

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.
 - (6) Such use is compatible with the other listed permitted uses in the zone district to which it is added.
 - (7) 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.
 - (8) Such use is not a 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) 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.

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 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).

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 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* (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 15-452 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 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> |
|--|------------------------|----------------------|---------------------|
| A. RESIDENTIAL | | | |
| Two-family dwellings | Not Permitted | Type 1 | Not Permitted |
| Single-family attached dwellings (up to four [4] units per building) | Not Permitted | Type 1 | Type 1 |
| ... | ... | ... | ... |
| C. COMMERCIAL/RETAIL | | | |
| ... | ... | ... | ... |
| 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> |
|-----------------------------|--------------------------|--|
| A. RESIDENTIAL | | |
| ... | ... | ... |
| C. COMMERCIAL/RETAIL | | |
| ... | | |
| 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> |
|-----------------------------|-----------------------|------------------------|
| A. RESIDENTIAL | | |
| ... | | |
| C. COMMERCIAL/RETAIL | | |
| ... | | |
| 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 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:

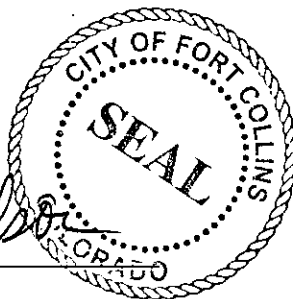
Music facility, multi-purpose, shall mean a facility that may include indoor and outdoor space for the purpose of music workshops, meetings, informal gatherings, occasional small-scale music performances, and occasional recitals and open microphone sessions where performance spaces do not include permanent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

ATTEST:



City Clerk




Mayor

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

Karen Weickum
Mayor

ATTEST:

Wanda Nelson
City Clerk

