

ORDINANCE NO. 161, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING VARIOUS AMENDMENTS TO THE
CITY OF FORT COLLINS LAND USE CODE

WHEREAS, on December 2, 1997, by its adoption of Ordinance No. 190, 1997, the City Council enacted the Fort Collins Land Use Code (the “Land Use Code”); and

WHEREAS, at the time of the adoption of the Land Use Code, it was the understanding of staff and the City Council that the Land Use Code would most likely be subject to future amendments, not only for the purpose of clarification and correction of errors, but also for the purpose of ensuring that the Land Use Code remains a dynamic document capable of responding to issues identified by staff, other land use professionals and citizens of the City; and

WHEREAS, City staff and the Planning and Zoning Board have reviewed the Land Use Code and identified and explored various issues related to the Land Use Code; and

WHEREAS, at its November 5, 2020, hearing, the Planning and Zoning Board recommended that Council adopt the Land Use Code amendments set forth in this Ordinance; and

WHEREAS, the City Council has determined that the recommended Land Use Code amendments are in the best interests of the City and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 1.4.9(E) of the Land Use Code is hereby amended to read as follows:

1.4.9 Rules of Construction for Text

...

- (E) ***Delegation of Authority.*** Whenever a provision appears requiring the Director or some other City officer or employee to do some act or perform some duty, such provision shall be construed as authorizing the Director or other officer or employee to designate, delegate and authorize another City employee to perform the required act or duty unless the terms of the provision specify otherwise. With respect to the review of development applications eligible for Type 1 review, in addition to or in substitution for delegation to City employees as above authorized, the Director may engage the services of an attorney with experience in land use matters.

...

Section 3. 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 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.

...

Section 4. That Section 3.2.1 of the Land Use Code is hereby amended to read as follows:

3.2.1 Landscaping and Tree Protection

...

(E) ***Landscape Standards.*** All development applications shall include landscape plans that meet the following minimum standards:

...

- (2) ***Landscape Area Treatment.*** Landscape areas shall include all areas on the site that are not covered by buildings, structures, paving or impervious surface, or other outdoor areas including play areas, plaza spaces, patios, and the like. Landscape areas shall consist only of landscaping. The selection and location of turf, ground cover (including shrubs, grasses, perennials, flowerbeds and slope retention), and pedestrian paving and other landscaping elements shall be used to prevent erosion and meet the functional and visual purposes such as defining spaces, accommodating and directing circulation patterns, managing visibility, attracting attention to building entrances and other focal points, and visually integrating buildings with the landscape area and with each other.

...

- (d) **Foundation Plantings.** Exposed sections of building walls that are in high-use or high-visibility areas of the building exterior shall have planting beds at least five (5) feet wide placed directly along at least fifty (50) percent of such walls, except where pedestrian paving abuts a commercial building with trees and/or other landscaping in cutouts or planting beds along the outer portion of the pedestrian space away from the building.

...

- (N) **Alternative Compliance.** Upon request by an applicant, the decision maker may approve an alternative landscape and tree protection plan that may be substituted in whole or in part for a landscape plan meeting the standards of this Section.

...

In reviewing the proposed alternative plan for purposes of determining whether it accomplishes the purposes of this Section as required above, the decision maker shall take into account whether the alternative accomplishes the functions listed in Subsection (C) (1) through (7) and Subsection (H) of this Section 3.2.1 and demonstrates innovative design and use of plant materials and other landscape elements.

Section 5. That Sections 3.2.2(C), (D) and (K) of the Land Use Code are hereby amended to read as follows:

3.2.2 Access, Circulation and Parking

...

- (C) **Development Standards** All developments shall meet the following standards:

...

- (4) **Bicycle Facilities.** Commercial, industrial, civic, employment and multi-family residential uses shall provide bicycle facilities to meet the following standards:

...

- (b) **Bicycle Parking Space Requirements.** The minimum bicycle parking requirements are set forth in the table below. For uses that are not specifically listed in the table, the number of bicycle parking spaces required shall be the number required for the most similar use listed. Enclosed bicycle parking spaces may not be located on balconies.

<i>Use Categories</i>	<i>Bicycle Parking Space Minimums</i>	<i>% Enclosed Bicycle Parking/ % Fixed Bicycle Racks</i>
Residential and Institutional Parking Requirements		
...
Extra Occupancy	1 per occupant	0%/100%
...		

...

- (D) ***Access and Parking Lot Requirements.*** All vehicular use areas in any proposed development shall be designed to be safe, efficient, convenient and attractive, considering use by all modes of transportation that will use the system, (including, without limitation, cars, trucks, buses, bicycles and emergency vehicles).

...

- (3) ***Location.*** Only off-street parking areas provided to serve uses permitted in a zone district predominated by residential uses will be allowed in such district.

...

- (c) ***Pavement.*** All open off-street parking and vehicular use areas shall be surfaced with asphalt, concrete or other material in conformance with city specifications with the exception of off-street parking and vehicular use areas for a park or trail connection point that may be surfaced with gravel or another similar inorganic material.

...

(K) ***Parking Lots - Required Number of Off-Street Spaces for Type of Use.****

- (1) ***Residential and Institutional Parking Requirements.*** Residential and institutional uses shall provide a ***minimum*** number of parking spaces as defined by the standards below.

- (a) ***Attached Dwellings:*** For each two-family and multi-family dwelling there shall be parking spaces provided as indicated by the following table:

<i>Number Bedrooms/Dwelling Unit</i>	<i>of Parking Spaces Per Dwelling Unit *, **</i>
One or less	1.5
Two	1.75
Three	2.0
Four and above	3.0

* Spaces that are located in detached residential garages (but not including parking structures) or in attached residential garages, which attached garages do not provide direct entry into an individual dwelling unit, may be credited toward the minimum requirements contained herein only if such spaces are made available to dwelling unit occupants at no additional rental or purchase cost (beyond the dwelling unit rental rate or purchase price).

** When public streets abutting the perimeter of the development site do not provide on-street parking then the percentage of garage parking spaces provided for the development site shall not exceed eighty (80) percent of the parking total.

...

- (j) Extra Occupancy: For each extra occupancy, there shall be 0.75 (³/₄) parking space per occupant, rounded up to the nearest whole parking space. If the lot upon which such parking spaces are to be situated has more than sixty-five (65) feet of street frontage length on any one (1) street or abuts an alley, then each such parking space shall have direct access to the abutting street or alley and shall be unobstructed by any other parking space. If such lot has less than sixty-five (65) feet of street frontage length on any one (1) street and does not abut an alley, then one (1) of the required parking spaces may be aligned in a manner that does not provide direct access to the abutting street.

...

Section 6. That Section 3.3.2 of the Land Use Code is hereby amended to read as follows:

3.3.2 Development Improvements

- (A) *Approval of City Engineer.*

...

- (2) No improvements shall be made until all required plans, profiles and specifications, including reproducible plans for the same, have been submitted to and approved by the City Engineer.

...

Section 7. That Section 3.4.1(D)(2) of the Land Use Code is hereby amended to read as follows:

3.4.1 Natural Habitats and Features

...

- (D) ***Ecological Characterization and Natural Habitat or Feature Boundary Definition.*** The boundary of any natural habitat or feature shown on the *Natural Habitats and Features Inventory Map* is only approximate. The actual boundary of any area to be shown on a project development shall be proposed by the applicant and established by the Director through site evaluations and reconnaissance, and shall be based on the ecological characterization of the natural habitat or feature in conjunction with the map.

...

- (2) ***Wetland Boundary Delineation.*** Wetland boundary delineations of both a non-jurisdictional wetland and “jurisdictional wetland” shall be established in accordance with the U.S. Army Corps of Engineers 1987 Wetland Delineation Manual and the appropriate Regional Supplement, and classified according to the U.S. Fish and Wildlife Service wetland classification system. In establishing the

boundaries of a wetland, the applicant and the Director shall use soil samples, vegetation analysis and hydrological evidence. If at least one of the required criteria for wetland delineation, hydric soil, hydrophytic vegetation, or hydrology, is present on the development site, the applicant shall communicate the criterion or criteria to the Director for consideration. The Director may also utilize the standards and guidelines and/or the professional recommendations of the U.S. Army Corps of Engineers or other organization, individual, or governmental entity in reviewing such boundaries. These shall be identified in the submittal documents for the review of the project development plan (if applicable, or if not applicable, the most similar development review) and prior to commencement of any construction activities.

...

Section 8. That Section 3.5.2 of the Land Use Code is hereby amended to read as follows:

3.5.2 Residential Building Standards

...

(D) *Relationship of Dwellings to Streets and Parking.*

- (1) *Orientation to a Connecting Walkway.* Every front facade with a primary entrance to a dwelling unit shall face the adjacent street to the extent reasonably feasible. Every front facade with a primary entrance to a dwelling unit shall face a connecting walkway with no primary entrance more than two hundred (200) feet from a street sidewalk and the address shall be posted to be visible from the intersection of the connecting walkway and public right of way. The following exceptions to this standard are permitted:

- (a) Up to one (1) single-family detached dwelling on an individual lot that has frontage on either a public or private street.

...

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

...

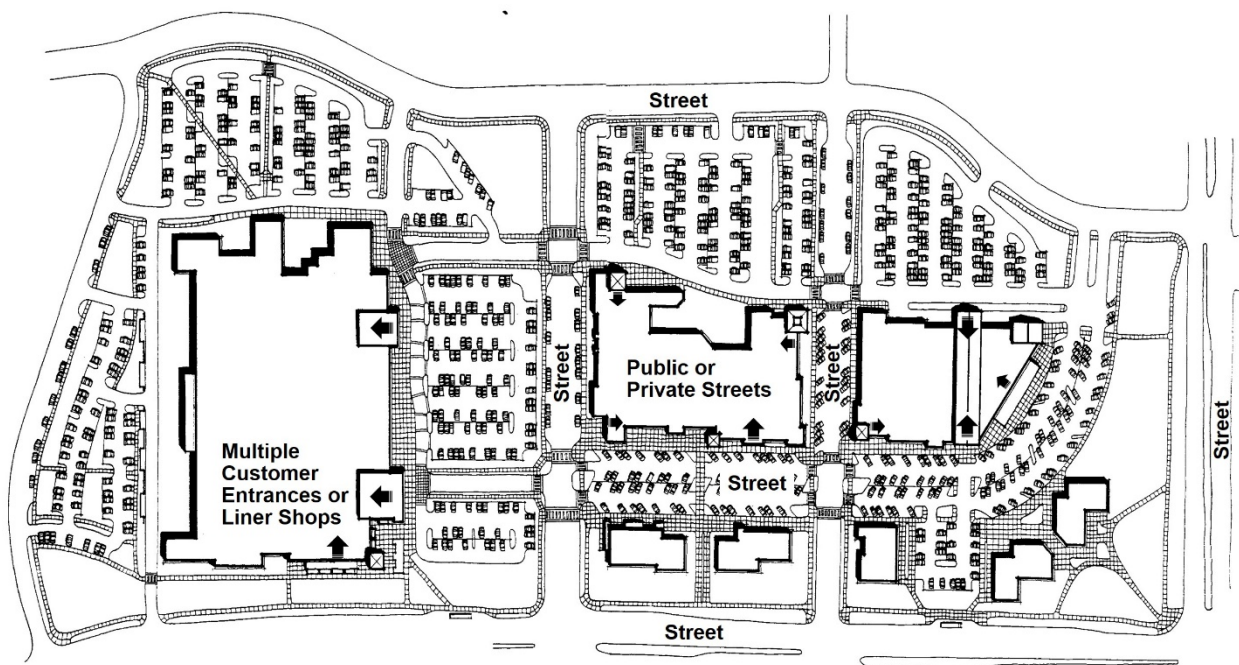
- (3) *Side and Rear Yard Setbacks.* The minimum side yard setback for all residential buildings and for all detached accessory buildings that are incidental to the residential building shall be five (5) feet from the property line, except for garages accessed from alleys or private drives where the associated dwelling faces on-site walkways rather than street sidewalks for which the minimum setback from an alley or private drive shall be eight (8) feet. If a zero-lot-line development plan is proposed, a single six-foot minimum side yard is required. Rear yard setbacks in residential areas shall be a minimum of eight (8) feet from the rear property line,

except for garages and storage sheds not exceeding eight (8) feet in height, where the minimum setback shall be zero (0) feet.

...

Section 9. That Figure 14 in Section 3.5.4(D)(3)(a) of the Land Use Code is hereby replaced in its entirety with the following figure:

Figure 14
Building Entrances



...

Section 10. That Sections 3.6.2(G), (M) and (N) of the Land Use Code are hereby amended to read as follows:

3.6.2 Streets, Streetscapes, Alleys And Easements

...

(G) Repealed and held in reserve.

...

(M) **Private Streets.** Private streets shall be controlled by the following requirements:

- (1) **When Allowed.** Private streets shall be allowed in a development, provided that their function will be primarily to provide access to property within the development. Private streets shall not be permitted if (by plan or

circumstance) such streets would, in the judgment of the City Engineer, attract "through traffic" in such volumes as to render public streets necessary as connections between developments, neighborhoods or other origins and destinations outside of the development plan.

- (2) *Design Requirements.* As with public streets, the design of private streets must be completed by or under the charge of a professional engineer licensed by the State of Colorado. The design for all private streets shall be included in the utility plans for the development. Designs for public streets shall be permitted if either:

- (a) The designs meet all standards for public streets in accordance with the *Larimer County Urban Area Street Standards*, as adopted by the City Council by ordinance or resolution; or
- (b) The designs have customized treatments and features including travel lanes; parallel or diagonal street parking; tree-lined sidewalks with the sidewalks either detached or attached with trees in cutouts; and crosswalks. Other features such as bikeways, landscaped medians, corner plazas, custom lighting, bike racks, and identity signs may be provided to afford an appropriate alternative to a standard City street in the context of the development plan. Head-in parking may only be used in isolated parking situations where the effect on the character of the street is negligible. Customized treatments and features will not be approved unless the City determines that such treatments and features present no safety risk to the public and that the City's utilities will not incur maintenance or replacement costs for their utilities above normal costs associated with the City's standard design.

...

(N) ***Private Drives.***

- (1) *When Allowed.*

...

- (c) A private drive shall not be permitted if it prevents or diminishes compliance with any other provisions of this Code.

...

Section 11. That Section 3.8.3 of the Land Use Code is hereby amended to read as follows:

3.8.3 Home Occupations

A home occupation shall be allowed as a permitted accessory use, provided that all of the following conditions are met:

...

(4) There shall be no exterior advertising other than the residential sign allowed in Section 3.8.7(D)(5)(a) of this Code.

...

Section 12. That Section 3.8.7.1(G)(2) of the Land Use Code is hereby amended to read as follows:

3.8.7.1 Generally.

...

(G) *Prohibited signs and sign elements.*

...

(2) *Prohibited Signs.* The following signs are not allowed, whether temporary or permanent:

...

(f) Permanent off-premises signs;

...

Section 13. That Sections 3.8.7.2(B) and (G) of the Land Use Code are hereby amended to read as follows:

3.8.7.2 Permanent Signs

...

(B) *Wall Signs.* Wall signs are allowed according to the standards in Table (B), Wall Signs.

Table (B) Wall Signs	
Type of Sign	Sign District
	Outside of Residential Neighborhood Sign District ¹

Standards	Downtown	Commercial/ Industrial	Mixed-Use	Multifamily	Single-Family	Within Residential Neighborhood Sign District ¹
Applied or Painted Wall Signs						
...
Max. Sign Width	N/A	N/A	N/A	N/A	N/A	N/A
...

...

- (G) **Freestanding Permanent Signs.** Detached permanent signs are allowed according to the standards in Table (G)(1), Freestanding Permanent Signs.

Table (G)(1) Freestanding Permanent Signs						
Type of Sign Standards	Sign District					
	Outside of Residential Neighborhood Sign District ¹					
	Downtown	Commercial/ Industrial	Mixed-Use	Multifamily	Single-Family	Within Residential Neighborhood Sign District ¹
Primary Detached Signs						
...
Allowed Lighting	Any	Any	Any	Indirect only	None	Indirect only
...
Secondary Detached Signs						
Max. #	1 per vehicular access point to nonresidential , mixed-use, or multifamily property	1 per vehicular access point to nonresidential, mixed-use, or multifamily property	1 per vehicular access point to nonresidential, mixed-use, or multifamily property	1 per vehicular access point to nonresidential, mixed-use, or multifamily property	1 per vehicular access point to nonresidential, mixed-use, or multifamily property	1 per street frontage of a nonresidential, mixed-use, or multifamily uses
...
Max. Sign Area	16 sf.	16 sf.	16 sf.	16 sf.	16 sf.	20 sf.
Max. Sign Height	4 ft.	4 ft.	4 ft.	4 ft.	4 ft.	5 ft.

Allowed Lighting	Any	Any	Any	Indirect only	Indirect only	Indirect only
...

...

Section 14. That Sections 3.8.16(D) and (E) of the Land Use Code are hereby amended to read as follows:

3.8.16 Occupancy Limits; Increasing the Number of Persons Allowed

...

(D) ***Definitions.*** The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them below:

...

(4) *Occupant* shall mean a person who occupies a dwelling unit or any portion thereof for living and sleeping purposes.

(E) ***Increasing the Occupancy Limit.***

(1) With respect to single-family and two-family dwellings, the number of persons allowed under this Section may be increased by the issuance of a certificate of occupancy allowing extra occupancy in zones allowing such use.

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

...

Section 15. That Section 3.8.17(A)(2) of the Land Use Code is hereby amended to read as follows:

3.8.17 Building Height

(A) ***Measuring Building Height.***

...

(2) ***Building Height Measured in Stories.*** In measuring the height of a building in stories the following measurement rules shall apply:

- (a) A balcony or mezzanine shall be counted as a full story when its floor area is in excess of one-third ($\frac{1}{3}$) of the total area of the nearest full floor directly below it.
- (b) Half ($\frac{1}{2}$) story shall mean a space under a sloping roof which has the line of intersection of the roof and wall face not more than three (3) feet above the floor level, and in which space the possible floor area with head room of five (5) feet or less occupies at least forty (40) percent of the total floor area of the story directly beneath.
- (c) No story of a commercial or industrial building shall have more than twenty-five (25) feet from average ground level at the center of all walls to the eave/wall intersection or wall plate height if there is no eave, or from floor to floor, or from floor to eave/wall intersection or wall plate height as applicable.
- (d) A maximum vertical height of twelve (12) feet eight (8) inches shall be permitted for each residential story measured from average ground level at the center of all walls to the eave/wall intersection or wall plate height if there is no eave, or from floor to floor, or from floor to eave/wall intersection or wall plate height as applicable. This maximum vertical height shall apply only in the following zone districts: U-E; R-F; R-L; L-M-N; M-M-N; N-C-L; N-C-M; N-C-B; R-C; C-C-N; N-C; H-C; and M-H.

...

Section 16. That Section 3.8.28 of the Land Use Code is hereby amended to read as follows:

3.8.28 Extra Occupancy Regulations

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

<i>Zone</i>	<i>Maximum number of permissible residents, excluding occupant family</i>	<i>Maximum percentage of parcels per block face that may be used for extra occupancy</i>
-------------	---	--

L-M-N	One (1) occupant per three hundred fifty (350) square feet of habitable floor space, in addition to a minimum of four hundred (400) square feet of habitable floor space if owner-occupied	No more than twenty-five (25) percent of parcels on a block face may be approved for extra occupancy use.
M-M-N, H-M-N, N-C-B	One (1) occupant per three hundred fifty (350) square feet of habitable floor space, in addition to a minimum of four hundred (400) square feet of habitable floor space if owner-occupied.	No limit.
D, R-D-R, C-C, C-C-N, C-C-R, C-G, C-N, N-C, C-L-E, I	One (1) occupant per three hundred fifty (350) square feet of habitable floor space, in addition to a minimum of four hundred (400) square feet of habitable floor space if owner-occupied.	No limit.
R-L, N-C-L, R-F, U-E, N-C-M, H-C, P-O-L, R-C	n/a	Extra occupancy not allowed.

- (B) In all zone districts allowing extra occupancy except L-M-N, an application for extra occupancy use for five (5) or fewer occupants shall be subject to basic development review.
- (C) In all zone districts allowing extra occupancy except L-M-N, an application for extra occupancy use for more than five (5) occupants shall be subject to Type 1 administrative review.
- (D) In the L-M-N zone district, an application for extra occupancy use for more than four (4) occupants shall be subject to Type 1 administrative review.

Section 17. That Sections 4.4(B) and (D) of the Land Use Code are hereby amended to read as follows:

Division 4.4 Low Density Residential District (R-L)

...

(B) *Permitted Uses.*

- (1) The following uses are permitted in the R-L District, subject to basic development review, provided that such uses are located on lots that are part of an approved site specific development plan:

(a) Residential Uses:

- 1. Single-family detached dwellings on lots created through the Minor Subdivision process pursuant to Section 2.18.2.

...

...

(D) ***Land Use Standards.***

...

(2) ***Dimensional Standards.***

...

- (e) Maximum building height shall be twenty-eight (28) feet for a single-family dwelling, group home, or child care center and three (3) stories for all other uses.
- (f) Accessory buildings and structures may exceed the height of any existing or proposed principal building on the lot by no more than two (2) feet except when the height of an existing or proposed principal structure is twenty-six (26) feet or greater in which case, the accessory building or structure shall not exceed twenty-eight (28) feet.

...

Section 18. That Section 4.5(B)(2)(a)8 of the Land Use Code is hereby amended to read as follows:

Division 4.5 Low Density Mixed-Use Neighborhood District (L-M-N)

...

(B) ***Permitted Uses.***

...

- (2) The following uses are permitted in the L-M-N District, subject to administrative review:

- (a) **Residential Uses:**

- ...

- 8. Extra occupancy with four (4) or more tenants.

- ...

Section 19. That Sections 4.6(B)(1)(e)1 and (B)(2)(a)8 of the Land Use Code are hereby amended to read as follows:

Division 4.6 Medium Density Mixed-Use Neighborhood District (M-M-N)

...

(B) ***Permitted Uses.***

- (1) The following uses are permitted in the M-M-N District, subject to basic development review, provided that such uses are located on lots that are part of an approved site-specific development plan:

...

(e) **Residential Uses:**

1. Extra occupancy with five (5) or fewer tenants.

...

- (2) The following uses are permitted in the M-M-N District, subject to administrative review:

(a) **Residential Uses:**

...

8. Extra occupancy with more than five (5) tenants.

...

Section 20. That Sections 4.7(E) and (F) of the Land Use Code are hereby amended to read as follows:

Division 4.7 Neighborhood Conservation, Low Density District (N-C-L)

(E) ***Dimensional Standards.***

...

(5) **Building Height.**

- (a) Maximum building height shall be two (2) stories, except in the case of a detached dwelling unit at the rear of the lot and accessory buildings, which shall be limited to one and one-half (1 ½) stories.
- (b) Front porches shall be limited to one (1) story.
- (c) The height of a carriage house or an accessory building containing habitable space shall not exceed twenty-four (24) feet.
- (d) The height of an accessory building containing no habitable space shall not exceed twenty (20) feet.

(6) Eave Height.

- (a) The exterior eave height of an eave along a side lot line shall not exceed thirteen (13) feet from grade for a dwelling unit located at the rear of the lot or an accessory building with habitable space. An eave of a dormer or similar architectural feature may exceed thirteen (13) feet if set back two (2) feet from the wall below and does not exceed twenty-five (25) percent of the wall length.
- (b) The exterior eave height of an eave along a side lot line shall not exceed ten (10) feet from grade for an accessory building containing no habitable space. An eave of a dormer or similar architectural feature may exceed ten (10) feet if set back two (2) feet from the wall below and does not exceed twenty-five (25) percent of the wall length.
- (c) If a second story has an exterior wall that is set back from the lower story's exterior wall, the eave height shall be the point of an imaginary line at which the upper story's roofline (if extended downward) would intersect with the lower story's exterior wall (if extended upward).

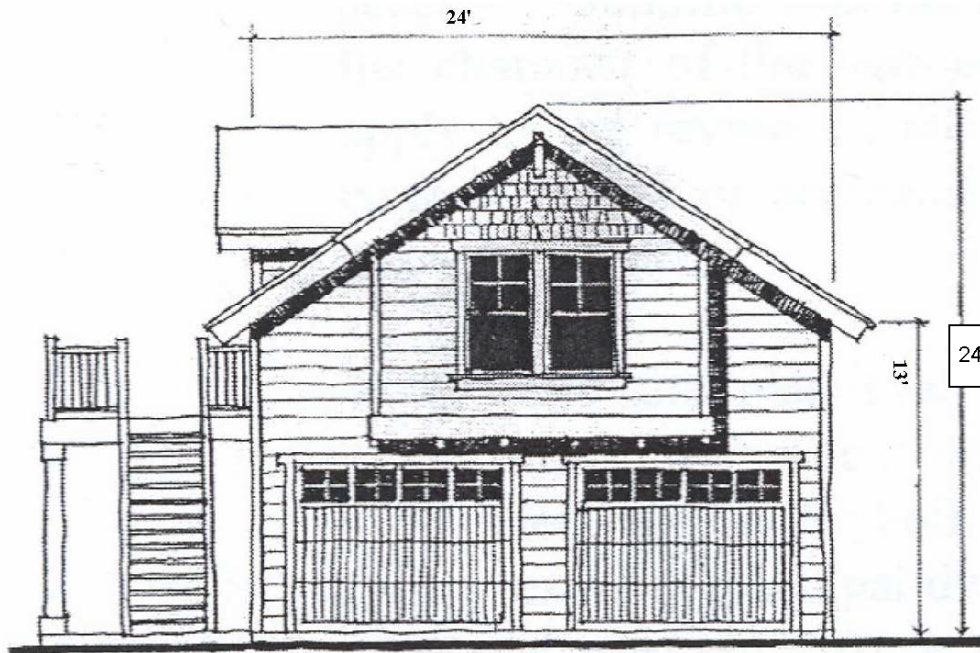


Illustration of Carriage House Roofline and Eave Heights

(F) *Development Standards.*

(1) *Building Design.*

...

(e) In the event that a new dwelling is proposed to be constructed on the rear portion of a lot which has frontage on two (2) streets and an alley, the front of such new dwelling shall face the street.

(f) The minimum pitch of the roof of any building shall be 2:12 and the maximum pitch of the roof of any building shall be 12:12, except that new, detached accessory buildings and additions to existing dwelling units may be constructed with a pitch that matches any roof pitch of the existing dwelling unit. Additionally, the roof pitch of a dormer, turret or similar architectural feature may not exceed 24:12 and the roof pitch of a covered porch may be flat whenever the roof of such a porch is also considered to be the floor of a second-story deck.

(g) *Front Facade Character.* When building construction results in:

...

(h) *Side Façade Character.* When building construction results in:

...

(2) *Carriage Houses and Habitable Accessory Buildings.*

...

Section 21. That Sections 4.8(E) and (F) of the Land Use Code are hereby amended to read as follows:

Division 4.8 Neighborhood Conservation, Medium Density District

...

(E) *Dimensional Standards.*

...

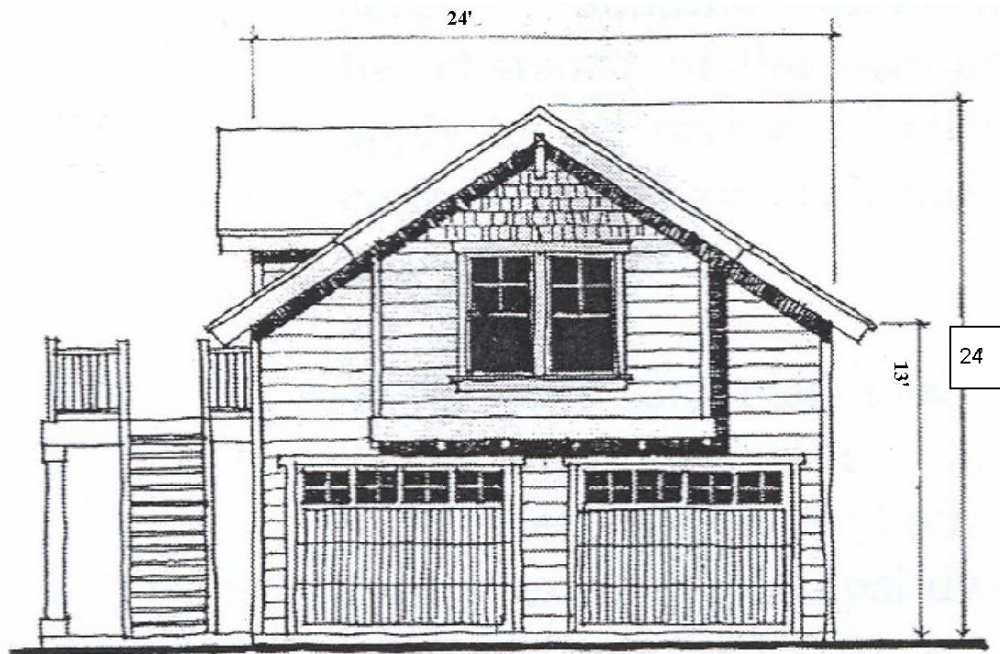
(5) *Building Height.*

- (a) Maximum building height shall be two (2) stories, except in the case of a detached dwelling unit at the rear of the lot and accessory buildings, which shall be limited to one and one-half (1 ½) stories.
- (b) Front porches shall be limited to one (1) story.
- (c) The height of a carriage house or an accessory building containing habitable space shall not exceed twenty-four (24) feet.

- (d) The height of an accessory building containing no habitable space shall not exceed twenty (20) feet.
- (6) *Eave Height.*
- (a) The exterior eave height of an eave along a side lot line shall not exceed thirteen (13) feet from grade for a dwelling unit located at the rear of the lot or an accessory building with habitable space. An eave of a dormer or similar architectural feature may exceed thirteen (13) feet if set back two (2) feet from the wall below and does not exceed twenty-five (25) percent of the wall length.
- (b) The exterior eave height of an eave along a side lot line shall not exceed ten (10) feet from grade for an accessory building containing no habitable space. An eave of a dormer or similar architectural feature may exceed ten (10) feet if set back two (2) feet from the wall below and does not exceed twenty-five (25) percent of the wall length.
- (c) If a second story has an exterior wall that is set back from the lower story's exterior wall, the eave height shall be the point of an imaginary line at which the upper story's roofline (if extended downward) would intersect with the lower story's exterior wall (if extended upward).

Figure 17.5-1

Illustration of Carriage House Roofline and Eave Heights



(F) ***Development Standards.***

(1) ***Building Design.***

...

(e) In the event that a new dwelling is proposed to be constructed on the rear portion of a lot which has frontage on two (2) streets and an alley, the front of such new dwelling shall face the street.

(f) The minimum pitch of the roof of any building shall be 2:12 and the maximum pitch of the roof of any building shall be 12:12, except that new, detached accessory buildings and additions to existing dwelling units may be constructed with a pitch that matches any roof pitch of the existing dwelling unit. Additionally, the roof pitch of a dormer, turret or similar architectural feature may not exceed 24:12 and the covered porch may be flat whenever the roof of such porch is also considered to be the floor of a second-story deck.

(g) ***Front Facade Character.*** When building construction results in:

1. a two (2) -story house where a one (1) -story house previously existed and where there is an abutting house on either side that is one (1) story, or

...

(h) ***Side Façade Character.*** When building construction results in:

...

(2) ***Carriage Houses and Habitable Accessory Buildings.***

...

Section 22. That Sections 4.9(B)(1)(a)4 and 4.9(B)(2)(a)7 of the Land Use Code are hereby amended to read as follows:

Division 4.9 Neighborhood Conservation, Buffer District (N-C-B)

...

(B) ***Permitted Uses.***

- (1) The following uses are permitted in the N-C-B District, subject to basic development review, provided that such uses are located on lots that are part of an approved site specific development plan:

(a) **Residential Uses:**

...

4. Extra occupancy with five (5) or fewer tenants.

...

- (2) The following uses are permitted in the N-C-B District, subject to administrative review:

(a) **Residential Uses:**

...

7. Extra occupancy with more than five (5) tenants.

...

Section 23. That Section 4.9(E)(1)(b) of the Land Use Code is hereby amended to read as follows:

Division 4.9 Neighborhood Conservation, Buffer District (N-C-B)

...

(E) ***Development Standards.***

- (1) *Single-Family Dwellings.*

...

- (b) *Bulk and Massing.*

1. **Building Height.**

Maximum building height shall be three (3) stories, except in the case of a detached dwelling unit at the rear of the lot and accessory buildings which shall be limited to one and one-half (1 ½) stories.

2. **Eave Height.**

- a. The exterior eave height of an eave along a side lot line shall not exceed thirteen (13) feet from grade for a dwelling unit located at the rear of the lot or an accessory building with

habitable space. An eave of a dormer or similar architectural feature may exceed thirteen (13) feet if set back two (2) feet from the wall below and does not exceed twenty-five (25) percent of the wall length.

- b. The exterior eave height of an eave along a side lot line shall not exceed ten (10) feet from grade for an accessory building containing no habitable space. An eave of a dormer or similar architectural feature may exceed ten (10) feet if set back two (2) feet from the wall below and does not exceed twenty-five (25) percent of the wall length.
- c. The maximum eave height is measured at the minimum setback from an interior side-yard lot line and can be increased at a ratio of six (6) inches of additional building height for each one (1) foot of setback from the interior side property line.
- d. If a second story has an exterior wall that is set back from the lower story's exterior wall, the eave height shall be the point of an imaginary line at which the upper story's roofline (if extended horizontally) would intersect with the lower story's exterior wall (if extended vertically).

...

Section 24. That Sections 4.10(B)(1)(e)1 and (B)(2)(a)4 of the Land Use Code are hereby amended to read as follows:

Division 4.10 High Density Mixed-Use Neighborhood District (H-M-N)

...

(B) *Permitted Uses.*

- (1) The following uses are permitted in the H-M-N District, subject to basic development review, provided that such uses are located on lots that are part of an approved site-specific development plan:

...

(e) *Residential Uses:*

- 1. Extra occupancy with five (5) or fewer occupants.

...

- (2) The following uses are permitted in the H-M-N District, subject to administrative review:

(a) *Residential Uses:*

...

4. Extra occupancy with more than five (5) occupants.

...

Section 25. That the table contained in Section 4.16(F)(2) of the Land Use Code is hereby amended to read as follows:

4.16 Downtown District (D)

...

(F) *Permitted Uses.*

...

- (2) The following uses are permitted in the subdistricts of the Downtown District, subject to Basic Development Review (BDR), Minor Amendment (MA), Administrative (Type 1) Review or Planning and Zoning Board (Type 2) Review as specifically identified on the chart below:

<i>Land Use</i>	<i>Historic Core</i>	<i>Canyon Avenue/Civic/ North Mason</i>	<i>Innovation/ River</i>	<i>River Corridor</i>	<i>Campus North</i>	<i>Entryway Corridor</i>
...
< 5 occupants	BDR/MA	BDR/MA	BDR/MA	Not Permitted	BDR/MA	BDR/MA
> 5 occupants	Type 1	Type 1	Type 1	Not Permitted	Type 1	Type 1
...
Medical Marijuana Research and Development	Not Permitted	Not Permitted	BDR/MA	Not Permitted	Not Permitted	Not Permitted
...

Section 26. That Sections 4.18(B)(1)(e)1 and B(2)(a)5 of the Land Use Code are hereby amended to read as follows:

Division 4.18 Community Commercial District (C-C)

...

(B) *Permitted Uses.*

- (1) The following uses are permitted in the C-C District, subject to basic development review provided that such uses are located on lots that are part of an approved site-specific development plan, except that a stationary vendor use must be approved as a minor amendment:

...

(e) **Residential Uses:**

1. Extra occupancy with five (5) or fewer occupants.

...

- (2) The following uses are permitted in the C-C District, subject to administrative review:

(a) **Residential Uses:**

...

5. Extra occupancy with more than five (5) occupants.

...

Section 27. That Sections 4.19(B)(1)(e)1 and (B)(2)(a)6 of the Land Use Code are hereby amended to read as follows:

Division 4.19 Community Commercial - North College District (C-C-N)

...

(B) ***Permitted Uses.***

- (1) The following uses are permitted in the C-C-N District, subject to basic development review provided that such uses are located on lots that are part of an approved site-specific development plan, except that a stationary vendor use must be approved as a minor amendment:

...

(e) **Residential Uses:**

1. Extra occupancy with five (5) or fewer occupants.

...

- (2) The following uses are permitted in the C-C-N District, subject to administrative review:

(a) **Residential Uses:**

...

6. Extra occupancy with more than five (5) occupants.

...

Section 28. That the table contained in Section 4.21(B)(2) of the Land Use Code is hereby amended to read as follows:

Division 4.21 General Commercial District (C-G)

...

(B) ***Permitted Uses.***

...

- (2) The following uses are permitted in subdistricts of the C-G District, subject to Basic Development Review (BDR), Minor Amendment (MA), Administrative (Type 1) Review or Planning and Zoning Board (Type 2) Review as specifically identified on the chart below:

<i>Land Use</i>	<i>I-25/SH 392 (CAC)</i>	<i>General Commercial District (C-G)</i>
A. RESIDENTIAL		
Extra occupancy with 5 or fewer occupants	Not permitted	BDR
...
Extra-occupancy with more than 5 occupants	Not permitted	Type 1
...

Section 29. That Sections 4.22(B)(1)(e)1 and (B)(2)(a)6 of the Land Use Code are hereby amended to read as follows:

Division 4.22 Service Commercial District (C-S)

...

(B) ***Permitted Uses.***

- (1) The following uses are permitted in the C-S District, subject to basic development review provided that such uses are located on lots that are part of an approved site-specific development plan, except that a stationary vendor use must be approved as a minor amendment:

...

(e) **Residential Uses:**

1. Extra occupancy with five (5) or fewer occupants.*

...

- (2) The following uses are permitted in the C-S District, subject to administrative review:

(a) **Residential Uses:**

...

6. Extra occupancy with more than five (5) occupants.*

...

Section 30. That Sections 4.23(B)(1)(e)1 and (B)(2)(a)5 of the Land Use Code are hereby amended to read as follows:

Division 4.23 Neighborhood Commercial District (N-C)

...

(B) ***Permitted Uses.***

- (1) The following uses are permitted in the N-C District, subject to basic development review provided that such uses are located on lots that are part of an approved site-specific development plan, except that a stationary vendor use must be approved as a minor amendment:

...

(e) **Residential Uses:**

1. Extra occupancy with five (5) or fewer occupants.

- (2) The following uses are permitted in the N-C District, subject to administrative review:

(a) **Residential Uses:**

...

5. Extra occupancy with more than (5) occupants.

...

Section 31. That the table contained in Section 4.24(B) of the Land Use Code is hereby amended to read as follows:

Division 4.24 Limited Commercial District (C-L)

...

(B) ***Permitted Uses.***

...

- (2) The following uses are permitted in subdistricts of the C-L District, subject to Basic Development Review (BDR), Minor Amendment (MA),

Administrative (Type 1) Review or Planning and Zoning Board (Type 2) Review as specifically identified on the chart below:

<i>Land Use</i>	<i>Riverside Area</i>	<i>All Other Areas</i>
A. RESIDENTIAL		
...
Extra occupancy with five (5) or fewer occupants	BDR	BDR
...
B. INSTITUTIONAL/CIVIC/PUBLIC		
Extra occupancy with more than five (5) occupants	Type 1	Type 1
...

Section 32. That Sections 4.27(B)(1)(e)1 and (B)(2)(a)2 of the Land Use Code are hereby amended to read as follows:

Division 4.27 Employment District (E)

...

(B) ***Permitted Uses.***

- (1) The following uses are permitted in the E District, subject to basic development review provided that such uses are located on lots that are part of an approved site-specific development plan, except that a stationary vendor use must be approved as a minor amendment:

...

(e) **Residential Uses:**

1. Extra occupancy with five (5) or fewer occupants.

...

- (2) The following uses are permitted in the E District, subject to administrative review:

(a) **Residential Uses:**

...

2. Extra occupancy with more than five (5) occupants.

...

Section 33. That Sections 4.28 (B)(1)(e)1 and (B)(2)(a)2 of the Land Use Code are hereby amended to read as follows:

Division 4.28 Industrial District (I)

...

(B) *Permitted Uses.*

- (1) The following uses are permitted in the I District, subject to basic development review provided that such uses are located on lots that are part of an approved site-specific development plan, except that a stationary vendor use must be approved as a minor amendment:

...

(e) **Residential Uses:**

1. Extra occupancy with five (5) or fewer occupants.

...

- (2) The following uses are permitted in the I District, subject to administrative review:

(a) **Residential Uses:**

...

2. Extra occupancy with more than five (5) **occupants**.

...

Section 34. That Section 4.29 of the Land Use Code is hereby amended to read as follows:

DIVISION 4.29 PLANNED UNIT DEVELOPMENT (PUD) OVERLAY*

...

(D) *PUD Master Plan Review Procedure.*

...

- (2) In order to approve a proposed PUD Master Plan, the decision maker must find that the PUD Master Plan satisfies the following criteria:

...

- (e) The PUD Master Plan is consistent with all applicable Land Use Code General Development Standards (Article 3) except to the extent such development standards have been modified pursuant to below Subsection (G).

(E) ***Permitted Uses.***

...

- (2) Additional uses not permitted in the underlying zone district may be requested for inclusion in a PUD Master Plan along with the type of review for such use, whether Type I, Type II, or Basic Development Review. The application must enumerate the additional use being requested, the proposed type of review, and how the use satisfies below criteria (a) through (d). The decision maker shall approve an additional use if it satisfies criteria (a) through (d). For each approved additional use, the decision maker shall determine the applicable type of review and may grant a requested type of review if it would not be contrary to the public good.

...

- (b) The use complies with applicable Land Use Code provisions regarding the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands and the natural functioning of the environment;
- (c) The use is compatible with the other proposed uses within the requested PUD Overlay and with the uses permitted in the zone district or districts adjacent to the proposed PUD Overlay; and
- (d) The use is appropriate for the property or properties within the PUD Overlay.

...

(G) ***Modification of Densities and Development Standards.***

...

- (3) In order to approve requested density or development standard modifications, the decision maker must find that the density or development standard as modified satisfies the following criteria:
 - (a) The modified density or development standard is consistent with the applicable purposes, and advances the applicable objectives of, the PUD Overlay as described in Sections 4.29 (A) and (B);

...

(H) ***PUD Master Plan Non-Expiration.*** PUD Master Plans do not expire but are subject to the amendment and termination provisions of Sections 4.29 (I) and (J).

...

Section 35. That the definition “*Dwelling unit*” contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

Dwelling unit shall mean one (1) or more rooms and a single kitchen, or including a second kitchen pursuant to Section 3.5.2(H), and at least one (1) bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, two-family or multi-family dwelling or mixed-use building.

Section 36. That the definition “*Extra occupancy rental house*” contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

Extra occupancy shall mean the use of a building or portion of a building by a number of occupants that exceeds the occupancy limits set forth in Section 3.8.16.

Section 37. That Section 5.1.2 of the Land Use Code is hereby amended by the addition of a new definition “Occupant” which reads in its entirety as follows:

Occupant, as the term is used only in Section 3.8.28 and in relation to extra occupancy in other parts of this Code, shall mean a person who occupies a dwelling unit or any portion thereof for living and sleeping purposes.

Section 38. That the definition “*Story*” contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

Story, half shall mean a space under a sloping roof which has the line of intersection of the roof and wall face not more than three (3) feet above the floor level, and in which space the possible floor area with head room of five (5) feet or less occupies at least forty (40) percent of the total floor area of the story directly beneath.

Introduced, considered favorably on first reading, and ordered published this 15th day of December, A.D. 2020, and to be presented for final passage on the 5th day of January, A.D. 2021.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on this 5th day of January, A.D. 2021.

Mayor

ATTEST:

City Clerk