-family dwellings, two-family dwellings and multi-family dwellings, and which contains: ~~(a) a minimum of eight hundred (800) square feet of floor area, or (b) in the case of a dwelling to be constructed on the rear portion of a lot in the L-M-N, M-M-N, N-C-L, N-C-M, N-C-B, C-C-N, C-C-R, H-C or E zone districts, a minimum of four hundred (400) square feet of floor area, so long as a dwelling already exists on the front portion of such lot.~~ The term *dwelling* shall not include hotels, motels, tents or other structures designed or used primarily for temporary occupancy. Any dwelling shall be deemed to be a principal building.

Section 22. That Section 5.1.2 of the Land Use Code is hereby amended by the addition of a new definition “*Food truck rally*” which reads in its entirety as follows:

*Food truck rally* shall mean a temporary or periodic special event, operating under a Special Vending License, of more than two (2) outdoor vendors (such as food trucks and carts), held on an improved private lot with permission of the owner thereof, and only serving pedestrians.

Section 23. That Section 5.12 of the Land Use Code is hereby amended by the addition of a new definition “*Music facility, multi-purpose*” which reads in its entirety as follows:

*Music facility, multi-purpose*, shall mean a facility that may include indoor and outdoor space for the purpose of music workshops, meetings, informal gatherings, occasional small-scale music performances, and occasional recitals and open microphone sessions where performance spaces do not include permanent or designated seating or paid admission.

Introduced, considered favorably on first reading, and ordered published this 2nd day of December, A.D. 2014, and to be presented for final passage on the 16th day of December, A.D. 2014.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Passed and adopted on final reading on this 16th day of December, A.D. 2014.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk