



AGENDA

Planning Commission Meeting

6:30 PM - Monday, July 27, 2020

Zoom Meeting

Opportunity for Remote Participation

Email Option: Members of the public may provide public comment or comment on a specific agenda item by sending an email to Lisa.rye@cityofloveland.org. Emails must be received by Monday, July 20th. If requested by the sender, staff will read the email into the record during public comment or public comment for an agenda item.

Phone Option: Members of the public who wish to provide public comment during the public comment portion or during a specific agenda item may call the number below after 6:15 PM, at which time they will be muted and placed on hold.

To participate, dial the following phone number: 1-669-900-6833

When prompted, enter the following meeting ID, followed by the "#" sign: 929 7519 2396

Press "#" when asked for the participant ID.

To speak to an agenda item when public comment is called for, please press *9 on your phone and wait for the moderator.

The hearing will be livestreamed at <https://loveland.viebit.com> or on Channel 16.

Page

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. REPORTS

- A. **Citizen Reports**

- This is time for citizens to address the Commission on matters not on the published agenda.

- B. **Current Planning Updates**

- Planning Commission vacancies and recruitment

- C. **City Attorney's Office Updates**

- D. **Committee Reports**

- E. **Commission Comments**

- D. APPROVAL OF MINUTES

- Review and approval of the July 13, 2020 meeting minutes**
[071320 Minutes](#)

6 - 10

- E. REGULAR AGENDA

1. **Amendments to Title 18 of the Municipal Code - Presenter: Kerri Burchett, Current Planning**

11 - 62

This is a public hearing to consider amendments to the Unified Development Code (UDC) which is Title 18 of the Loveland Municipal Code. Current Planning Division staff, in cooperation with the City Attorney's Office, have developed a group of amendments to the UDC that address code sections that have been problematic for staff and customers. The amendments address conflicting and confusing code provisions, and add provisions that were inadvertently omitted from the UDC when it was adopted in late 2018.

Over a series of four study sessions and one public hearing, the Planning Commission has undertaken the review of the proposed code changes. During this three-month timeframe the Commission has provided extensive comment and direction on the changes, and at the June 22nd study session indicated that the amendment package was ready for public hearing.

Planning staff has divided the group of amendments to 38 sections of the UDC into two packages. This first package represents the more technical, minor corrections, clarifications and insertion of missing provisions are part of this first agenda item. It is expected that this package of amendments can proceed directly to a City Council public hearing (following the Planning Commission public hearing). The second, more complex package of amendments (Agenda item 2) is currently scheduled for a study session with the City Council on August 25th.

The role of the Planning Commission is to conduct a public hearing on this item and forward a recommendation to the City Council. The Commission may specify adjustment to the amendments that are forwarded to City Council.

[PC Staff Report - Technical Amendment](#)
[Attachment 1](#)
[Attachment 2](#)

2. **Amendments to Title 18 of the Municipal Code - Presenter: Kerri Burchett, Current Planning**

63 - 147

This is a public hearing to consider amendments to the Unified Development Code (UDC) which is Title 18 of the Loveland Municipal Code. Current Planning Division staff, in cooperation with the City Attorney's Office, have developed a group of amendments to the UDC that address code sections that have been problematic for staff and customers. The amendments address conflicting and confusing code provisions, and add provisions that were inadvertently omitted from the UDC when it was adopted in late 2018.

This second agenda item is the second group of UDC amendments has undergone the same review process with the Planning Commission as the amendments in agenda item 1. This second group, however, includes code changes that are considered to be more complex. These amendments include modifications to development standards, City review processes and to new and adjusted definitions in the UDC. This second package of amendments is scheduled for a City Council study session on Tuesday, August 25th.

The role of the Planning Commission is to conduct a public hearing on this item and forward a recommendation to the City Council. The Commission may specify adjustment to the amendments that are forwarded to City Council.

[PC Staff Report](#)

[Attachment 1](#)

[Attachment 2](#)

[Attachment 3](#)

[Attachment 4 Surrounding Community Research](#)

[Attachment 5A](#)

[Attachment 5B](#)

[Attachment 5C Sarah Meabon](#)

3. **Nuisance Code - Presenter: Robert Paulsen, Current Planning Manager**

148 - 174

This is a public hearing to consider an ordinance that establishes new Title 16 - Nuisances - of the Loveland Municipal Code. In addition to establishing new Title 16, the ordinance amends associated portions of the Municipal Code to ensure that new Title 16 integrates cohesively into the larger code. The Planning Commission's role is to conduct a public hearing and forward a recommendation to the City Council.

The purpose for establishing the Nuisance Code is to consolidate nuisance provisions that are currently located in multiple areas of the Municipal Code. Consolidation includes updating the Code, an effort that will facilitate improved enforcement practices and better code enforcement services to Loveland residents and businesses.

The Planning Commission has conducted a series of three study sessions on the proposed Nuisance Code (May 18, June 8 and June 22) and has indicated that the code amendments are now ready for public hearing. The public is encouraged to comment on the proposed code amendments either in writing or by participating at the hearing. The Commission may specify changes to the proposed ordinance before forwarding it to City Council.

[7-27-2020 Memo + lrs](#)

[ORD Nuisance Abatement CLEAN \(06-25-2020\) lrs](#)

VI. ADJOURNMENT

Notice of Non-Discrimination

It is the policy of the City of Loveland to provide equal services, programs and activities without regard to race, color, national origin, creed, religion, sex, sexual orientation, disability, or age and without regard to the exercise of rights guaranteed by state or federal law. It is the policy of the City of Loveland to provide language access services at no charge to populations of persons with limited English proficiency (LEP) and persons with a disability who are served by the City.

For more information on non-discrimination or for translation assistance, please contact the City's Title VI Coordinator at TitleSix@cityofloveland.org or 970-962-2372. The City will make reasonable accommodations for citizens in accordance with the Americans with Disabilities Act (ADA). For more information on ADA or accommodations, please contact the City's ADA Coordinator at ADACoordinator@cityofloveland.org or 970-962-3319 .

Notificación en contra de la discriminación

La política de la Ciudad de Loveland es proveer servicios, programas y actividades iguales sin importar la raza, color, origen nacional, credo, religión, sexo, orientación sexual, discapacidad, o edad y sin importar el uso de los derechos garantizados por la ley estatal o federal. La política de la Ciudad de Loveland es proveer servicios gratis de acceso de lenguaje a la población de personas con dominio limitado del inglés (LEP, por sus iniciales en inglés) y a las personas con discapacidades quienes reciben servicios de la ciudad.

Si desea recibir más información en contra de la discriminación o si desea ayuda de traducción, por favor comuníquese con el Coordinador del Título VI de la Ciudad en TitleSix@cityofloveland.org o al 970-962-2372 . La Ciudad hará acomodaciones razonables para los ciudadanos de acuerdo con la Ley de Americanos con Discapacidades (ADA, por sus iniciales en inglés). Si desea más información acerca de la ADA o acerca de las acomodaciones, por favor comuníquese con el Coordinador de ADA de la Ciudad en ADACoordinator@cityofloveland.org o al 970-962-3319 .

Title VI and ADA Grievance Policy and Procedures can be located on the City of Loveland website at: cityofloveland.org

Password to the public wireless network (colquest) is accesswifi

SUPPLEMENTARY INFORMATION

Public Hearing Procedures

The purpose of a public hearing is for the Planning Commission (PC as used below) to obtain full information as to the matter under consideration. This includes giving all interested parties the opportunity to speak (provide testimony) at the hearing.

The public hearing is a formal process. below is the typical hearing sequence followed by the Planning Commission.

Annotations have been provided for clarity.

1. Agenda item is recognized by the Chair

2. Public hearing is opened*

3. Staff presentation

(May include clarifying questions to staff from Commissioners)

4. Applicant presentation

(May include clarifying questions to applicant from Commissioners)

5. Public Comment

(All public comment should be made from the center podium upon direction from the Chair. Citizens should provide their name and mailing address in writing at the podium, and introduce themselves. The PC may ask clarifying questions of the citizens. At a public hearing, the PC does not respond to questions from citizens; questions directed to the applicant or staff should be requested through the Chair.)

6. Applicant response

(The Chair typically requests that applicants respond to comments and questions raised during public comment)

7. PC questions to staff, the applicant and possibly to citizens who presented

(Commissioners may use this step in the process to gain a more detailed understanding of relevant information)

8. Close public hearing

(Unless specifically permitted by the Chair, further testimony is not allowed after the public hearing is closed)

9. Motion

(Motions are made by a PC member with possible conditions)

10. Motion is seconded

(A 2nd is required before the motion can be considered; a motion that fails to obtain a second dies)

11. PC discussion

(The PC discusses the application and whether it satisfies the required criteria as found in adopted City policies and ordinances)

12. PC Chair request that the applicant agrees to any conditions prior to a vote

(When preparing to vote on a motion for approval, the PC Chair will ask if the applicant is willing to accept the proposed conditions. If the applicant is not, the PC may deny the application)

13. Vote

(The decisions of the PC must address relevant findings of fact. These findings respond to criteria specified in adopted plans and codes, and service to guide zoning, annexation and other land use decisions. Relevant criteria and findings are itemized in the Staff Report and referred to in the recommended motion)

*** Not that the Planning Commission may place time limits on presenters. All presenters should communicate clearly and concisely, refraining from duplicating detailed information that has been provided by others.**



MINUTES

Planning Commission

Meeting

6:30 PM - July 13, 2020
VIRTUAL MEETING

The meeting of the City of Loveland Planning Commission was called to order on July 13, 2020 at 6:30 p.m. in the City Council Chambers with the following members present via Zoom video conferencing:

PRESENT: Chairman McFall; and Commissioners Fleischer, Hovland, Tygesen, Eckman, and Weinberg.

ABSENT: Commissioner Devlin.

CITIZEN REPORTS

There were no citizen reports.

CURRENT PLANNING UPDATES

1. **Robert Paulsen, Current Planning Manager**, provided a preview to the July 27, 2020 Planning Commission meeting. A remote public hearing will be held for the Consolidated Nuisance Abatement Code – Title 16 ordinance, as well as for amendments to the Unified Development Code. He added that the Planning Commission has had a series of study sessions over the past couple of months for both of these items.
2. **Mr. Paulsen** introduced **Joe Giannetto, City of Loveland Transportation Development**, who responded to Commissioner McFall's concerns about traffic patterns relating to the recently completed Ziggi's Coffee business at Eisenhower Blvd. and Madison Avenue. **Commissioner McFall** shared that he witnessed traffic stacking on the westbound lane of Eisenhower Blvd. from vehicles trying to enter the Ziggi's drive through facility, and questioned staff as to why this would be a viable option for access to the property. **Mr. Giannetto** explained that staff has recently observed the traffic in the area during peak hours and there were no issues; however, cueing issues were observed on the prior Saturday and was believed to be due to the grand opening event as Ziggi's was promoting free coffee on that day.

Commissioner McFall shared that there was stacking of vehicles in the travel lane of Eisenhower Blvd. prior to the grand opening, which he personally observed and observed by other citizens that communicated with him. **Mr. Giannetto** explained that the City cannot deny access to the property, which has a small site with limited options; furthermore, the Colorado Department of Transportation (CDOT) would only allow right-in access from

Eisenhower Blvd. **Mr. Giannetto** further commented that the drive through stacking capacity exceeds the City's minimum requirements. A condition exists for the redevelopment of the nearby Albertson's site to have an access easement granted, which will improve the traffic situation. **Commissioner McFall** questioned when this was approved and if it ever came before the Planning Commission. **Mr. Paulsen** responded that the Ziggi's Coffee is a use by right, which is allowed in the B-Developing Business zone. Plans for the development of this use would not have come before the Planning Commission prior to the adoption of the UDC. At Commissioner McFall's request, staff will provide an update to the Commission regarding the observation of the traffic situation in the near future.

CITY ATTORNEY'S OFFICE UPDATE

Laurie Stirman, Assistant City Attorney, stated that there were no updates.

COMMITTEE REPORTS

There were no committee reports.

APPROVAL OF THE MINUTES

***Commissioner Weinberg** made a motion to approve the **June 8, 2020** minutes; upon a second from **Commissioner Tygesen**, the minutes were approved unanimously.*

REGULAR AGENDA

1. HIP Streets Infrastructure Condition Assessment

Item Description: This is an informational item that does not require action by the Commission. The project team is presenting conclusions from a 2019 downtown Loveland infrastructure assessment study and requesting direction for next steps for the HIP Streets projects.

The Commission was provided a PowerPoint presentation by **Shelley Aschenbrenner, Public Works**, that included the background of the Heart Improvement Plan (HIP) Streets Master Plan, which was originally approved by the City Council in 2009, and then updated in 2017. She shared that in 2018, the City Council directed staff to complete an infrastructure assessment and to prioritize the project phasing.

Mr. Nathaniel Johnson, Ditesco Services, continued the presentation by sharing the work that Ditesco completed for the purpose of evaluating City owned infrastructure in the HIP streets area, through the investigation of exiting water, sewer, stormwater, electrical and traffic facilities. **Mr. Johnson** shared photos of infrastructure that were of concern. He shared graphs that showed condition summaries for ADA compliance of corner ramps and crosswalks, power poles, stormwater mains, sanitary sewer mains, and water main materials. A project priority list, as well as a project planning map by block was shown. **Ms. Aschenbrenner** stated that the HIP Streets committee chose Block 3 as a pilot project, which would include the area of 5th Street between N. Lincoln and N. Cleveland Avenues. This area was chosen, due to a relatively low improvement cost; furthermore, the City owns several of the buildings along the street, such as

the Reporter Herald building, and the museum along with the adjacent parking lot. She shared that the HIP Streets presentation will be going before the City's boards and commissions and finally to the City Council to provide feedback.

COMMISSIONER COMMENTS:

- **Commissioner Eckman** shared that, according to the graph on page 6 of the presentation, the ADA Compliance on the corner ramps is low and wondered if the City is required to fix those quickly. **Ms. Aschenbrenner** shared that Public Works has a transition plan for the ramp replacement; it is not time-associated if the replacement is within a plan. **Commissioner Eckman** added that he is unhappy to see the high percentage of power poles in good condition, since he would like to see them buried underground. **Mr. Johnson** replied that there are few property owners in the downtown area that are willing to give up space to allow for needed transformers to get the power lines underground.
- **Commissioner Fleischer** asked if there is an opportunity for underground vaulting of the transformers. **Mr. Johnson** stated that he believes the current safety standards don't allow for that and it would be a question for the Power department.
- **Commissioner Fleischer** asked if pilot program funding could be part of the P3 Partnership and asked if there are areas that the City is requesting funding for infrastructure repair. **Ms. Aschenbrenner** shared that the report was prepared to provide an accurate budget for what needs to be completed. She added that Water and Power has a waterline on 4th Street scheduled within their capital improvement plan.
- **Commissioner Fleischer** asked if there is an anticipated timeframe for the full build out of the 24 blocks mentioned in the presentation. **Ms. Aschenbrenner** stated that there is not a timeframe on that, but possibly on an individual project, such as the waterline on 4th Street.
- **Commissioner Fleischer** questioned if the alleys are included in the projects. **Ms. Aschenbrenner** shared that utilities don't break cleanly at the property lines, so they are not included in the project costs, but they are included in a separate assessment for the alleys and Highway 287.
- **Commissioner McFall** shared he is concerned with finding revenues with the loss of tax dollars. He added that it might be especially difficult during times of COVID. He shared that he is concerned to see the large percentage of ADA compliant corner ramps in poor condition.

Commissioner McFall concluded by thanking Ms. Aschenbrenner and Mr. Johnson for their presentation and wished them the best in moving the project forward.

2. Vantage First Addition – Public Hearing

Item Description: This is a public hearing to consider a request for the annexation and zoning of a vacant 32-acre property located at the southwest corner of 14th Street and South Taft Avenue—across from the Thompson Valley Towne Centre. The applicant is requesting B-Developing Business zoning. If approved, this zoning would allow for a variety of commercial, office, and/or multi-family uses. The property is currently zoned FA – Farming under the jurisdiction of Larimer County.

Ms. Jennifer Hewett-Apperson, Strategic Planning, presented slides showing a vicinity map, a map of the surrounding area, and a plat of the property. She shared that the proposal for B-Developing Business zoning is consistent with the Comprehensive Plan. Future development of the area would be required to address Tyler Avenue, which is unpaved, since it would most likely provide primary access to the property; this would be addressed within the site development plan. She stated that staff recommending approval with conditions including an annexation agreement, right-of-way dedication for Tyler Avenue. **Ms. Hewett-Apperson** added that a Traffic Impact Study, Site Development Plan and Public Improvement Construction Plans will be required as part of any future development application. She further noted that future development plans must demonstrate how development won't be impacted by Ryan's Gulch 100-year floodplain.

Ms. Stephanie Hansen, Ripley Design, shared a slide showing the surrounding businesses in the area, with King Soopers and Chase Bank to the north, as well as employment areas to the east. She shared that a B – Developing Business zoning of the property would work well with the surrounding areas. She indicated that much of the site will remain as open space due to the floodplain, which would allow for the preservation of trees and a possible trail in the eastern area of the site. Two access points off Tyler Avenue are expected with future development, with buildings fronting the street. She reminded the Commission that the request is only for annexation and zoning and not for development at this point. **Commissioner Weinberg** asked what the property was to the west of the property. **Ms. Hansen** responded that it is zoned for farming under the jurisdiction of Larimer County.

PUBLIC COMMENT:

There was no public comment.

COMMISSIONER QUESTIONS:

- **Commissioner Weinberg** asked the applicant what type of multi-family product they are considering. **Ms. Hansen** stated that they are possibly considering a “for rent” product; however, they are willing to consider other options allowed within the Business Zone district.
- **Commissioner McFall** asked what feeds Ryan's Gulch, the reservoir located to the south of the property. **Ms. Hewett-Apperson** responded that she is unaware of what feeds the reservoir, but is certain it is managed and maintained by an irrigation and ditch company.

Commissioner McFall closed the public hearing at 7:43 p.m.

MOTION:

***Commissioner Tygesen** moved to make the findings beginning on page 5 of the Planning Commission staff report dated July 13, 2020, and, based on those findings, recommends that the*

City Council approve the 30 acre Vantage Addition, subject to the conditions beginning on page 10 of this report dated July 13, 2020, as amended on the record, and zone the subject property B-Developing Business.

Commissioner McFall announced that Commissioner Fleisher has recused himself from the vote.

The motion was approved unanimously.

COMMISSIONER COMMENTS:

Chairman McFall questioned why ADA access is being replaced in the Kendall Brook area as they appear to be in good condition. **Mr. Paulsen** replied that he will seek clarifying information.

ADJOURNMENT:

Commissioner Hovland made a motion to adjourn; with a second made by **Commissioner Weinberg**, the motion was approved.

Commissioner McFall adjourned the meeting at 7:50 p.m.

Approved by: _____
Patrick McFall, Planning Commission Chair

Lisa Rye, Planning Commission Secretary

Planning Commission Staff Report

July 27, 2020

AGENDA ITEM # 1

Project Name	Title 18 Unified Development Code – Minor Amendment
Staff Planner	Kerri Burchett

Recommended Motion

Move to recommend approval to the City Council of amendments to Title 18 Unified Development Code of the Loveland Municipal Code as provided in Attachment 2 and presented to the Planning Commission on July 27, 2020, as amended on the record.

Amendment Summary

The Unified Development Code (UDC), which is Title 18 of the Municipal Code, was adopted in November of 2018. The UDC represented a complete rewrite of the City's subdivision and land use code. As with any new development code, it was anticipated that staff would bring forward periodic amendments that address needed changes identified with the implementation of the new document. Over the past 3 months, staff has brought components of an amendment package to the Planning Commission in four study sessions in April, May and June, along with an initial public hearing on June 8th. With each study session, new amendments to the UDC were added, resulting in a current amendment proposal that encompass revisions to 38 sections of the code.

To create a more manageable amendment package, planning staff elected to split the amendments into 2 separate items:

- i) Minor adjustments that includes corrections, clarifications, and insertion of missing provisions; and
- ii) Major adjustments that modifies the City's development standards, processes, and definitions.

It is anticipated that the minor amendment package will proceed to a City Council public hearing in August. Due to the complexity of the information contained in the major amendment package, planning staff will present those amendments to City Council in a study session on August 25th.

This report focuses on the minor amendment package, which includes adjustments to 18 sections of the UDC. The amendment provides clarification to problematic sections of the code that were difficult to interpret, reinserts provisions from the previous Title 18 that were inadvertently left out of the UDC, and corrects technical components such as incorrect references and dates.

The Planning Commission's role is to conduct a public hearing and to make a recommendation to the City Council regarding the proposed amendment. The Commission may specify changes to the proposed sections before forwarding it to City Council. Both a redline version and a clean copy of the amendment is provided in Attachments 1 and 2 and a detailed summary of each component of the amendment is included

in Section IV of this report.

I. Attachments

1. Redlined amendment
2. Clean version of the amendment

II. Background

The code amendment package represents a collection of problematic sections of the UDC that have been difficult to interpret or apply, are overly rigid and need adjusting to allow for flexibility, or need updating to incorporate recent State Statutes provisions. The amended sections were often identified as a result of working with developers, business owners, and residents that had difficulty with the UDC provisions.

1. Study Sessions

Four study sessions were conducted with the Planning Commission between April and June to discuss the varying components of the amendments. The minor amendments contained in this report were included as part of each of the study session discussions.

A. April 6th Study Session

The first study session on April 6th focused on revisions to the following sections:

1. Zoning Board of Adjustment
2. Variances
3. Capital Expansion Fees Exemptions
4. Required Notice by Application Type and Contents of Public Notice
5. Downtown District: Core and General Character Areas
6. Lot of Record
7. Group Home, Recovery Residences
8. Day Care Center, Adult and Child (Commercial)
9. Home Child Care
10. Place of Assembly

Based on the direction from Planning Commission at the study session, adjustments to the zoning board of adjustment, variances, capital expansion fees (CEFs), and group home sections were made. This included inserting a new map that identifies the historic downtown for the purposes of applying CEFs and revising the definition of “family”, which is a needed definition to differentiate “family” from a group home, lodging uses and rooming houses. Further discussion and revisions to the family and rooming house definitions were made at a subsequent study session on June 22nd.

B. April 13th Study Session

The second study session was held on April 13th and included a review of the revisions from the April 6th study session, along with a discussion of the following sections:

1. Accessory Structures
2. Accessory Dwelling Units
3. Fences, Walls, and Hedges
4. Outdoor Storage, Storage Yards, and Salvage Yards
5. Applicability of Use Standards

Upon review of the accessory dwelling unit (ADU) amendment, the Planning Commission requested additional information on building and fire code restrictions pertaining to ADUs and basement conversions. Staff explained that there were substantial building and fire code requirements that were problematic to converting a basement to an ADU. Additionally, the square footage limitations for an ADU are difficult to enforce in basements. Following the study session, staff provided a memorandum to the Planning Commission that summarized the building and fire codes relating to basement units to further clarify the reasoning behind the basement restriction. After review of the memorandum, the Commission did not identify further questions or comments regarding the ADU amendment.

At the conclusion of the study session, the Planning Commission indicated that they were ready for the amendment package to proceed to a public hearing. With the Governor's Executive Order for social distancing, the City Manager's office required authorization to proceed with a public hearing. While waiting for authorization for the UDC amendment package to proceed, staff was able to complete further code revisions.

C. May 18th Study Session

A third study session was held with the Planning Commission on May 18th. The amendment focused on the following sections:

1. Accessory Structures (further revisions)
2. Street Trees
3. Unpaid Capital Expansion Fee – Lien
4. Vacation of Emergency Access, Utility, and Non-Constructed Access Easements
5. Director Authorization
6. Neighborhood Notice and Comment
7. Required Notice by Application Type
8. Unity of Title Alternative
9. General Standards for Adaptable Uses

2. Public Hearing

A public hearing was held on June 8th. The hearing was conducted via Zoom. Two citizens spoke during the public comment period. Both individuals expressed a concern regarding the definition of family and the distinction between a family and a rooming house. Based on the discussion, the Planning Commission tabled the UDC amendments and requested a study session to allow staff additional time to research family and rooming house provisions in other communities and present options for the Commissioners to consider.

3. Additional Study Session: June 22nd

A fourth study session was held on June 22nd to specifically focus on options for defining and distinguishing family and rooming houses. At the meeting, staff presented research from surrounding communities, along with 4 options for Planning Commission's consideration. Additionally, a citizen email from Andrew Lewis was provided to the Commission along with an email that staff read into the public record from Grant Shipman. The emails along with additional correspondence from Grant Shipman are provided in the major code amendment staff report as they focus on elements contained in that amendment package.

The following three additional minor code amendments were also discussed at the study session and have been incorporated into this amendment package:

1. Multifamily Building Heights
2. Setbacks Along Alleys, Sidewalks, Trail or Access Easements, Ditches, and Waterbodies
3. Industrial, Processing, Recycling, Storage, and Disposal Land Use Parking Standards

III. Outreach

- Notification of the public hearing was published in the Reporter Herald on July 11, 2020.
- The amendment was posted on the City's website on July 21, 2020.
- Planning staff has not received citizen comments regarding the minor amendment package.
- Many of the components of the amendment were products of working with developers to add flexibility, adjust requirements, and further streamline the development review process.

IV. Amendment Components

The minor amendment components have been categorized into the following two groups based on the purpose or intent of the amendment:

1. Omitted Provisions from the Previous Code
2. Minor Adjustments, Clarifications, and Clarifications

Each amendment component includes a table that outlines the purpose, section references, and key elements of the proposed amendment. Following each table, relevant background information is provided. Redlines of the amendment are included as **Attachment 1** and a clean version of the amendment is included as **Attachment 2**.

1. Omitted Provisions from the Previous Code

A. Downtown Zone District: Core and General Character Areas

Amendment	Section No.	Purpose	Key Elements
Core and General Character Area	18.04.06.05 18.04.06.06	Insert a missing table that contains dimensional and intensity standards for the Core and General Character Areas	<ul style="list-style-type: none">• Provides dimensional standards such as setbacks, lot size and open space provisions that were inadvertently left out of the Downtown zone district for multifamily and nonresidential uses.

This amendment is a technical correction to insert two missing tables in the Downtown zone district (DT). The DT zone establishes 4 character areas: Core, General, Fourth Street, and Neighborhood Transition. Each character area contains separate and unique design and dimensional standards such as building setbacks, minimum lot sizes and open space provisions. A table outlining the dimensional standards in both the core and general character areas was inadvertently left out of the UDC. In the previous code, the table contained both residential and nonresidential standards. In the UDC, residential provisions are accounted for in the housing palette, which contains dimensional standards for all single family, duplexes, and townhome uses within the City. Downtown multifamily and nonresidential standards, however, were not provided for in the DT zone. The amendment simply inserts those provisions from the previous code, into new tables within each character area. No changes are proposed to the actual standards contained in the tables.

B. Capital Expansion Fees

Amendment	Section No.	Purpose	Key Elements
Capital Expansion Fees Exemptions	18.16.04.03	Correct an omission from the previous code exempting CEF's for City-funded projects, clarify exemption for accessory dwelling units.	<ul style="list-style-type: none">• Include the exemption of CEF fees for City-funded development, as granted in the previous Code.• Clarify that the CEF exemption for accessory dwelling units is based on a limitation of 900 square feet of gross floor area.
Unpaid Capital Expansion Fees - Lien	18.16.04.04	Correct an omission from the previous code.	<ul style="list-style-type: none">• Clarify the liens placed on property for unpaid capital expansions fees by adding language from the previous development code.

Capital expansion fees (CEFs) are impact fees imposed on every new dwelling unit and every square foot of retail, non-retail and industrial development. The fee provides a source of funding for new and expanded facilities associated with population growth in the City. CEFs are collected with building permits and help fund public services and infrastructure like roads, community parks, libraries, emergency medical services, fire and police. The amendment reinserts missing CEF provisions from the previous code related to CEF Exemptions and Unpaid Fees-Liens. Prior to the adoption of the UDC, Title 16 of the Municipal Code specified that City-funded development was exempt from capital expansion fees. This provision was erroneously excluded from the UDC and is reinserted with this amendment. The amendment also provides clarification that the CEF exemption for accessory dwelling units (ADUs) is limited to structures that are 900 square feet or less and adjusts the language to clarify the intent of the exemptions for City accounting purposes.

The second omission relates to liens created for unpaid CEFs. The proposed amendment reinserts the language from the previous code, clarifying that the liens from unpaid CEFs are perpetual and have priority over other liens except those for real property taxes.

C. General Design Standards

Amendment	Section No.	Purpose	Key Elements
360-Degree Architecture	18.04.05.04.O	Correct an omission in the previous code	<ul style="list-style-type: none">• Reinsert the City's requirement for consistent architecture on all sides of a building that are visible from a public or private street.

The City's provision that required consistent architecture on all sides of a building visible from a public or private street was inadvertently omitted in the UDC. The amendment reinserts the provision and includes an allowance for the Director to waive the requirement for side or rear building walls that face alleys or other similarly low volume and low visibility roads.

2. Minor Adjustments, Corrections, and Clarifications

A. Contents of Public Notice

Amendment	Section No.	Purpose	Key Elements
Contents of Public Notice	Table 18.14.04.03	Technical clean-up and clarification of notice content.	<ul style="list-style-type: none">Adjust sign posting content to correlate with the City's sign templatesProvide a footnote referencing the requirements and exceptions for neighborhood notice for sketch and final plats.

The amendment to this section revises the required information on public hearing and neighborhood meeting signs to be consistent with the information specified in the City's sign templates. It removes the specific planner's name and contact information from the sign as room for text is limited. Contact information for the Current Planning Division would still be included on the sign. The amendment also adds a new footnote to the notice table referencing the requirements and exceptions for notifying subdivision plats. The added footnote will help direct customers to the appropriate sections of the UDC for clarity on noticing plats.

B. Lot of Record

Amendment	Section No.	Purpose	Key Elements
Definitions	18.19.03	Correct the definition of "lot of record" to coincide with the date of the City's subdivision ordinance.	<ul style="list-style-type: none">Clarify the date for establishing a legal lot to match the date of the City's subdivision ordinance.Plots of land created prior to the City's subdivision ordinance are considered a legal lot of record.

The definition of "lot of record" is an important term in the UDC, particularly as it relates to nonconforming uses. The City established procedures for subdividing property in May of 1967. Property conveyed prior to this date is considered to have been legally created. Property conveyed after that date was required to be subdivided through the City's adopted subdivision procedures. The UDC provides a definition for a lot of record that establishes the effective date of the UDC (November of 2018) as the reference date for establishing a legal lot without approval of a subdivision. The amendment corrects that reference to coincide with the May, 1967 date.

C. Street Trees

Amendment	Section No.	Purpose	Key Elements
Street Trees - Maintenance	18.08.04.01	Remove duplicative information	<ul style="list-style-type: none">Reference the provisions in the proposed Nuisance Code for property owner responsibilities for adjacent land within the right-of-way.

The amendment proposes to remove information regarding maintenance of street trees in the right-of-way from the UDC in an effort to avoid duplication of standards in the proposed Nuisance Code (Title 16). A reference to the applicable section in the Nuisance Code is inserted. Both the UDC Amendments and the Nuisance Code will be scheduled for the same City Council public hearing to ensure that the cross-references between the documents are accurate.

D. Variances

Amendment	Section No.	Purpose	Key Elements
Variance	18.17.15.07	Align standards and findings with State Statutes; allow discretion for the Zoning Board of Adjustment.	<ul style="list-style-type: none">• Remove finding for reasonable use of the property, which is not required by State Statutes.• Relocate variance criteria from sign provisions to this section.

Variances are authorizations to depart from the strict application of standards in the UDC. Variance requests are generally heard by the Zoning Hearing Officer whose decisions can be appealed to the full Zoning Board of Adjustment (ZBA). In considering a variance, the Hearing Officer must consider specific factors or findings outlined in the UDC including a demonstration of undue hardship, conflicts with adopted plans, impacts on adjacent properties and ensuring that the variance will not set a precedent for other applications. The amendment proposes adjustments to the required findings to remove a findings that is not required under State Statutes and allow greater discretion to the ZBA in weighing the merits of each criteria.

E. Unity of Title Alternative

Amendment	Section No.	Purpose	Key Elements
Unity of Title Alternative	18.17.13.05.B	Clarify eligibility, limitations and remove restrictions on conveying property.	<ul style="list-style-type: none">• Criteria for eligibility• Limitations – cannot be used for development of vacant property• Allow conveyance of property without a lot merger plat

The unity of title alternative is a process to merge two or more lots together that have historically been used as one parcel, without requiring a lot merger plat. The purpose of the amendment is to clarify the eligibility of the unity of title, the limitations, and remove language that restricts the conveyance of property without completing a lot merger plat. Many properties in older areas of the City contain multiple small lots or a combination of portions of lots that have existed prior to the City's subdivision requirements. These properties typically also have structures that historically have straddled lot lines. The unity of title alternative is essentially a deed restriction that is recorded with Larimer County that binds the pieces of the property together without resurveying the property. It is a tool commonly used when an applicant requests a building permit for an addition or a deck on an older property and staff discovers that there is a property line that bisects the house. To avoid costly surveys to replat the property and adjust or remove property lines, the unity of title is used.

F. Neighborhood Notice and Comment

Amendment	Section No.	Purpose	Key Elements
Neighborhood Notice and Comment	18.14.03.11 18.14.04.02	Clarify the applicability of the neighborhood notice and comment and provide exceptions	<ul style="list-style-type: none">• Provide specificity and clarity to the neighborhood notice• Include exceptions to streamline the process• Add footnote to the notice table for references.

The neighborhood notice and comment period has been problematic for staff and applicants to interpret. The notice and comment period is associated with sketch subdivision plats and final subdivision plats that did not have an associated sketch plat. The amendment seeks to provide specificity and clarity, modifying the title of the section to indicate the applicability for sketch plats and final plats and providing information on when notice and comment is required. An exception for noticing is also included to eliminate duplicative notices when a project contains both an administrative and public hearing notice requirement and when a plat is not creating a new buildable lot, such as to split an existing duplex unit.

G. Fences, Walls, and Hedges

Amendment	Section No.	Purpose	Key Elements
Fences, Walls and Hedges	18.04.07.05	Clarify provisions and provide a graphic to help convey fencing location requirements.	<ul style="list-style-type: none">• Clarification of fencing height, location and materials.• Simplify language

Fence and wall height requirements in rear and side yards were inadvertently omitted in the UDC. The amendment incorporates the previous allowed fencing heights (6 foot-3 inches; 8 feet in the Industrial zone) and clarifies fencing location and material requirements. A new requirement for a three-foot setback for all fences and walls along a sidewalk is proposed to maximize the use of the entire width of the sidewalk and promote pedestrian walkability. The fence setback adjacent to a sidewalk was discussed at the April 13th study session and the setback was reduced from five feet to three feet based on the Planning Commission's direction. The provision was also adjusted to apply the setback to pedestrian trails. A figure graphically depicting the location and setback requirements is included to supplement the text and aid in conveying the fencing requirements.

H. General Standards for Adaptable Uses

Amendment	Section No.	Purpose	Key Elements
General Standards for Adaptable Uses	18.02.04.12	Clarify required findings for modifying a use standard.	<ul style="list-style-type: none">• Indicates that a modification of a use standard approved by the Director must meet the intent of the use standard and result in an equivalent or greater benefit to the community.

The UDC authorizes the Director to approve variations to use-specific standards through the adaptable use process. The adaptable use process is an administrative process that involves public outreach and a neighborhood meeting. Where a particular land use contains specific use standards in the UDC, an applicant can request a modification of the standard through the adaptable use process. In order to approve a variation, the Director must determine that the variation substantially meets the intent of the original use standard. The amendment includes clarifying language to indicate that the variation must result in equivalent or greater benefit to the community as would compliance with the original use standard.

I. Multifamily Building Heights

Amendment	Section No.	Purpose	Key Elements
Maximum Building Height for Multiplex, General Multifamily and Infill Multifamily	18.04.02.06 18.02.04.03	Establish a consistent format and standards for building height for multifamily structures	<ul style="list-style-type: none">• Establish buildings heights subject to the scale threshold in residential zones and correct table footnotes.• Establish consistent measuring of building heights in feet.• Correct missing building height for multifamily in nonresidential zones.

Table 18.04.02.06 in the UDC sets out the lot and building requirements for multiplex and multifamily lots. The table includes dimensional standards such as minimum lot area, setbacks, maximum height, and building coverage. In terms of land uses, a multiplex building is a multifamily building constructed to look like a large single family home, infill multifamily is defined as one or two buildings that contain less than 30 units, and general multifamily consists of two or more buildings that contain more than 30 units.

The proposed amendment focuses on the maximum building heights identified in the table. The table provides a height measurement for a multiplex building in feet (35 feet), infill multifamily is measured by the number of building stories (2 stories), and general multifamily does not include a specific measurement, but contains the note “by zoning”. The various methods of measuring building height creates inconsistency. It is also difficult to interpret building height by a maximum number of stories as opposed to a linear measurement in feet. The height measurement for a general multifamily building that indicates “by zoning” is also problematic. There is a use standard and footnote on the table that references the residential scale thresholds in residential zones (E, R1, R1e, R2, R3, and R3e) that results in a 26 foot maximum as a limited use (no public outreach) and 35 foot limitation as an adaptable use (neighborhood meeting). There is no reference, however, to multifamily building heights in nonresidential zones.

The proposed amendment adds a new column to the multifamily table under building height and separates height requirements for structures in a residential zone versus a nonresidential zone. Measurements of building heights are consistently formatted. Footnotes are corrected to link the building heights in a nonresidential to zone specific standards in Table 18.04.03.01.A, Standards for New Nonresidential and Mixed-Use Lots. This will provide building heights for multifamily consistent with specific zoning height limitations in the Business, Mixed Activity Center, and Employment zoning districts.

J. Setbacks Along Alleys, Sidewalks, Trail or Access Easements, Ditches, and Waterbodies

Amendment	Section No.	Purpose	Key Elements
Trail or Access Easements	18.04.04.03.C 18.04.07.05	Clarification of setbacks to a public trail.	<ul style="list-style-type: none"> • Revise the language requiring setbacks from the City’s public trail for clarity. • Include flexibility for the Development Services Director and the Parks and Recreation Director to modify the setback without requiring a variance. • Add “trail” to the 3-foot fence setbacks from a sidewalk.

This amendment was developed jointly by Planning and Parks and Recreation staff to simplify and provide clarity on the building setback requirements from the City’s public trail or trail easement. Interpretation of the provisions was problematic particularly in reference to setbacks to “access easements”. The language was revised to clarify that the provisions relate to the edge of the trail or trail easement, whichever resulted in a greater setback. Flexibility was also added to allow the Director of Development Services, after consultation with the Parks and Recreation Director, the ability to modify or waive the trail setback requirement if the placement of the structure would not create detrimental impacts on the use or maintenance of the trail. This flexibility allows site specific evaluation of trail segments which is particularly important as the trail meanders through existing development.

K. Industrial, Processing, Recycling, Storage, and Disposal Land Use Parking Standards

Amendment	Section No.	Purpose	Key Elements
Light Industrial Parking Standards	18.05.03.03.F	Provide parking standards for warehouse uses.	<ul style="list-style-type: none">Establish a specific parking ratio for warehouse uses under the light industry category to match the provisions in the previous code.

The UDC combined a variety of industrial land uses into a “light industry” land use category. Light industry now includes research and development, assembly, manufacturing, wholesaling and warehouse uses. In terms of parking, the light industry category requires an off-street parking ratio of 1 space per 500 square feet of floor area. While this ratio may be appropriate for uses in this category that generate customer and employee parking demands, the ratio produces an excessive amount of parking required for warehouse uses. The previous code established a parking ratio of 1 space per 1,000 square feet of warehouse use. The proposed amendment reinserts this parking ratio into the light industry parking standards for warehouse uses.

V. Staff Recommendation

Staff recommends that, after review of the UDC amendment, the Planning Commission forward a recommendation of approval to the City Council.



18.04.06.05 Core Character Area Urban Design Standards

F. Dimensional and Intensity Standards

1. *Generally.* Standards for building setbacks, open space and lot size for downtown multifamily, nonresidential and mixed use buildings are set out in Table 18.04.06.05.B, Dimensional and Intensity Standards. Setbacks for residential structures are set out in Division 18.04.02, Housing Palette.

Table 18.04.06.05.B Dimensional and Intensity Standards								
Use	Minimum ^{1,2}					Open Space and Lot Size		
	Front Setback	Interior Side Setback	Street Side Setback	Rear Setback	Rear Street Setback	Useable Open Space	Min. Lot Size	Min. Lot Width
Downtown Multifamily	10 ft.	5 ft.	0 ft.	10 ft.	0 ft.	0%	5,000 sf.	50 ft.
Nonresidential and Mixed Use	0 ft.	0 ft.	0 ft.	10 ft.	0 ft.	0%	-	-
Table Notes: ¹ Structures 50 feet in height or taller shall be set back a minimum of 15 feet from the face of the curb. ² See Table 18.04.06.05.A, Setbacks and Build-To-Lines, for setbacks and build-to-lines from public streets in the core character area.								

18.04.06.06 General Character Area Urban Design Standards

E. Dimensional and Intensity Standards

1. *Generally.* Standards for building setbacks, open space and lot size for downtown multifamily, nonresidential and mixed use buildings are set out in Table 18.04.06.06.A, Dimensional and Intensity Standards. Setbacks for residential structures are set out in Division 18.04.02, Housing Palette.

Table 18.04.06.06.A Dimensional and Intensity Standards								
Use	Minimum ¹					Open Space and Lot Size		
	Front Setback	Interior Side Setback	Street Side Setback	Rear Setback	Rear Street Setback	Useable Open Space	Min. Lot Size	Min. Lot Width
Downtown Multifamily	10 ft.	5 ft.	0 ft.	10 ft.	0 ft.	10%	5,000 sf.	50 ft.
Nonresidential and Mixed Use	0 ft.	5 ft.	0 ft.	10 ft.	0 ft.	7.5%	-	-
Table Notes: ¹ Structures 50 feet in height or taller shall be set back a minimum of 15 feet from the face of the curb.								

G. Architectural Features.

1. Buildings shall incorporate a combination of the following features:
 - a. columns;
 - b. pilasters;
 - c. window dormers;
 - d. bay windows;

- e. corbels;
 - f. balconies;
 - g. porches (residential buildings only); or
 - h. other similar architectural features to add visual interest and diversity.
2. All elevations facing a public street right-of-way, public plaza or pedestrian space, or public parking lot shall contain a cornice parapet, capstone finish, eaves projecting at least twelve inches, or other comparable features that provide definition to the roof line.
 3. All rooftop mechanical equipment shall be screened from view from public rights-of-way with screening materials that are comparable in color, tone, and texture to the materials used for cladding.
 4. Each building fronting a public street shall have at least one primary entrance that shall be clearly defined and recessed or framed by elements such as awnings, porticos or other architectural features. Buildings fronting onto a primary pedestrian street shall place the primary entrance on the primary pedestrian street frontage.

H. Building Openings.

1. No wall facing a plaza or public street shall extend more than 25 horizontal linear feet on the ground floor without a window or other opening.
2. Table 18.04.06.06.B, Minimum Facade Openings, sets out the minimum percentage of street-facing building facades that must be comprised of windows or doors.

Table 18.04.06.06.B Minimum Facade Openings		
Facade Type / Location	Street Type	
	Primary Pedestrian Street	Non-Primary Pedestrian Street
Primary, Ground Floor	30%	30%
Secondary, Ground Floor	30%	20%
Residential, Ground Floor	20%	20%
Upper Floors, All Uses ¹	15%	15%
TABLE NOTE:		
¹ Upper floor surface area shall be measured excluding cornice or other roof features.		

Division 18.16.04 Capital Expansion Fees

18.16.04.03 Exemptions

- A. **Generally.** As specified in this Section certain areas in the City and certain types of development are exempt from the payment of capital expansion fees. ~~Capital expansion fees are not charged in the areas of the City or for the types of development that are specified in this Section.~~
- B. **Historic Downtown Loveland.** Any construction project within Historic Downtown Loveland, as described in Appendix D: Historic Downtown Loveland - Legal Description and Appendix D, Exhibit 1: Historic Downtown Loveland Map, is exempt from the capital expansion fees imposed by this Division and any building permit fees imposed upon a construction project by the City. ~~The capital expansion fees imposed by this Division and any building permit fees imposed upon a construction project by the City, shall not be charged or collected for any construction project located within Historic Downtown Loveland, as legally described in Appendix D: Historic Downtown Loveland – Legal Description.~~
- C. **Accessory Dwelling Units.** Capital expansion fees are not charged for accessory dwelling units that are 900 square feet or less in gross floor area, in accordance with Section 18.04.07.02, Accessory Dwelling Units.
- D. **City Projects.** Any City-funded development and construction of buildings and facilities to be used for City purposes, except for those buildings and facilities built, maintained and operated by a City utility or enterprise, are exempt from the capital expansion fees imposed by this Division.

18.16.04.04 Unpaid Capital Expansion Fee – Lien

- E. **Lien Created.** All capital expansion fees shall be a perpetual lien upon ~~each lot or parcel of land~~ the real property for which the fees are owed from the due date thereof, determined as set forth in Section 18.16.04.02 Capital Expansion Fees Imposed until paid and such lien shall have priority over all other liens except those for real property taxes.
- F. **Collection.** If such fees are not paid when due, in addition to any other means provided by law, the City Clerk shall certify such delinquent charges to the treasurer of Larimer County and the charges shall be collected in the same manner as though they were part of the taxes.
- G. **Relationship to Approvals and Permits.** The City reserves the right to withhold or revoke any permits, certificates or other approvals to any applicant who is delinquent in the payment of capital expansion fees.



18.04.05.04 General Building Design Standards

- O. **360-Degree Architecture.** The architectural features, materials, and articulation of the front façade shall be continued on all sides of a building that are visible from a public or private street. The Director may waive all or portions of this standard for side or rear building walls that face alleys or other similarly low volume and low visibility roadways.

18.14.04.03 Contents of Public Notice

- A. **Generally.** Table 18.14.04.03, Information Requirements by Application Type, sets out the information that is required for each type of required notice. Information requirements for appeal notices are set out in subsection B., below, and information requirements for vested rights notices are set out in subsection C., below.

Table 18.14.04.03 Information Requirements by Application Type				
Required Information	Notice Type			
	Published	Posted	Mailed	Internet
Application Information				
The application type(s) for which notice is provided	✓	✓	✓	✓
Case number	✓	✓	✓	✓
Project name	✓	✓	✓	✓
Vicinity map identifying the site with respect to major cross-streets and community landmarks	-	-	✓	✓
Address of the subject property	✓	-	✓	✓
Legal description of subject property, or if lengthy, a statement that the legal description of the subject property is on file with current planning division	✓	-	✓	✓
Applicant name	✓	-	✓	✓
Project Description				
Existing zoning (and proposed zoning, if the application is for zoning or rezoning)	✓	-	✓	✓
Summary of proposed development, including subject matter of application	✓	-	✓	✓
Contact Information				
Primary contact (applicant or applicant's representative) (name, company name, phone number, email address)	-	-	✓	✓
Secondary contact ¹ (current planning division) (reviewing planner name, phone number, email address)	-	✓	✓	✓
URL where additional project information is provided	-	-	✓	✓
Additional Contents for Public Hearing Notices and Neighborhood Meetings				
Time, date, and location of public hearing or neighborhood meeting	✓	✓	✓	✓
A statement that interested parties may appear and speak on the matter at the neighborhood meeting and public hearing and/or file written comments with the current planning division, and that the right to appeal a Director or Planning Commission decision may be limited by Division 18.14.05, Appeals , Loveland Unified Development Code	-	-	✓	✓
Additional Contents for Administrative Decision Notices				
Deadline for public comments for a sketch or final plat	N/A	✓	✓	✓
Deadline for appeal of an adaptable use	N/A	-	✓	✓
Earliest date for administrative decision on application	N/A	-	✓	✓
A statement that the right to appeal an administrative decision may be limited by Division 18.14.05, Appeals , Loveland Unified Development Code	N/A	-	✓	✓
¹ Posted notice must contain the current planning division phone number. Mailed notice must contain the reviewing planner's name, phone number, and email address.				



- B. **Appeal Notices.** Notices of an **pending** appeal must include a copy of the petition for appeal and a date, time, and location for the appeal hearing, a copy of the rules of procedure for the Appellate Body. Such notices must be mailed to the applicant (if different from the appellant), the appellant, any person or entity that has applied for party status, and by internet posting.
- C. **Vested Rights Notices.** Notice of a decision to grant vested rights shall be published in accordance with the requirements of C.R.S. § 24-68-101, as it may be amended from time to time.



Lot of Record means a plot of land that was created by subdivision plat, or for which the deed or other instrument that created the plot of land ~~was~~ **is** recorded with the County Clerk and Recorder prior to ~~May 16, 1967~~ **the effective date of this UDC**. A lot of record is not necessarily a platted lot. If a plot of land was conveyed with reference to a plat, but includes multiple lots or combinations of partial lots, the entire plot of land is a lot of record if it is developed or used as a single development site.



18.08.04.01 Street Trees

- D. **Maintenance.** Maintenance of street trees shall be the responsibility of the adjacent property owner, in accordance with Section 16.28.020 Property Owner Responsibilities. ~~unless the applicant has provided for an alternative perpetual maintenance arrangement that is acceptable to the Director (e.g., via a property owners' association or special district).~~

18.17.15.07 Variances

- A. **Generally.** Variances are authorizations to depart from the strict application of the standards of this UDC. The Zoning Board of Adjustment may grant a variance pursuant to the standards of this Section.
- B. **Standards.**
1. The Zoning Board of Adjustment may grant a variance only when ~~the applicant demonstrates that there are unusual and exceptional circumstances creating an undue hardship, applicable only to the property involved, which do not generally apply to the other land areas within the same zone. it is demonstrated that:~~
 2. In addition to Section B.1 above, the Zoning Board of Adjustment shall consider the following factors in determining whether to grant a variance:
 - a. Granting the variance will not substantially conflict with any adopted plans or policies of the City, or the purposes or intent ~~set out in~~ of this Code;
 - b. ~~There are exceptional conditions creating an undue hardship, applicable only to the property involved, or the intended use thereof, which do not generally apply to the other land areas or uses within the same zone;~~
 - c. ~~The Applicant cannot derive a reasonable use of the property without approval of a variance;~~
 - b. Granting the variance will not generally set a precedent for other applications (which would indicate that a text amendment to this UDC should be proposed and considered instead);
 - c. Granting the variance will not be detrimental to any adjacent properties or the area;
 - d. Granting the variance will not be detrimental to public health, safety, or welfare; and
 - e. Adequate relief cannot be reasonably obtained through a different procedure, such as the application of alternative compliance standards, if applicable.
 3. In addition to the provisions in Sections B.1 and B.2, above, for a variance to Section 18.04.08.12.E Electronic Message Signs, the Zoning Board of Adjustment shall consider and make findings regarding the following factors in determining whether to grant a variance:
 - b. The proposed area, setback and/or height of the electronic message sign module is the minimum required to be fully visible from the adjacent arterial or interstate roadway right-of-way;
 - c. Traffic safety conditions will not be diminished by the increased sign face area, increased height, or decreased setback of the electronic message sign module; and
 - d. There are no reasonable alternatives to the increased sign face area, increased height, decreased setback, and/or design of the electronic message sign.
 4. The Zoning Board of Adjustment shall have broad discretion in determining the weight given to each of the factors in Section B.2, above.
 5. The Applicant requesting the variance shall have the burden of proof in establishing by a preponderance of the evidence that a variance should be granted.
- C. **Alternative Standards for Existing Legal Nonconformities.** In the event the basis or reason for the variance is used to remedy an existing legal nonconformity (e.g., an undersized parcel was created, or a structure whose deficient setbacks were established, or a structure had setbacks which were conforming to requirements prior to the adoption of the current Code requirements), the Zoning Board of Adjustment may approve a variance based on the following standards, but only if such relief is still reasonably necessary after the application of [Chapter 18.11 Nonconformities](#):
2. The variance is necessary to preserve an historic building; or
 3. The variance will not impose unfair burdens on adjacent property with respect to building or fire code compliance, will promote reinvestment in the existing building, and will not frustrate the implementation of the Comprehensive Plan or any adopted special area or corridor plan.

18.17.13.05 Lot Merger and Unity of Title Alternative

B. Unity of Title Alternative.

1. *Generally.* The unity of title alternative is available to owners of a property that consists of two or more adjoining lots ~~that have been historically used as one parcel and for which there would be little value in processing a lot merger (referred to collectively as the "property" for purposes of this Section only).~~
 2. *Eligibility.* To be eligible for a unity of title alternative, the property must meet the following criteria:
 - a. ~~The property~~ consists of two or more adjoining lots under a common ownership;
 - b. ~~The property is in a single zone district;~~
 - c. One or more of the lots which are part of the property are undevelopable due to the lot size or lot square footage being nonconforming with the provisions in Division 18.04.02 Housing Palette and Division 18.04.03 Nonresidential and Mixed-Use Bulk Standards; and either
 1. ~~The lot contains an existing structure(s) that is located on or over a property line,~~ for which issuance of a building permit would otherwise require the consolidation of the lots; ~~or~~
 2. ~~The unity of title alternative is also available to owners of a property that~~The lot was legally created prior to the establishment of the City's subdivision procedures ~~on May 15, 1967.~~
 3. *Limitations.* ~~An owner of property is not eligible for the unity of title alternative for the following purposes:~~
 - a. ~~Redevelopment (as defined in Division 18.19.03, Definitions);~~
 - b. ~~Development of vacant property; and~~
 - c. ~~The issuance of a building permit for a property that does not meet the criteria set forth in B. 2, above.~~
 - d. ~~or development of vacant property that consists of two or more adjoining lots are not eligible for the unity of title alternative and shall be processed as a lot merger.~~
 4. *Procedure.* The owner of a subject property that ~~qualifies~~is eligible pursuant to subsection B. ~~21.~~, above, may request that in lieu of a lot merger the City issue the building permit upon execution of a unity of title in a recordable form approved by the City Attorney.
 5. *Contents of Unity of Title.* The unity of title shall be in the form of a covenant or deed restriction that restricts the owner's right to convey the subject ~~property~~lots included in the unity of title as separate parcels without first subdividing it. ~~or completing a lot merger.~~
 6. *Release of Unity of Title.* The unity of title shall be released by the City ~~upon completion of a lot merger that combines the adjacent lots in common ownership that comprise the subject property, or~~ upon the determination of the Director that the purpose for which the unity of title was executed is no longer served.
 7. *Administrative Authority.* The Director shall have the authority to execute any agreement providing for unity of title, and to any release of a unity of title on behalf of the City.
- C. **Recordation.** Upon approval by the Director and conclusion of any applicable appeal procedures, the lot merger plat or unity of title in lieu of lot merger shall be recorded in compliance with Section 18.14.03.14, Recording of Approvals.

18.14.03.11 Neighborhood Notice and Comment for Sketch Plats and Final Plats

- A. **Generally.** Sketch plats and final plats ~~Certain administrative review procedures~~ require a neighborhood notice and comment period.
- During the neighborhood notice and comment period, the Director shall make application materials available at reasonable times for inspection, and shall accept written comments from the public regarding the application's compliance with this UDC.
 - The Director shall not consider public comments that are not pertinent to the evaluation of whether the application complies with the requirements of this Code.
- B. **When Required.** The neighborhood notice and comment period is required for the following applications:
- Sketch Plat; and
 - Final Plat that did not require a sketch plat
- C. **Exceptions.** A neighborhood notice and comment period is not required for the following:
- Sketch plats or final plats that are being processed concurrently with a development application that requires a public hearing and the boundaries of the sketch plat or final plat are the same as the development application;
 - Sketch plats or final plats for properties with existing development that do not create an additional developable parcel(s);
 - Final plats that conform to a sketch plat for which the neighborhood notice and comments period was satisfied; and
 - Final plats for which the neighborhood notice and comment period was not required for the sketch plat in accordance with this subsection.
- D. **Notice and Comment Period.** The notice and comment period shall be in accordance with Section 18.14.04.04, [Specific Requirements by Notice Type](#).

18.14.04.02 Required Notice by Application Type

Public notice of pending administrative decisions, neighborhood meetings, or scheduled public meeting or public hearings shall be provided as set out in Table 18.14.04.02, Notice Requirements by Application Type.

Table 18.14.04.02 Notice Requirements by Application Type				
Application Type	Notice Type			
	Published ²	Posted	Mailed	Internet
1. Annexation, Zoning and Rezoning				
Annexation ¹	✓	✓	✓	✓
Zoning and Rezoning	✓	✓	✓	✓
2. Overlays				
Enhanced Corridor Overlay Zone Designation	-	✓	✓	✓
3. Development Plans, Permits, and Approvals				
Certificate of Designation	✓	✓	✓	✓
Complete Neighborhood	-	✓	✓	✓
Conceptual Master Plan	-	✓	✓	✓
Oil and Gas (Administrative Permit)	-	✓	✓	✓
Oil and Gas (Planning Commission Permit)	-	✓	✓	✓
Sketch Site Development Plan	By Land Use Classification. See Subheading 9 of this Table			

**Table 18.14.04.02
Notice Requirements by Application Type**

Application Type	Notice Type			
	Published ²	Posted	Mailed	Internet
Site Development Plan	By Land Use Classification. See Subheading 9 of this Table			
4. Subdivisions, Plats, and Vacations				
Final Plat ³	-	✓	✓	✓
Sketch Plat ³	-	✓	✓	✓
Vacation of Easement	-	-	✓	✓
Vacation of Obsolete Subdivision	✓	✓	✓	✓
Vacation of Right-of-Way or Access Easement by Ordinance	✓	✓	✓	✓
5. Planned Unit Developments				
Sketch Plat with GDP	-	✓	✓	✓
Sketch Site Development Plan with GDP	-	✓	✓	✓
Zoning Document	✓	✓	✓	✓
6. Variances, Appeals, Modifications, Exceptions and Conversions				
Adequate Community Facilities (ACF) Exception	-	✓	✓	✓
Appeal of Director Decisions	-	-	✓	✓
Appeal of Planning Commission Decision	-	-	✓	✓
Height Exception	-	✓	✓	✓
Nonconforming Building or Structure, Conversion to Conforming Building or Structure (Public Hearing)	-	✓	✓	✓
Nonconforming Use, Conversion to Conforming Use (Public Hearing)	-	✓	✓	✓
Oil and Gas Overlay Zone Variance	-	✓	✓	✓
Oil and Gas Variance	-	✓	✓	✓
Variance	-	✓	✓	✓
7. Vested Rights				
Vested Rights (and Extension of Vested Rights)	✓	✓	✓	✓
8. Amendments				
Annexation Agreement Amendment	-	✓	✓	✓
Comprehensive Plan Amendment (major)	✓	✓	✓	✓
Conceptual Master Plan Amendment (major)	-	✓	✓	✓
Flexible Overlay Plan Amendment (major)	-	✓	✓	✓
Major Amendment	Same notice type as the original application			
UDC Amendment (major)	✓	-	-	✓
Zoning Document Amendment (major)	✓	✓	✓	✓

Table 18.14.04.02
Notice Requirements by Application Type

Application Type	Notice Type			
	Published ²	Posted	Mailed	Internet
9. Land Use Classifications				
Adaptable Use ⁴	-	✓	✓	✓
Conditional Use ⁴	-	✓	✓	✓

Table Notes:

¹ As required by applicable provisions of C.R.S § 31-12-101, *et seq.*

² Publication required for public hearings only.

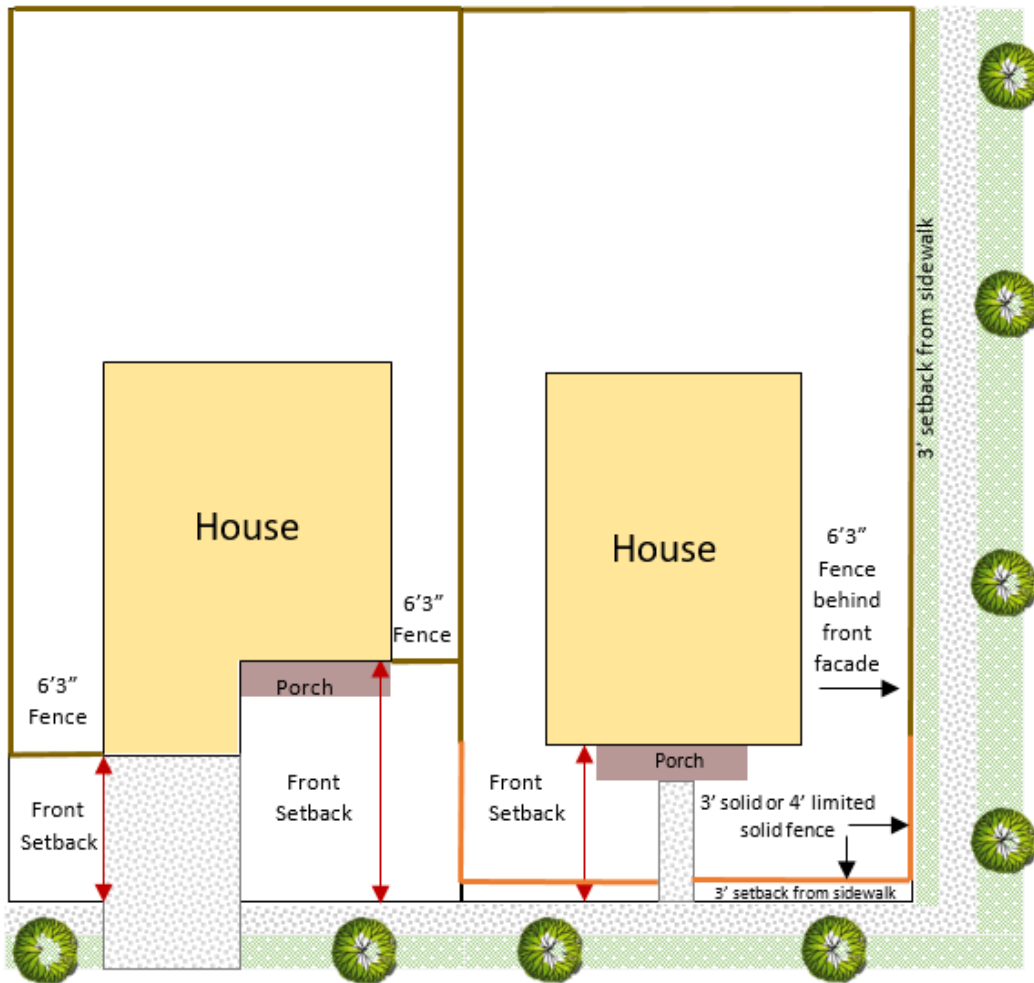
³ See Section 18.14.03.11 Neighborhood Notice and Comment for Sketch Plats and Final Plats for exceptions to notice.

⁴ Notice is not required for site development plans for adaptable or conditional uses if they conform to an approved sketch site development plan.

18.04.07.05 Fences, ~~Garden~~ Walls, and Hedges

- A. **Generally.** It is the purpose of the provisions of this Section to establish requirements for the height, location, materials, and maintenance of fences, garden walls, or hedges in all zones. The standards of this Section shall be implemented in a manner that complies with Section 18.05.02.02, *Sight Triangles*.
- B. **Location.**
1. All fences and garden walls must be located on or within the boundary lines of the property owned by the person or persons who construct and maintain them, unless expressly approved otherwise in writing by the Director upon proof of consent from the affected adjacent property owner.
 2. Fences or walls that are located within bufferyards that are not installed along street right-of-way lines may be located upon the property line.
 3. Fences or walls that are located within bufferyards that are installed along street right-of-way lines shall be located along the boundary of the bufferyard that is furthest from the street edge.
 4. Fences or walls that are located adjacent to a sidewalk or trail shall be set back a minimum of three feet from the back of sidewalk or on the property line, whichever is greater.
- C. **Height.**
1. *Front ~~Setback~~Yards.*
 - a. Generally.
 1. Limited solid material fences and walls that are located in front setbacks, between the front property line and the front facade of the principal structure, within 15 feet from the front property line shall have a maximum height of four feet.
 2. Solid material fences and walls or hedges that are located in front yards setbacks between the front property line and the front facade of the principal structure, shall have a maximum height of three feet.
 3. Fences or walls that are located outside of the front setback, either flush or behind the front facade of the principal structure, shall have a maximum height of six feet three inches.
 4. For residential properties that have garages that extend in front of the living portion of the house, the front setback for the purpose of calculating fence and wall heights, shall be measured to both the garage and the living portion of the house. See Figure 18.04.07.05.A, Fence and Wall Location.
 - b. Industrial Zone. Fences or walls that are located behind the front facade of the primary structure shall have a maximum height of eight feet.
 - c. Exceptions. The standards of subsection C.1.a. do not apply if the fence, wall, or hedge:
 1. Is necessary to screen a particular use, as required by this UDC or Colorado law; or
 2. Bounds or encloses a publicly-owned recreation area.
 2. *Side or Rear ~~Setbacks~~Yards.*
 - a. Generally. In side or rear yards, the maximum height of fences, walls, and hedges shall be six feet three inches in all zones except E or I, in which the maximum height shall be eight feet.
 - b. Exceptions. The standards of subsection C.2.a. do not apply if the fence, wall, or hedge:
 1. Encloses or bounds a play court, ballfield, or publicly-owned recreation area and is a limited solid material fence or wall;
 2. Is a noise barrier;
 3. Is necessary to screen a particular use, as required by this UDC or Colorado law.

Figure 18.04.07.05.A Fence and Wall Location



D. **Materials.**

1. Fences or walls shall be constructed of materials customarily commercially sold for fencing and walls, including decorative masonry, stone, brick, ornamental metal, vinyl, wood, wood composite, or other comparable materials.
2. Chain-link or other woven-wire fences are prohibited in the front yard of a lot or parcel, unless otherwise approved by the Director upon a determination that extraordinary and unusual circumstances exist that require such a fence to meet reasonable requirements for public safety. Existing chain link fences shall be subject to Chapter 18.11 Nonconformities.

E. **Construction Adjacent to Streets.** For fencing facing a street, the finished surface of the fence shall face towards the street frontage. Non-decorative elements such as fence posts and supporting structures, when visible on one side and not the other, shall face inward.

F. **Perimeter Subdivision Fencing.**

1. Fencing or walls along the perimeter of a subdivision shall be of a consistent design and have obvious columns that are located at intervals of not more than 35 feet.
2. Perimeter fencing and walls located in new residential developments with frontage on an arterial or collector street shall include an adequate number of openings for pedestrian access.

G. **Fences or Walls Adjacent to Open Space.** Fences or walls constructed adjacent to parks, common areas, open space, and environmentally sensitive areas shall not exceed four feet and shall be of a limited solid material, unless the Director determines that alternate fencing is needed for safety or to provide adequate buffering.



- H. **Drainage.** No fence or wall may be constructed in a manner or location which will interfere with natural surface water runoff, or which will result in a negative impact to any adjacent property by natural surface runoff. All fences and walls must be constructed in a manner that complies with City drainage requirements and standards, and in compliance with any approved drainage plans on file with the City for the subject property.
- I. **Security Fencing.**
1. No barbed wire or other sharp-pointed fences shall be installed on any property, except:
 - a. In the DT, B, E, I, and DR zones upon demonstration to the Director that:
 1. A substantial security need justifies the installation; ~~and~~
 2. The fence will be safe and in compliance with Colorado law; ~~and~~
 3. ~~No more than three strands of barbed wire shall be installed;~~ or
 - b. To secure utility facilities in any zone.
 2. Electrically charged fences are not allowed ~~except~~~~unless~~ upon determination by the Director that:
 - a. ~~The fence is~~ necessary for livestock control; ~~and~~
 - b. ~~The fence will be safe and in compliance with Colorado law.~~
 3. ~~Razor and concertina wire are not allowed.~~
- J. **Maintenance and Restrictions.**
1. All fences, hedges and walls shall be maintained in good condition at all times. All fences and walls shall be neatly finished and repaired, including all parts and supports.
 2. It shall be unlawful for any person to place ~~or, allow~~ ~~or be placed, or allow to remain on any lot, tract or parcel of land which is either owned or otherwise legally controlled by them~~ a fence, hedge, or wall that creates an unsafe or dangerous obstruction or condition ~~on property either owned or legally controlled by them. This includes a fence, hedge, or wall, or~~ that obstructs reasonable access to utility, irrigation, or drainage equipment, structures, or facilities located within a dedicated easement or right-of-way, by ~~persons utility providers, agencies, ditch companies or irrigation districts, corporations, or businesses and their designated representatives~~ who are entitled to gain access to such equipment, structures, or facilities.

18.02.04.12 General Standards for Adaptable Uses

- A. **Generally.** All uses that are listed in the tables of [Division 18.02.03, Land Use by Zone](#), as adaptable uses (“A”) shall meet the standards of this Section in addition to the standards of this [Division 18.02.04, Use Standards](#), that apply to the proposed use.
- B. **Review Standards.** An application for adaptable use approval may be approved if, in addition to the specific standards of this [Division 18.02.04, Use Standards](#), that apply to the proposed use (except as provided in subsection C., below), it is demonstrated that, in its proposed location and with its proposed design:
1. The proposed adaptable use will not tend to frustrate the implementation of any current, adopted plans of the City, including, but not limited to, the Comprehensive Plan;
 2. The location, size, design and operating characteristics of the proposed adaptable use will be consistent with and / or complementary to the existing and future land uses within the surrounding neighborhood, and will not create significant additional amounts of noise, traffic, or other conditions, compared to those other uses, that may be objectionable or detrimental to other permitted uses in the vicinity;
 3. The proposed adaptable use will not negatively impact the land use patterns of existing or approved development within the neighborhood or discourage permitted uses or reinvestment in permitted uses by making the vicinity less desirable for them; and
 4. The proposed adaptable use is otherwise consistent with the standards in the UDC, as amended, and meets the requirements in [Chapter 18.15, Adequate Community Facilities](#).
- C. **Use Standard Modification.** The Director may approve variations to the use-specific standards of this [Division 18.02.04, Use Standards](#), that apply to the proposed use through the adaptable use process, provided that the variation substantially meets the intent of the use standard, **results in equivalent or greater benefits to the community as would compliance with the use standard**, and **complies with** the review standards in subsection B., above.
- D. **Conditions of Approval.** The Director may approve an adaptable use with conditions to mitigate its impacts, in order to ensure continuing compliance with the review standards set out in subsection B., above. Conditions may relate to:
1. Type, size, amount, and placement of landscaping;
 2. Use, location, number, height, size, architectural design, material, and color of buildings;
 3. Configuration and placement of vehicular and pedestrian access and circulation;
 4. Amount and configuration of off-street parking;
 5. Amount, placement, and intensity of lighting;
 6. Operational characteristics of the use, including hours of operation; and
 7. Emissions of noise, dust, fumes, glare and other pollutants.

18.04.02.06 Multiplex and Multifamily

B. **Lot and Building Standards.** Table 18.04.02.06, Multiplex and Multifamily Lot and Building Standards, sets out the lot and building requirements for multiplex and multifamily.

Table 18.04.02.06 Multiplex and Multifamily Lot and Building Standards											
Lot Type	Vehicular Access	Minimum						Maximum			
		Lot Area (per building)	Lot Width	Front Setback	Interior Side Setback	Street Side Setback	Rear Setback	Units Per Building	Height		Building Coverage ¹
									Res Zone ³	Non-Res Zone ⁴	
Multiplex	Alley or Parking Court	3 unit bldg.: 8,000 sf. 4 unit bldg.: 10,000 sf. 5 unit bldg.: 12,000 sf.	3 unit bldg.: 80 ft. 4 unit bldg.: 100 ft. 5 unit bldg.: 120 ft.	10 ft.	6 ft.	8 ft.	0 ft. ¹	5	26/35 ft.	26/35 ft.	50%
	Street	3 unit bldg.: 8,000 sf. 4 unit bldg.: 10,000 sf.	3 unit bldg.: 80 ft. 4 unit bldg.: 100 ft.	25 ft.	6 ft.	15 ft.	15 ft.	interior lot: 3 corner lot: 4	26/35 ft.	26/35 ft.	50%
General Multifamily	Alley or Parking Court	10,000 sf.	100 ft.	10 ft.	6 ft.	10 ft.	0 ft. ¹	not limited ²	(by zoning) 26/35 ft.	by zoning	35%
	Street	10,000 sf.	100 ft.	25 ft.	6 ft.	15 ft.	15 ft.	not limited ²	(by zoning) 26/35 ft.	by zoning	35%
Infill Multifamily	Alley or Parking Court	10,000 sf. ⁵	70 ft.	10 ft.	5 ft. ⁶	8 ft.	0 ft. ¹	not limited	2-stories 26/35 ft.	by zoning	40%
	Street	10,000 sf. ⁵	70 ft.	25 ft.	5 ft. ⁶	15 ft.	15 ft.	not limited	2-stories 26/35 ft.	by zoning	40%
Downtown Multifamily	See Division 18.04.06, Downtown Design Standards										
TABLE NOTES:											
¹ May be increased as provided in Section 18.04.04.03, Setbacks Along Alleys, Sidewalks, Trail or Access Easements, Ditches, and Waterbodies.											
² The total number of units allowed on the lot is limited by the density of the zoning district in which the property is located (if the zoning district limits density), but the number of units in any individual building is not specifically limited.											

- ³ Maximum height ~~and maximum building coverage~~ is subject to Sec. 18.02.04.02, Scale Thresholds in the DT and Residential Zones. ~~may vary based on the underlying zoning district or applicable overlay district in which the property is located (if the district or overlay district limits height), based on limited, adaptable, or conditional use standards, or based on whether the development is located in a complete neighborhood.~~
- ⁴ Maximum height for General Multifamily and Infill Multifamily is subject to Table 18.04.03.01.B. Nonresidential and Mixed-Use Setback and Building Standards.
- ⁵ The maximum lot area for this housing type is 65,000 sf.
- ⁶ Stepback rules may apply, see Section 18.06.07.04, Infill Multifamily.

18.02.04.03 Residential Standards

- A. **All Other Locations.** The standards of this subsection apply to residential development that is not part of a complete neighborhood and not within a manufactured home park or subdivision.
1. *Urban, Large Urban, General, Suburban, Large Suburban.* The use is allowed, subject to the following limitations and use standards:
 - a. In Residential Zones and the DT Zone, the use complies with Section 18.02.04.02, Scale Thresholds in DT and Residential Zones.
 - b. In the B Zone, the use is allowed on an existing residential lot established for that purpose prior to the effective date of this UDC. Conversion of a nonresidential use or development as a new residential use is not permitted.
 - c. In the DT Zone, the minimum front setback shall be 10 feet.
 2. *Side-by-Side Duplex, Over-Under Duplex, Standard Townhouse, and Multiplex.* The uses are allowed, subject to the following limitations and use standards:
 - a. In Residential Zones and the DT Zone, the use shall comply with Section 18.02.04.02, Scale Thresholds in DT and Residential Zones.
 - b. In the B Zone, the use is allowed on an existing lot established for a side-by-side duplex, over-under duplex and standard townhouse prior to the effective date of the UDC. Conversion of a nonresidential use or development as a new use is not permitted.
 - c. In the DT Zone, the use is allowed in the Core, Neighborhood Transition, and General character areas, subject to compliance with Section 18.02.04.02, Scale Thresholds in DT and Residential Zones.
 3. ~~General Multifamily, and Infill Multifamily. The use shall comply with Section 18.02.04.02, Scale Thresholds in DT and Residential Zones.~~
 3. *Zero Lot Line Homes.* The use shall comply with Section 18.02.04.02, Scale Thresholds in DT and Residential Zones.
 4. *Downtown Multifamily.* The use shall comply with the Division 18.04.06, Downtown Design Standards.
 5. *Micro Homes, Cottages, and Cluster Duplexes.*
 - a. Micro homes, cottages, and cluster duplexes are allowed, provided that:
 1. The standards of Section 18.04.02.08, Clustered Housing Types, and Section 18.06.05.01, Housing Clusters, are met;
 2. If multiple clusters are developed on adjoining parcels, each cluster is visually distinct and buffered from adjoining clusters; and
 3. If any boundary of the subject property adjoins a lot that is developed with a single-family detached dwelling unit, a type B bufferyard that includes a six-foot tall privacy fence shall be installed along the property boundary.
 - b. The requirement of subsection C.6.a.ii., above, shall not be interpreted to prevent pedestrian connectivity among clusters, or to prevent multiple clusters from sharing a single common house.

18.04.04.03 Setbacks Along Alleys, Sidewalks, Trail or **TrailAccess** Easements, Ditches, and Waterbodies

- C. **Trail or **TrailAccess** Easements.** ~~Outside of the DT zone and outside of Neighborhood Activity Centers within Complete Neighborhoods, All structures~~buildings shall be set back ~~15~~20 feet from the nearest edge of a public trail ~~or access easements (except shared driveways)~~ or 2015 feet from the edge of the trail ~~or access~~ easement, whichever provides for a greater setback. ~~Within the DT zone and Neighborhood Activity Centers within Complete Neighborhoods, no setback is required unless the City Engineer determines that a setback is necessary to provide for maintenance of the trail, or~~ The Director, after consultation with the Parks and Recreation Director, may modify or waive the setback requirement upon a determination ~~es~~ that the ~~building~~ placement of the structure will ~~not~~ create detrimental impacts ~~shading~~ on the use and maintenance of the trail.

- F. **Industrial, Processing, Recycling, Storage, and Disposal Land Uses.** The required off-street parking for industrial, processing, recycling, storage, and disposal land uses is set out in Table 18.05.03.03.F., Industrial, Processing, Recycling, Storage, and Disposal Land Use Parking Standards.

Table 18.05.03.03.F. Industrial, Processing, Recycling, Storage, and Disposal Land Use Parking Standards	
Land Use	Minimum Required Parking
Composting Facility	1.1 sp. / employee
Disposal	special study
Heavy Industry	special study
Heavy Logistics Center	1 sp. / 1,000 sf. up to 100,000 sf., then 1 sp. / 5,000 sf. thereafter
Light Industry	Warehouse: 1 sp. / 1,000 sf. Other: 1 sp. / 500 sf.
Recycling Collection Center (Attended)	1 sp. / loading area + 2 sp. / 3 employees
Resource Extraction (minerals)	1 sp. / employee
Resource Extraction (oil and gas)	1 sp. / employee during drilling or reworking operations; 1 sp. thereafter
Salvage Yard	4 sp. / ac. of yard
Self-Storage	2 sp. + 1 sp. / 10,000 sf.
Storage Yard	4 sp. / ac. of yard
Waste Transfer Station	special study
Workshop	2 sp. / 3 employees



18.04.06.05 Core Character Area Urban Design Standards

F. Dimensional and Intensity Standards

1. *Generally.* Standards for building setbacks, open space and lot size for downtown multifamily, nonresidential and mixed use buildings are set out in Table 18.04.06.05.B, Dimensional and Intensity Standards. Setbacks for residential structures are set out in Division 18.04.02, Housing Palette.

Table 18.04.06.05.B Dimensional and Intensity Standards								
Use	Minimum ^{1, 2}					Open Space and Lot Size		
	Front Setback	Interior Side Setback	Street Side Setback	Rear Setback	Rear Street Setback	Useable Open Space	Min. Lot Size	Min. Lot Width
Downtown Multifamily	10 ft.	5 ft.	0 ft.	10 ft.	0 ft.	0%	5,000 sf.	50 ft.
Nonresidential and Mixed Use	0 ft.	0 ft.	0 ft.	10 ft.	0 ft.	0%	-	-
Table Notes: ¹ Structures 50 feet in height or taller shall be set back a minimum of 15 feet from the face of the curb. ² See Table 18.04.06.05.A, Setbacks and Build-To-Lines, for setbacks and build-to-lines from public streets in the core character area.								

18.04.06.06 General Character Area Urban Design Standards

E. Dimensional and Intensity Standards

1. *Generally.* Standards for building setbacks, open space and lot size for downtown multifamily, nonresidential and mixed use buildings are set out in Table 18.04.06.06.A, Dimensional and Intensity Standards. Setbacks for residential structures are set out in Division 18.04.02, Housing Palette.

Table 18.04.06.06.A Dimensional and Intensity Standards								
Use	Minimum ¹					Open Space and Lot Size		
	Front Setback	Interior Side Setback	Street Side Setback	Rear Setback	Rear Street Setback	Useable Open Space	Min. Lot Size	Min. Lot Width
Downtown Multifamily	10 ft.	5 ft.	0 ft.	10 ft.	0 ft.	10%	5,000 sf.	50 ft.
Nonresidential and Mixed Use	0 ft.	5 ft.	0 ft.	10 ft.	0 ft.	7.5%	-	-
Table Notes: ¹ Structures 50 feet in height or taller shall be set back a minimum of 15 feet from the face of the curb.								

G. Architectural Features.

1. Buildings shall incorporate a combination of the following features:
 - a. columns;
 - b. pilasters;
 - c. window dormers;
 - d. bay windows;
 - e. corbels;

- f. balconies;
 - g. porches (residential buildings only); or
 - h. other similar architectural features to add visual interest and diversity.
2. All elevations facing a public street right-of-way, public plaza or pedestrian space, or public parking lot shall contain a cornice parapet, capstone finish, eaves projecting at least twelve inches, or other comparable features that provide definition to the roof line.
 3. All rooftop mechanical equipment shall be screened from view from public rights-of-way with screening materials that are comparable in color, tone, and texture to the materials used for cladding.
 4. Each building fronting a public street shall have at least one primary entrance that shall be clearly defined and recessed or framed by elements such as awnings, porticos or other architectural features. Buildings fronting onto a primary pedestrian street shall place the primary entrance on the primary pedestrian street frontage.

H. Building Openings.

1. No wall facing a plaza or public street shall extend more than 25 horizontal linear feet on the ground floor without a window or other opening.
2. Table 18.04.06.06.B, Minimum Facade Openings, sets out the minimum percentage of street-facing building facades that must be comprised of windows or doors.

Table 18.04.06.06.B Minimum Facade Openings		
Facade Type / Location	Street Type	
	Primary Pedestrian Street	Non-Primary Pedestrian Street
Primary, Ground Floor	30%	30%
Secondary, Ground Floor	30%	20%
Residential, Ground Floor	20%	20%
Upper Floors, All Uses ¹	15%	15%
TABLE NOTE: ¹ Upper floor surface area shall be measured excluding cornice or other roof features.		



Division 18.16.04 Capital Expansion Fees

18.16.04.03 Exemptions

- A. **Generally.** As specified in this Section certain areas in the City and certain types of development are exempt from the payment of capital expansion fees.
- B. **Historic Downtown Loveland.** Any construction project within Historic Downtown Loveland, as described in Appendix D: Historic Downtown Loveland - Legal Description and Appendix D, Exhibit 1: Historic Downtown Loveland Map, is exempt from the capital expansion fees imposed by this Division and any building permit fees imposed upon a construction project by the City.
- C. **Accessory Dwelling Units.** Capital expansion fees are not charged for accessory dwelling units that are 900 square feet or less in gross floor area, in accordance with Section [18.04.07.02, Accessory Dwelling Units](#).
- D. **City Projects.** Any City-funded development and construction of buildings and facilities to be used for City purposes, except for those buildings and facilities built, maintained and operated by a City utility or enterprise, are exempt from the capital expansion fees imposed by this Division.

18.16.04.04 Unpaid Capital Expansion Fee – Lien

- E. **Lien Created.** All capital expansion fees shall be a perpetual lien upon the real property for which the fees are owed from the due date thereof, determined as set forth in Section [18.16.04.02 Capital Expansion Fees Imposed](#) until paid and such lien shall have priority over all other liens except those for real property taxes.
- F. **Collection.** If such fees are not paid when due, in addition to any other means provided by law, the City Clerk shall certify such delinquent charges to the treasurer of Larimer County and the charges shall be collected in the same manner as though they were part of the taxes.
- G. **Relationship to Approvals and Permits.** The City reserves the right to withhold or revoke any permits, certificates or other approvals to any applicant who is delinquent in the payment of capital expansion fees.



18.04.05.04 General Building Design Standards

- O. **360-Degree Architecture.** The architectural features, materials, and articulation of the front façade shall be continued on all sides of a building that are visible from a public or private street. The Director may waive all or portions of this standard for side or rear building walls that face alleys or other similarly low volume and low visibility roadways.

18.14.04.03 Contents of Public Notice

- A. **Generally.** Table 18.14.04.03, Information Requirements by Application Type, sets out the information that is required for each type of required notice. Information requirements for appeal notices are set out in subsection B., below, and information requirements for vested rights notices are set out in subsection C., below.

Table 18.14.04.03 Information Requirements by Application Type				
Required Information	Notice Type			
	Published	Posted	Mailed	Internet
Application Information				
The application type(s) for which notice is provided	✓	✓	✓	✓
Case number	✓	✓	✓	✓
Project name	✓	✓	✓	✓
Vicinity map identifying the site with respect to major cross-streets and community landmarks	-	-	✓	✓
Address of the subject property	✓	-	✓	✓
Legal description of subject property, or if lengthy, a statement that the legal description of the subject property is on file with current planning division	✓	-	✓	✓
Applicant name	✓	-	✓	✓
Project Description				
Existing zoning (and proposed zoning, if the application is for zoning or rezoning)	✓	-	✓	✓
Summary of proposed development, including subject matter of application	✓	-	✓	✓
Contact Information				
Primary contact (applicant or applicant's representative) (name, company name, phone number, email address)	-	-	✓	✓
Secondary contact ¹	-	✓	✓	✓
URL where additional project information is provided	-	-	✓	✓
Additional Contents for Public Hearing Notices and Neighborhood Meetings				
Time, date, and location of public hearing or neighborhood meeting	✓	✓	✓	✓
A statement that interested parties may appear and speak on the matter at the neighborhood meeting and public hearing and/or file written comments with the current planning division, and that the right to appeal a Director or Planning Commission decision may be limited by Division 18.14.05, Appeals , Loveland Unified Development Code	-	-	✓	✓
Additional Contents for Administrative Decision Notices				
Deadline for public comments for a sketch or final plat	N/A	✓	✓	✓
Deadline for appeal of an adaptable use	N/A	-	✓	✓
Earliest date for administrative decision on application	N/A	-	✓	✓
A statement that the right to appeal an administrative decision may be limited by Division 18.14.05, Appeals , Loveland Unified Development Code	N/A	-	✓	✓
¹ Posted notice must contain the current planning division phone number. Mailed notice must contain the reviewing planner's name, phone number, and email address.				



- B. **Appeal Notices.** Notices of an appeal must include a copy of the petition for appeal and a date, time, and location for the appeal hearing, a copy of the rules of procedure for the Appellate Body. Such notices must be mailed to the applicant (if different from the appellant), the appellant, any person or entity that has applied for party status, and by internet posting.
- C. **Vested Rights Notices.** Notice of a decision to grant vested rights shall be published in accordance with the requirements of C.R.S. § 24-68-101, as it may be amended from time to time.



Lot of Record means a plot of land that was created by subdivision plat, or for which the deed or other instrument that created the plot of land was recorded with the County Clerk and Recorder prior to May 16, 1967. A lot of record is not necessarily a platted lot. If a plot of land was conveyed with reference to a plat, but includes multiple lots or combinations of partial lots, the entire plot of land is a lot of record if it is developed or used as a single development site.



18.08.04.01 Street Trees

- D. **Maintenance.** Maintenance of street trees shall be the responsibility of the adjacent property owner, in accordance with Section 16.28.020 Property Owner Responsibilities.



18.17.15.07 Variances

- A. **Generally.** Variances are authorizations to depart from the strict application of the standards of this UDC. The Zoning Board of Adjustment may grant a variance pursuant to the standards of this Section.
- B. **Standards.**
1. The Zoning Board of Adjustment may grant a variance only when the applicant demonstrates that there are unusual and exceptional circumstances creating an undue hardship, applicable only to the property involved, which do not generally apply to the other land areas within the same zone.
 2. In addition to Section B.1 above, the Zoning Board of Adjustment shall consider the following factors in determining whether to grant a variance:
 - a. Granting the variance will not substantially conflict with any adopted plans or policies of the City, or the purposes or intent of this Code;
 - b. Granting the variance will not generally set a precedent for other applications (which would indicate that a text amendment to this UDC should be proposed and considered instead);
 - c. Granting the variance will not be detrimental to any adjacent properties or the area;
 - d. Granting the variance will not be detrimental to public health, safety, or welfare; and
 - e. Adequate relief cannot be reasonably obtained through a different procedure, such as the application of alternative compliance standards, if applicable.
 3. In addition to the provisions in Sections B.1 and B.2, above, for a variance to Section 18.04.08.12.E Electronic Message Signs, the Zoning Board of Adjustment shall consider and make findings regarding the following factors in determining whether to grant a variance:
 - a. The proposed area, setback and/or height of the electronic message sign module is the minimum required to be fully visible from the adjacent arterial or interstate roadway right-of-way;
 - b. Traffic safety conditions will not be diminished by the increased sign face area, increased height, or decreased setback of the electronic message sign module; and
 - c. There are no reasonable alternatives to the increased sign face area, increased height, decreased setback, and/or design of the electronic message sign.
 4. The Zoning Board of Adjustment shall have broad discretion in determining the weight given to each of the factors in Section B.2, above.
 5. The Applicant requesting the variance shall have the burden of proof in establishing by a preponderance of the evidence that a variance should be granted.
- C. **Alternative Standards for Existing Legal Nonconformities.** In the event the basis or reason for the variance is used to remedy an existing legal nonconformity (*e.g.*, an undersized parcel was created, or a structure whose deficient setbacks were established, or a structure had setbacks which were conforming to requirements prior to the adoption of the current Code requirements), the Zoning Board of Adjustment may approve a variance based on the following standards, but only if such relief is still reasonably necessary after the application of [Chapter 18.11 Nonconformities](#):
1. The variance is necessary to preserve an historic building; or
 2. The variance will not impose unfair burdens on adjacent property with respect to building or fire code compliance, will promote reinvestment in the existing building, and will not frustrate the implementation of the Comprehensive Plan or any adopted special area or corridor plan.

18.17.13.05 Lot Merger and Unity of Title Alternative

B. Unity of Title Alternative.

1. *Generally.* The unity of title alternative is available to owners of a property that consists of two or more adjoining lots that have been historically used as one parcel and for which there would be little value in processing a lot merger (referred to collectively as the "property" for purposes of this Section only).
 2. *Eligibility.* To be eligible for a unity of title alternative, the property must meet the following criteria:
 - a. The property consists of two or more adjoining lots under a common ownership;
 - b. The property is in a single zone district;
 - c. One or more of the lots which are part of the property are undevelopable due to the lot size or lot square footage being nonconforming with the provisions in Division 18.04.02 Housing Palette and Division 18.04.03 Nonresidential and Mixed-Use Bulk Standards; and either
 1. The lot contains an existing structure(s) that is located on or over a property line, for which issuance of a building permit would otherwise require the consolidation of the lots; or
 2. The lot was legally created prior to the establishment of the City's subdivision procedures on May 15, 1967.
 3. *Limitations.* An owner of property is not eligible for the unity of title alternative for the following purposes:
 - a. Redevelopment (as defined in [Division 18.19.03, Definitions](#));
 - b. Development of vacant property; and
 - c. The issuance of a building permit for a property that does not meet the criteria set forth in B. 2, above.
 4. *Procedure.* The owner of a subject property that is eligible pursuant to subsection B.2., above, may request that in lieu of a lot merger the City issue the building permit upon execution of a unity of title in a recordable form approved by the City Attorney.
 5. *Contents of Unity of Title.* The unity of title shall be in the form of a covenant or deed restriction that restricts the owner's right to convey the subject lots included in the unity of title as separate parcels without first subdividing it.
 6. *Release of Unity of Title.* The unity of title shall be released by the City upon the determination of the Director that the purpose for which the unity of title was executed is no longer served.
 7. *Administrative Authority.* The Director shall have the authority to execute any agreement providing for unity of title, and to any release of a unity of title on behalf of the City.
- C. **Recordation.** Upon approval by the Director and conclusion of any applicable appeal procedures, the lot merger plat or unity of title in lieu of lot merger shall be recorded in compliance with Section [18.14.03.14, Recording of Approvals](#).

18.14.03.11 Neighborhood Notice and Comment for Sketch Plats and Final Plats

- A. **Generally.** Sketch plats and final plats require a neighborhood notice and comment period.
- During the neighborhood notice and comment period, the Director shall make application materials available at reasonable times for inspection, and shall accept written comments from the public regarding the application's compliance with this UDC.
 - The Director shall not consider public comments that are not pertinent to the evaluation of whether the application complies with the requirements of this Code.
- B. **When Required.** The neighborhood notice and comment period is required for the following applications:
- Sketch Plat; and
 - Final Plat that did not require a sketch plat.
- C. **Exceptions.** A neighborhood notice and comment period is not required for the following:
- Sketch plats or final plats that are being processed concurrently with a development application that requires a public hearing and the boundaries of the sketch plat or final plat are the same as the development application;
 - Sketch plats or final plats for properties with existing development that do not create an additional developable parcel(s);
 - Final plats that conform to a sketch plat for which the neighborhood notice and comments period was satisfied; and
 - Final plats for which the neighborhood notice and comment period was not required for the sketch plat in accordance with this subsection.
- D. **Notice and Comment Period.** The notice and comment period shall be in accordance with Section [18.14.04.04, Specific Requirements by Notice Type](#).

18.14.04.02 Required Notice by Application Type

Public notice of pending administrative decisions, neighborhood meetings, or scheduled public meeting or public hearings shall be provided as set out in Table 18.14.04.02, Notice Requirements by Application Type.

Table 18.14.04.02 Notice Requirements by Application Type				
Application Type	Notice Type			
	Published ²	Posted	Mailed	Internet
1. Annexation, Zoning and Rezoning				
Annexation ¹	✓	✓	✓	✓
Zoning and Rezoning	✓	✓	✓	✓
2. Overlays				
Enhanced Corridor Overlay Zone Designation	-	✓	✓	✓
3. Development Plans, Permits, and Approvals				
Certificate of Designation	✓	✓	✓	✓
Complete Neighborhood	-	✓	✓	✓
Conceptual Master Plan	-	✓	✓	✓
Oil and Gas (Administrative Permit)	-	✓	✓	✓
Oil and Gas (Planning Commission Permit)	-	✓	✓	✓
Sketch Site Development Plan	By Land Use Classification. See Subheading 9 of this Table			

**Table 18.14.04.02
Notice Requirements by Application Type**

Application Type	Notice Type			
	Published ²	Posted	Mailed	Internet
Site Development Plan	By Land Use Classification. See Subheading 9 of this Table			
4. Subdivisions, Plats, and Vacations				
Final Plat ³	-	✓	✓	✓
Sketch Plat ³	-	✓	✓	✓
Vacation of Easement	-	-	✓	✓
Vacation of Obsolete Subdivision	✓	✓	✓	✓
Vacation of Right-of-Way or Access Easement by Ordinance	✓	✓	✓	✓
5. Planned Unit Developments				
Sketch Plat with GDP	-	✓	✓	✓
Sketch Site Development Plan with GDP	-	✓	✓	✓
Zoning Document	✓	✓	✓	✓
6. Variances, Appeals, Modifications, Exceptions and Conversions				
Adequate Community Facilities (ACF) Exception	-	✓	✓	✓
Appeal of Director Decisions	-	-	✓	✓
Appeal of Planning Commission Decision	-	-	✓	✓
Height Exception	-	✓	✓	✓
Nonconforming Building or Structure, Conversion to Conforming Building or Structure (Public Hearing)	-	✓	✓	✓
Nonconforming Use, Conversion to Conforming Use (Public Hearing)	-	✓	✓	✓
Oil and Gas Overlay Zone Variance	-	✓	✓	✓
Oil and Gas Variance	-	✓	✓	✓
Variance	-	✓	✓	✓
7. Vested Rights				
Vested Rights (and Extension of Vested Rights)	✓	✓	✓	✓
8. Amendments				
Annexation Agreement Amendment	-	✓	✓	✓
Comprehensive Plan Amendment (major)	✓	✓	✓	✓
Conceptual Master Plan Amendment (major)	-	✓	✓	✓
Flexible Overlay Plan Amendment (major)	-	✓	✓	✓
Major Amendment	Same notice type as the original application			
UDC Amendment (major)	✓	-	-	✓
Zoning Document Amendment (major)	✓	✓	✓	✓

Table 18.14.04.02
Notice Requirements by Application Type

Application Type	Notice Type			
	Published ²	Posted	Mailed	Internet
9. Land Use Classifications				
Adaptable Use ⁴	-	✓	✓	✓
Conditional Use ⁴	-	✓	✓	✓

Table Notes:

¹ As required by applicable provisions of C.R.S § 31-12-101, *et seq.*

² Publication required for public hearings only.

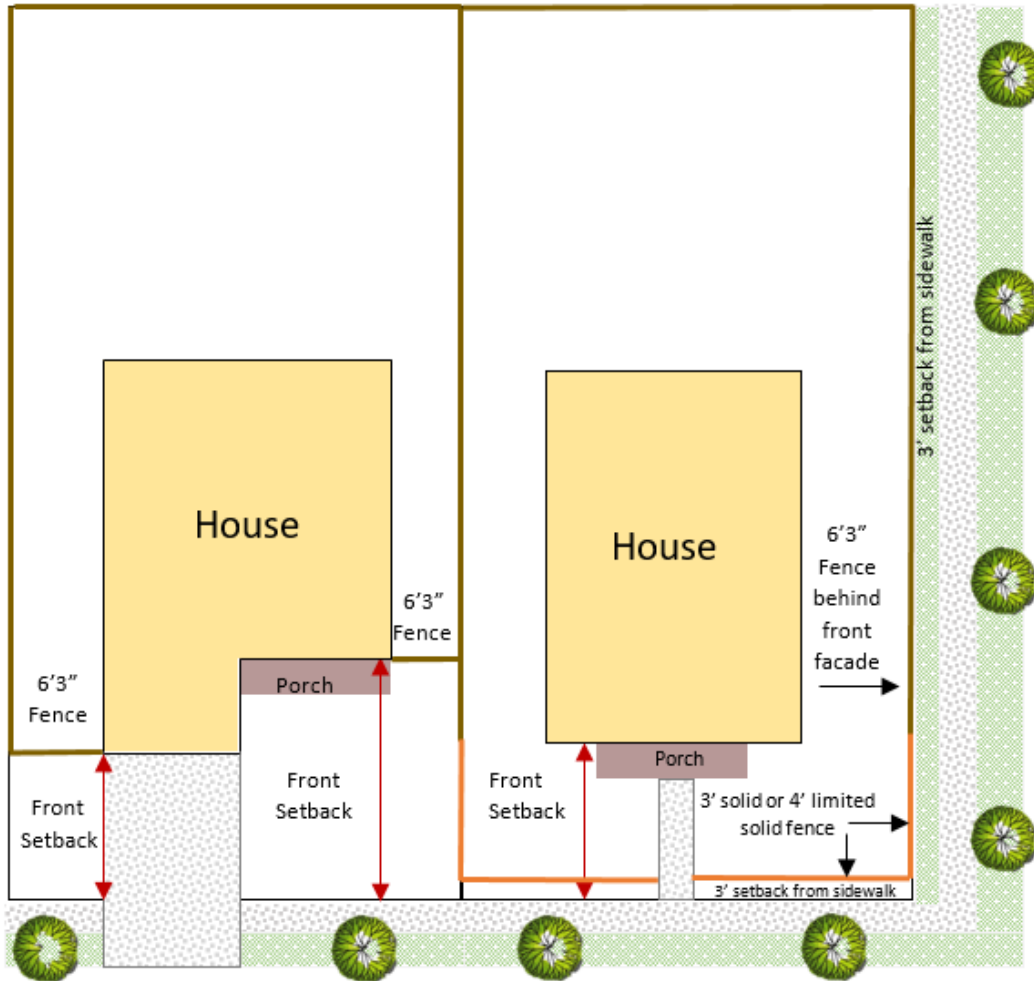
³ See Section 18.14.03.11 Neighborhood Notice and Comment for Sketch Plats and Final Plats for exceptions to notice.

⁴ Notice is not required for site development plans for adaptable or conditional uses if they conform to an approved sketch site development plan.

18.04.07.05 Fences, Walls, and Hedges

- A. **Generally.** It is the purpose of the provisions of this Section to establish requirements for the height, location, materials, and maintenance of fences, garden walls, or hedges in all zones. The standards of this Section shall be implemented in a manner that complies with Section 18.05.02.02, *Sight Triangles*.
- B. **Location.**
1. All fences and garden walls must be located on or within the boundary lines of the property owned by the person or persons who construct and maintain them, unless expressly approved otherwise in writing by the Director upon proof of consent from the affected adjacent property owner.
 2. Fences or walls that are located within bufferyards that are not installed along street right-of-way lines may be located upon the property line.
 3. Fences or walls that are located within bufferyards that are installed along street right-of-way lines shall be located along the boundary of the bufferyard that is furthest from the street edge.
 4. Fences or walls that are located adjacent to a sidewalk or trail shall be set back a minimum of three feet from the back of sidewalk or on the property line, whichever is greater.
- C. **Height.**
1. *Front Setback.*
 - a. Generally.
 1. Limited solid material fences and walls that are located in front setbacks, between the front property line and the front facade of the principal structure, shall have a maximum height of four feet.
 2. Solid material fences and walls or hedges that are located in front setbacks between the front property line and the front facade of the principal structure, shall have a maximum height of three feet.
 3. Fences or walls that are located outside of the front setback, either flush or behind the front facade of the principal structure, shall have a maximum height of six feet three inches.
 4. For residential properties that have garages that extend in front of the living portion of the house, the front setback for the purpose of calculating fence and wall heights, shall be measured to both the garage and the living portion of the house. See Figure 18.04.07.05.A, Fence and Wall Location.
 - b. Industrial Zone. Fences or walls that are located behind the front facade of the primary structure shall have a maximum height of eight feet.
 - c. Exceptions. The standards of subsection C.1.a. do not apply if the fence, wall, or hedge:
 1. Is necessary to screen a particular use, as required by this UDC or Colorado law; or
 2. Bounds or encloses a publicly-owned recreation area.
 2. *Side or Rear Setbacks.*
 - a. Generally. In side or rear yards, the maximum height of fences, walls, and hedges shall be six feet three inches in all zones except E or I, in which the maximum height shall be eight feet.
 - b. Exceptions. The standards of subsection C.2.a. do not apply if the fence, wall, or hedge:
 1. Encloses or bounds a play court, ballfield, or publicly-owned recreation area and is a limited solid material fence or wall;
 2. Is a noise barrier;
 3. Is necessary to screen a particular use, as required by this UDC or Colorado law.

Figure 18.04.07.05.A Fence and Wall Location



D. Materials.

1. Fences or walls shall be constructed of materials customarily commercially sold for fencing and walls, including decorative masonry, stone, brick, ornamental metal, vinyl, wood, wood composite, or other comparable materials.
2. Chain-link or other woven-wire fences are prohibited in the front yard of a lot or parcel, unless otherwise approved by the Director upon a determination that extraordinary and unusual circumstances exist that require such a fence to meet reasonable requirements for public safety. Existing chain link fences shall be subject to Chapter 18.11 Nonconformities.

E. Construction Adjacent to Streets. For fencing facing a street, the finished surface of the fence shall face towards the street frontage. Non-decorative elements such as fence posts and supporting structures, when visible on one side and not the other, shall face inward.

F. Perimeter Subdivision Fencing.

1. Fencing or walls along the perimeter of a subdivision shall be of a consistent design and have obvious columns that are located at intervals of not more than 35 feet.
2. Perimeter fencing and walls located in new residential developments with frontage on an arterial or collector street shall include an adequate number of openings for pedestrian access.

G. Fences or Walls Adjacent to Open Space. Fences or walls constructed adjacent to parks, common areas, open space, and environmentally sensitive areas shall not exceed four feet and shall be of a limited solid material, unless the Director determines that alternate fencing is needed for safety or to provide adequate buffering.



H. **Drainage.** No fence or wall may be constructed in a manner or location which will interfere with natural surface water runoff, or which will result in a negative impact to any adjacent property by natural surface runoff. All fences and walls must be constructed in a manner that complies with City drainage requirements and standards, and in compliance with any approved drainage plans on file with the City for the subject property.

I. **Security Fencing.**

1. No barbed wire or other sharp-pointed fences shall be installed on any property, except:
 - a. In the DT, B, E, I, and DR zones upon demonstration to the Director that:
 1. A substantial security need justifies the installation;
 2. The fence will be safe and in compliance with Colorado law; and
 3. No more than three strands of barbed wire shall be installed; or
 - b. To secure utility facilities in any zone.
2. Electrically charged fences are not allowed except upon determination by the Director that:
 - a. The fence is necessary for livestock control; and
 - b. The fence will be safe and in compliance with Colorado law.
3. Razor and concertina wire are not allowed.

J. **Maintenance and Restrictions.**

1. All fences, hedges and walls shall be maintained in good condition at all times. All fences and walls shall be neatly finished and repaired, including all parts and supports.
2. It shall be unlawful for any person to place or, a fence, hedge, or wall that creates an unsafe or dangerous obstruction or condition on property either owned or legally controlled by them. This includes a fence, hedge, or wall that obstructs reasonable access to utility, irrigation, or drainage equipment, structures, or facilities located within a dedicated easement or right-of-way, by persons who are entitled to gain access to such equipment, structures, or facilities.

18.02.04.12 General Standards for Adaptable Uses

- A. **Generally.** All uses that are listed in the tables of [Division 18.02.03, Land Use by Zone](#), as adaptable uses ("A") shall meet the standards of this Section in addition to the standards of this [Division 18.02.04, Use Standards](#), that apply to the proposed use.
- B. **Review Standards.** An application for adaptable use approval may be approved if, in addition to the specific standards of this [Division 18.02.04, Use Standards](#), that apply to the proposed use (except as provided in subsection C., below), it is demonstrated that, in its proposed location and with its proposed design:
1. The proposed adaptable use will not tend to frustrate the implementation of any current, adopted plans of the City, including, but not limited to, the Comprehensive Plan;
 2. The location, size, design and operating characteristics of the proposed adaptable use will be consistent with and / or complementary to the existing and future land uses within the surrounding neighborhood, and will not create significant additional amounts of noise, traffic, or other conditions, compared to those other uses, that may be objectionable or detrimental to other permitted uses in the vicinity;
 3. The proposed adaptable use will not negatively impact the land use patterns of existing or approved development within the neighborhood or discourage permitted uses or reinvestment in permitted uses by making the vicinity less desirable for them; and
 4. The proposed adaptable use is otherwise consistent with the standards in the UDC, as amended, and meets the requirements in [Chapter 18.15, Adequate Community Facilities](#).
- C. **Use Standard Modification.** The Director may approve variations to the use-specific standards of this [Division 18.02.04, Use Standards](#), that apply to the proposed use through the adaptable use process, provided that the variation substantially meets the intent of the use standard, results in equivalent or greater benefits to the community as would compliance with the use standard, and complies with the review standards in subsection B., above.
- D. **Conditions of Approval.** The Director may approve an adaptable use with conditions to mitigate its impacts, in order to ensure continuing compliance with the review standards set out in subsection B., above. Conditions may relate to:
1. Type, size, amount, and placement of landscaping;
 2. Use, location, number, height, size, architectural design, material, and color of buildings;
 3. Configuration and placement of vehicular and pedestrian access and circulation;
 4. Amount and configuration of off-street parking;
 5. Amount, placement, and intensity of lighting;
 6. Operational characteristics of the use, including hours of operation; and
 7. Emissions of noise, dust, fumes, glare and other pollutants.

18.04.02.06 Multiplex and Multifamily

B. **Lot and Building Standards.** Table 18.04.02.06, Multiplex and Multifamily Lot and Building Standards, sets out the lot and building requirements for multiplex and multifamily.

Table 18.04.02.06 Multiplex and Multifamily Lot and Building Standards											
Lot Type	Vehicular Access	Minimum						Maximum			
		Lot Area (per building)	Lot Width	Front Setback	Interior Side Setback	Street Side Setback	Rear Setback	Units Per Building	Height		Building Coverage ¹
									Res Zone ³	Non-Res Zone ⁴	
Multiplex	Alley or Parking Court	3 unit bldg.: 8,000 sf. 4 unit bldg.: 10,000 sf. 5 unit bldg.: 12,000 sf.	3 unit bldg.: 80 ft. 4 unit bldg.: 100 ft. 5 unit bldg.: 120 ft.	10 ft.	6 ft.	8 ft.	0 ft. ¹	5	26/35 ft.	26/35 ft.	50%
	Street	3 unit bldg.: 8,000 sf. 4 unit bldg.: 10,000 sf.	3 unit bldg.: 80 ft. 4 unit bldg.: 100 ft.	25 ft.	6 ft.	15 ft.	15 ft.	interior lot: 3 corner lot: 4	26/35 ft.	26/35 ft.	50%
General Multifamily	Alley or Parking Court	10,000 sf.	100 ft.	10 ft.	6 ft.	10 ft.	0 ft. ¹	not limited ²	26/35 ft.	by zoning	35%
	Street	10,000 sf.	100 ft.	25 ft.	6 ft.	15 ft.	15 ft.	not limited ²	26/35 ft.	by zoning	35%
Infill Multifamily	Alley or Parking Court	10,000 sf. ⁵	70 ft.	10 ft.	5 ft. ⁶	8 ft.	0 ft. ¹	not limited	26/35 ft.	by zoning	40%
	Street	10,000 sf. ⁵	70 ft.	25 ft.	5 ft. ⁶	15 ft.	15 ft.	not limited	26/35 ft.	by zoning	40%
Downtown Multifamily	See Division 18.04.06, Downtown Design Standards										
TABLE NOTES:											
¹ May be increased as provided in Section 18.04.04.03, Setbacks Along Alleys, Sidewalks, Trail or Access Easements, Ditches, and Waterbodies .											
² The total number of units allowed on the lot is limited by the density of the zoning district in which the property is located (if the zoning district limits density), but the number of units in any individual building is not specifically limited.											
³ Maximum height is subject to Sec. 18.02.04.02, Scale Thresholds in the DT and Residential Zones.											

⁴ Maximum height for General Multifamily and Infill Multifamily is subject to Table 18.04.03.01.B. Nonresidential and Mixed-Use Setback and Building Standards.

⁵ The maximum lot area for this housing type is 65,000 sf.

⁶ Stepback rules may apply, see Section 18.06.07.04, *Infill Multifamily*.

18.02.04.03 Residential Standards

- A. **All Other Locations.** The standards of this subsection apply to residential development that is not part of a complete neighborhood and not within a manufactured home park or subdivision.
1. *Urban, Large Urban, General, Suburban, Large Suburban.* The use is allowed, subject to the following limitations and use standards:
 - a. In Residential Zones and the DT Zone, the use complies with Section 18.02.04.02, *Scale Thresholds in DT and Residential Zones*.
 - b. In the B Zone, the use is allowed on an existing residential lot established for that purpose prior to the effective date of this UDC. Conversion of a nonresidential use or development as a new residential use is not permitted.
 - c. In the DT Zone, the minimum front setback shall be 10 feet.
 2. *Side-by-Side Duplex, Over-Under Duplex, Standard Townhouse, and Multiplex.* The uses are allowed, subject to the following limitations and use standards:
 - a. In Residential Zones and the DT Zone, the use shall comply with Section 18.02.04.02, *Scale Thresholds in DT and Residential Zones*.
 - b. In the B Zone, the use is allowed on an existing lot established for a side-by-side duplex, over-under duplex and standard townhouse prior to the effective date of the UDC. Conversion of a nonresidential use or development as a new use is not permitted.
 - c. In the DT Zone, the use is allowed in the Core, Neighborhood Transition, and General character areas, subject to compliance with Section 18.02.04.02, *Scale Thresholds in DT and Residential Zones*.
 3. *Zero Lot Line Homes.* The use shall comply with Section 18.02.04.02, *Scale Thresholds in DT and Residential Zones*.
 4. *Downtown Multifamily.* The use shall comply with the Division 18.04.06, *Downtown Design Standards*.
 5. *Micro Homes, Cottages, and Cluster Duplexes.*
 - a. Micro homes, cottages, and cluster duplexes are allowed, provided that:
 1. The standards of Section 18.04.02.08, *Clustered Housing Types*, and Section 18.06.05.01, *Housing Clusters*, are met;
 2. If multiple clusters are developed on adjoining parcels, each cluster is visually distinct and buffered from adjoining clusters; and
 3. If any boundary of the subject property adjoins a lot that is developed with a single-family detached dwelling unit, a type B bufferyard that includes a six-foot tall privacy fence shall be installed along the property boundary.
 - b. The requirement of subsection C.6.a.ii., above, shall not be interpreted to prevent pedestrian connectivity among clusters, or to prevent multiple clusters from sharing a single common house.



18.04.04.03 Setbacks Along Alleys, Sidewalks, Trail or Trail Easements, Ditches, and Waterbodies

- C. **Trail or Trail Easements.** All structures shall be set back 20 feet from the nearest edge of a public trail or 15 feet from the edge of the trail easement, whichever provides for a greater setback. The Director, after consultation with the Parks and Recreation Director, may modify or waive the setback requirement upon a determination that the placement of the structure will not create detrimental impacts on the use and maintenance of the trail.

- F. **Industrial, Processing, Recycling, Storage, and Disposal Land Uses.** The required off-street parking for industrial, processing, recycling, storage, and disposal land uses is set out in Table 18.05.03.03.F., Industrial, Processing, Recycling, Storage, and Disposal Land Use Parking Standards.

Table 18.05.03.03.F. Industrial, Processing, Recycling, Storage, and Disposal Land Use Parking Standards	
Land Use	Minimum Required Parking
Composting Facility	1.1 sp. / employee
Disposal	special study
Heavy Industry	special study
Heavy Logistics Center	1 sp. / 1,000 sf. up to 100,000 sf., then 1 sp. / 5,000 sf. thereafter
Light Industry	Warehouse: 1 sp. / 1,000 sf. Other: 1 sp. / 500 sf.
Recycling Collection Center (Attended)	1 sp. / loading area + 2 sp. / 3 employees
Resource Extraction (minerals)	1 sp. / employee
Resource Extraction (oil and gas)	1 sp. / employee during drilling or reworking operations; 1 sp. thereafter
Salvage Yard	4 sp. / ac. of yard
Self-Storage	2 sp. + 1 sp. / 10,000 sf.
Storage Yard	4 sp. / ac. of yard
Waste Transfer Station	special study
Workshop	2 sp. / 3 employees

Planning Commission Staff Report

July 27, 2020

AGENDA ITEM # 2

Project Name	Title 18 Unified Development Code – Major Amendment
Staff Planner/Presenter	Kerri Burchett

Recommended Motion

Move to recommend approval to the City Council of amendments to Title 18 Unified Development Code of the Loveland Municipal Code as provided in Attachment 2 and presented to the Planning Commission on July 27, 2020, as amended on the record.

Amendment Summary

The Unified Development Code (UDC), which is Title 18 of the Municipal Code, was adopted in November of 2018. The UDC represented a complete rewrite of the City's subdivision and land use code. As with any new development code, it was anticipated that staff would bring forward periodic amendments that address needed changes identified with the implementation of the new document. Over the past 3 months, staff has brought components of an amendment package to the Planning Commission in four study sessions in April, May, and June. Additionally, a public hearing to consider the amendments was held on June 8th.

The amendment proposal encompasses revisions to 38 sections of the UDC. To create a more manageable amendment package, planning staff elected to split the amendments into 2 separate items:

- i) Minor adjustments that include corrections, clarifications, and insertion of missing provisions; and
- ii) Major adjustments that modify the City's development standards, processes, and definitions.

It is anticipated that the minor amendment package will proceed to a City Council public hearing in August. Due to the complexity of the information contained in the major amendment package, planning staff will present those amendments to City Council in a study session on August 25th.

This report focuses on the major amendment package, which includes adjustments to 21 sections of the UDC. The amendment focuses on sections of the UDC that have been problematic to both staff and customers interests. The modifications also streamline the development review process, which was a goal in adopting the UDC. The amendment includes revisions to group homes, accessory structures, accessory dwelling units, industrial storage, and day care facilities. It allows more opportunities for accessory dwelling units and rooming houses in low-density zones as a means to further the City's affordable housing goals. It also adds new provisions that allow flexibility during emergency situations and streamlines the vacation and Zoning Board of Adjustment processes. The amendment incorporates new definitions along with adjustments to current definitions for family, dwelling unit, recovery residences, and rooming houses.

Defining family is an important addition to the UDC, as it serves to distinguish a single-family use from group homes, rooming houses and lodging facilities, and provides clarity that will help staff implement the provisions of the UDC. Public comments regarding the definition of family were received at the June 8th Planning Commission hearing, which prompted Planning Commission to further review and refine the amendment language. All public comments have been included as **Attachment 5** to this report.

Each component of the amendment in this package has been reviewed by the Planning Commission in a study session and adjustments have been made based on the direction from the Commission. The Planning Commission's role is to conduct a public hearing and to make a recommendation to the City Council regarding the proposed amendment. The Commission may specify changes to the proposed sections before forwarding it to City Council. Both a redline version and a clean copy of the amendment is provided in Attachments 1 and 2 and a detailed summary of each component of the amendment is included in Section IV of this report.

I. Attachments

1. Redlined amendment
2. Clean version of the amendment
3. Staff memorandum with supplemental information on accessory dwelling units dated April 17, 2020
4. Research on surrounding municipalities definitions of family and rooming houses
5. Citizen Comments
 - a. Emails from Grant Shipman
 - b. Emails from Andrew Lewis
 - c. Email from Sarah Meabon

II. Background

The code amendment package represents a collection of problematic sections of the UDC that have been difficult to interpret or apply, are overly rigid and need adjusting to allow for flexibility, or need updating to incorporate recent State Statutes provisions. The amended sections were often identified as a result of working with developers, business owners, and residents that had difficulty with the UDC provisions.

1. Study Sessions

Four study sessions were conducted with the Planning Commission between April and June to discuss the varying components of the amendments. The major amendments contained in this report were included as part of each of the study session discussions.

A. April 6th Study Session

The first study session on April 6th focused on revisions to the following sections:

1. Zoning Board of Adjustment
2. Variances
3. Capital Expansion Fees Exemptions
4. Required Notice by Application Type and Contents of Public Notice
5. Downtown District: Core and General Character Areas
6. Lot of Record
7. Group Home, Recovery Residences
8. Day Care Center, Adult and Child (Commercial)
9. Home Child Care
10. Place of Assembly

Based on the direction from Planning Commission at the study session, adjustments to the zoning board of adjustment, variances, capital expansion fees (CEFs), and group home sections were made. This included inserting a new map that identifies the historic downtown for the purposes of applying CEFs and revising the definition of “family”, which is a needed definition to differentiate “family” from a group home, lodging uses and rooming houses. Further discussion and revisions to the family and rooming house definitions were made at a subsequent study session on June 22nd.

B. April 13th Study Session

The second study session was held on April 13th and included a review of the revisions from the April 6th study session, along with a discussion of the following sections:

1. Accessory Structures
2. Accessory Dwelling Units
3. Fences, Walls, and Hedges
4. Outdoor Storage, Storage Yards, and Salvage Yards
5. Applicability of Use Standards

Upon review of the accessory dwelling unit (ADU) amendment, the Planning Commission requested additional information on building and fire code restrictions pertaining to ADUs and basement conversions. Staff explained that there were substantial building and fire code requirements that were problematic to converting a basement to an ADU. Additionally, the square footage limitations for an ADU are difficult to enforce in basements. Following the study session, staff provided a memorandum to the Planning Commission that summarized the building and fire codes relating to basement units to further clarify the reasoning behind the basement restriction. After review of the memorandum, the Commission did not identify further questions or comments regarding the ADU amendment.

At the conclusion of the study session, the Planning Commission indicated that they were ready for the amendment package to proceed to a public hearing. With the Governor’s Executive Order for social distancing, the City Manager’s office required authorization to proceed with a public hearing. While waiting for authorization for the UDC amendment package to proceed, staff was able to complete further code revisions.

C. May 18th Study Session

A third study session was held with the Planning Commission on May 18th. The amendment focused on the following sections:

1. Accessory Structures (further revisions)
2. Street Trees
3. Unpaid Capital Expansion Fee – Lien
4. Vacation of Emergency Access, Utility, and Non-Constructed Access Easements
5. Director Authorization
6. Neighborhood Notice and Comment
7. Required Notice by Application Type
8. Unity of Title Alternative
9. General Standards for Adaptable Uses

2. Public Hearing

A public hearing was held on June 8th. The hearing was conducted via Zoom. Two citizens spoke during the public comment period. Both individuals expressed a concern regarding the definition of family and the distinction between a family and a rooming house. Based on the discussion, the Planning Commission tabled the UDC amendments and requested a study session to allow staff additional time to research family and rooming house provisions in other communities and present options for the Commissioners to consider.

3. Additional Study Session: June 22nd

A fourth study session was held on June 22nd to specifically focus on options for defining and distinguishing “family” and small and large rooming houses. At the meeting, staff presented research from surrounding communities, along with 4 options for Planning Commission’s consideration. Additionally, a citizen email from Andrew Lewis was provided to the Commission along with an email that staff read into the public record from Grant Shipman. The emails along with additional correspondence from Grant Shipman are provided in **Attachment 5**. Based on the Commission’s direction, modifications to the definitions of family and rooming houses were made, residential occupancy provisions were added, and the land use table was adjusted to allow small rooming houses in the estate and low-density zones as a conditional use.

III. Outreach

- Notification of the public hearing was published in the Reporter Herald on May 30, 2020.
- The amendment was posted on the City’s website on July 21, 2020.
- A press release was published in the Reporter Herald on June 6th.
- Many of the components of the amendment were products of working with developers to add flexibility, adjust requirements, and further streamline the development review process. Several projects are waiting for approval of the amendment package.

IV. Amendment Components

The amendment components have been categorized into the following two groups based on the purpose or intent of the amendment:

1. Streamline Processes
2. Substantive Changes

Each amendment component includes a table that outlines the purpose, section references, and key elements of the proposed amendment. Following each table, relevant background information is provided. Redlines of the amendment are included as **Attachment 1** and a page number clean version of the amendment is included as **Attachment 2**.

1. Streamline Processes

A. Director Authorization

Amendment	Section No.	Purpose	Key Elements
Director Authorization	18.13.01.01	Streamline the process for technical corrections to the UDC	<ul style="list-style-type: none">Provides a reference to the City Clerk's ability to correct typographical and punctuation errors.Specifies the process for the Director to make minor adjustments to the UDC.

Section 18.13.01.01 of the UDC outlines authorizations of the Director to make minor adjustments to the UDC. These adjustments include creating illustrations and figures to provide additional clarity as to the intent of the standard, add and maintain cross-references and hyperlinks, and correct typographical and punctuation errors. The authorization to correct grammatical errors, however is granted to the City Clerk in Section 1.01.085 of the Municipal Code. To avoid confusion or duplication of efforts, and streamline the process, this amendment adjusts the Director's authority to align with the responsibilities of the City Clerk. The amendment further clarifies that if the Director exercises the authority allowed for in this section, the Director must notify the Planning Commission and City Council. It removes the requirement that the notification be conducted at a regular Commission or Council meeting.

B. Vacation of Emergency Access, Utility, and Non-Constructed Access Easements

Amendment	Section No.	Purpose	Key Elements
Vacation	18.17.16.03	Streamline the vacation process	<ul style="list-style-type: none">Provides an additional option for vacating easements that were created on a subdivision plat.

A vacation is a termination of an easement, right-of-way, or public dedication of land. With the adoption of the UDC, the vacation process for easements was streamlined to allow the Director the ability to vacate emergency access, utility and non-constructed access easements administratively. Vacation of rights-of-way require approval by City Council.

In order to vacate an easement that was dedicated on a subdivision plat, the UDC specifies that the Director must approve a new subdivision plat that does not show the easement. Creation of a new subdivision plat is often expensive, as it requires a new survey of the property. The amendment proposes an alternative option for vacating the easement by allowing the Director the ability to approve and record a notice of vacation with Larimer County. This would eliminate the need for a surveyed subdivision plat and create a more streamlined vacation process. Recording a notice to vacate an easement is allowed currently for easements that were created by separate instruments.

C. Zoning Board of Adjustment

Amendment	Section No.	Purpose	Key Elements
Zoning Board of Adjustment	18.13.02.03	Flexibility for the Director to forward variances to the full Zoning Board.	<ul style="list-style-type: none">Director can request that a variance be forward to the full Zoning Board.

Since the adoption of the UDC, staff has processed 16 variances, several of which have had significant neighborhood involvement. In those cases, staff has worked with the Zoning Hearing Officer to forward the requests directly to the full Zoning Board of Adjustment (ZBA) resulting in a more streamlined and appropriate

process for these complex and controversial items. The proposed amendment codifies the process and allows the Director to request that a variance be forward directly to the ZBA. The amendment also clarifies that the process determination must be made prior to noticing the public hearing.

2. Substantive Changes

A. Applicability – Exception for Emergencies

Amendment	Section No.	Purpose	Key Elements
Applicability, Exception for Emergencies	18.01.01.03.D	Allows exceptions to the UDC for emergencies situations.	<ul style="list-style-type: none"> Allows the Director to temporarily waive UDC requirements under emergency situations when the City Manager determines that there is a declared emergency. Director must consult with the City Manager prior to exemptions.

An exception for emergencies provision is typically found in land use codes. Under emergency situations, including a declared disaster or state of emergency, it allows the City the ability to exempt land use activities from requirements of the code to the extent necessary to protect life, safety, or property, or to cure impossibility. The amendment incorporates this provision to the UDC and grants the Director, after consultation with the City Manager, the ability to temporarily waive UDC requirements when the City Manager determines that there is an emergency or declared disaster.

B. Group Homes and Recovery Residences

Amendment	Section No.	Purpose	Key Elements
Group Home, Recovery Residence	18.19.03 18.02.04.04	Update Group Home provisions to coincide with recent State legislation concerning recovery residences.	<ul style="list-style-type: none"> Modify group home provisions to include recovery residences. Provide new definition of “recovery residence”. Include informational requirements for all group homes to ensure compliance with State requirements.

In 2019, the State passed legislation defining and establishing rules for “recovery residences” or “sober living facilities”. A recovery residence provides accommodations for individuals with a substance use disorder in a residential home setting. The use is protected under the Federal Fair Housing Act. Residents must be free from alcohol and non-prescribed or illicit drugs and the facility must promote independent living and life skill development, while providing support services intended to promote recovery from substance use disorders. Effective in 2020, recovery residences require certification from the State Office of Behavioral Health. The proposed UDC amendment modifies the City’s group home provisions to include recovery residences and to coincide with the State’s requirements for certification.

C. Family and Rooming Houses

Amendment	Section No.	Purpose	Key Elements
Definitions	18.19.03	Provide new definitions and requirements for family and rooming houses to help administer the Code.	<ul style="list-style-type: none">• Include definitions for dwelling unit and family to distinguish from a rooming house, group home or lodging facility.• Occupancy standards for residential uses• Allowance of small rooming houses as a conditional use in estate and low density residential zones.

The UDC amendment adds new definitions for family and dwelling unit, modifies the rooming house definitions, includes occupancy standards that allow four unrelated individuals to live together as a family, and provides allowances for small rooming houses in the City's estate and low-density residential districts, which is currently not allowed.

The UDC does not currently contain a definition of family. There are, however, definitions of small and large rooming houses that include a limitation on the number of unrelated individuals living together before the use is considered a rooming house. This definition has implications on what is considered a single family use in low-density zones. The definitions of rooming houses are as follows:

Rooming House (Small) means a building with sleeping rooms and shared kitchen and living areas (usually designed like a single-family detached residence) used to accommodate, for compensation, four, but not more than eight people who are not related by blood, marriage, adoption, or legal guardianship.

Rooming House (Large) means a building (of portion thereof) with sleeping rooms and a shared kitchen and living areas, that is used to accommodate, for compensation, nine or more people who are not related by blood, marriage, adoption, or legal guardianship.

A small rooming house is permitted in the City's two-family, high-density residential, and commercial zoning districts (R2, R3e, R3, DT, B, MAC, and E) as a limited use, which is administratively approved without public notification or outreach. There are land use standards associated with a rooming house that includes access to rooms from the interior of the building, a requirement for 2 full bathrooms, and off-street parking based on the number of bedrooms. A small rooming house is not permitted in the Estate and low-density residential districts (ER, R1e, and R1).

The definition of a small rooming house and the restriction on a small rooming house in the low-density zones, essentially creates a limitation of 3 unrelated individuals that can live together in the estate and low density residential zones as a family. Prior to the adoption of the UDC, the Municipal Code defined family as:

Family means any individual or two or more persons related by blood, adoption or marriage, or an unrelated group of not more than three persons living together in a dwelling unit and includes family foster care of up to four children which is licensed according to the statutes of the state.

Although removing the specific family definition, the UDC effectively follows the same limitation of not more than 3 unrelated individuals living together as a family, through the definition and location restriction of a small rooming house.

At the Planning Commission hearing on June 8th, more information regarding the family and rooming house definitions was requested. Staff completed the research and compiled a list of family and boarding/rooming house definitions from surrounding jurisdictions including Fort Collins, Longmont, Greeley, Windsor and

Larimer County. That information is included as **Attachment 4**. While there were variations in the definition of family between the communities, each contained an element of being related by blood, marriage, adoption, guardianship or other custodial/foster children arrangement.

The question on the validity of including a definition of family for the purposes of zoning regulations was also researched by Legal staff. The research concluded that the Supreme Court of the United States and the Colorado Supreme Court have upheld a definition of family as valid based on the governmental interests involved (noise, parking, neighborhood character, etc.). This information, along with 4 options to define, clarify and regulate family and rooming houses provisions, was provided in a study session on June 22nd. Based on the direction from the Planning Commission, the definition of family and rooming houses were modified to the following:

Family means any number of persons who are all related by blood, marriage, adoption, guardianship, or custodial relationship, and who live together as a single housekeeping unit and share common living, sleeping, cooking, and eating facilities.

Rooming House (Small) means a building with sleeping rooms and shared kitchen and living areas usually designed like a single-family detached residence, that is used to accommodate, for compensation, any group of people who do not meet the definition of family and do not exceed more than eight people.

Rooming House (Large) means a building with sleeping rooms and a shared kitchen and living areas, that is used to accommodate, for compensation, any group of nine or more people who do not meet the definition for family.

Residential occupancy limits were also incorporated to clarify an allowance that 4 unrelated individuals and their dependents living together would be allowed in a single family dwelling unit. This increased the allowance from 3 unrelated individuals. Subsequently, the small rooming house definition was adjusted to include 5 or more unrelated individuals, as opposed to 4 individuals currently in the UDC.

The final adjustment to this section includes the allowance of a small rooming house as a conditional use in the estate and low-density residential districts. This would afford an applicant the opportunity to pursue a small rooming house in the City's estate and low-density residential zones, which is not allowed under the current provisions, thereby allowing small rooming homes in every residential and commercial zone in the City. By requiring a conditional use approval in the low-density districts, the surrounding neighborhood can participate in the decision-making process by attending the neighborhood meeting and Planning Commission public hearing.

Two citizens have provided comments regarding the definition of family and rooming houses. Correspondence from the individuals have been included as **Attachment 5** to this report.

D. Accessory Structures

Amendment	Section No.	Purpose	Key Elements
Accessory Structures	18.19.03 18.04.07.01 18.04.07.03	Consolidate accessory buildings and accessory structures; create clear and flexible provisions, reducing the need for variances.	<ul style="list-style-type: none">• Combine terms into one section.• Provide setbacks specific to accessory structures, similar to the previous Code.• Size of accessory structures equal to 10% of the lot area or 500 square feet, whichever is greater. Added a definition for carport as that term is used in this section.• Included a reference to the design standards for multifamily parking structures.• Included specific setbacks for carports in existing manufactured home parks that coincide with the allowances in the previous code.

The UDC includes provisions for accessory structures, accessory buildings, and accessory dwelling units. While the distinction between an accessory building and an accessory structure creates difficulties, more problematic is that accessory buildings, which includes detached garages, sheds and other similar structures, are subject to the same 15-foot setback as a principal structure. These setback provisions constituted the majority of the variances processed under the UDC. The proposed amendment simplifies these terms by combining accessory buildings and structures into one category. It also adjusts setbacks to be similar to allowances in the previous Code: a minimum 5-foot rear and side setbacks, with larger setbacks required based on the height of the structure. The amendment also correlates the amount of square footage allowed for one or more accessory structures, allowing 10% of the lot area as the amount of square footage allowed for one or more accessory structures. For example, a standard 7,000 square foot lot would be allowed 700 square feet of accessory structures. Alternatively, a 15,000 square foot lot would be allowed 1,500 cumulative square feet of building footprint that include a detached garage plus a shed. Allowing larger accessory structures on estate or large suburban size lots has been another frequent variance request.

The amendment also includes adding a definition of “carport” which is a term used throughout the section, adding a reference to the UDC standards for covered parking for multifamily developments, and providing alternative setbacks for carports in existing manufactured home parks, to comply with standards from the previous code.

E. Accessory Dwelling Units

Amendment	Section No.	Purpose	Key Elements
Accessory Dwelling Unit (ADU)	18.04.07.02	Streamline process, allowing greater flexibility for ADUs in residential zones, ultimately assisting in providing more alternative housing options.	<ul style="list-style-type: none">• Reduce lot square footage requirements from 10,000 to 7,000 square feet in low density zones.• Stipulate size of ADUs based on lot size and zoning.• Flexibility to increase size of ADU by adaptable use process (requires neighborhood meeting).

Provisions for accessory dwelling units (ADUs) are proposed to be adjusted in the amendment to provide more opportunities for this housing type. With affordable housing concerns rising and the need for a variety of attainable housing options within the City, the Planning office has worked closely with the Community Partnership office to provide more flexibility in allowing ADUs in all residential zones. The amendment would reduce the minimum lot size for an ADU from 10,000 to 7,000 square feet. This would result in an ADU being allowed on a standard 7,000 sf single family lot without a public hearing or neighborhood meeting. This change

will significantly increase the opportunity for ADUs throughout the City aligning with fundamental housing goals in the City's Comprehensive Plan.

F. Home Child Care, Day Care Center, and Place of Assembly

Amendment	Section No.	Purpose	Key Elements
Home Child Care	18.02.06.03	Provide standards for large child care homes (7-12 children).	<ul style="list-style-type: none"> Large child care homes in low and medium density residential districts would be allowed as a conditional use, requiring Planning Commission approval.
Day Care Center, Adult or Child	18.19.03 18.02.03.06 18.05.03.03.E	Consolidate large and small commercial day care into one category; eliminate conflicting provisions.	<ul style="list-style-type: none"> Combine commercial day care into one category. Allow existing places of assembly such as a church to redevelop into a day care center.
Place of Assembly	18.19.03 18.02.04.07	Provide compatibility standards to minimize impacts on neighbors.	<ul style="list-style-type: none"> Establish noise limitations on outdoor activities. In low and median density residential zones, allow use on existing lots established for a place of assembly.

The amendment to both home child care and commercial day care centers began as a need to simplify and correct provisions of the UDC that were difficult to interpret and apply. One example is that the UDC requires a small commercial day care to be developed within a single family home or a place of assembly. This led to confusion between home child care and a day care center. In adjusting the provisions, staff simplified terms and combined large and small day care centers into one category, adjusting standards to be more applicable to a commercial facility. Associated amendments to the use standards for places of assembly have also been included, as a conversion of these places to a day care center is allowed. The proposed amendment establishes compatibility standards with limitations on noise and outdoor activity in low and medium density residential zones.

Staff also modified provisions for home child care to require a conditional use process for large child care homes in low and medium density residential districts. A large child care home, as defined by the State, allows 7-12 children, which could have impacts to a neighborhood. A conditional use process, as recommended in this amendment, allows for neighborhood involvement and requires Planning Commission approval.

G. Outdoor Storage, Storage Yards, and Salvage Yards

Amendment	Section No.	Purpose	Key Elements
Outdoor Storage, Storage Yards, & Salvage Yards	18.19.03 18.04.07.06 18.04.07.07 18.04.07.08 18.02.04.08 18.04.06.04	Clarify and adjust standards, removing unnecessary limitations in the Industrial zone.	<ul style="list-style-type: none"> Clarify distinction between outdoor storage and storage yards. Remove square footage limitation in Industrial zone Update standards along highways and arterials. Clarify screening requirements. Align requirements with the proposed nuisance code

The UDC contains a limitation on the square footage for accessory outdoor storage in the Industrial zone. This limitation restricts outdoor storage to an area not greater than the gross floor area of the principal structure. This limitation is inconsistent with allowances granted prior to the UDC and the intent of the Industrial zone to house wholesale, warehousing, distribution and manufacturing uses that often include associated outdoor storage. The amendment removes this limitation and clarifies the distinction between outdoor storage and a

storage yard, which has been problematic in interpreting and applying the provisions. It also refines screening standards and outlines locational aspects of outdoor storage adjacent to State Highways and arterial roads.

Another purpose of the amendment is to align the residential outdoor storage provisions in the UDC with the proposed Nuisance Code, which is being reviewed simultaneously with the UDC amendments. The amendment removes duplicative provisions and references proposed Chapter 16.32, Improper Outdoor Storage of Materials and Chapter 16.20 Unlawful Vehicles.

H. Applicability of Use Standards

Amendment	Section No.	Purpose	Key Elements
Applicability of Use Standards	18.02.04.01	Adjusts the modification of use standards through the Adaptable Use process	<ul style="list-style-type: none"> • Restricts the use of the adaptable use process to modify standards that either prohibit a particular use based on its location or require compliance with state or federal requirements. • Expand the notice requirements when an adaptable use process is used to modify a distance separation from a residential use or residential zone boundary.

The UDC categorizes uses into uses by right, limited uses, adaptable uses and conditional uses. Below is a general description of each category:

1. Uses by Right - must comply with the general standards in the UDC. Approved administratively.
2. Limited Use - must comply with the general standards of the UDC along with additional standards particular to the use. These standards include provisions such as particular bufferyards or screening, noise restrictions, distances from a residential use or zone, and locational criteria. The uses are approved administratively.
3. Adaptable Use – in additional to compliance with the UDC standards, adaptable uses require a neighborhood meeting and outreach efforts. Findings concerning compatibility are required. These uses can be appealed to the Planning Commission.
4. Conditional Use – these uses require Planning Commission approval and can be appealed to City Council. Often uses designated as conditional have the potential to create substantial impacts on a neighborhood. Findings concerning compatibility and mitigation of impacts are required.

The amendment to this section focuses on provisions for limited uses and in particular, the ability to modify a specific use standard through the adaptable use process. Flexibility was an important element of the UDC. With the adoption of specific use standards, a process was also created to allow those standards to be modified by converting the limited use to an adaptable use process, which requires neighborhood outreach. The amendment clarifies this provision and limits the ability to modify a use standard that either prohibits a particular use, requires compliance with state or federal regulations, or changes the residential occupancy provisions. Further, the amendment requires an expanded notification radius if the adaptable use process is used to modify a separation distance from a residential use or residential zone boundary.

I. Using the Housing Palette

Amendment	Section No.	Purpose	Key Elements
Housing Palette	18.04.02.01	Provides flexibility to interpret setbacks for established neighborhoods.	<ul style="list-style-type: none">Grants the Director the ability to establish setbacks for existing neighborhoods based on the established setback pattern in the subdivisions.

The housing palette in the UDC establishes setbacks, lot area, and building height limitations for each housing product in the City. The housing palette includes all lot types for single family (urban, large urban, general, suburban, large suburban, and estate), duplex, townhomes, and multifamily. Setbacks for housing products are now based on the lot area, as opposed to the zoning district, which established the setbacks in the previous code. This new method for determining setbacks in the UDC has created difficulties primarily for larger lots and created non-conforming situations in existing neighborhoods. The amendment would grant the Director the ability to establish setbacks for existing neighborhoods based on the established setback pattern in the subdivision instead of by individual lot area. This allowance will reduce the amount of setback variances needed in existing neighborhoods resulting from the new setback requirements.

V. Staff Recommendation

Staff recommends that, after review of the UDC amendment, the Planning Commission forward a recommendation of approval to the City Council.

18.13.01.01 Director of Development Services

C. Additional Authorization.

1. The Director is authorized to:
 - a. Create illustrations, figures, and illustrative examples, and include them in this UDC as the Director determines appropriate to provide additional clarity as to the intent of the standards set out herein;
 - b. Add and maintain internal cross-references to this UDC as the Director determines appropriate to facilitate navigation of this UDC;
 - c. Add and maintain external hyperlinks to this UDC as the Director determines appropriate to facilitate access to materials referenced in this UDC; and
 - d. ~~Work with the City Clerk to c~~Correct typographical and punctuation errors within this UDC ~~as set forth in Section 1.01.085 Amendments and Corrections.~~
2. If the Director exercises the authority that is delegated by this subsection C., the Director shall ~~notify report same to~~ the Planning Commission and City Council. ~~at their next regular meetings.~~

18.17.16.03 Vacation of Emergency Access, Utility, and Non-Constructed Access Easements

- A. **Generally.** Emergency access, utility, and non-constructed access easements that are assigned or conveyed to the City solely for its use may be vacated by the Director. All right or interest of the City, in and to any easement shall be divested only upon the following:
1. With respect to City-held easements created by a recorded final plat:
 - a. By approving a final plat of the property upon which the easement is located that does not show the easement; ~~or~~
 - b. By vacating the final plat that created the easement through the obsolete subdivision process; ~~or~~
 - c. **By the Director approving and recording a notice of vacation.**
 2. With respect to City-held easements that are created by deed or other comparable recorded document, said easements may be terminated by the Director by approving and recording a notice of vacation.
- B. **Required Findings.**
1. Emergency access easements may be vacated pursuant to this Section if the Director, after consultation with the affected emergency service providers, determines that the emergency access is no longer needed.
 2. Utility easements may be vacated pursuant to this Section if the Director, after obtaining written consents from the affected utility providers, determines that the utility easement is no longer needed.
 3. Access easements may be vacated pursuant to this Section if the Director makes the following findings:
 - a. The access easement to be vacated has not been established and is not in use by the public;
 - b. That no land adjoining any access easement to be vacated is left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way or easement; and
 - c. That the easement to be vacated is no longer necessary for the public use and convenience.
- C. **Petition Review Process.** Unless the vacation of easement is being processed as part of a final plat, a petition for vacation of an easement shall be made by the record owners of more than 50 percent of property that is both:
1. Served or anticipated to be served by the easement; and
 2. Adjoined or traversed by the easement.
- D. **Recording Requirements.** The documents that effectuate a vacation shall be recorded by the City Clerk in the office of the Larimer County Clerk and Recorder at the applicant's expense.
- E. **Effect.** Vacation of easements pursuant to this Section shall have the effect of terminating said easements with respect to the City's interests in them.

18.13.02.03 Zoning Board of Adjustment

- A. **Generally.** The Zoning Board of Adjustment is created and delegated the authority to grant variances to the regulations contained in this UDC.
- B. **Powers and Duties.** The Zoning Board of Adjustment shall be empowered to grant variances from certain standards set forth in this UDC according to the standards set out in Section [18.17.15.07 Variances](#).
- C. **Membership.** The Zoning Board of Adjustment shall be composed of the members of the Planning Commission as it may be constituted from time to time.
- D. **Hearing Officer.** The Zoning Board of Adjustment may appoint a Zoning Hearing Officer from within the Board to conduct public hearings and make decisions on variances. The Hearing Officer, ~~in its discretion or at the request of the Director or~~ an applicant ~~prior to notification of the public hearing before the close of a public hearing~~, may forward any matter on to the full Zoning Board of Adjustment.
- E. **Order of Business.** The order of business at all regular meetings shall be established by the Zoning Board of Adjustment.
- F. **Meetings.**
 - 1. *Generally.* Meetings and special meetings shall be conducted in accordance with the rules set out in the City of Loveland Handbook for Boards and Commissions. See [Appendix B: Handbook for Boards and Commissions](#).
 - 2. *Order of Business.* The order of business at all regular meetings shall be established by the Zoning Board of Adjustment.
 - 3. *Times and Locations.* Meetings of the Zoning Board of Adjustment shall be held in Council Chambers, or other place designated by the Zoning Board of Adjustment Chairperson, in accordance with the schedule of meetings adopted by the City Council, and with respect to special meetings, as determined by the Zoning Board of Adjustment according to the rules set out in the City of Loveland Handbook for Boards and Commissions.

18.01.01.03 Applicability

A. Generally.

1. All development within the City is subject to this UDC, except:
 - a. As may be specifically exempted herein; or
 - b. As may be outside of the City's regulatory jurisdiction.
2. Development is a specifically defined term for the purposes of this UDC. Not all activities on land or within buildings or structures are considered development. See the definition of development for details.

B. **Applicability to Publicly Owned Property.** The provisions of this UDC are applicable not only to private persons, agencies, corporations and organizations, but also to all public agencies and organizations to the full extent that they may be enforceable under the United States Constitution and the Constitution and Statutes of the State of Colorado.

C. **Protection of Commercial Mineral Deposits.** No real property shall be zoned or rezoned, nor shall a variance to the application of this title be granted, which violates the provisions of C.R.S. § 34-1-301, *et seq.*

D. **Exception for Emergencies.** When the City Manager determines that because of an emergency, including but not limited to a declared disaster or other declared state of emergency, compliance with the normal procedures and requirements of this UDC would threaten life, safety, or property or have become impossible to perform, the Director may, after consultation with the City Manager, exempt land use activities of an applicant from requirements of this UDC only to the extent necessary to protect life, safety or property or to cure impossibility. The applicant shall complete any procedures or any improvements that would have been required if normal procedures had been followed as soon as reasonably practical after the emergency actions are taken or as directed by the Director.

18.19.03 Definitions

Group Home means a dwelling unit in which six or more individuals live together (but not more than one who is required to register as a sex offender pursuant to C.R.S. § 18-3-412.5, as amended) and receive supportive services and are supervised by persons who live in the residence. A Group Home does not house more than twelve residents, including supervisory personnel, but not including any children of a resident who are under the age of two years. Except for Group Homes for Juvenile Offenders, "group homes" does not include Detention Facilities. There are ~~five~~^{four} classifications of group homes:

1. *Group Home for Developmentally Disabled Persons.* A state-licensed Group Home serving not more than eight persons, exclusively for the care of persons with developmental disabilities, as defined and regulated by the Colorado Department of Human Services, Division for Developmental Disabilities Services, and the Colorado Department of Public Health and Environment.
2. *Group Home for Elderly Persons.* A Group Home of up to eight persons who are 60 years of age or older who do not require medical attention associated with a residential health care facility. Group Homes for Elderly Persons are either: (1) licensed as an assisted living residence or alternative care facility by the Colorado Department of Public Health and Environment; or (2) certified as an adult foster care facility by the County.
3. *Group Home for Juvenile Offenders.* A Group Home that is licensed or certified by the State of Colorado, housing residents placed by the County or the Colorado Department of Human Services, Division of Youth Corrections, for purposes of rehabilitation, special care, supervision, or treatment for social, behavioral, or disciplinary problems. A Group Home for Juvenile Offenders does not have more than 14 residents, plus additional required staff.
4. *Group Home for Mentally Ill Persons.* A state-licensed Group Home serving not more than eight persons exclusively for the care of persons with mental illness, as defined and regulated by the Colorado Department of Public Health and Environment.
5. *Group Home for Substance Use Disorders.* A state-certified Group Home serving not more than eight persons protected by the provisions of the Federal Fair Housing Act living in a Recovery Residence.

Recovery Residence means any premises, place, facility, or building that provides housing accommodation for individuals with a primary diagnosis of a substance use disorder that:

1. Is free from alcohol and non prescribed or illicit drugs;
2. Promotes independent living and life skill development; and
3. Provides structured activities and recovery support services that are primarily intended to promote recovery from substance use disorders.

18.02.04.04 Special Residential Standards

B. Group Home. Group home uses shall comply with the following standards, in addition to all other applicable standards in the UDC:

- a. *Spacing.* Group homes shall be spaced a minimum of 750 feet apart on the same block face and shall be located only within a single-family detached dwelling, side-by-side duplex, or over-under duplex.
- b. *Information Requirements.* The following information shall be submitted to the City:
 - i. All application materials provided to the State for licensure or certification;
 - ii. A description of the facility's operation including staff levels, services provided to patrons, rehabilitation process if applicable, and facility operational rules;
 - iii. A description of qualifications and experience of the facility operators;
 - iv. A description of the maintenance responsibilities and policies that minimize negative impacts on the neighborhood; and
 - v. A parking plan for residents and guests.

18.19.03 Definitions

Dwelling Unit means a single unit providing complete and independent living facilities for a family, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Family means any number of persons who are all related by blood, marriage, adoption, guardianship, or custodial relationship, and who live together as a single housekeeping unit and share common living, sleeping, cooking, and eating facilities.

Rooming House (Small) means a building with sleeping rooms and shared kitchen and living areas (usually designed like a single-family detached residence), that is used to accommodate, for compensation, any group of people who do not meet the definition of family and do not exceed four, but not more than eight people who are not related by blood, marriage, adoption, or legal guardianship.

Rooming House (Large) means a building (of portion thereof) with sleeping rooms and a shared kitchen and living areas, that is used to accommodate, for compensation, any group of nine or more people who do not meet the definition for family. who are not related by blood, marriage, adoption, or legal guardianship.

18.02.04.03 Residential Standards

A. **Occupancy Limits.** The maximum occupancy allowed on a property in a single-family, duplex, townhome, or multifamily dwelling unit shall be either:

1. One family as defined in Division 18.19.03 Definition of Family and not more than two additional persons; or
2. Two adults and their dependents, if any, and not more than two additional persons.

18.02.03.03 Special Residential Land Use by Zone

The special residential land uses that are allowed in each zone are set out in Table 18.02.03.03, Special Residential Land Use by Zone.

Table 18.02.03.03 Special Residential Land Use by Zone													
Land Use	Zones												Standards Reference ¹
	Residential					Mixed-Use			Industrial	Parks and Resource			
	ER	R1/R1e	R2	R3e	R3	DT	B	MAC	E	I	PP	DR	
Key: “R” = Allowed Use; “L” = Limited Use; “A” = Adaptable Use; “C” = Conditional Use													
Assisted Living or Congregate Care	-	-	-	A ²	A ²	A ²	L	L	L	-	-	-	§ 18.02.04.04
Group Home	L	L ²	L ²	L ²	L ²	L ²	L	L	L	-	-	-	§ 18.02.04.04
Live-Work Unit	-	-	-	L ²	L ²	L ²	L	L	L	-	-	-	§ 18.02.04.04
Nursing Home, Memory Care, Alzheimer's Care	-	-	-	A ²	A ²	A ²	L	L	L	-	-	-	§ 18.02.04.04
Protective Care	-	-	-	-	C ²	C ²	A	A	A	-	-	-	§ 18.02.04.04
Rooming House (Large)	-	-	A ²	L ²	L ²	L ²	L	L	L	-	-	-	§ 18.02.04.04
Rooming House (Small)	C-	C-	L ²	L ²	L ²	L ²	L	L	L	-	-	-	§ 18.02.04.04
Shelter for Victims of Domestic Violence	-	L ²	L ²	L ²	L ²	L ²	L	L	L	-	-	-	§ 18.02.04.04
TABLE NOTES:													
¹ This column contains a cross-reference to the standards that apply to the use in zones in which the use is listed as Limited (“L”), Adaptable (“A”), or Conditional (“C”).													
² Type of review may vary based on scale of new construction. See Sec. 18.02.04.02, Scale Thresholds in DT and Residential Zones.													

Section 18.19.03 Definitions

Accessory Structure means a structure that is:

1. Subordinate to the use and scale of the principal building, or supportive of and incidental to an outdoor land use;
2. Customary in connection with the principal building, other structure, or use of land; and
3. Ordinarily located on the same lot with the principal building, other structure, or use of land.

Examples of accessory structures include, but are not limited to: detached garages and carports that are accessory to residential buildings, storage buildings that are accessory to lumberyards, and restroom facilities that are accessory to parks. ~~swing sets and raised garden planters that are accessory to residential uses; pavilions that are accessory to parks; and dog runs that are accessory to kennels; and loafing sheds that are accessory to commercial equestrian facilities.~~ The phrase “accessory structure” does not include signs.

Temporary Accessory Structure means a structure that exists on an impermanent basis, is not placed on a permanent foundation, and does not require a building permit. ~~for example, during the operation of a temporary use.~~

~~**Accessory Building** means a building that is:~~

- ~~4. Subordinate to the use and scale of the principal building, or supportive of and incidental to an outdoor land use;~~
- ~~5. Customary in connection with the principal building, other structure, or use of land; and~~
- ~~6. Ordinarily located on the same lot with the principal building, other structure, or use of land.~~

~~Examples of accessory buildings include, but are not limited to: detached garages that are accessory to residential buildings; storage buildings that are accessory to lumberyards; and restroom facilities that are accessory to parks.~~

Carport means a covered parking space that is open on one or more sides, and is either attached or detached and accessory to a dwelling unit or units.

18.04.07.01 Accessory Buildings Structures

- A. **Generally:** The standards of this Section apply to accessory structures that are not specifically addressed elsewhere in this UDC:
- ~~Nonresidential Property. All permitted accessory buildings on nonresidential property must be located at a distance from the front lot line that is equal to or greater than the actual front setback for the principal building or use with which it is associated, or be screened from view from public sidewalks, streets, and adjacent property.~~
- ~~Residential Property. All permitted accessory buildings on residential property must be located at a distance from the front lot line that is equal to or greater than the actual front setback for the principal building or use with which it is associated.~~
- B. **Setbacks.** Accessory Structures shall be set back from the applicable lot lines as follows:
1. Front: Equal to or greater than the actual front setback for the principal dwelling or building with which it is associated;
 2. Street Side: Same as required for the principal building.
 3. Interior Side: Five feet.
 4. Interior Rear: Five feet or one foot for every four feet of building height, which is greater.
 5. Alley: Five feet.
 6. Garage access doors shall be set back in accordance with Section 18.04.04.03.F Setbacks Along Alleys, Sidewalks, Trail or Access Easements, Ditches, and Waterbodies.
- C. **Residential Detached Garages, Carports and Storage Buildings. in Residential Zones.** ~~Unless otherwise specified for a particular type of development elsewhere in this UDC,~~ The following limitations and requirements shall be applied to a detached garage, carport, or storage building in a residential zone district ~~or on residential properties,~~ in order for the garage, carport, or storage building to be considered an accessory structure ~~building~~ (as opposed to a principal building):
1. The maximum building footprint shall not exceed ten percent of the total lot area or 500 square feet, whichever is greater, and shall be considered cumulatively with all other accessory structures on the lot. ~~a cumulative of 900 square feet in building footprint.~~

2. The roof pitch, materials, and style shall match the roof pitch, materials, and style on the principal building.
 3. The exterior treatment shall be similar to the materials and colors of the principal building. Metal shall not be used as the primary material unless the Director determines that the metal material is appropriate based on the nature of the property and the character of the neighborhood.
 4. Storage buildings exempt from a building permit are exempt from the standards in Section C.
- D. **Temporary Accessory Structures** are subject to the following:
1. The structure may be located within a utility easement provided:
 - a. The location Within an area where the presence of the structure will not alter or block the flow of stormwater drainage {unless the structure is part of an approved stormwater management system}.
 - b. The property owner obtains written permission from the easement holder.
 2. Structures less than 36 inches in height are not subject to the setback requirements listed in Section 18.04.07.01.B Setbacks.
 3. The Director may allow a reduction in setbacks for temporary accessory structures if determined that such reduction will not have detrimental impacts on surrounding property and all other provisions in this Section have been met.
- E. **Common Buildings in Housing Clusters.** Common buildings in housing clusters (see Section 18.06.05.01, Housing Clusters) shall be set back as if they are principal buildings, without regard to the actual setbacks of the other buildings in the cluster.
- F. **Covered Parking for Multifamily Development.** Covered parking for multifamily developments shall comply with the parking design standards and setbacks set forth in Division 18.06.07 Standards for Multifamily Development.
- G. **Existing Manufactured Home Parks and Subdivisions.** In existing manufactured home parks and subdivisions, accessory structures may be placed on existing lots or spaces that do not comply with the setbacks in this section, provided they are spaced in compliance with the Building Code and set back a minimum of 10 feet from the front property line.
- H. **Encroachments.** Except as set forth in Section D above, accessory structures shall not encroach upon an easement, right-of-way, or a required sight triangle at a street intersection.

18.19.03 Definitions *(This definition is being provided for reference only. No changes are proposed)*

Accessory Dwelling Unit means a residential dwelling unit (but not a manufactured home, mobile home, or recreational vehicle) that is subordinate in scale to, a single-family detached dwelling unit (the "Principal Dwelling Unit"). An accessory dwelling unit is located either within the same building as the Principal Dwelling Unit or in a detached building on the same lot as the Principal Dwelling Unit.

18.04.07.02 Accessory Dwelling Units

- A. **Generally.** Accessory dwelling units ("ADUs") **are independent and complete dwelling units and are;** subject to the standards of this Section. **ADUs** are allowed as accessory uses to single-family detached dwelling units that are conforming uses under this UDC.
- B. **General Development Standards.** The following development standards apply to ADUs in all zones:
1. ADUs shall:
 - a. Be located on the same lot, either **attached integrated in** to or detached from an existing principal single-family detached dwelling unit, **except ADUs in the North Cleveland Overlay Zone are subject to Section 18.06.08.04 Accessory Dwelling Units;**
 - b. Have a separate exterior entrance from the principal dwelling unit;
 - c. Have its own cooking and bathing facilities, independent of the principal dwelling unit;
 - d. **Have an exterior finish of a similar comparable** architectural style, materials, and colors as the principal dwelling unit; **and**
 - e. Meet all of the setback requirements **in Section 18.04.07.01 Accessory Structures; within the applicable zoning district (if the ADU is located above a garage, it is subject to garage setback requirements);**
 - f. **Be smaller in size than the principal single-family dwelling; and**
 - g. **Have a separate address from the principal dwelling unit.**
 2. **No portion of an ADU shall be located nearer the front lot line than the front wall of the principal dwelling unit;**
 3. The minimum required lot area is:
 - a. **7,00010,000** square feet in the ER, R1, **and R1e, and R2** Zones; or
 - b. 5,000 square feet in all other zones or in a complete neighborhood in the R1, **or R1e, and R2** Zones.
 4. An ADU may be approved on a lot that is smaller than the minimum requirements of subsection B.3., above, if it is approved as an Adaptable Use;
 5. Only one ADU is allowed per lot;
 6. **The occupants of an ADU and the principal dwelling unit shall be considered together for the purposes of occupancy limits as described in Section 18.02.04.03.A Occupancy Limits.**
 7. **ADUs in PUDs approved prior to the adoption of the UDC, shall comply with the requirements specified in the PUD.**
 8. The subject property shall contain the required number of parking spaces for the principal dwelling unit; and in addition to the parking for the primary dwelling unit, one parking space shall be provided for the ADU, unless the width of the adjacent street is 28 feet or greater and on-street parking is allowed.
 9. **The building footprint of an ADU detached from the principal dwelling unit shall be counted towards the maximum building footprint allowed for an accessory structure as indicated in Section 18.04.07.01, Accessory Structures, unless the ADU is located as a second level of an accessory structure.**
 10. **ADUs attached to a principal dwelling unit shall be designed as separate, independent units and shall not have an internal connection or opening to the principal dwelling unit.**
 11. **Residential units located in the basement of a principal dwelling shall not be considered an ADU. Conversion of a basement to a residential unit shall comply with all applicable building code and zoning requirements.**
- C. **Zone-Specific Development Standards.**
1. **Low and Medium Density Residential Zones.** In the ER, R1, R1e, and R2 zones, the maximum floor area of an ADU shall be 10 percent of the total lot area of the property or 700 square feet, whichever is less.

2. **High Density Residential Zones.** In the R3e and R3 zones, the maximum floor area of an ADU shall be 10 percent of the total lot area or 900 square feet, whichever is less.
 3. The maximum floor area of an ADU may be increased up to 20 percent if it is approved as an Adaptable Use;
 4. **Scale Threshold.** Accessory dwelling units within the R1, R1e, and R2, ~~R3, and R3e~~ zones shall comply with Section 18.02.04.02, **Scale Thresholds in DT and Residential Zones** (unless the residential lot is within a complete neighborhood); ~~and shall be considered cumulatively with all other buildings on the lot for the purposes of building coverage.~~
 5. **Nonresidential Zones.**
 - a. The maximum cumulative building coverage shall not exceed 65 percent; and
 - b. The floor area of the ADU shall be less than the floor area of the principal dwelling unit, unless the ADU is proposed to be located in an existing accessory building that conforms to the standards of the UDC or was legally permitted prior to the adoption of the UDC.
- D. **Conversion or Expansion of an Existing Structure to an ADU.** An existing accessory structure that was legally permitted prior to the adoption of the UDC may be converted or expanded to an ADU provided the following standards are met:
1. **Conversion of an Existing Structure.** The floor area of the ADU shall not exceed 900 square feet and all other provisions of the Municipal Code shall be met.
 2. **Expansion of an Existing Structure.** An existing accessory structure may be expanded as a second level ADU and match the existing first level building footprint or 900 square feet, whichever is less.
- E. **Utilities.**
1. Water ~~and~~, wastewater ~~, and electric~~ services to the ADU shall be connected to the services ~~mains for of~~ the principal dwelling unit.
 2. Utility design shall ensure that water, and electric utilities for the ADU can be shut off independently from the principal dwelling.

18.19.03 Definitions *(This definition is being provided for reference only. No changes are proposed)*

Home Occupation means a business that is conducted from a dwelling unit by a resident of the dwelling unit, which is limited in extent and incidental to the use of the dwelling unit as a residence. The phrase “home occupation” does not include the phrase “family child care home” or the phrase “bed and breakfast.”

18.02.06.03 Home Child Care

- A. **Generally.** The standards of this Section apply to the child care uses within dwelling units (hereinafter “home child care uses”) that are listed in this subsection. Such uses require a major home occupation permit.
1. Specialized group homes, as defined in § 7.701.2.B., 12 CCR 2509-8, except as provided in subsection B., below;
 2. Family child care homes, as defined in § 7.707.22.A. and B., 12 CCR 2509-8, and including:
 - a. Three (3) under two (2) family child care homes, as defined in § 7.707.22.C., 12 CCR 2509-8;
 - b. Family child care homes with infant/toddler licenses, as defined in § 7.707.22.D., 12 CCR 2509-8;
 - c. Experienced child care provider, as defined in § 7.707.22.F., 12 CCR 2509-8; and
 - d. Large child care homes, as defined in § 7.707.22.E., 12 CCR 2509-8.
- B. **Exceptions.** The following child care uses are allowed without a permit in all dwelling units, provided that all licenses (if any) that are required by state law (see 12 CCR 2509-8) are obtained prior to establishment of the use, and thereafter maintained:
1. Specialized group homes that are licensed to provide care for three or more children pursuant to C.R.S. § 26-6-102(10), but that are providing care for three or fewer children who are determined to have a developmental disability by a community centered board or who are diagnosed with a serious emotional disturbance.
 2. Exempt family child care home providers, as defined in C.R.S. § 26-6-102(12);
 3. Foster care homes, as defined in C.R.S. § 26-6-102(14); and
 4. Licensed host family homes, as defined in § 7.701.21., 12 CCR 2509-8.
- C. **General Development Standards.** In addition to any state regulatory requirements, the following standards apply to the home child care uses that are subject to this Section:
1. The operator of the home child care use shall reside on the subject property.
 2. The home child care use shall not generate, in excess of levels customarily found in residential neighborhoods, any noise that is noticeable at or beyond the property line of the premises upon which the home child care use is located.
 3. No additional off-street parking shall be created on the subject property for the home child care use **and driveways shall be open and available for use during the child care's hours of operation.**
 4. Commercial vehicles shall not be parked or stored on the subject property.
 5. ~~Experienced child care providers and large child care homes~~ **Home child care uses that serve more than five children who are not related to the operator** shall be spaced from each other so that there are not more than two such facilities fronting on the same street segment, or within 500 feet along the street in both directions, whichever distance is shorter.
 6. ~~Large child care homes shall be located on streets that have on-street parking allowed adjacent to the property frontage of the child care home.~~
- D. **Zone-Specific Standards**
1. **Low and Medium Density Residential Zones.** In the ER, R1, R1e and R2 zones, large child care homes are a conditional use (See Section 18.14.03.01 Process Overview, subsection B.4).
- E. **Maximum Number of Children.** The number of children that may be cared for in a home child care use is limited by the applicable state license or statutory definition and not this UDC.

Section 18.19.03 Definitions

Day Care Center, Adult or Child ~~(Large)~~ means:

1. A facility, whether non-profit or for-profit, that provides care, social services, protection, and supervision for ~~21 or more~~ adults who are not related to the owner, operator, or manager thereof, on a regular basis away from their primary residence for less than 24 hours per day; or
2. A facility, by whatever name known, that is maintained for the whole or part of a day for the care of ~~16 or more~~ children who are less than 18 years of age, and who are not related to the owner, operator, or manager thereof, whether the facility is operated with or without compensation for such care and with or without stated educational purposes. The phrase “day care center, child ~~(large)~~” includes, but is not limited to, facilities commonly known as day-care centers, school-age child care centers, before and after school programs, nursery schools, kindergartens, preschools, day camps, summer camps, and centers for developmentally disabled children, and those facilities that give twenty-four-hour care for children, and includes those facilities for children under the age of six years with stated educational purposes operated in conjunction with a public, private, or parochial college or a private or parochial school. The phrase “day care center, child ~~(large)~~” does not mean:
 - a. A kindergarten maintained in connection with a public, private, or parochial elementary school system of at least six grades or operated as a component of a school district’s preschool program (operated pursuant to Article 28 of Title 22, C.R.S.);
 - b. Any of the child care uses of the home that are enumerated in Section 18.02.06.03, Home Child Care; or
 - c. Residential child care facilities, as defined in § 7.701.2.G., 12 CCR 2509-8.

Day Care, Adult or Child ~~(Small)~~ means:

- A- ~~A facility, whether non-profit or for-profit, that provides care, social services, protection, and supervision for up to 20 adults who are not related to the owner, operator, or manager thereof, on a regular basis away from their primary residence for less than 24 hours per day; or~~
- B- ~~A facility, by whatever name known, that is maintained for the whole or part of a day for the care of five to 16 children who are eighteen years of age or younger and who are not related to the owner, operator, or manager thereof, whether the facility is operated with or without compensation for such care and with or without stated educational purposes. The phrase “day care, child (small)” includes, but is not limited to, facilities commonly known as day-care centers, school-age child care centers, before and after school programs, nursery schools, kindergartens, specialized group facilities (except as covered by Section 18.02.06.03, Home Child Care), preschools, day camps, summer camps, and centers for developmentally disabled children, and those facilities that give twenty-four-hour care for children, and includes those facilities for children under the age of six years with stated educational purposes operated in conjunction with a public, private, or parochial college or a private or parochial school. The phrase “day care, child (small)” does not mean:~~
 - 1- ~~A kindergarten maintained in connection with a public, private, or parochial elementary school system of at least six grades or operated as a component of a school district’s preschool program (operated pursuant to article 28 of title 22, C.R.S.); or~~
 - 2- ~~Any of the child care uses of the home that are enumerated in Section 18.02.06.03, Home Child Care.~~

18.02.03.06 Community, Civic, Educational, and Institutional Land Use by Zone

The community, civic, education, and institutional land uses that are allowed in each zone are set out in Table 18.02.03.06, Community, Civic, Educational, and Institutional Land Use by Zone.

Table 18.02.03.06 Community, Civic, Educational, and Institutional Land Use by Zone													
Land Use	Zones												Standards Reference ¹
	Residential					Mixed-Use			Industrial	Parks and Resource			
	ER	R1/R1e	R2	R3e	R3	DT	B	MAC	E	I	PP	DR	
Key: “R” = Allowed Use; “L” = Limited Use; “A” = Adaptable Use; “C” = Conditional Use													
Cemetery	L	L ³	-	-	-	-	-	-	-	-	L	-	§ 18.02.04.07
Crematorium	-	-	-	-	-	-	L	-	L	L	-	-	§ 18.02.04.07
Day Care Center, Adult or Child ²	-	L ³	L ³	L ³	L ³	L ³	L	L	L	-	-	-	§ 18.02.04.07
Day Care, Adult or Child (Small) ²	L	L ³	L ³	L ³	L ³	L ³	L	L	-	-	-	-	§ 18.02.04.07
Funeral Home	-	-	-	-	-	L ³	L	L	-	-	-	-	§ 18.02.04.07
Hospital	-	-	-	-	L ³	L ³	L	L	L	-	-	-	§ 18.02.04.07
Place of Assembly ²	L	L ³	L ³	L ³	L ³	L ³	R	R	R	R	L	-	§ 18.02.04.07
Prison or Jail	-	-	-	-	-	C ³	C	C	C	C	-	-	§ 18.02.04.07
School, Elementary or Middle (private)	-	L ³	L ³	L ³	L ³	-	L	L	L	-	-	-	§ 18.02.04.07
School, High (private)	-	L ³	L ³	L ³	L ³	-	-	L	L	-	-	-	§ 18.02.04.07
School, Vocational or Trade ²	-	-	-	-	-	L ³	L	L	L	L	-	-	§ 18.02.04.07
University or College (private)	-	-	-	-	-	L ³	L	L	L	L	-	-	§ 18.02.04.07
TABLE NOTES:													
¹ This column contains a cross-reference to the standards that apply to the use in zones in which the use is listed as Limited (“L”), Adaptable (“A”), or Conditional (“C”).													
² This use is allowed in the neighborhood activity center of a complete neighborhood.													
³ Type of review may vary based on scale of new construction. See Sec. 18.02.04.02, Scale Thresholds in DT and Residential Zones.													

18.02.04.07 Community, Civic, Educational, and Institutional Standards

C. Day Care Center, Adult or Child (Large). The use shall comply with the following standards, in addition to all other applicable standards in the UDC:

3. The subject property shall conform to [Division 18.05.03, Parking and Loading Calculations](#) with respect to the number of required parking spaces.
4. **R1, R1e, and R2 Zone.** In the R1, R1e, and R2 zones:
 - a. The use shall be allowed as accessory to an existing place of assembly.
5. **R3 or R3e Zone.**
 - a. The subject property shall be either:
 1. Accessed from a collector or arterial street, or a local street if access to the subject property is within 200 feet of an intersection with the collector or arterial street;
 2. Within a neighborhood activity center of a complete neighborhood; or
 3. An existing place of assembly.

- b. Outdoor play areas shall be enclosed with a type B bufferyard that includes a fence that is at least five feet in height.
6. *DT Zone.* In the DT zone, the use is allowed only within the general and transition character districts.
7. *B, MAC, or E Zone.* Outdoor play areas shall be enclosed with a type B bufferyard that includes a fence that is at least five feet in height.
- D. ~~Day Care, Adult or Child (Small).~~** The use shall comply with the following standards, in addition to all other applicable standards in the UDC:
- a. ~~ER, R1, R1e, R2, R3, or R3e Zone.~~ In the ER, R1, R1e, R2, R3, and R3e zones:
 - i. ~~Not more than two small adult or child day care centers shall be located on the same street segment;~~
 - ii. ~~The subject property shall be developed with a single family dwelling unit or a place of assembly; and~~
 - iii. ~~The subject property shall conform to Division 18.05.03, Parking and Loading Calculations with respect to the number of required parking spaces.~~
 - b. ~~DT Zone.~~ In the DT zone, the use is allowed only within the general and transition character districts.
 - c. ~~MAC Zone.~~ In the MAC zone, the use is allowed within a complete neighborhood, provided that:
 - i. ~~Not more than two small adult or child day care centers shall be located on the same street segment;~~
 - ii. ~~The subject property shall be developed with a single family dwelling unit or a place of assembly; and~~
 - iii. ~~The subject property shall conform to Division 18.05.03, Parking and Loading Calculations with respect to the number of required parking spaces.~~
 - iv. ~~If the subject property is developed with a single family dwelling unit, the use shall comply with Section 18.04.02.03, Single Family Detached, and not Section 18.04.03.01, Nonresidential and Mixed Use Lot and Building Standards.~~
- E. Community, Civic, Educational, and Institutional Land Uses.** The required off-street parking for community, civic, educational, and institutional land uses is set out in Table 18.05.03.03.E., Community, Civic, Educational, and Institutional Land Use Parking Standards

Table 18.05.03.03.E. Community, Civic, Educational, and Institutional Land Use Parking Standards	
Land Use	Minimum Required Parking
Cemetery	special study
Crematorium	1 sp. / 300 sf.
Day Care Center, Adult or Child (Large)	Adult day care: 1 sp. / 300 sf. Child day care: 2 sp. / employee
Day Care, Adult or Child (Small)	Adult day care: 1 sp. / 300 sf. Child day care: 2 sp. / employee
Funeral Home	1 sp. / 4 seats, or 1 sp. / 50 sf. seating area (if no fixed seats)
Hospital	2 sp. / bed + 1 sp. / 300 sf. outpatient clinics and service areas + medical office parking for areas used for medical office
Place of Assembly	1 sp. / 4 seats in the principal place of assembly; or 1 sp. / 35 sf. of seating area in principal place of assembly if no fixed seats, or 1 sp. / 18 lineal inches of bench seating in principal place of assembly. Where multiple uses or times of use overlap at a place of assembly with over 200 seats, parking shall be required for all proposed uses based on this section, and shared parking reductions may be applied.
School, Elementary or Middle	2 sp. / classroom
School, High	1 sp. / 3 seats in auditorium or principal place of assembly, or 1 sp. / 35 sf. seating area in auditorium or principal place of assembly (if no fixed seats)
School, Vocational or Trade	1 sp. / person design capacity
University or College	special study

Section 18.19.03 Definitions

Place of Assembly means a building, portion of a building, or property in which people assemble for civic, educational, religious, social, or cultural purposes. This use includes facilities used for worship and accessory celebratory events; meeting halls; event centers; fraternal organizations; outdoor assembly areas; and private clubs.

Outdoor Assembly Area means an improved facility, not within a building, that is designed to accommodate and provide a place for natural persons to congregate, and is capable of being reasonably occupied by 50 or more natural persons at any one time. Outdoor assembly areas do not include transit stops or transportation terminals. ~~The phrase "outdoor assembly area" does not include the front, side, or rear yards of residential lots.~~

18.02.04.07 Community, Civic, Educational, and Institutional Standards

G. Place of Assembly. The use shall comply with the following standards, in addition to all other applicable standards in the UDC unless approved as a conditional use:

1. **All zones.**
 - i. Vehicular access shall be from a collector or an arterial street.
 - ii. If the use adjoins property that is used or zoned for residential purposes, the subject property shall be:
 1. Buffered from said uses with a type B bufferyard that includes a noise barrier or fence; and
 2. No outside activity shall occur between the hours of 9:00 PM and 7:00 AM.
 - iii. Exterior loudspeakers and noise from the interior of the building shall not be audible off-site between the hours of 11:00 PM and 6:30 AM, except that if the use adjoins any property that is used or zoned for residential purposes, such noise shall not be audible off-site between the hours of 9:00 PM and 7:00 AM.
 - iv. All parking shall be provided off-street, on the subject property.
 - v. Building height and scale is limited by Section 18.02.04.02, Scale Thresholds in DT and Residential Zones.
2. **ER Zone.** The use is allowed within the neighborhood activity center of a complete neighborhood. In all other areas, ~~the~~ the minimum lot area is 2.5 acres.
 - i. ~~Access to the use shall be from an arterial or collector street.~~
 - ii. ~~The use shall be buffered from adjacent uses with a type B bufferyard~~
3. **R1, R1e, and R2 Zones.** The use is allowed within the neighborhood activity center of a complete neighborhood. In all other areas the use is allowed on an existing lot established for a place of assembly.
4. **R3e, and R3 Zones.** The use is allowed within the neighborhood activity center of a complete neighborhood. In all other areas, the property shall be situated such that it is:
 1. On an existing lot established for a place of assembly;
 2. Adjoins a nonresidential or mixed-use zone; or
 3. Located at the intersection of two arterial streets, an arterial and collector street, or two collectors.
 - ii. ~~The minimum lot area is 2.5 acres.~~
 - iii. ~~The use shall be buffered from adjacent uses with a type B bufferyard.~~
5. **DT Zone.** The use is not allowed at ground level in the Fourth Street character district.
6. **PP Zone.** The use is exempt from the standards in Table 18.03.03.01, Landscape Surface Ratio by Zone. ~~The use shall be subject to a minimum landscape surface ratio of 15 percent.~~

Division 18.19.03 Definitions

Outdoor Storage means storage of materials, merchandise, stock, supplies, machines, operable vehicles, equipment, manufacturing materials, or chattels of any nature ~~located that~~ outside of a building, regardless of how long such materials are kept on the premises. ~~Outdoor storage is considered to be accessory to a principal use, whether nonresidential or residential, as described in Section 18.04.07.07, Outdoor Storage, Generally.~~

The phrase "outdoor storage" does not include:

1. Outdoor displays of items for sale to the general public, such as new and used cars, recreational vehicles, boats, or landscape and building materials, where such sales are permitted in the zone in which the subject property is located; or
2. The storage of wrecked or inoperable vehicles (see "salvage yard"); or
3. Parking of operable passenger motor vehicles; or
4. **Storage as a principal use.**

Opaque Fence or Wall means a type of solid material fence or wall that has no obvious voids. ~~Chain link, with or without slats or fabric, is not considered an opaque fence.~~

Storage Yard means a location for outdoor storage of: operable equipment and materials for off-site processing, construction projects, or right-of-way maintenance; and / or recreational vehicles, boats, trucks, commercial vehicles, and passenger vehicles. ~~A storage yard may include an accessory office or caretaker facility. The phrase "storage yard" does not include:~~

1. Storage of wrecked or inoperable vehicles (see salvage yard); and
2. Accessory outdoor storage.

18.04.07.07 Outdoor Storage, Generally

A. **Generally.** Outdoor storage is allowed ~~as an accessory use~~, provided that it is located, configured, and buffered as set out in this Section.

B. **Nonresidential Outdoor Storage Areas.**

1. *Generally.* Outdoor storage is permitted as an accessory to nonresidential uses in the DT, I, B, MAC, E, DR, and PP zones, subject to the standards of this Section. Such nonresidential outdoor storage refers to the outside storage of materials or equipment used in production or other course of business, or for property maintenance, and does not refer to the outdoor display of merchandise (which is subject to Section 18.04.07.06, Outdoor Display of Merchandise). ~~Outdoor storage areas that exceed the area limitations of this Section are considered storage yards, which are industrial uses.~~
2. *Prohibitions.* Nonresidential outdoor storage areas shall not be used to store or dispose of inoperable machines or wastes, store or dispose of hazardous materials, or store or dispose of materials that will create windblown dust or debris or storm water contaminants.
3. *Standards by Zone.*
 - a. DT Zone. See Section 18.04.06.04.E, Accessory Outdoor Storage. ~~Generally Applicable Standards.~~
 - b. I Zone. Outdoor storage areas are permitted if it is demonstrated that the outdoor storage area:
 1. ~~Is not located in front of the front facade of the principal building, any applicable setback, public right-of-way, street bufferyard, or required landscape areas; and is not larger in area than the gross floor area of the principal building; and~~
 2. ~~Is screened from view with an eight-six-foot tall opaque wall or fence that matches or is compatible with the materials and color of the principal building. The gate associated with the screening fence or wall may be of a different material, however the gate must be opaque; and is surrounded on the outside perimeter with a continuous hedge, except at points of ingress and egress.~~
 3. **The following additional screening and location standards apply based on the adjacent street:**
 - a. **Highway and Arterial Streets:** if the subject property has frontage on a highway or arterial street, a type E bufferyard is required and the outdoor storage materials shall not exceed the height of the screening wall

or fence, as required in subsection 3.b.2 above, unless a taller height is approved as a Conditional Use and the applicant has demonstrated reasonable screening measures.

- b. **Collector Streets:** if the subject property has frontage on a collector street, a type D bufferyard is required and the outdoor storage materials shall not exceed the height of the screening wall or fence, as required in subsection 3.b.2 above, unless a taller height is approved as an Adaptable Use and the applicant has demonstrated reasonable screening measures.
- c. **Local Streets:** if the subject property has frontage on a local street, a type C bufferyard is required. Certain outdoor storage materials may exceed the height of the screening wall or fence, as required in subsection 3.b.2 above, unless the property is located adjacent to a residential zone or use. Such materials may include: material piles such as construction aggregate and landscape materials, bundled lumber, pallets, shipping containers or construction crane sections. Such materials may not exceed 20 feet in height.
- c. **B, MAC, or E Zone.** Outdoor storage areas are permitted if it is demonstrated that the outdoor storage area:
 1. Is not larger in area than the footprint of the principal building. The outdoor storage area can be increased by 20 percent as an Adaptable Use;
 2. Is located behind the front facade of the principal building and is not visible from rights-of-way; or
 3. Is screened from view with a six-foot tall opaque wall or fence that matches or is compatible with the materials and color of the principal building. The gate associated with the screening fence or wall may be of a different material, however the gate must be opaque; and public rights-of-way with a six-foot tall opaque wall or fence.
 4. Is buffered with a type D bufferyard adjacent to a state highway or arterial street, or a type C bufferyard adjacent to a collector or local street.
- d. **DR or PP Zone.** Outdoor storage areas for equipment or materials associated with a park, open space or agricultural use shall be set back 50 feet from public rights-of-way and properties that have different zoning; or screened from off-site view by an opaque wall or fence or type C bufferyard.

C. Residential Outdoor Storage Areas.

1. **General Requirements.** All outdoor storage shall conform to the following requirements:
 - a. The area used for outdoor storage shall be kept orderly, pest-free, and odor free; and
 - b. The following outdoor storage materials are not allowed:~~does not include:~~
 1. Storage of garbage, except as provided in Section 18.04.07.09, Refuse, Recycling, and Compost Containers;
 2. Stockpiling of refuse and rubbish as defined in Chapter 16.12, Accumulations of Waste Material;~~junk;~~
 3. Storage of materials, products, and equipment used in the course of a resident's commercial business;
 4. Storage of gasoline, other liquid motor fuels, or comparable or greater fire or explosion hazards; and
 5. Storage of items that have a high potential for generating obnoxious odors or windblown debris.
2. **Common Outdoor Storage Areas.** Areas located in tracts or outlots in common ownership in a residential neighborhood, such as a homeowner's or similar association, must comply with the following:
 - a. Common outdoor storage areas in residential developments shall be surrounded by a type B bufferyard.
 - b. Access to the common outdoor storage area shall be provided from a street within the development.
 - c. Common outdoor storage areas shall not be located such that they adjoin neighboring residential development.
3. **On-Lot Outdoor Storage.** Outdoor storage is not allowed in front yards, but is permitted in the rear yards of single-family, duplex, townhome, and multiplex lots.

18.04.07.08 Outdoor Storage, Repair, and Parking of Vehicles in Residential Zones

1. **Generally.** It is the purpose of the provisions of this Section to establish requirements for the storage, repair, and parking of vehicles as accessory uses in residentially zoned areas of the City.
2. **Collection, Storage, and Parking of an Unregistered Vehicle.** The collection or storage of an unregistered vehicle on any lot, tract, or parcel of land located within a residential zone shall be considered a permitted accessory use only, provided that ~~each of~~ the following conditions are met:
 - a. ~~The collection, storage or parking area is maintained in such a manner that it does not constitute a health, safety or fire hazard;~~
 - b. ~~The collection, storage or parking area is kept free of weeds, trash and accumulations of waste;~~
 - a. The unregistered vehicle complies with the provisions in Chapter 16.20 Unlawful Vehicles ~~is completely enclosed, screened from public and private off lot view, or covered with a securely fastened tarp;~~ and
 - b. Not more than one unregistered vehicle is collected, stored or parked on any lot, tract or parcel.
3. ~~**Storage of Collector's Vehicle.** One or more collector's vehicles and parts cars for collector's vehicles may be stored upon a lot, tract, or parcel of land located within a residential zone as a permitted accessory use only, provided that each of the following conditions are met:~~
 - a. ~~Each collector's vehicle and any parts cars for the collector's vehicle is maintained in such a manner that it does not constitute a health, safety, or fire hazard, either individually or collectively;~~
 - b. ~~The outdoor storage area is maintained in such a manner that it does not constitute a health, safety, or fire hazard, or public nuisance;~~
 - c. ~~The outdoor storage area is kept free of weeds, trash, and other objectionable items;~~
 - d. ~~Each collector's vehicle and any parts cars for the collector's vehicle is totally screened from ordinary public view by means of a solid fence, trees, shrubbery, or securely fastened tarp; and~~
 - e. ~~The registered owner of each collector's vehicle is also the owner or a resident of the lot, tract, or parcel upon which said vehicle is stored.~~
3. **Repair of Vehicles.** The repair, maintenance, restoration or rebuilding of a registered or unregistered vehicle on an unenclosed area of a lot, tract, or parcel of land located within a residential zone shall be considered a permitted accessory use only, provided that each of the following conditions are met:
 - a. The owner of the vehicle is either the owner or resident of the lot, tract or parcel upon which the vehicle is being repaired, maintained, restored, or rebuilt;
 - b. Not more than one vehicle is being repaired, maintained, restored, or rebuilt on any one lot, tract, or parcel at any given time; and
 - c. If the vehicle being repaired, maintained, restored, or rebuilt is an unregistered vehicle, then no other unregistered vehicle is being collected, stored, or parked on the lot, tract, or parcel.

18.02.04.08 Industrial, Processing, Recycling, Storage, and Disposal Standards

- H. **Salvage Yard.** Salvage yards shall comply with the following standards, in addition to all other applicable standards in the UDC:
 1. **Location.** ~~The subject property shall not have frontage upon a state highway or arterial roadway.~~
 2. **Buffering.** Salvage yards shall be surrounded by a type D bufferyard that includes a noise barrier, configured so that inoperable vehicles and other junk are not visible from:
 - a. Adjoining public rights-of-way; and
 - b. State highways that are located within 1,000 feet of any property line of the use.
 3. **Spacing.** Salvage yards shall be spaced not less than 1,000 feet from residential zones.
 4. **Hazardous Waste or Hazardous Materials.** No hazardous wastes or hazardous materials shall be accepted or deposited at any salvage yard, except as incidental to the salvage operation. Salvage operations shall be conducted to remove hazardous wastes and materials and dispose of them according to state and federal requirements.
 5. **Truck Routing Plan.** A truck routing plan is required.

- J. **Storage Yard.** Storage yard uses shall comply with the following standards, in addition to all other applicable standards in the UDC:
1. *Location.* The subject property shall not have frontage upon a state highway or arterial roadway.
 2. *Fencing.* Storage yards shall be enclosed by an opaque fence or wall and a type C bufferyard. The bufferyard requirements along interior property lines may be waived by the Director based on a determination that sufficient screening has been demonstrated and that the screening is consistent with the character of the area.
 3. *Storage Height.* The following standards apply to the heights of stored material based on the adjacent street classification:
 - a. *Collector Street:* if the subject property has frontage on a collector street, the storage yard materials may not exceed eight feet in height.
 - b. *Local Street:* if the subject property has frontage on a local street, storage items or materials shall not exceed 20 feet in height. Storage materials exceeding 8 feet in height shall be screened by an opaque fence or wall and a Type D bufferyard.
 4. *Prohibited Materials.* The following materials shall not be stored in outside storage yards:
 - a. Liquids, gels, pastes (e.g., paints, sealers, etc.); or
 - b. Explosives or motor fuels.
 - c. Any materials that create a Public Nuisance as defined in Title 16, Nuisances.
 5. *Disposal Prohibited.* Storage yards shall not be used to dispose of inoperable machines or wastes. Temporary storage of non-hazardous construction wastes generated by the contractor who operates the storage yard is permitted, provided that:
 - a. The materials are not stored for more than 48 hours;
 - b. The materials do not generate dust;
 - c. The materials are of types that will not become wind-blown debris.
 6. *Property Maintenance.* Storage yards shall be maintained at all times in an orderly manner.

18.02.04.01 Applicability of Use Standards

- A. **Generally.** The standards in this Division apply to uses designated in the Land Use Tables in [Division 18.02.03, Land Use by Zone](#), as Limited Use ("L"), Adaptable Use ("A"), or Conditional Use ("C"). Where a provision requires the application of Adaptable Use or Conditional Use standards, the use is subject to the adaptable use standards (see [Section 18.02.04.12, General Standards for Adaptable Uses](#)) and procedures, or Conditional Use standards (see [Section 18.02.04.13, General Standards for Conditional Uses](#)) and procedures, as applicable.
- B. **Conversion to an Adaptable Use.**
1. Generally, in the event that a use standard for a Limited Use cannot be met, and the use standard does not represent a dimensional or numerical standard that can be processed through [Section 18.17.15.01, Administrative Variations](#), the use may be treated (at the applicant's option, subject to the exceptions of subsection B.2., below) as an Adaptable Use. Thereafter, it shall be processed in accordance with the Adaptable Use standards in [Section 18.02.04.12, General Standards for Adaptable Uses](#), and the Adaptable Use procedures in [Section 18.14.02.02, Decision-Making Tracks by Application Type](#), and the applicable use-specific standards from this Division shall be met to the extent practicable. The Adaptable Use process shall be applied to offset the impacts that may result from the inability to fully comply with applicable Limited Use standards.
 2. The conversion to adaptable use process shall not be used to modify the following types of standards:
 - a. Spacing standards related to Sexually-Oriented Businesses; ~~and~~
 - b. Standards that are cross-referenced from [Chapter 18.04, Lots, Buildings, and Structures](#); ~~-~~
 - c. **Location standards that prohibit the configuration of the use or does not allow the use to be located on a property;**
 - d. **Standards referencing compliance with State or Federal requirements; and**
 - e. **Residential occupancy standards in Division 18.02.04.03.A Occupancy Limits.**
 3. **If the Adaptable Use process is used to modify a separation distance requirement from a residential use or residential boundary zone, the notification radius for the Adaptable Use shall be expanded to match the distance requirement set out in the use standard.**



18.04.02.01 Using the Housing Palette

E. Alternative Lot Type for Existing Subdivisions. For subdivisions that were platted and developed prior to the adoption of the UDC, the Director may establish a lot type category for the existing homes and any remaining vacant lots based on the established setback pattern in the subdivision.

18.13.01.01 Director of Development Services

C. Additional Authorization.

1. The Director is authorized to:
 - a. Create illustrations, figures, and illustrative examples, and include them in this UDC as the Director determines appropriate to provide additional clarity as to the intent of the standards set out herein;
 - b. Add and maintain internal cross-references to this UDC as the Director determines appropriate to facilitate navigation of this UDC;
 - c. Add and maintain external hyperlinks to this UDC as the Director determines appropriate to facilitate access to materials referenced in this UDC; and
 - d. Work with the City Clerk to correct typographical and punctuation errors within this UDC as set forth in Section 1.01.085 Amendments and Corrections.
2. If the Director exercises the authority that is delegated by this subsection C., the Director shall notify the Planning Commission and City Council.

18.17.16.03 Vacation of Emergency Access, Utility, and Non-Constructed Access Easements

- A. **Generally.** Emergency access, utility, and non-constructed access easements that are assigned or conveyed to the City solely for its use may be vacated by the Director. All right or interest of the City, in and to any easement shall be divested only upon the following:
1. With respect to City-held easements created by a recorded final plat:
 - a. By approving a final plat of the property upon which the easement is located that does not show the easement;
 - b. By vacating the final plat that created the easement through the obsolete subdivision process; or
 - c. By the Director approving and recording a notice of vacation.
 2. With respect to City-held easements that are created by deed or other comparable recorded document, said easements may be terminated by the Director by approving and recording a notice of vacation.
- B. **Required Findings.**
1. Emergency access easements may be vacated pursuant to this Section if the Director, after consultation with the affected emergency service providers, determines that the emergency access is no longer needed.
 2. Utility easements may be vacated pursuant to this Section if the Director, after obtaining written consents from the affected utility providers, determines that the utility easement is no longer needed.
 3. Access easements may be vacated pursuant to this Section if the Director makes the following findings:
 - a. The access easement to be vacated has not been established and is not in use by the public;
 - b. That no land adjoining any access easement to be vacated is left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way or easement; and
 - c. That the easement to be vacated is no longer necessary for the public use and convenience.
- C. **Petition Review Process.** Unless the vacation of easement is being processed as part of a final plat, a petition for vacation of an easement shall be made by the record owners of more than 50 percent of property that is both:
1. Served or anticipated to be served by the easement; and
 2. Adjoined or traversed by the easement.
- D. **Recording Requirements.** The documents that effectuate a vacation shall be recorded by the City Clerk in the office of the Larimer County Clerk and Recorder at the applicant's expense.
- E. **Effect.** Vacation of easements pursuant to this Section shall have the effect of terminating said easements with respect to the City's interests in them.

18.13.02.03 Zoning Board of Adjustment

- A. **Generally.** The Zoning Board of Adjustment is created and delegated the authority to grant variances to the regulations contained in this UDC.
- B. **Powers and Duties.** The Zoning Board of Adjustment shall be empowered to grant variances from certain standards set forth in this UDC according to the standards set out in Section [18.17.15.07 Variances](#).
- C. **Membership.** The Zoning Board of Adjustment shall be composed of the members of the Planning Commission as it may be constituted from time to time.
- D. **Hearing Officer.** The Zoning Board of Adjustment may appoint a Zoning Hearing Officer from within the Board to conduct public hearings and make decisions on variances. The Hearing Officer, the Director or an applicant prior to notification of the public hearing, may forward any matter on to the full Zoning Board of Adjustment.
- E. **Order of Business.** The order of business at all regular meetings shall be established by the Zoning Board of Adjustment.
- F. **Meetings.**
 - 1. *Generally.* Meetings and special meetings shall be conducted in accordance with the rules set out in the City of Loveland Handbook for Boards and Commissions. See [Appendix B: Handbook for Boards and Commissions](#).
 - 2. *Order of Business.* The order of business at all regular meetings shall be established by the Zoning Board of Adjustment.
 - 3. *Times and Locations.* Meetings of the Zoning Board of Adjustment shall be held in Council Chambers, or other place designated by the Zoning Board of Adjustment Chairperson, in accordance with the schedule of meetings adopted by the City Council, and with respect to special meetings, as determined by the Zoning Board of Adjustment according to the rules set out in the City of Loveland Handbook for Boards and Commissions.

18.01.01.03 Applicability

A. Generally.

1. All development within the City is subject to this UDC, except:
 - a. As may be specifically exempted herein; or
 - b. As may be outside of the City's regulatory jurisdiction.
2. Development is a specifically defined term for the purposes of this UDC. Not all activities on land or within buildings or structures are considered development. See the definition of development for details.

B. **Applicability to Publicly Owned Property.** The provisions of this UDC are applicable not only to private persons, agencies, corporations and organizations, but also to all public agencies and organizations to the full extent that they may be enforceable under the United States Constitution and the Constitution and Statutes of the State of Colorado.

C. **Protection of Commercial Mineral Deposits.** No real property shall be zoned or rezoned, nor shall a variance to the application of this title be granted, which violates the provisions of C.R.S. § 34-1-301, *et seq.*

D. **Exception for Emergencies.** When the City Manager determines that because of an emergency, including but not limited to a declared disaster or other declared state of emergency, compliance with the normal procedures and requirements of this UDC would threaten life, safety, or property or have become impossible to perform, the Director may, after consultation with the City Manager, exempt land use activities of an applicant from requirements of this UDC only to the extent necessary to protect life, safety or property or to cure impossibility. The applicant shall complete any procedures or any improvements that would have been required if normal procedures had been followed as soon as reasonably practical after the emergency actions are taken or as directed by the Director.

18.19.03 Definitions

Group Home means a dwelling unit in which six or more individuals live together (but not more than one who is required to register as a sex offender pursuant to C.R.S. § 18-3-412.5, as amended) and receive supportive services and are supervised by persons who live in the residence. A Group Home does not house more than twelve residents, including supervisory personnel, but not including any children of a resident who are under the age of two years. Except for Group Homes for Juvenile Offenders, "group homes" does not include Detention Facilities. There are five classifications of group homes:

1. *Group Home for Developmentally Disabled Persons.* A state-licensed Group Home serving not more than eight persons, exclusively for the care of persons with developmental disabilities, as defined and regulated by the Colorado Department of Human Services, Division for Developmental Disabilities Services, and the Colorado Department of Public Health and Environment.
2. *Group Home for Elderly Persons.* A Group Home of up to eight persons who are 60 years of age or older who do not require medical attention associated with a residential health care facility. Group Homes for Elderly Persons are either: (1) licensed as an assisted living residence or alternative care facility by the Colorado Department of Public Health and Environment; or (2) certified as an adult foster care facility by the County.
3. *Group Home for Juvenile Offenders.* A Group Home that is licensed or certified by the State of Colorado, housing residents placed by the County or the Colorado Department of Human Services, Division of Youth Corrections, for purposes of rehabilitation, special care, supervision, or treatment for social, behavioral, or disciplinary problems. A Group Home for Juvenile Offenders does not have more than 14 residents, plus additional required staff.
4. *Group Home for Mentally Ill Persons.* A state-licensed Group Home serving not more than eight persons exclusively for the care of persons with mental illness, as defined and regulated by the Colorado Department of Public Health and Environment.
5. *Group Home for Substance Use Disorders.* A state-certified Group Home serving not more than eight persons protected by the provisions of the Federal Fair Housing Act living in a Recovery Residence.

Recovery Residence means any premises, place, facility, or building that provides housing accommodation for individuals with a primary diagnosis of a substance use disorder that:

1. Is free from alcohol and non prescribed or illicit drugs;
2. Promotes independent living and life skill development; and
3. Provides structured activities and recovery support services that are primarily intended to promote recovery from substance use disorders.

18.02.04.04 Special Residential Standards

B. Group Home. Group home uses shall comply with the following standards, in addition to all other applicable standards in the UDC:

- a. *Spacing.* Group homes shall be spaced a minimum of 750 feet apart on the same block face and shall be located only within a single-family detached dwelling, side-by-side duplex, or over-under duplex.
- b. *Information Requirements.* The following information shall be submitted to the City:
 - i. All application materials provided to the State for licensure or certification;
 - ii. A description of the facility's operation including staff levels, services provided to patrons, rehabilitation process if applicable, and facility operational rules;
 - iii. A description of qualifications and experience of the facility operators;
 - iv. A description of the maintenance responsibilities and policies that minimize negative impacts on the neighborhood; and
 - v. A parking plan for residents and guests.

18.19.03 Definitions

Dwelling Unit means a single unit providing complete and independent living facilities for a family, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Family means any number of persons who are all related by blood, marriage, adoption, guardianship, or custodial relationship, and who live together as a single housekeeping unit and share common living, sleeping, cooking, and eating facilities.

Rooming House (Small) means a building with sleeping rooms and shared kitchen and living areas usually designed like a single-family detached residence, that is used to accommodate, for compensation, any group of people who do not meet the definition of family and do not exceed more than eight people.

Rooming House (Large) means a building with sleeping rooms and a shared kitchen and living areas, that is used to accommodate, for compensation, any group of nine or more people who do not meet the definition for family.

18.02.04.03 Residential Standards

A. **Occupancy Limits.** The maximum occupancy allowed on a property in a single-family, duplex, townhome, or multifamily dwelling unit shall be either:

1. One family as defined in Division 18.19.03 Definition of Family and not more than two additional persons; or
2. Two adults and their dependents, if any, and not more than two additional persons.

18.02.03.03 Special Residential Land Use by Zone

The special residential land uses that are allowed in each zone are set out in Table 18.02.03.03, Special Residential Land Use by Zone.

Table 18.02.03.03 Special Residential Land Use by Zone													
Land Use	Zones												Standards Reference ¹
	Residential					Mixed-Use				Industrial	Parks and Resource		
	ER	R1/R1e	R2	R3e	R3	DT	B	MAC	E	I	PP	DR	
Key: "R" = Allowed Use; "L" = Limited Use; "A" = Adaptable Use; "C" = Conditional Use													
Assisted Living or Congregate Care	-	-	-	A ²	A ²	A ²	L	L	L	-	-	-	§ 18.02.04.04
Group Home	L	L ²	L ²	L ²	L ²	L ²	L	L	L	-	-	-	§ 18.02.04.04
Live-Work Unit	-	-	-	L ²	L ²	L ²	L	L	L	-	-	-	§ 18.02.04.04
Nursing Home, Memory Care, Alzheimer's Care	-	-	-	A ²	A ²	A ²	L	L	L	-	-	-	§ 18.02.04.04
Protective Care	-	-	-	-	C ²	C ²	A	A	A	-	-	-	§ 18.02.04.04
Rooming House (Large)	-	-	A ²	L ²	L ²	L ²	L	L	L	-	-	-	§ 18.02.04.04
Rooming House (Small)	C	C	L ²	L ²	L ²	L ²	L	L	L	-	-	-	§ 18.02.04.04
Shelter for Victims of Domestic Violence	-	L ²	L ²	L ²	L ²	L ²	L	L	L	-	-	-	§ 18.02.04.04
TABLE NOTES:													
¹ This column contains a cross-reference to the standards that apply to the use in zones in which the use is listed as Limited ("L"), Adaptable ("A"), or Conditional ("C").													
² Type of review may vary based on scale of new construction. See Sec. 18.02.04.02, Scale Thresholds in DT and Residential Zones.													

Section 18.19.03 Definitions

Accessory Structure means a structure that is:

1. Subordinate to the use and scale of the principal building, or supportive of and incidental to an outdoor land use;
2. Customary in connection with the principal building, other structure, or use of land; and
3. Ordinarily located on the same lot with the principal building, other structure, or use of land.

Examples of accessory structures include, but are not limited to: detached garages and carports that are accessory to residential buildings, storage buildings that are accessory to lumberyards, and restroom facilities that are accessory to parks. The phrase “accessory structure” does not include signs.

Temporary Accessory Structure means a structure that exists on an impermanent basis, is not placed on a permanent foundation, and does not require a building permit.

Carport means a covered parking space that is open on one or more sides, and is either attached or detached and accessory to a dwelling unit or units.

18.04.07.01 Accessory Structures

- A. **Generally:** The standards of this Section apply to accessory structures that are not specifically addressed elsewhere in this UDC:
- B. **Setbacks.** Accessory Structures shall be set back from the applicable lot lines as follows:
1. Front: Equal to or greater than the actual front setback for the principal dwelling or building with which it is associated;
 2. Street Side: Same as required for the principal building.
 3. Interior Side: Five feet.
 4. Interior Rear: Five feet or one foot for every four feet of building height, which is greater.
 5. Alley: Five feet.
 6. Garage access doors shall be set back in accordance with Section 18.04.04.03.F Setbacks Along Alleys, Sidewalks, Trail or Access Easements, Ditches, and Waterbodies.
- C. **Residential Detached Garages, Carports and Storage Buildings.** The following limitations and requirements shall be applied to a detached garage, carport, or storage building in a residential zone district or on residential properties, in order for the garage, carport, or storage building to be considered an accessory structure (as opposed to a principal building):
1. The maximum building footprint shall not exceed ten percent of the total lot area or 500 square feet, whichever is greater, and shall be considered cumulatively with all other accessory structures on the lot.
 2. The roof pitch, materials, and style shall match the roof pitch, materials, and style on the principal building.
 3. The exterior treatment shall be similar to the materials and colors of the principal building. Metal shall not be used as the primary material unless the Director determines that the metal material is appropriate based on the nature of the property and the character of the neighborhood.
 4. Storage buildings exempt from a building permit are exempt from the standards in Section C.
- D. **Temporary Accessory Structures** are subject to the following:
1. The structure may be located within a utility easement provided:
 - a. The location of the structure will not alter or block drainage unless the structure is part of an approved stormwater management system.
 - b. The property owner obtains written permission from the easement holder.
 2. Structures less than 36 inches in height are not subject to the setback requirements listed in Section 18.04.07.01.B Setbacks.
 3. The Director may allow a reduction in setbacks for temporary accessory structures if determined that such reduction will not have detrimental impacts on surrounding property and all other provisions in this Section have been met.
- E. **Common Buildings in Housing Clusters.** Common buildings in housing clusters (see Section 18.06.05.01, Housing Clusters) shall be set back as if they are principal buildings, without regard to the actual setbacks of the other buildings in the cluster.



- F. **Covered Parking for Multifamily Development.** Covered parking for multifamily developments shall comply with the parking design standards and setbacks set forth in Division 18.06.07 Standards for Multifamily Development.
- G. **Existing Manufactured Home Parks and Subdivisions.** In existing manufactured home parks and subdivisions, accessory structures may be placed on existing lots or spaces that do not comply with the setbacks in this section, provided they are spaced in compliance with the Building Code and set back a minimum of 10 feet from the front property line.
- H. **Encroachments.** Except as set forth in Section D above, accessory structures shall not encroach upon an easement, right-of-way, or a required sight triangle at a street intersection.

18.19.03 Definitions *(This definition is being provided for reference only. No changes are proposed)*

Accessory Dwelling Unit means a residential dwelling unit (but not a manufactured home, mobile home, or recreational vehicle) that is subordinate in scale to, a single-family detached dwelling unit (the "Principal Dwelling Unit"). An accessory dwelling unit is located either within the same building as the Principal Dwelling Unit or in a detached building on the same lot as the Principal Dwelling Unit.

18.04.07.02 Accessory Dwelling Units

- A. **Generally.** Accessory dwelling units ("ADUs") are independent and complete dwelling units and are subject to the standards of this Section. ADUs are allowed as accessory uses to single-family detached dwelling units that are conforming uses under this UDC.
- B. **General Development Standards.** The following development standards apply to ADUs in all zones:
1. ADUs shall:
 - a. Be located on the same lot, either attached to or detached from an existing principal single-family detached dwelling unit, except ADU's in the North Cleveland Overlay Zone are subject to Section 18.06.08.04 Accessory Dwelling Units;
 - b. Have a separate exterior entrance from the principal dwelling unit;
 - c. Have its own cooking and bathing facilities, independent of the principal dwelling unit;
 - d. Have an exterior finish of a similar architectural style, materials, and colors as the principal dwelling unit;
 - e. Meet all of the setback requirements in Section 18.04.07.01 Accessory Structures;
 - f. Be smaller in size than the principal single-family dwelling; and
 - g. Have a separate address from the principal dwelling unit.
 2. The minimum required lot area is:
 - a. 7,000 square feet in the ER, R1, R1e, and R2 Zones; or
 - b. 5,000 square feet in all other zones or in a complete neighborhood in the R1, R1e, and R2 Zones.
 3. An ADU may be approved on a lot that is smaller than the minimum requirements of subsection B.3., above, if it is approved as an Adaptable Use;
 4. Only one ADU is allowed per lot;
 5. ADUs in PUDs approved prior to the adoption of the UDC, shall comply with the requirements specified in the PUD.
 6. The subject property shall contain the required number of parking spaces for the principal dwelling unit; and in addition to the parking for the primary dwelling unit, one parking space shall be provided for the ADU, unless the width of the adjacent street is 28 feet or greater and on-street parking is allowed.
 7. The building footprint of an ADU detached from the principal dwelling unit shall be counted towards the maximum building footprint allowed for an accessory structure as indicated in Section 18.04.07.01, Accessory Structures, unless the ADU is located as a second level of an accessory structure.
 8. ADUs attached to a principal dwelling unit shall be designed as separate, independent units and shall not have an internal connection or opening to the principal dwelling unit.
 9. Residential units located in the basement of a principal dwelling shall not be considered an ADU. Conversion of a basement to a residential unit shall comply with all applicable building code and zoning requirements.
- C. **Zone-Specific Development Standards.**
1. *Low and Medium Density Residential Zones.* In the ER, R1, R1e, and R2 zones, the maximum floor area of an ADU shall be 10 percent of the total lot area of the property or 700 square feet, whichever is less.
 2. *High Density Residential Zones.* In the R3e and R3 zones, the maximum floor area of an ADU shall be 10 percent of the total lot area or 900 square feet, whichever is less.
 3. The maximum floor area of an ADU may be increased up to 20 percent if it is approved as an Adaptable Use;
 4. *Scale Threshold.* Accessory dwelling units within the R1, R1e, and R2 zones shall comply with Section [18.02.04.02, Scale Thresholds in DT and Residential Zones](#) (unless the residential lot is within a complete neighborhood).
 5. *Nonresidential Zones.*
 - a. The maximum cumulative building coverage shall not exceed 65 percent; and



- b. The floor area of the ADU shall be less than the floor area of the principal dwelling unit, unless the ADU is proposed to be located in an existing accessory building that conforms to the standards of the UDC or was legally permitted prior to the adoption of the UDC.
- D. **Conversion or Expansion of an Existing Structure to an ADU.** An existing accessory structure that was legally permitted prior to the adoption of the UDC may be converted or expanded to an ADU provided the following standards are met:
 - 1. Conversion of an Existing Structure. The floor area of the ADU shall not exceed 900 square feet and all other provisions of the Municipal Code shall be met.
 - 2. Expansion of an Existing Structure. An existing accessory structure may be expanded as a second level ADU and match the existing first level building footprint or 900 square feet, whichever is less.
- E. **Utilities.**
 - 1. Water and wastewater services to the ADU shall be connected to the services of the principal dwelling unit.
 - 2. Utility design shall ensure that water, and electric utilities for the ADU can be shut off independently from the principal dwelling.

18.19.03 Definitions *(This definition is being provided for reference only. No changes are proposed)*

Home Occupation means a business that is conducted from a dwelling unit by a resident of the dwelling unit, which is limited in extent and incidental to the use of the dwelling unit as a residence. The phrase “home occupation” does not include the phrase “family child care home” or the phrase “bed and breakfast.”

18.02.06.03 Home Child Care

- A. **Generally.** The standards of this Section apply to the child care uses within dwelling units (hereinafter “home child care uses”) that are listed in this subsection. Such uses require a major home occupation permit.
1. Specialized group homes, as defined in § 7.701.2.B., 12 CCR 2509-8, except as provided in subsection B., below;
 2. Family child care homes, as defined in § 7.707.22.A. and B., 12 CCR 2509-8, and including:
 - a. Three (3) under two (2) family child care homes, as defined in § 7.707.22.C., 12 CCR 2509-8;
 - b. Family child care homes with infant/toddler licenses, as defined in § 7.707.22.D., 12 CCR 2509-8;
 - c. Experienced child care provider, as defined in § 7.707.22.F., 12 CCR 2509-8; and
 - d. Large child care homes, as defined in § 7.707.22.E., 12 CCR 2509-8.
- B. **Exceptions.** The following child care uses are allowed without a permit in all dwelling units, provided that all licenses (if any) that are required by state law (see 12 CCR 2509-8) are obtained prior to establishment of the use, and thereafter maintained:
1. Specialized group homes that are licensed to provide care for three or more children pursuant to C.R.S. § 26-6-102(10), but that are providing care for three or fewer children who are determined to have a developmental disability by a community centered board or who are diagnosed with a serious emotional disturbance.
 2. Exempt family child care home providers, as defined in C.R.S. § 26-6-102(12);
 3. Foster care homes, as defined in C.R.S. § 26-6-102(14); and
 4. Licensed host family homes, as defined in § 7.701.21., 12 CCR 2509-8.
- C. **General Development Standards.** In addition to any state regulatory requirements, the following standards apply to the home child care uses that are subject to this Section:
1. The operator of the home child care use shall reside on the subject property.
 2. The home child care use shall not generate, in excess of levels customarily found in residential neighborhoods, any noise that is noticeable at or beyond the property line of the premises upon which the home child care use is located.
 3. No additional off-street parking shall be created on the subject property for the home child care use and driveways shall be open and available for use during the child care's hours of operation.
 4. Commercial vehicles shall not be parked or stored on the subject property.
 5. Experienced child care providers and large child care homes shall be spaced from each other so that there are not more than two such facilities fronting on the same street segment, or within 500 feet along the street in both directions, whichever distance is shorter.
 6. Large child care homes shall be located on streets that have on-street parking allowed adjacent to the property frontage of the child care home.
- D. **Zone-Specific Standards**
1. Low and Medium Density Residential Zones. In the ER, R1, R1e and R2 zones, large child care homes are a conditional use (See Section 18.14.03.01 Process Overview, subsection B.4).
- E. **Maximum Number of Children.** The number of children that may be cared for in a home child care use is limited by the applicable state license or statutory definition and not this UDC.

Section 18.19.03 Definitions

Day Care Center, Adult or Child means:

1. A facility, whether non-profit or for-profit, that provides care, social services, protection, and supervision for adults who are not related to the owner, operator, or manager thereof, on a regular basis away from their primary residence for less than 24 hours per day; or
2. A facility, by whatever name known, that is maintained for the whole or part of a day for the care of children who are less than 18 years of age, and who are not related to the owner, operator, or manager thereof, whether the facility is operated with or without compensation for such care and with or without stated educational purposes. The phrase “day care center, child” includes, but is not limited to, facilities commonly known as day-care centers, school-age child care centers, before and after school programs, nursery schools, kindergartens, preschools, day camps, summer camps, and centers for developmentally disabled children, and those facilities that give twenty-four-hour care for children, and includes those facilities for children under the age of six years with stated educational purposes operated in conjunction with a public, private, or parochial college or a private or parochial school. The phrase “day care center, child” does not mean:
 - a. A kindergarten maintained in connection with a public, private, or parochial elementary school system of at least six grades or operated as a component of a school district’s preschool program (operated pursuant to Article 28 of Title 22, C.R.S.);
 - b. Any of the child care uses of the home that are enumerated in Section 18.02.06.03, Home Child Care; or
 - c. Residential child care facilities, as defined in § 7.701.2.G., 12 CCR 2509-8.

18.02.03.06 Community, Civic, Educational, and Institutional Land Use by Zone

The community, civic, education, and institutional land uses that are allowed in each zone are set out in Table 18.02.03.06, Community, Civic, Educational, and Institutional Land Use by Zone.

Table 18.02.03.06 Community, Civic, Educational, and Institutional Land Use by Zone													
Land Use	Zones												Standards Reference ¹
	Residential					Mixed-Use			Industrial	Parks and Resource			
	ER	R1/R1e	R2	R3e	R3	DT	B	MAC	E	I	PP	DR	
Key: “R” = Allowed Use; “L” = Limited Use; “A” = Adaptable Use; “C” = Conditional Use													
Cemetery	L	L ³	-	-	-	-	-	-	-	-	L	-	§ 18.02.04.07
Crematorium	-	-	-	-	-	-	L	-	L	L	-	-	§ 18.02.04.07
Day Care Center, Adult or Child ²	-	L ³	L ³	L ³	L ³	L ³	L	L	L	-	-	-	§ 18.02.04.07
Funeral Home	-	-	-	-	-	L ³	L	L	-	-	-	-	§ 18.02.04.07
Hospital	-	-	-	-	L ³	L ³	L	L	L	-	-	-	§ 18.02.04.07
Place of Assembly ²	L	L ³	L ³	L ³	L ³	L ³	R	R	R	R	L	-	§ 18.02.04.07
Prison or Jail	-	-	-	-	-	C ³	C	C	C	C	-	-	§ 18.02.04.07
School, Elementary or Middle (private)	-	L ³	L ³	L ³	L ³	-	L	L	L	-	-	-	§ 18.02.04.07
School, High (private)	-	L ³	L ³	L ³	L ³	-	-	L	L	-	-	-	§ 18.02.04.07
School, Vocational or Trade ²	-	-	-	-	-	L ³	L	L	L	L	-	-	§ 18.02.04.07
University or College (private)	-	-	-	-	-	L ³	L	L	L	L	-	-	§ 18.02.04.07
TABLE NOTES:													
¹ This column contains a cross-reference to the standards that apply to the use in zones in which the use is listed as Limited (“L”), Adaptable (“A”),													

Table 18.02.03.06 Community, Civic, Educational, and Institutional Land Use by Zone															
Land Use	Zones												Standards Reference ¹		
	Residential					Mixed-Use			Industrial		Parks and Resource				
	ER	R1/R1e	R2	R3e	R3	DT	B	MAC	E	I	PP	DR			
Key: "R" = Allowed Use; "L" = Limited Use; "A" = Adaptable Use; "C" = Conditional Use															
or Conditional ("C").															
² This use is allowed in the neighborhood activity center of a complete neighborhood.															
³ Type of review may vary based on scale of new construction. See Sec. 18.02.04.02, Scale Thresholds in DT and Residential Zones .															

18.02.04.07 Community, Civic, Educational, and Institutional Standards

C. Day Care Center, Adult or Child. The use shall comply with the following standards, in addition to all other applicable standards in the UDC:

1. The subject property shall conform to Division 18.05.03, Parking and Loading Calculations with respect to the number of required parking spaces.
2. R1, R1e, and R2 Zone. In the R1, R1e, and R2 zones:
 - a. The use shall be allowed as accessory to an existing place of assembly.
3. R3 or R3e Zone.
 - a. The subject property shall be either:
 1. Accessed from a collector or arterial street, or a local street if access to the subject property is within 200 feet of an intersection with the collector or arterial street;
 2. Within a neighborhood activity center of a complete neighborhood; or
 3. An existing place of assembly.
 - b. Outdoor play areas shall be enclosed with a type B bufferyard that includes a fence that is at least five feet in height.
4. DT Zone. In the DT zone, the use is allowed only within the general and transition character districts.
5. B, MAC, or E Zone. Outdoor play areas shall be enclosed with a type B bufferyard that includes a fence that is at least five feet in height.

E. Community, Civic, Educational, and Institutional Land Uses. The required off-street parking for community, civic, educational, and institutional land uses is set out in Table 18.05.03.03.E., Community, Civic, Educational, and Institutional Land Use Parking Standards

Table 18.05.03.03.E. Community, Civic, Educational, and Institutional Land Use Parking Standards	
Land Use	Minimum Required Parking
Cemetery	special study
Crematorium	1 sp. / 300 sf.
Day Care Center, Adult or Child	Adult day care: 1 sp. / 300 sf. Child day care: 2 sp. / employee
Funeral Home	1 sp. / 4 seats, or 1 sp. / 50 sf. seating area (if no fixed seats)
Hospital	2 sp. / bed + 1 sp. / 300 sf. outpatient clinics and service areas + medical office parking for areas used for medical office
Place of Assembly	1 sp. / 4 seats in the principal place of assembly; or 1 sp. / 35 sf. of seating area in principal place of assembly if no fixed seats, or 1 sp. / 18 lineal inches of bench seating in principal place of assembly.



Table 18.05.03.03.E. Community, Civic, Educational, and Institutional Land Use Parking Standards	
Land Use	Minimum Required Parking
	Where multiple uses or times of use overlap at a place of assembly with over 200 seats, parking shall be required for all proposed uses based on this section, and shared parking reductions may be applied.
School, Elementary or Middle	2 sp. / classroom
School, High	1 sp. / 3 seats in auditorium or principal place of assembly, or 1 sp. / 35 sf. seating area in auditorium or principal place of assembly (if no fixed seats)
School, Vocational or Trade	1 sp. / person design capacity
University or College	special study

Section 18.19.03 Definitions

Place of Assembly means a building, portion of a building, or property in which people assemble for civic, educational, religious, social, or cultural purposes. This use includes facilities used for worship and accessory celebratory events; meeting halls; event centers; fraternal organizations; outdoor assembly areas; and private clubs.

Outdoor Assembly Area means an improved facility, not within a building, that is designed to accommodate and provide a place for natural persons to congregate, and is capable of being reasonably occupied by 50 or more natural persons at any one time. Outdoor assembly areas do not include transit stops or transportation terminals.

18.02.04.07 Community, Civic, Educational, and Institutional Standards

G. Place of Assembly. The use shall comply with the following standards, in addition to all other applicable standards in the UDC unless approved as a conditional use:

1. *All zones.*
 - i. Vehicular access shall be from a collector or an arterial street.
 - ii. If the use adjoins property that is used or zoned for residential purposes, the subject property shall be:
 1. Buffered from said uses with a type B bufferyard that includes a noise barrier or fence; and
 2. No outside activity shall occur between the hours of 9:00 PM and 7:00 AM.
 - iii. Exterior loudspeakers and noise from the interior of the building shall not be audible off-site between the hours of 11:00 PM and 6:30 AM, except that if the use adjoins any property that is used or zoned for residential purposes, such noise shall not be audible off-site between the hours of 9:00 PM and 7:00 AM.
 - iv. All parking shall be provided off-street, on the subject property.
 - v. Building height and scale is limited by Section 18.02.04.02, Scale Thresholds in DT and Residential Zones.
 - vi. *ER Zone.* The use is allowed within the neighborhood activity center of a complete neighborhood. In all other areas, the minimum lot area is 2.5 acres.
2. *R1, R1e, and R2 Zones.* The use is allowed within the neighborhood activity center of a complete neighborhood. In all other areas the use is allowed on an existing lot established for a place of assembly.
3. *R3e and R3 Zones.* The use is allowed within the neighborhood activity center of a complete neighborhood. In all other areas, the property shall be situated such that it is:
 - i. On an existing lot established for a place of assembly;
 - ii. Adjoins a nonresidential or mixed-use zone; or
 - iii. Located at the intersection of two arterial streets, an arterial and collector street, or two collectors.
4. *DT Zone.* The use is not allowed at ground level in the Fourth Street character district.
5. *PP Zone.* The use is exempt from the standards in Table 18.03.03.01, Landscape Surface Ratio by Zone.

Division 18.19.03 Definitions

Outdoor Storage means storage of materials, merchandise, stock, supplies, machines, operable vehicles, equipment, manufacturing materials, or chattels of any nature located outside of a building, regardless of how long such materials are kept on the premises. Outdoor storage is considered to be accessory to a principal use, whether nonresidential or residential, as described in Section 18.04.07.07, Outdoor Storage, Generally.

The phrase "outdoor storage" does not include:

1. Outdoor displays of items for sale to the general public, such as new and used cars, recreational vehicles, boats, or landscape and building materials, where such sales are permitted in the zone in which the subject property is located; or
2. The storage of wrecked or inoperable vehicles (see "salvage yard"); or
3. Parking of operable passenger motor vehicles; or
4. Storage as a principal use.

Opaque Fence or Wall means a type of solid material fence or wall that has no obvious voids. Chain link, with or without slats or fabric, is not considered an opaque fence.

Storage Yard means a location for outdoor storage of: operable equipment and materials for off-site processing, construction projects, or right-of-way maintenance; and / or recreational vehicles, boats, trucks, commercial vehicles, and passenger vehicles. A storage yard may include an accessory office or caretaker facility. The phrase "storage yard" does not include:

1. Storage of wrecked or inoperable vehicles (see salvage yard); and
2. Accessory outdoor storage.

18.04.07.07 Outdoor Storage, Generally

- A. **Generally.** Outdoor storage is allowed as an accessory use, provided that it is located, configured, and buffered as set out in this Section.
- B. **Nonresidential Outdoor Storage Areas.**
 1. *Generally.* Outdoor storage is permitted as an accessory to nonresidential uses in the DT, I, B, MAC, E, DR, and PP zones, subject to the standards of this Section. Such nonresidential outdoor storage refers to the outside storage of materials or equipment used in production or other course of business, or for property maintenance, and does not refer to the outdoor display of merchandise (which is subject to Section 18.04.07.06, Outdoor Display of Merchandise).
 2. *Prohibitions.* Nonresidential outdoor storage areas shall not be used to store or dispose of inoperable machines or wastes, store or dispose of hazardous materials, or store or dispose of materials that will create windblown dust or debris or storm water contaminants.
 3. *Standards by Zone.*
 - a. DT Zone. See Section 18.04.06.04.E, Accessory Outdoor Storage.
 - b. I Zone. Outdoor storage areas are permitted if it is demonstrated that the outdoor storage area:
 1. Is not located in front of the front facade of the principal building, any applicable setback, public right-of-way, street bufferyard, or required landscape areas; and
 2. Is screened from view with an eight-foot tall opaque wall or fence that matches or is compatible with the materials and color of the principal building. The gate associated with the screening fence or wall may be of a different material, however the gate must be opaque; and
 3. The following additional screening and location standards apply based on the adjacent street:
 - a. Highway and Arterial Streets: if the subject property has frontage on a highway or arterial street, a type E bufferyard is required and the outdoor storage materials shall not exceed the height of the screening wall or fence, as required in subsection 3.b.2 above, unless a taller height is approved as a Conditional Use and the applicant has demonstrated reasonable screening measures.

- b. **Collector Streets:** if the subject property has frontage on a collector street, a type D bufferyard is required and the outdoor storage materials shall not exceed the height of the screening wall or fence, as required in subsection 3.b.2 above, unless a taller height is approved as an Adaptable Use and the applicant has demonstrated reasonable screening measures.
- c. **Local Streets:** if the subject property has frontage on a local street, a type C bufferyard is required. Certain outdoor storage materials may exceed the height of the screening wall or fence, as required in subsection 3.b.2 above, unless the property is located adjacent to a residential zone or use. Such materials may include: material piles such as construction aggregate and landscape materials, bundled lumber, pallets, shipping containers or construction crane sections. Such materials may not exceed 20 feet in height.
- c. **B, MAC, or E Zone.** Outdoor storage areas are permitted if it is demonstrated that the outdoor storage area:
 - 1. Is not larger in area than the footprint of the principal building. The outdoor storage area can be increased by 20 percent as an Adaptable Use;
 - 2. Is located behind the front facade of the principal building and is not visible from rights-of-way;
 - 3. Is screened from view with a six-foot tall opaque wall or fence that matches or is compatible with the materials and color of the principal building. The gate associated with the screening fence or wall may be of a different material, however the gate must be opaque; and
 - 4. Is buffered with a type D bufferyard adjacent to a state highway or arterial street, or a type C bufferyard adjacent to a collector or local street.
- d. **DR or PP Zone.** Outdoor storage areas for equipment or materials associated with a park, open space or agricultural use shall be set back 50 feet from public rights-of-way and properties that have different zoning; or screened from off-site view by an opaque wall or fence or type C bufferyard.

C. Residential Outdoor Storage Areas.

- 1. ***General Requirements.*** All outdoor storage shall conform to the following requirements:
 - a. The area used for outdoor storage shall be kept orderly, pest-free, and odor free; and
 - b. The following outdoor storage materials are not allowed:
 - 1. Storage of garbage, except as provided in Section 18.04.07.09, Refuse, Recycling, and Compost Containers;
 - 2. Stockpiling of refuse and rubbish as defined in Chapter 16.12, Accumulations of Waste Material;
 - 3. Storage of materials, products, and equipment used in the course of a resident's commercial business;
 - 4. Storage of gasoline, other liquid motor fuels, or comparable or greater fire or explosion hazards; and
 - 5. Storage of items that have a high potential for generating obnoxious odors or windblown debris.
- 2. ***Common Outdoor Storage Areas.*** Areas located in tracts or outlots in common ownership in a residential neighborhood, such as a homeowner's or similar association, must comply with the following:
 - a. Common outdoor storage areas in residential developments shall be surrounded by a type B bufferyard.
 - b. Access to the common outdoor storage area shall be provided from a street within the development.
 - c. Common outdoor storage areas shall not be located such that they adjoin neighboring residential development.
- 3. ***On-Lot Outdoor Storage.*** Outdoor storage is not allowed in front yards, but is permitted in the rear yards of single-family, duplex, townhome, and multiplex lots.

18.04.07.08 Outdoor Storage, Repair, and Parking of Vehicles in Residential Zones

1. **Generally.** It is the purpose of the provisions of this Section to establish requirements for the storage, repair, and parking of vehicles as accessory uses in residentially zoned areas of the City.
2. **Collection, Storage, and Parking of an Unregistered Vehicle.** The collection or storage of an unregistered vehicle on any lot, tract, or parcel of land located within a residential zone shall be considered a permitted accessory use only, provided that the following conditions are met:
 - a. The unregistered vehicle complies with the provisions in Chapter 16.20 Unlawful Vehicles; and
 - b. Not more than one unregistered vehicle is collected, stored or parked on any lot, tract or parcel.
3. **Repair of Vehicles.** The repair, maintenance, restoration or rebuilding of a registered or unregistered vehicle on an unenclosed area of a lot, tract, or parcel of land located within a residential zone shall be considered a permitted accessory use only, provided that each of the following conditions are met:
 - a. The owner of the vehicle is either the owner or resident of the lot, tract or parcel upon which the vehicle is being repaired, maintained, restored, or rebuilt;
 - b. Not more than one vehicle is being repaired, maintained, restored, or rebuilt on any one lot, tract, or parcel at any given time; and
 - c. If the vehicle being repaired, maintained, restored, or rebuilt is an unregistered vehicle, then no other unregistered vehicle is being collected, stored, or parked on the lot, tract, or parcel.

18.02.04.08 Industrial, Processing, Recycling, Storage, and Disposal Standards

- H. **Salvage Yard.** Salvage yards shall comply with the following standards, in addition to all other applicable standards in the UDC:
 1. *Location.* The subject property shall not have frontage upon a state highway or arterial roadway.
 2. *Buffering.* Salvage yards shall be surrounded by a type D bufferyard that includes a noise barrier, configured so that inoperable vehicles and other junk are not visible from:
 - a. Adjoining public rights-of-way; and
 - b. State highways that are located within 1,000 feet of any property line of the use.
 3. *Spacing.* Salvage yards shall be spaced not less than 1,000 feet from residential zones.
 4. *Hazardous Waste or Hazardous Materials.* No hazardous wastes or hazardous materials shall be accepted or deposited at any salvage yard, except as incidental to the salvage operation. Salvage operations shall be conducted to remove hazardous wastes and materials and dispose of them according to state and federal requirements.
 5. *Truck Routing Plan.* A truck routing plan is required.
- J. **Storage Yard.** Storage yard uses shall comply with the following standards, in addition to all other applicable standards in the UDC:
 1. *Location.* The subject property shall not have frontage upon a state highway or arterial roadway.
 2. *Fencing.* Storage yards shall be enclosed by an opaque fence or wall and a type C bufferyard. The bufferyard requirements along interior property lines may be waived by the Director based on a determination that sufficient screening has been demonstrated and that the screening is consistent with the character of the area.
 3. *Storage Height.* The following standards apply to the heights of stored material based on the adjacent street classification:
 - a. *Collector Street:* if the subject property has frontage on a collector street, the storage yard materials may not exceed eight feet in height.
 - b. *Local Street:* if the subject property has frontage on a local street, storage items or materials shall not exceed 20 feet in height. Storage materials exceeding 8 feet in height shall be screened by an opaque fence or wall and a Type D bufferyard.
 4. *Prohibited Materials.* The following materials shall not be stored in outside storage yards:
 - a. Liquids, gels, pastes (e.g., paints, sealers, etc.); or
 - b. Explosives or motor fuels.
 - c. Any materials that create a Public Nuisance as defined in Title 16, Nuisances.



5. *Disposal Prohibited.* Storage yards shall not be used to dispose of inoperable machines or wastes. Temporary storage of non-hazardous construction wastes generated by the contractor who operates the storage yard is permitted, provided that:
 - a. The materials are not stored for more than 48 hours;
 - b. The materials do not generate dust;
 - c. The materials are of types that will not become wind-blown debris.
6. *Property Maintenance.* Storage yards shall be maintained at all times in an orderly manner.

18.02.04.01 Applicability of Use Standards

- A. **Generally.** The standards in this Division apply to uses designated in the Land Use Tables in [Division 18.02.03, Land Use by Zone](#), as Limited Use ("L"), Adaptable Use ("A"), or Conditional Use ("C"). Where a provision requires the application of Adaptable Use or Conditional Use standards, the use is subject to the adaptable use standards (see Section [18.02.04.12, General Standards for Adaptable Uses](#)) and procedures, or Conditional Use standards (see Section [18.02.04.13, General Standards for Conditional Uses](#)) and procedures, as applicable.
- B. **Conversion to an Adaptable Use.**
1. Generally, in the event that a use standard for a Limited Use cannot be met, and the use standard does not represent a dimensional or numerical standard that can be processed through Section [18.17.15.01, Administrative Variations](#), the use may be treated (at the applicant's option, subject to the exceptions of subsection B.2., below) as an Adaptable Use. Thereafter, it shall be processed in accordance with the Adaptable Use standards in Section [18.02.04.12, General Standards for Adaptable Uses](#), and the Adaptable Use procedures in Section [18.14.02.02, Decision-Making Tracks by Application Type](#), and the applicable use-specific standards from this Division shall be met to the extent practicable. The Adaptable Use process shall be applied to offset the impacts that may result from the inability to fully comply with applicable Limited Use standards.
 2. The conversion to adaptable use process shall not be used to modify the following types of standards:
 - a. Spacing standards related to Sexually-Oriented Businesses;
 - b. Standards that are cross-referenced from [Chapter 18.04, Lots, Buildings, and Structures](#);
 - c. Location standards that prohibit the configuration of the use or does not allow the use to be located on a property; and
 - d. Standards referencing compliance with State or Federal requirements.
 3. If the Adaptable Use process is used to modify a separation distance requirement from a residential use or residential boundary zone, the notification radius for the Adaptable Use shall be expanded to match the distance requirement set out in the use standard.



18.04.02.01 Using the Housing Palette

- E. **Alternative Lot Type for Existing Subdivisions.** For subdivisions that were platted and developed prior to the adoption of the UDC, the Director may establish a lot type category for the existing homes and any remaining vacant lots based on the established setback pattern in the subdivision.

MEMORANDUM

Date: April 17, 2020
TO: Planning Commission
FROM: Kerri Burchett, Principal Planner, Current Planning Division
RE: Code Amendment Final Drafts and Supplemental Information concerning ADUs

I. SUMMARY

At the Planning Commission study session on April 13th, the Commission requested additional changes to the following three Unified Development Code (UDC) sections:

1. Variances
2. Fences, Walls, and Hedges
3. Family Definition
4. Design Standard: 360-degree architecture

Adjustments to these sections have been completed per the Commission's direction and the changes are shown in **highlighted** text in **Attachment I**.

The Commission also requested additional information regarding building and fire code restrictions pertaining to accessory dwelling units and basement conversions. Detailed information has been provided in Section III of this memorandum.

II. ATTACHMENT

1. Redlined and highlighted version of the amendment, including:
 - a. Variance (page 1) **Wording changes**
 - b. Definition of Family (page 2) **Definition adjusted**
 - c. Fences, Walls, and Hedges (pages 3-5) **Setbacks and figure adjusted**
 - d. 360-degree Architecture (page 6) **Added flexibility**

III. ACCESSORY DWELLING UNITS

At the April 13th study session, Planning Commission reviewed an amendment to the Unified Development Code concerning accessory dwelling units (ADUs). The draft ADU provisions state that residential units located in a basement shall not be considered an ADU and that the conversion of a basement to a residential unit shall comply with all applicable building code and zoning requirements. This provision garnered questions from the Commission. Staff explained that there were substantial building and fire code requirements that were problematic to converting a basement to an ADU. Additionally, the square footage limitations for an ADU are difficult to enforce in basements. Staff offered to collect additional information from the building and fire codes to clarify the reasoning behind the restriction.

While the amendment specifies that a basement cannot qualify as an ADU, renting out a basement is possible. The definition of family does not limit the number of persons sharing a residence and the UDC does not prohibit a second kitchen. A basement unit in this case, however, would not be addressed separately from the principal house, would not be granted a separate electrical meter, and could not be physically separated or closed off from the rest of the house.

Based on the combination of the building code, fire code and UDC provisions listed below, staff continues to recommend the restriction of converting a basement into an ADU. We welcome any comments or additional questions from the Commission on this.

Accessory Dwelling Units – Building, Fire and Zoning Code Provisions

An accessory dwelling unit (ADU) is defined as a residential dwelling unit that is subordinate in scale, and on the same lot as, a principal dwelling unit. An ADU is an independent and complete dwelling unit that has its own cooking and bathing facilities, a separate exterior entrance (if it is attached to the principal unit), and is assigned a separate address. Water and wastewater services to the ADU must be connected to the principal house and must have independent shut offs. Additionally, ADU's are exempt from paying capital expansion fees, which includes fees to the school district, library, law enforcement, fire, emergency services, open lands, parks, and recreation. Combined, the CEF waiver results in a reduction of approximately \$16,000 for the building permit. A building permit for a typical single family home is approximately \$32,000-\$48,000, whereas a building permit for an ADU is roughly between \$8,000 - \$10,000. The CEF waiver was specifically granted because of the small size of the ADUs. The waiver helps to incentivize and promote these units as an alternative housing type within the City.

1. Building Code Provisions

- A. **Fire Rating:** To create an independent living unit, each unit would need to be separated from each other by wall and floor assemblies with a minimum 1-hour fire resistance rating. While this provision would not be real difficult to achieve with regards to a basement ceiling, rating a staircase to a basement would be more involved. It would include a fire rated door, landing area, etc. Additionally, open rated stairwells are limited to 2 stories, such as a ranch with a basement, per the Building Code.
- B. **Separate Heating:** Each unit requires separate heating facilities in the Building Code. Separating the heating systems between upstairs and downstairs is often difficult, as finding a place in the upstairs floor plan and installing an independent system is very involved.
- C. **Egress:** Each unit must have an unobstructed egress door (without requiring travel through a garage) that opens directly into a public way or to a yard. An interior staircase cannot be used as the pathway must go immediately outside and an internal connection or opening to the principal dwelling is not permitted. It is easier for a walkout basement design to satisfy this requirement. Providing a new exterior stairwell, however, is often a considerable engineering expense and must comply with planning setbacks and easement restrictions.

2. UDC Provisions

- A. **Square footage Limitations:** An ADU is limited to 700 square feet in low and medium density residential districts and 900 square feet in higher density districts. The square footage limitations are important as ADUs are intended to be small, studio-like units. They are exempt from CEF fees as their small footprint and incidental nature should not create significant demands on the City's infrastructure. Additionally, the City's low density zones do not permit duplexes or two-family units and therefore, distinguishing an ADU from a duplex through a square footage limitation is essential.

It is very difficult and problematic to limit the square footage of a basement to meet the size restrictions for an ADU. Creating an independent living unit in a portion of a basement with fire separation walls and the building code requirements listed above, is impractical.

3. Fire Code Provisions

- A. **Review:** The Fire Authority reviews all building permits for ADUs and also performs final inspections for the units.
- B. **Address:** An approved address would be required for the unit. The address would be required to be posted clearly visible to the street. If the access to the unit is provided by a private drive or easement, or a premises is located on the interior of a block, the numeric address, in addition to being posted on the building(s), must be posted in a permanent manner at a location in the nearby vicinity of the intersection of the private driveway with a public street.
- C. **Visible Access:** Access to the unit cannot be blocked by a fence or gate. A visible path shall lead to the dwelling unit.
- D. **Fire Sprinkler System:** Some proposed ADUs will have additional requirements to install a domestic fire sprinkler system if they are out of fire hose coverage access or do not have a fire hydrant within required fire access.

Based on the combination of the building code, fire code and UDC provisions and after numerous discussions between planning, building and fire staff, the conversion of basement to an ADU was restricted. Practically speaking however, almost all inquiries for ADUs concern the conversion of an existing detached garage or the construction of a new detached structure. Additionally, as mentioned above, renting a basement or room within a house can be achieved outside of the ADU provisions as part of the family provisions.

Community	Family	Boarding/Rooming House
Loveland	No current definition	Rooming House (Small) means a building with sleeping rooms and shared kitchen and living areas (usually designed like a single-family detached residence) used to accommodate, for compensation, four, but not more than eight people who are not related by blood, marriage, adoption, or legal guardianship.
Longmont	<ul style="list-style-type: none"> 1 or more persons related by blood, marriage, adoption, or legal guardianship including foster children living together in a dwelling unit. A group of not more than 5 persons not related by blood, marriage, adoption, or legal guardianship including foster children living together in a dwelling unit. 2 unrelated persons and their minor children living together in a dwelling unit <p>Notes: If there is a family of 5, there cannot be any non-related persons living there</p>	A residential dwelling with at least 2 rooms that are rented or intended to be rented primarily for sleeping only, but which do not constitute separate dwelling units. Such facility is occupied by longer term residences than hotels, motels, or bed and breakfast establishments and includes sororities, fraternities, and dormitories.
Fort Collins	<ul style="list-style-type: none"> Any number of persons who are all related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship, and who live together as a single housekeeping unit and share common living, sleeping, cooking and eating facilities. Occupancy Limits: <p>3.8.16 - Occupancy Limits; Increasing the Number of Persons Allowed</p> <p>(A) Except as provided in Subsection (B) below, or pursuant to a certificate of occupancy issued by the city to the owner of the property, the maximum occupancy allowed per dwelling unit in a single-family, two-family or multi-family dwelling shall be either:</p> <p>(1) one (1) family as defined in Section 5.1.2 and not more than one (1) additional person; or</p> <p>(2) two (2) adults and their dependents, if any, and not more than one (1) additional person.</p> <p>Notes: You plus 2. Family unit plus 1 unrelated person.</p>	Not applicable

Greeley	<ul style="list-style-type: none"> • An individual living alone, or any number of persons living together as a single household who are interrelated by blood, marriage, adoption or other legal custodial relationship; or not more than two (2) unrelated adults and any number of persons related to those unrelated adults by blood, adoption, guardianship or other legal custodial relationship. In multi-family units, the number of unrelated adults shall be determined based on the provisions of the City's Housing Code. For purposes of this definition, a bona fide employee of the family who resides in the dwelling unit and whose live-in status is required by the nature of his or her employment shall be considered a member of the family. • Single-room occupancy facility (SRO) shall mean a facility which provides a single room intended for living purposes for one (1) or two (2) persons per room, offered on a weekly tenancy basis or longer, in which sanitary facilities are provided within the units and cooking facilities may be shared within the facility. 	A building or portion thereof which is used to accommodate boarders or roomers, not including members of the occupant's immediate family who might be occupying such building, and whose occupants shall have common access to kitchen, bathroom and dining areas. Boarding and rooming houses shall not include hotels, motels and lodges.
Windsor	<p>An individual living alone, or either of the following groups living together in a single dwelling unit and sharing common living, sleeping, cooking and eating facilities:</p> <p>a. Any number of persons related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship, unless such number is otherwise specifically limited in this Code; or</p> <p>b. Any unrelated group of persons consisting of (i) not more than four (4) persons; or (ii) not more than two (2) unrelated adults and their related children, if any.</p> <p>c. This definition shall not include individuals living in small group living facilities as defined in this Code.</p>	Not applicable
Larimer County	An individual or group of people living together who are related by blood, marriage or adoption.	Boarding/rooming house. A building or portion thereof used to accommodate, for compensation, three or more boarders or roomers with lodging and/or meals. "Compensation" includes money, services or other things of value.

Dear Sir/Madam,

This is a topic that is near and dear to my heart, as I live with a voluntary/functional family. Additionally, as the concept of a blood/marriage family came to no longer work for most people in our country, I have seen the collateral damage due to people not having the option to be part of a family- loneliness, danger of living alone, lack of safety-net of social support, excessive financial burdens, mental imbalance, and homelessness. On the other hand, I have seen how our culture has come to re-imagine family for our times, and all the consequent benefits for individuals and society.

Having participated in and listened to your discussions, I trust you will greatly appreciate hearing my experience. I firmly believe that when you see and understand a family like mine, then you will ensure to protect and include my family in what you recommend to the city council. Not only because of the preciousness of families like mine but also because when you come to see that to not see and protect families like mine is institutionalized descrimination.

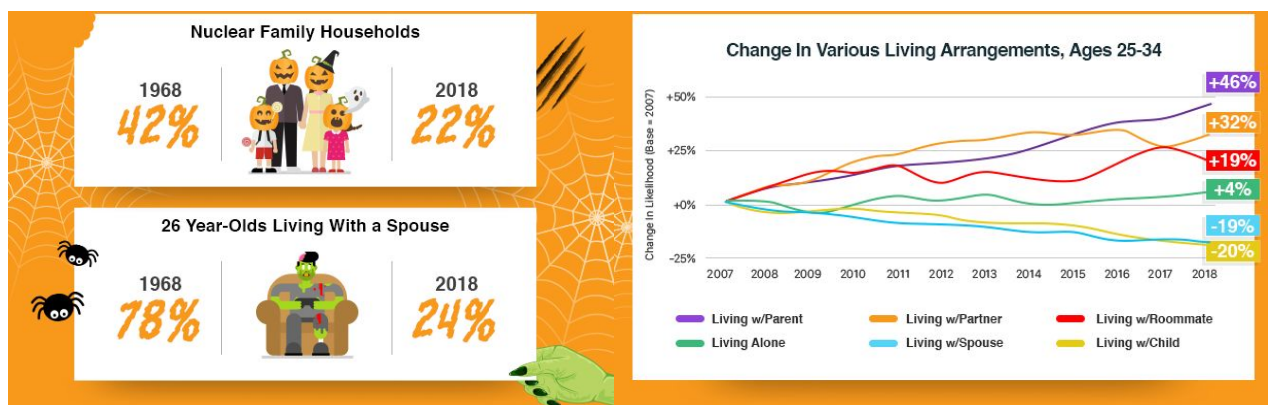
My family made a 3 minute video on us to welcome you into our home and help you understand how we live. I believe this is more important for you to take-in than anything else I have to share. We made this for you: <https://vimeo.com/439984592/ce5932deb9> (live before 7/27/2020)

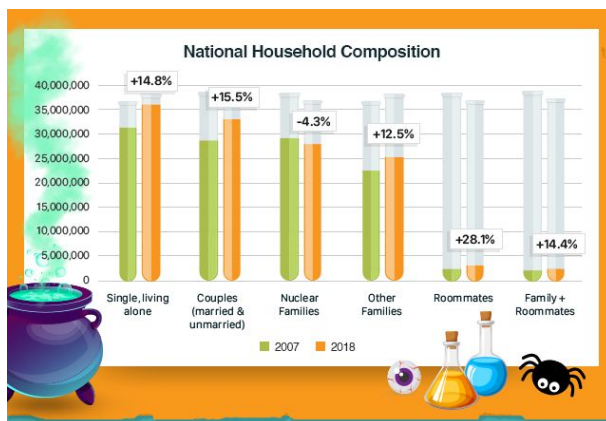
Five Items To Share With You From My Experience:

1. Family/Household Demographics have changed: Share why the view of a family as related only by blood/law excludes the biggest group of renters, decreases homeowners' rights, works against affordable housing, and exacerbated the housing shortage.
2. Iowa Supreme Court & House File 134
3. Definition of institutional racism / descrimination
4. The Rooming House option isn't practical for Loveland's housing market.
5. Requests of what I want and options to help formulate Loveland's definition of family.

1. FAMILY/HOUSEHOLD DEMOGRAPHICS HAVE CHANGED

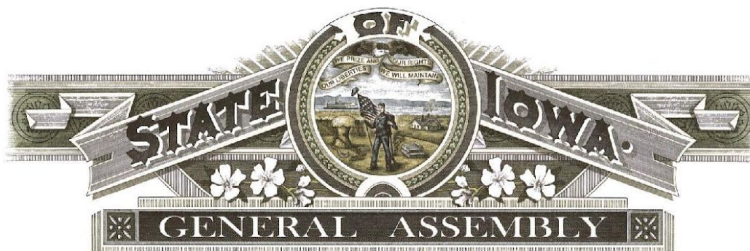
Put out by Loveland Elevations Credit Union this past October, so enjoy the Halloween theme :)





Havard published research confirming the largest group of renters lives alone. This means Loveland housing inventory including houses and apartments, which in the past would have houses so many people each, now often house 1 person each. Along with population growth, this eats up available housing and drives up the cost of housing. Us functional families are often composed of those who would have lived alone and help rebalance population density with current housing inventory. In April 2019 the Loveland City Council was moving in a helpful direction to celebrate the benefits dropping the definition family did for both homeowner rights and affordable housing. Let's form a definition of family to perfect their work!

2. IOWA SUPREME COURT & HOUSE FILE 134



House File 134

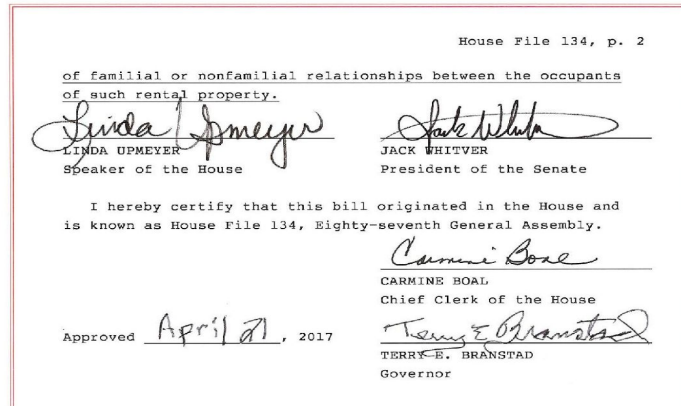
AN ACT
RELATING TO THE AUTHORITY OF CITIES TO REGULATE AND RESTRICT THE
OCCUPANCY OF RESIDENTIAL RENTAL PROPERTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 414.1, subsection 1, Code 2017, is amended to read as follows:

1. a. For the purpose of promoting the health, safety, morals, or the general welfare of the community or for the purpose of preserving historically significant areas of the community, any city is hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes.

b. A city shall not, after January 1, 2018, adopt or enforce any regulation or restriction related to the occupancy of residential rental property that is based upon the existence



Justice David Wiggins of the Iowa Supreme Court

"...I agree Ames Municipal Code section 29.201(62) does not violate the Equal Protection Clause of the United States Constitution. However, I disagree with the majority's conclusion that the ordinance does not violate the equal protection clause of the Iowa Constitution.

The majority relies on *Village of Belle Terre v. Boraas*, 416 U.S. 1, 9, 94 S. Ct. 1536, 1541, 39 L. Ed. 2d 797, 804 (1974), to validate Ames's purpose behind legislating section 29.201(62). However, it is the exclusive prerogative of this court, not the United States Supreme Court, to determine the constitutionality of Iowa statutes challenged under the Iowa Constitution. *Callender v. Skiles*, 591 N.W.2d 182, 187 (Iowa 1999). "[T]his court's independent application of the rational basis test might result in a dissimilar outcome from that reached by the Supreme Court in considering the federal constitutional claim." *Racing Ass'n of Cent. Iowa v. Fitzgerald*, 675 N.W.2d 1, 6 (Iowa 2004). Even if the Iowa Constitution and the United States Constitution are similarly or identically phrased we can independently consider constitutional arguments and decline to follow United States Supreme Court precedent. *Id.* (citing William J. Brennan, Jr., *State Constitutions and the Protection of Individual Rights*, 90 Harv. L. Rev. 489, 500 (1977)). "This result is particularly possible in view of 'the ill-defined parameters of the equal protection clause.'" *Id.* (quoting *Miller v. Boone County Hosp.*, 394 N.W.2d 776, 781 (Iowa 1986)).

In analyzing an equal protection challenge under the Iowa Constitution we must first determine whether the Ames city council had a valid reason to treat related persons differently from unrelated persons in its zoning ordinance. *Id.* at 7. In doing so, we must not only ask whether the ordinance serves a legitimate government purpose, but also whether the claimed state interest is realistically conceivable. *Id.* Second, we must decide whether the city's claimed reason has a basis in fact. *Id.* at 8. Lastly, we must consider whether the relationship between the classification, i.e., the differences between related and unrelated persons, and the purpose of the classification is so weak that the classification must be viewed as arbitrary. *Id.*

Under the Iowa Constitution we employ an overinclusive-underinclusive dichotomy analysis to determine whether legislation survives rational basis scrutiny. Compare *id.* at 10 (finding the legislative purpose behind a taxation provision cannot withstand rational basis review because of the extreme degrees of overinclusion and underinclusion), and *Bierkamp v. Rogers*, 293 N.W.2d 577, 584 (Iowa 1980) (finding a classification based on extreme degrees of overinclusion and underinclusion cannot pass rational basis review), with *Vance v. Bradley*, 440 U.S. 93, 108, 99 S. Ct. 939, 948, 59 L. Ed. 2d 171, 183 (1979) (demonstrating the United States Supreme Court's tolerance for laws that are overinclusive and underinclusive when conducting a rational basis review). If we find "a classification involves extreme degrees of overinclusion and underinclusion in relation to any particular goal," then that provision fails rational basis

review. Bierkamp, 293 N.W.2d at 584; see also Racing Ass'n of Cent. Iowa, 675 N.W.2d at 10. For reasons stated below, I find Ames's zoning ordinance contains extreme degrees of overinclusion and underinclusion. Accordingly, the ordinance violates the equal protection clause of the Iowa Constitution.

As the majority states, Ames's purpose in treating related persons differently from unrelated persons is to " 'promot[e] a sense of community, sanctity of the family, quiet and peaceful neighborhoods, low population, limited congestion of motor vehicles and controlled transiency.' " Although Ames has a legitimate purpose in promoting the quality and character of its neighborhoods, I cannot accept that distinguishing between related and unrelated persons in a zoning law is rationally related to the promotion of a sense of community, sanctity of the family, quiet and peaceful neighborhoods, low population, limited congestion of motor vehicles, and controlled transiency.

Ames contends these interests will be advanced if groups of more than three unrelated persons are not allowed to live in a home together. However, the record is devoid of any evidence or argument that a group of more than three related persons will portray different or desirable behavior or living patterns than a group of more than three unrelated persons.

I find the ordinance regulates where no regulation is needed and fails to regulate where regulation is needed. The ordinance is both overinclusive and underinclusive. Further, the degree to which this overand under-inclusiveness is present is extreme because it is irrational to suppose the type of relationship persons residing in a home have to each other has any rational bearing on the character or behavior of those persons. See *Charter Twp. of Delta v. Dinolfo*, 351 N.W.2d 831, 841-42 (Mich. 1984) (holding with regard to a similar housing provision "[a] greater example of over- and under-inclusiveness we cannot imagine"). This irrationality and the extreme over- and under-inclusiveness of the ordinance is easily illustrated by examining family and societal dynamics in the twenty-first century.

Families today, especially ones with teenagers, are just as likely as a group of unrelated persons to have numerous vehicles parked outside their home. In fact, in a college community like Ames, students, the unrelated persons most targeted by the ordinance, are more likely to rely on alternative means of transportation—public transportation, foot, or bicycle—than a vehicle. "Manifestly, restricting occupancy of single family housing based generally on the biological or legal relationships between its inhabitants bears no reasonable relationship to the goals of reducing parking and traffic problems, controlling population density and preventing noise and disturbance." *McMinn v. Town of Oyster Bay*, 488 N.E.2d 1240, 1243 (N.Y. 1985) (citing *Moore v. City of East Cleveland*, 431 U.S. 494, 499-500, 97 S. Ct. 1932, 1935-36, 52 L. Ed. 2d 531, 537-38 (1977); *City of Santa Barbara v. Adamson*, 610 P.2d 436, 441 (Cal. 1980); *State v. Baker*, 405 A.2d 368, 373 (N.J. 1979)).

Further, it is irrational to relate a peaceful neighborhood with a neighborhood populated solely by families, or three or less unrelated persons. As another court has articulated under a similar ordinance, "twenty male cousins could live together, motorcycles, noise, and all, while three unrelated clerics could not." *Charter Twp. of Delta*, 351 N.W.2d at 841. Or, that an ordinance of this type would prohibit a group of four unrelated " 'widows, widowers, older spinsters or bachelors or even of judges' from residing in a single unit within the municipality." *Baker*, 405 A.2d at 371 (quoting *Kirsch Holding Co. v. Borough of Manasquan*, 281 A.2d 513, 517 (N.J. 1971)).

This ordinance also has no rational relationship to population control. A family of any size can reside in a home in Ames, whereas only three unrelated persons can live together. The majority does not cite to any evidence that supports its conclusion that population "density will be lessened by the ordinance." Instead, it seems to this dissenter that it is irrational and

contradictory to find the ordinance, which allows one group to house an unlimited number of related persons, would in any way reduce the overall population density.

Further, it is irrational to suppose this ordinance promotes a quiet and peaceful neighborhood. This ordinance does not distinguish between a raucous family that plays loud music at their home, has large parties at their home, and houses more vehicles than persons living in their home, and a house of four single, quiet, homebodies whose only knowledge of wild parties and loud music comes from watching television. As another court summarizes, housing ordinances of this sort create an irrational discrepancy in treatment because a tenant-occupied house whose “residents happen to be the quiet, neat type who use bicycles as their means of transportation” are subject to the ordinance; “whereas the owner-occupied house is not subject to the ordinance, even though its residents happen to be of a loud, litter-prone, car-collecting sort.” *Coll. Area Renters & Landlord Ass’n v. City of San Diego*, 50 Cal. Rptr. 2d 515, 521 (Cal. Ct. App. 1996).

In today’s modern society families are more mobile, especially in a college community, where professors, visiting professors, graduate students, and administrators are frequently moving to new universities to continue or further their studies and careers. These university families come in and out of Ames, yet under this ordinance their transitory nature is not a factor. See *City of Des Plaines v. Trottner*, 216 N.E.2d 116, 119 (Ill. 1966). The majority dismisses this fact and finds students or other unrelated persons are the only transitory or mobile residents in a university town.

Instead of promoting families, this ordinance disadvantages those most likely to live with roommates—the poor and the elderly. See *Holy Name Hosp. v. Montroy*, 379 A.2d 299, 302 (N.J. 1977). The ordinance distinguishes between acceptable and prohibited uses of property by reference to the type of relationship a person has with those they live with, not by the conduct of those that live in the residence.

Ames claims it is promoting a sense of community with this ordinance: But whose community is Ames promoting? Is Ames only interested in promoting traditional families or those who can afford to live in a home without roommates—the wealthy and the upper-middle class? It is irrational for a city to attempt to promote a sense of community by intruding into its citizens’ homes and differentiating, classifying, and eventually barring its citizens from the community solely based on the type of relationship a person has to the other persons residing in their home.

Although the majority may classify these examples of overinclusive and underinclusive applications of the ordinance as extreme, they do so in the context of social norms as they existed thirty-three years ago when the Supreme Court decided *Belle Terre*. In that era the typical household consisted of a mother, a father, and children, with one breadwinner and one vehicle. In today’s society this is no longer the case. Today it is not unusual to see a group of unrelated single persons living together and sharing expenses. The simple fact is that in today’s modern society the 20 overinclusive and underinclusive examples identified in this dissent and by other courts that have found similar ordinances unconstitutional are closer to the norms than to the extremes. If Ames wants to regulate population it can do so by reference to floor space and facilities. Noise and conduct can be controlled with nuisance and criminal laws. Traffic and parking can be controlled by limiting the number of vehicles to all households or with off-street parking regulations. See *Coll. Area Renters & Landlord Ass’n*, 50 Cal. Rptr. 2d at 521. In sum, I find the ordinance does not reasonably and rationally further Ames’s stated legislative goal and is therefore unconstitutional under Iowa law.

3. DEFINITION OF INSTITUTIONAL RACISM/DESCRIMINATION

“Institutional racism (also known as systemic racism) is a form of racism that is embedded as normal practice within society or an organisation. It can lead to such issues as discrimination in criminal justice, employment, **housing**, health care, political power, and education, among other issues.” ~Wikipedia.org

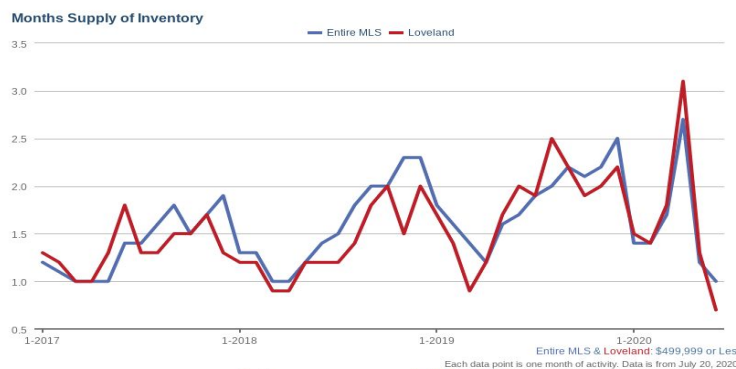
“Institutionalized discrimination refers to the unjust and discriminatory mistreatment of an individual or group of individuals by society and its institutions as a whole, through unequal selection or bias, intentional or unintentional; as opposed to individuals making a conscious choice to discriminate.” ~Wikipedia.org

The main point I want to draw your attention to is whenever these are done, examples from the past include redlining and separate but equal, it has been done legally and with good intentions.

4. THE ROOMING HOUSE OPTION ISN'T REALLY AN OPTION

I think it is laudable that Loveland residents and public servants have put in the work to create the Rooming House options. I submit to you the Rooming House (large or small) isn't really an option for functional families due to the process for these reasons:

1. Loveland Housing Supply is .7 months, the lowest in the past 3 years. Meaning on average a house is sold 21 days after it is put on the market, and usually this includes a 30 day or longer contract period:



<http://ires.stats.10kresearch.com/infoserv/s-v1/OvBq-p0A>

2. The Planning Department did not know the exact number, but Loveland's Zoning map shows the vast majority of detached homes in ER, R1, R1E which would require a concept review meeting, neighborhood meeting, and Planning Commission approval.
<https://maps.cityofloveland.org/maps/zoning2000scale.pdf>
3. Do you think a functional family has a good chance of completing the Rooming House approval process in time to offer on a house in Loveland that they want and is in their price range?
4. Planning Department reports no applications for a large or small Rooming House have been received.

Also- the Neighborhood Meeting: What are the chances no neighbors will object upon hearing about a group of 4-8 adults who want to share a house in their neighborhood? Most picture something like Animal House or a slumlord scenario rather than what my family is like or what the Planning Department has reported of houses with "Well kept lawns". To add to this: The house my family lives in has 8 bedrooms including two master bedrooms, 5 bathrooms, and 11

onsite parking spots, but is in R1 zoning. At best it could be approved as a small rooming house for up to 8 people, but would not work for the 10 of us who comfortably fit here and get along well with our neighbors. I strongly believe the Rooming House, although a great concept, does not work in real life for actual families.

5. REQUESTS AND SUGGESTIONS TO HELP FORM A DEFINITION OF FAMILY

My one and only request is Loveland continue it's tradition of flexibility and creative problem-solving by both formulating a definition of family which includes functional families like mine instead of outlawing us and stays far away from institutional racism/discrimination.

Here are some suggestions in helping formulate this definition.

1. "Any number of persons sharing the entire house and living as a single housekeeping unit."
2. "Any number of persons related by blood, law, or a shared housekeeping unit"
3. "Any number of persons living as a single housekeeping unit."
4. "Any number of persons sharing a primary residence and living as a single housekeeping unit."
5. "Any number of persons sharing an entire house and living as a single housekeeping unit for no less than 30 consecutive days."
6. "A group of individuals not necessarily related by blood, marriage, adoption or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability. The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit."

Thank you for your careful consideration with both your mind and heart.

GRANT SHIPMAN

Housing & Finance Consultant
Loveland, CO

Gathered Additional Resources That May Be Helpful:

1. [Zoned Out Yale Law Journal](#)
2. Bloomberg Article: ["Why Are Zoning Laws Defining What Constitutes a Family? It's wrong to exclude safe uses of housing because of who belongs to a household. Like family law, zoning ordinances should prioritize functional families."](#)
3. Florida Law Review: [Single-Family Zoning, Intimate Association, and the Right to Choose Household Companions](#)
4. [Iowa bill that went into effect 1/1/2018](#) (pictured above)
5. [Iowa Lawsuit preceding the bill filed 7/27/2017](#) (Judge D Wiggins excerpt above)

From: Grant, NowPresent <grant@nowpresent.org>
Sent: Thursday, July 2, 2020 8:11 AM
To: Robert Paulsen <Robert.Paulsen@cityofloveland.org>
Cc: Kerri Burchett <Kerri.Burchett@cityofloveland.org>
Subject: Re: [External] Voicemail

Good morning,
I don't know how it slipped my mind, but I forgot to bring up the blomberg CityLab article link yesterday. I think it really puts the descrimination and legal matters in good historical national context.

Kerri- I bet you would appreciate it also.

It comes down to, if the proposed code change would incidentally build institutional descrimination/racism into city law, would we want to know about it beforehand? (Latino American and African American families often go beyond blood/legal limitations as well as homosexual and non-married heterosexual couples/families).

<https://www.bloomberg.com/news/articles/2019-06-17/zoning-law-shouldn-t-define-what-makes-a-family>

I'd love to see a recommendation for city council that is above reproach in regard to descrimination/racism and directly addresses the issues. I'm very willing to help any way I can. My family and other families I know depend on it.

With Care,
Grant

On Wed, Jul 1, 2020, 4:51 PM Grant, NowPresent <grant@nowpresent.org> wrote:

Hi Robert,
Really great to speak w/you today. I'll work on sharing my experience with others, as I am sure everyone involved would be very alarmed if they came to see defining family blood/legal rather than functionally ends up writing discrimination into our city's code for the sake of indirectly addressing parking/nuisance issues. That's where, like you said, comes my role to share my experience and present a recommendation. Have a great 4th of July holiday!

***With Appreciation,
Grant Shipman***

On Tue, Jun 30, 2020 at 11:18 AM Grant, NowPresent <grant@nowpresent.org> wrote:

Hi Bob,

Thanks so much. I look forward to the call. I will make time anytime tomorrow afternoon for your call, but for simplicity I'll plan on 1pm unless I hear otherwise from you. I appreciate CityLab as well- their recent article on utilizing mall / department store property for residential / mixed-use really speaks to my passion to help reimagine the home/household for the 21st century. Bummer the article link didn't work. I'll copy the link in whole below.

<https://www.bloomberg.com/news/articles/2019-06-17/zoning-law-shouldn-t-define-what-makes-a-family>

I couldn't quite tell from the video, but I'm under the impression you were the male voice alongside Kerri who was leading the 6/22 meeting correct? I very much liked how you/he led through the meeting.

Just give me a ring anytime about 1pm, or email/text me the time which works better Wed Noon-5pm.

*With Appreciation,
Grant Shipman*

From: Grant, NowPresent <grant@nowpresent.org>

Sent: Tuesday, June 30, 2020 8:56 AM

To: Robert Paulsen <Robert.Paulsen@cityofloveland.org>

Subject: Re: [External] Voicemail

Good Morning Bob,

I hope your week is starting off well. Thanks for the email. I understand busy days. My day is quite packed w/work end of the month financial stuff due. I see y'all are furloughed on Friday and 50% capacity at the office, so that must be challenging for you to lead/manage everything. I hope that's going as well as possible for you. How about we do a phone call sometime tomorrow or Thursday before noon?

Do you read Bloomberg at all? There's a great short article [here](#) (maybe 2-5 minute read) I think you might like if you haven't seen it yet. It helped me understand this move towards defining "family" functionally, rather than leaving it undefined, which meets the desires to 1) provide clarity for code, city staff, & residents; and 2) steer clear of prejudiced policy.

I think Westminster's code gives a good example of this: "Any number of individuals who are related by blood, marriage, legal adoption or unrelated individuals living together as a single housekeeping unit and doing their cooking on the premises." Or Aurora that recently passed "Space and Occupancy Standards" which requires at least 150 square feet of floor space for each occupant. The floor space is calculated on the basis of total enclosed space within a dwelling. I see both pros & cons there.

I really look forward to getting to speak on the phone, Bob.

***With Appreciation,
Grant Shipman***

From: Grant, NowPresent <grant@nowpresent.org>
Sent: Thursday, July 9, 2020 11:15 AM
To: Kerri Burchett <Kerri.Burchett@cityofloveland.org>
Cc: Robert Paulsen <Robert.Paulsen@cityofloveland.org>
Subject: Re: [External] Rooming House

Hi Kerri,
I apologize. Your 6/30th email popped up after I sent my most previous email just right now. Thank you for the email. I was under the impression from my phone call with Robert a neighborhood meeting would be part of the process for both the small & large rooming house including. Can you confirm a neighborhood meeting would NOT be a part of the process for a small rooming house?

Yes, I always use a realtor and the MLS. I'm surprised the planning department does not know nor know who does know the detached housing inventory in its zones. Don't you think this would be an important data point to know & consider before making certain recommendations or decisions concerning residential zoning restrictions? I'll keep working on trying to find this data point and I hope you try to also.

I forget if you've told me, but can you also get back to me with total number of:

1. small rooming house applications submitted.
2. approved small rooming houses.
3. large rooming house applications submitted.
4. approved large rooming houses.

Thank you so much for this help. I'm trying my best to understand this matters, so I can be as helpful as possible.

***With Appreciation,
Grant Shipman***

On Thu, Jul 9, 2020 at 11:02 AM Grant, NowPresent <grant@nowpresent.org> wrote:

Hi Kerri,
I still have not been able to find any houses in currently permitted zoning for a small rooming house. Can you please get me the below information or tell me who could?

- How many detached houses are in Loveland?
- How many detached houses total are in ER, R1, R1e?

***With Appreciation,
Grant Shipman***

On Tue, Jun 30, 2020 at 12:29 PM Grant, NowPresent <grant@nowpresent.org> wrote:

Hi Kerri,

Thank you for your offer to help. The addresses I am interested in, detached houses with sufficient space & parking, do not fall into allowable zoning for rooming houses.

Unfortunately, I am not able to find any detached homes in neighborhoods for sale in allowable zoning. Nonetheless, I'd like to know the entire process- steps, money, timetables, and, once granted, how often the permission needs to be renewed and if it can be revoked.

Also- could you tell me the percent of detached homes located in allowable zoning?

***With Appreciation,
Grant Shipman***

From: Grant, NowPresent <grant@nowpresent.org>
Sent: Friday, June 26, 2020 12:33 PM
To: Emily Tarantini <Emily.Tarantini@cityofloveland.org>
Subject: [External] Rooming House

Hi Emily,

I hope you and your family are safe and well! You had told me about rooming houses before. I'm considering starting one. I have looked up and read all the code I can find on it, but could you help me with the following:

1. Send me all the relevant code.
2. Send me the application.
3. Send me info on the application process (steps, timeline, etc)
4. Send me what requirements need to be for the property/structure/zoning of a small rooming house and a large rooming house.
5. Any other helpful info I would need to be successful in this process.

Please also send me how many current small and large rooming houses exist in Loveland, what zoning each one has, and dates they were approved. I'm hoping this will give me some confidence moving through the regs.

Thank you so much, and please continue to stay safe as we have new cases climbing in our area. *Thankfully our respective families that live in Iowa seem to have a magical covid shield over their state :)

***With Appreciation,
Grant Shipman***

From: Grant, NowPresent <grant@nowpresent.org>
Sent: Wednesday, June 24, 2020 1:43 PM
To: Kerri Burchett <Kerri.Burchett@cityofloveland.org>
Subject: Re: [External] Re: Proposed Code Changes Question

Hi Kerri,

I hope last night's study session went well. According to my current understanding of the proposed definition of family and your email, what myself and my girlfriend are doing would become illegal (code violation). We own a home in Loveland zoned light residential, rent out our spare bedrooms long term to Loveland residents, and share all living/kitchen areas and chores with our renters. To be extremely clear, this would make 4 or more unrelated adults living together.

Would you write me an email verifying what my girlfriend and I are doing would be fully within your proposed code changes and why, so I can show that email to any city official who may think otherwise.

If you cannot provide this email, then I will take it to mean the changes you are proposing do in fact define family as no more than 3 persons unrelated by blood or law.

With Appreciation,
Grant Shipman

From: [Grant, NowPresent](#)
To: [Kerri Burchett](#)
Subject: Re: [External] Re: Proposed Code Changes Question
Date: Thursday, June 11, 2020 2:47:37 PM
Attachments: [image003.png](#)

Hi Kerri,

Thank you for answering my question and explaining that "[A definition for family is important in the land use code, as it serves to distinguish it from other land uses that have different zoning and use standard requirements.](#)" Could you give me three examples of this, so I can understand what you mean better?

If the reasons TO define family are not strong enough or solvable in another way, then here are some great reasons to NOT define family:

1. It hasn't been defined for over a year, and Loveland has managed well-enough.
2. Prevents code enforcers from being hijacked by neighbors using them to harass fellow neighbors instead of talking to their fellow neighbors directly.
3. It's not enforceable- How is code enforcement going to prove legal/blood ties? Are they going to do blood tests or require marriage license? What about common law marriages?
4. Speaking of tricky, the Iowa Supreme Court ruled the definition of family as unconstitutional. I think removing a possibly unconstitutional item that is already in the code is one thing but trying to add it is a whole different matter.
5. Leaving it out, avoids issues that have wasted a lot of zoning/planning/enforcing time in cities like Fort Collins, Boulder, and Greeley. I have spoken to Senior planning officers in all of them, and they said the definition of family has caused them continual headache and time-suck.
6. Health, noise, zoning among other existing regulations keep Loveland areas distinct and reasonable. HOA's provide even more rigidity for those who prefer it.
7. Defining family works against both conservatives who value homeowner rights and against progressives who value affordable housing options for single parents and more.
8. Defining family is racial prejudice against hispanic Loveland citizens.
9. You could take advantage of this accidental advantage to lead Loveland to both avoid out-dated, racist thinking and embrace forward thinking and non-racist legislation. A distinguishing accomplishment I think any city official would be proud to do and have done!

Historically in housing codes "family" has been defined, but that was when traditional families (man, women, children) were the vast majority. Times have changed, and now Loveland could save themselves a lot of headache and be on the forward thinking side to take advantage of the error of leaving it out.

If the city insists on defining family, then as you know there's a pre-existing precedent for the "single housekeeping unit" definition of family you all were discussing. I am happy to help with this if needed. It could be Family: "Any number of persons living

as a single housekeeping unit sharing household chores and kitchen areas" or ""Any number of persons living as a single housekeeping unit sharing household chores and kitchen areas for no less than a 30 day period." I think both of these would serve purposes and avoid racism.

***With Appreciation,
Grant Shipman***

As a realtor I have lots of opportunities to talk with people about housing. Most people are looking for a typical single family house for them and their kids however as affordable housing become more of an issue I see more and more people think differently about housing. Many of these people are looking for options that are better and maybe different than how many of us typical think. Here is just a few of the stories that I am personally familiar with and I would want the city to be careful in how they change the code because it does have a significant effect on the lives of many of the people who call Loveland home

Just Single Mom Problems

One of the gals I used to work with is a single mom. She is the one who really got me thinking about how we define family. She had a couple of single mom friends and they decided it would be a lot more affordable and better in general if they all moved in together. They could do simple thinking that my wife and I take for granted like go grocery shopping without the kids or having one kid at practice while the other stays home to work on homework. These ladies found a landlord who also thought it was a great idea and had a house with a big backyard that would work for them. However the landlord found out that this would violate zoning and backed out. They all had to find crappy apartments that were more expensive then if they had split the rent on the house. She ended up moving to Tennessee where she could provide a better place for her kids to grow up.

Living in Community

I know someone who lives in Loveland who rents out rooms to help pay the mortgage. She has two singles and one married couple living with her as well as her adult son. One of the single guys was living in his car when she offered to let him rent a room for \$300 a month which he can afford. She cleans houses and the rest of them work in our local restaurant industry. They all love this arrangement and have been living together for a couple of years now. One of their fears is that they will get a new neighbor someday who will turn them into the city.

Millennial Way of Thinking

One of my clients this past January bought a house in north Loveland. She was moving from San Francisco where she lived with three roommates. She works for the federal government and makes plenty of money to be able to afford the house on her own. However, she planned to have roommates because that was normal for her. She was surprised that she would need to be concern about restrictions on how many people could live together. She said in San Francisco most millennials live with 3 or more roommates. I have found a lot of millennials like living in groups even if they don't have to because it gives them people to hang out with and more money to spend on fun.

Rethinking What We Need

there is a middle class family I know who are native to Loveland and live by McKey hospital. They are like a lot of middle class families in Loveland. They have two school age boys, she works as a nurse and he does contract work for the government. They have spent an extended amount of time outside of the country and a couple years ago started rethinking how they were living. They decided to rent out two of

the rooms in their 5 bedroom ranch. Their boys then came to them and asked if they could rent out one of their bedrooms and share the other one. They now rent out the upstairs bedrooms and live in the basement while sharing the kitchen with their renters. The boys are learning how to vet tenants, enforce a lease and collect rent. They have been doing this for about two years now and last I talked to them they said it was going great.

Older and Better

I have a friend who bought a house in Longmont where the code is less restrictive than Loveland. His plan was to rent out rooms to make extra money. He was surprised to have everyone who applied to be over 55. He ended up being the youngest person (in his mid 30s) by far, living with five other adults. I asked him one time why he thought so many older adults wanted to live with him. He said all of them had done the whole home ownership thing before and raised a family but because they were now single they did not want to live alone. In fact one of the guys move out of state had his ex wife contact my friend to see if she could move in. She had heard how much he loved living there and thought it was better than her apartment. When he bought the place the yard was one of eye sore of the neighborhood but it did not take long before he clearly had the best yard on the block.

These are all stories from people I know and I am sure there are many more who will be effected by what the city decides about who gets to live together. Most of these people are not in a place to jump through a bunch of regulations. They will simple ignore the city rules or go someplace else. I would encourage the city to make rules that are simple and clear while also giving people flexibility in how they make housing affordable without a lot of extra regulations.

From: Andrew Lewis <lewistrustedhomes@gmail.com>

Sent: Monday, June 8, 2020 2:28 PM

To: Don Overcash <Don.Overcash@sandler.com>

Subject: Proposal tonight effecting housing

Good afternoon Don,

As you know I am intune with some aspects of affordable housing and the effects it has on many people I work with. So I notice that the city is proposing changes to the Unified Development Code. One of the changes is that they are proposing defining a family as distinguished from a rooming house. The definition seems to hing on whether or not everyone in the house has access to all the rooms in the house at any time. Which means if you were to rent a room to a couple who you allow to lock their bedroom when they are not around then you would be considered running a rooming house. That is fine except when I looked up the regulation on rooming houses. They are very restrictive. Currently you can only have a rooming house in a R3 neighborhoods and only by special review. Renting out a room is very common and is especially important while people are under financial stress related to COVID 19.

A couple of questions I have are:

Does the city have a plan in place to deal with all the people who will no longer have housing if this definition is put in place? I personally know around 30 people who have a living arrangement affected and I am sure there are many more.

It is very common for people to move to the area and live with friends while they are getting established in their job, how do they fall in this definition?

How will this impact our minority communities?

If four friends rent a place together, what happens to them?

Are older populations exempt from this rule?

Thank you so much for you being willing to listen to my concerns and I plan to be at the virtual meeting tonight. This will not change anything in my home but I know a lot of people who will be effective if the city takes away affordable, safe living situations.

--

Andrew J. Lewis

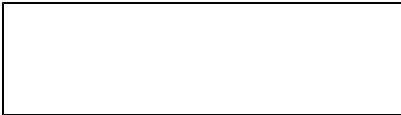
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Dear Commissioners,

I am writing about a matter very important to me and my family. The family I live with includes individuals who are not related by blood or law. We are related by the precious bond of shared life, shared home, mutual support, shared meals, and shared keeping of our home. Legal experts would call us a “functional family” which I so appreciate because it recognizes and appreciates my family rather than referring to us as unrelated adults.

My letter is to specifically request the following from you:

- To do your best to make sure Loveland either maintains their code to not restrict what a family is, or to do your best to make sure Loveland’s definition of family includes my family and other functional families rather than outlawing us.
- Even though cities have the current legal right to say my family and others families like us are not families and may only live in certain places with certain approvals, to do your best to fairly consider whether this may be institutional prejudice to be avoided whenever conscious of it.
- Decide if the advantages of addressing parking and noise issues indirectly rather than directly is worth breaking up my family’s safe use of our home.
- Consider whether families like mine actually improve the following for our city: cost of rent/owning, housing shortage, affordable housing, homeowner rights, supportive-environments, and homelessness.
- On behalf of myself and my family, please read the 3 page article I’ve included.
- Consider what definitions of family would and would not advantage a family consisting typically of a caucasian heterosexual married couple resideing with their biological children over alternative forms of family often found among African Americans, Asian Americans, and Hispanic Americans.

With this year’s economic and COVID-19 issues, I do not know where I nor my family members would be without the support, help, and love we provide each other. We shouldn’t have fewer and more difficult living options than those who happen to have people they can live with who are related by blood or law. It may very well be this virus and economic issues are not over for us, and to have to choose to keep our family secret from the city we are a part of OR to break-up our family seems overwhelming, unfair, and unnecessary.

Please read the below with the fresh eyes of having my family in mind:

“The Fair Housing Act prohibits this discrimination because of race, color, national origin, religion, sex, familial status, and disability. ...working to eliminate housing discrimination and promote civil rights and economic opportunity through housing.” ~www.HUD.gov

"[The City] contends these interests [neighborhood characteristics] will be advanced if groups of more than three unrelated persons are not allowed to live in a home together. However, the record is devoid of any evidence or argument that a group of more than three related persons will portray different or desirable behavior or living patterns than a group of more than three unrelated persons. I find the ordinance regulates where no regulation is needed and fails to regulate where regulation is needed. The ordinance is both overinclusive and underinclusive. ...Accordingly, the ordinance violates the equal protection clause of the Iowa Constitution. "

~Judge David Wiggins, Iowa Supreme Court Justice

"Polis in his latest flurry of orders Sunday added that he strongly encourages local governments to suspend or eliminate restrictions on the number of unrelated persons who can live in a single household... The idea is 'enable homeowners to rent or give a room or rooms to those in need of housing.'"

~DenverPost.com July 14, 2020

Thank You For Your Time. Please Do the Right Thing,

Sarah Meabon

Loveland Resident
Full Time Accountant

Blomberg CityLab:

Why Are Zoning Laws Defining What Constitutes a Family?

It's wrong to exclude safe uses of housing because of who belongs to a household. Like family law, zoning ordinances should prioritize functional families.

Kate Redburn June 17, 2019

Laura Rozza and Simon DeSantis were overjoyed to discover that the mansion on Scarborough Street was within their price range. The ten-bedroom, five-bathroom home in Hartford, Connecticut, could be theirs for \$453,000, and would have plenty of room for their family. In July of 2012 they purchased the property but just a few weeks after moving in, they received a cease-and-desist letter from the city of Hartford ordering them to leave, as first covered by the Hartford Courant.

According to the city, Rozza, DeSantis, and their chosen family—totaling eight adults and three children—violated the definition of “family” in the Hartford zoning code. The ordinance allowed an unlimited number of people related by blood, marriage, civil union, or adoption to constitute a zoning family, but only two unrelated people could legally co-habitate in a dwelling designated for a single family. The “Scarborough 11,” as they came to be known, refused to leave their home, and Hartford sued them in federal court. After years of litigation, including a countersuit from the Scarborough 11, the city dropped the suit in 2016 citing costs, and the town even revised its zoning ordinance to increase the number of legal unrelated cohabitants to three. Although they have been able to stay in their home, the Scarborough 11 faced blatant discrimination because their family is “functional” rather than “formal.”

Formal family zoning punishes the millions of Americans who choose alternatives to nuclear family, but it also has under-appreciated effects on the ability of functional families to access important family law obligations and protections. In a paper recently published in the Yale Law Journal, I show how formal family zoning may undermine progressive family law doctrines in many states, and what we should do to fix it.

Today, when courts ask “what makes a family?” they often look beyond blood, marriage, and adoption to see if people have made other meaningful, familial commitments that qualify for the obligations and benefits that family law provides. As functional family law

developed, cohabitation became one of the most important factors, if not the determining factor, in these kinds of cases. The problem is that zoning laws often prevent these same functional families from living together in the first place. Through this underlying connection to zoning, functional developments in family law are much more vulnerable than they appear.

“Formal family” regulations in zoning are pervasive, and come with the imprimatur of the nation’s highest court. In the 1974 case *Village of Belle Terre v. Boraas*, the U.S. Supreme Court ruled that municipalities can legally differentiate between related and unrelated families. In the intervening years, courts in 14 states have ruled that “formal-family” zoning is permitted by state constitutions, and the issue remains undecided in an additional 30 states. Only four state courts, in New Jersey, California, Michigan, and New York, have refused to sanction this form of discrimination, and lawmakers in Iowa recently became the first legislators to ban it. The Supreme Court has only revisited the issue once, in 1978, to clarify that the zoning definition of family cannot prevent blood relatives from living together.

The first zoning ordinances didn’t define “family,” at all. Throughout the first 50 years of their operation, courts often ruled that functional families of all kinds could live together in peace.

Zoning law can serve its historic functions without defining family at all. We can amend zoning codes to protect health, safety, and wellness by limiting cohabitation based on the health and safety limits of residential structures. By uncoupling the definition of family from residential limits, all kinds of chosen families—foster families, communes, students, seniors, and group homes—would be able to live together legally.

Recent data on the prevalence of functional families helps drive home the urgency of addressing the problem. According to analysis of the most recent census, 7.7 million Americans live in unmarried couples, 40 percent of whom are raising at least one biological child of either partner. An additional 5.2 million people are “doubling up” with roommates. These numbers have increased over the past 40 years, and are especially prevalent among younger people. In the annual *America’s Families and Living Arrangements* data for 2018, Census researchers found that 9 percent of Americans aged 18-24 are cohabiting with a partner, a figure which climbs to nearly 15 percent for Americans aged 25-34 (and only 30 percent of 18-34 year olds are married, down from 59 percent in 1979).

The good news is that formal family zoning is of surprisingly recent vintage. There is a long history of functional family approaches to zoning in American jurisprudence, dating back to the early 20th century advent of zoning law. The first zoning ordinances didn’t define

“family,” at all, and throughout the first 50 years of their operation, courts often ruled that functional families of all kinds—from gay couples and religious adherents to cult followers and sororities—could live together in peace. Even as “blood, marriage, or adoption” ordinances became more common, courts continued to rule that functional families fell within their wide interpretive ambit.

The fortunes of functional families began to shift in the mid-1960s as fears of the family in crisis swept the nation. The rising New Right dovetailed with a generation of politicized post-war homeowners, both of which saw formal-family zoning as a vindication of their values. For social conservatives, formal-family zoning could help stave off the decline in nuclear family formation, and for homeowners, it could protect their property values against their perception that having abnormal neighbors might drive prices down.

Neither is a persuasive reason to discriminate against functional families in zoning codes. Formal family zoning is a familiar song—the same legal mechanisms that famously reinforced housing discrimination on the basis of race, also discriminate against families that vary from the nuclear ideal of a heterosexual couple raising their biological children. There is also compelling evidence that low-density zoning, like formal family ordinances, is a significant driver of racial and class segregation. In short, formal family zoning discriminates against non-normative families, but it also reinforces the racial and economic segregation effects of low-density zoning in general.

And from a purely practical perspective, using the definition of family in zoning as social regulation doesn’t work. More and more Americans are forming functional families, meaning that the only real effect of these ordinances is to make it more difficult for people to live with their loved ones. The laws aren’t channeling more people into nuclear families, but penalizing the growing share of Americans who choose other kinds of kinship.

More importantly, it’s wrong to exclude perfectly healthy and safe uses of residential housing simply because some of the neighbors disapprove of the form that family takes. In another famous decision from the height of the counterculture, U.S. Supreme Court Justice Brennan wrote, that if “the constitutional conception of ‘equal protection of the laws’ means anything, it must at the very least mean that a bare desire to harm a politically unpopular group cannot constitute a legitimate governmental interest.” In other words, Justice Brennan believed that distaste is no justification for discrimination. That same logic surely holds today.

MEMORANDUM

HEARING DATE: July 27, 2020

TO: Planning Commission
FROM: Bob Paulsen, Current Planning Division Manager
RE: Consolidated Nuisance Code: New Title 16 of the Municipal Code

I. SUMMARY

The Current Planning Division, in coordination with the City Attorney's Office, is proposing the creation of new Title 16 of the Loveland Municipal Code (LMC), entitled "Nuisances". This title updates and consolidates nuisance regulations and abatement provisions that are currently located in various portions of Municipal Code. The nuisance provisions have not been updated in many years.

The purpose of the update and consolidation is to create a more complete, clear and up-to-date nuisance code that will allow for improved enforcement practices and better code enforcement services to Loveland residents and businesses. The consolidation and update will also make this information more understandable and accessible to the public.

The creation of the new title has required the extraction of existing nuisance provisions from various locations in the Municipal Code and inserting them into the new title. Areas of the Municipal Code where these provisions have been extracted from have also been updated to ensure consistency with the Nuisance Code to provide completeness.

Because the enforcement of nuisances is closely associated with planning and land use activities, the draft nuisance code has been reviewed by the Planning Commission in an initial public hearing (January 27, 2020) and in a series of three study sessions (May 18, June 8 and June 22). Numerous adjustments to the ordinance have been made in response to Commission direction. At the June 22nd study session, the Commission indicated that the Nuisance Code was ready for public hearing.

The Planning Commission's role (on July 27th) is to conduct a public hearing and to make a recommendation to the City Council on the proposed Nuisance Ordinance. The public is encouraged to comment on the proposed code amendments either in writing or by participating at the hearing. The Commission may specify changes to the proposed ordinance before forwarding it to City Council.

A study session to review the Nuisance Code with the City Council has been scheduled for Monday, August 25, 2020. Commissioners may wish to observe and potentially participate in the Council study session by video conferencing.

II. MOTION

Move to recommend approval to the City Council of amendments to the Loveland Municipal Code as provided in the draft ordinance entitled, "**An Ordinance Amending Certain Sections of Titles 5, 7 and 12 of the Loveland Municipal Code and Adopting a New Title 16 - Nuisances**", as presented to the Planning Commission on July 27, 2020, as amended on the record.

III. ATTACHMENTS

1. Draft Ordinance (dated 6-26-2020) Amending the Loveland Municipal Code
2. Powerpoint presentation

IV. BACKGROUND

A. Code Enforcement Operations

The City Code Enforcement office enforces the nuisance provisions of the Municipal Code. Office staffing consists of two full time code officers and a seasonal weed enforcement officer that works during the 6-month growing season. In mid-2018, the Code Enforcement office was re-assigned from the Building Division to the Current Planning Division; since that time, the Current Planning Manager has assumed supervision over code enforcement.

Code enforcement officers are charged with enforcing prohibited nuisances as specified in the Municipal Code. This includes enforcement of provisions relating to weeds, rubbish, refuse, graffiti, unlawful (inoperable) vehicles, dangerous trees and similar nuisances. In the scope of their work, the officers routinely work in coordination with the Building Division, Police Department, Fire Authority, Streets Division and Planning staff to address violations. Occasionally, the more complex violations involve direct cooperation and joint action with one or more of the aforementioned City offices.

Code enforcement efforts respond to complaints from citizens and business owners. In addition, officers proactively initiate enforcement efforts when they observe violations. Whether responding to complaints or initiating enforcement measures, the officers focus on helping violators (as well as citizens in general) understand the purpose of the Code and work to establish compliance. The intent is to educate citizens in an effort to correct and prevent violations.

Code officers have the authority to serve a Notice and Order to Abate when a violation is determined. The property owner, agent or occupant of the property then has a deadline in which to correct or abate the prohibited nuisance. If the deadline is not met, a Summons to Municipal Court can be issued. While code enforcement officers occasionally issue Court Summons, the majority of the time the officers work with violators to achieve compliance before more severe action is taken. Officers also have the authority to serve a Notice and Order of Abatement which allows the City or its contractors to enter onto the property and abate the nuisance. The full cost of the abatement is subsequently charged to the violator. Abatement funds in 2020, however, are no longer available due to budget reallocation.

B. Development of Title 16

At a City Council retreat in early 2016, the Council identified the need to have the City's nuisance provisions updated, including consolidation into a single title of the Municipal Code. In 2017, the Development Services Department and staff from the City Attorney's Office presented a draft ordinance to City Council at a study session. The draft ordinance was generally received favorably. However, due to staff changes and the

reassignment of the code enforcement function from the Building Division to the Current Planning Division, work on the nuisance code was halted until 2019.

In 2019, the Development Services Department with assistance from the City Attorney's Office restarted the effort in developing the consolidated nuisance code. The 2019/2020 nuisance code effort included the following:

- Consolidation of Municipal Code provisions prohibiting nuisances into new Title 16
- Formatting of Title 16 for efficiency, clarity and uniformity
- Review of customer complaints and nuisance challenges confronting code enforcement staff in effort to guide adjustments to ensure clarity, effectiveness and practicality
- Gathering input from the Building Division, Fire Authority, Traffic Division and Police Department on areas of concern or shared interest
- Review of nuisance codes of other Front Range cities, with particular focus on regulations addressing chronic nuisance properties and excessive outdoor storage in residential areas

V. CODE UPDATE COMPONENTS

A. Consolidation

As mentioned above in Section I. of this memo, a primary purpose for creating Title 16 is to consolidate nuisance provisions that are located in separate portions of the Municipal Code. Consolidation is designed to provide uniformity, eliminate redundancy and clarify the nuisance provisions to facilitate ease of use.

Below is a summary of Code sections and subsections that have been updated and relocated into the Nuisance Code or into Chapter 1.32:

- ❖ **Portions of Title 7 [Health, Safety and Welfare] have been amended and relocated into Title 16:**
 - (7.12) Nuisances --Unsanitary Conditions; (7.18) Weed Control; (7.26) Accumulations of Waste Material; (7.30) Graffiti
- ❖ **Subsections of Title 12 [Streets, Sidewalks and Public Places] relating to Trees and Shrubs have been amended and relocated into Title 16:**
 - (.140) Removal of dead or dangerous trees; (.150) Removal or treatment of infected or infested trees;
- ❖ **Administrative Appeals Procedure (7.70) moved to new Chapter 1.32—applies broadly to administrative appeals**
 - Moving the Administrative Appeals Procedure specified in Title 7 to new Chapter 1.32 will allow these appeal procedures to apply more broadly to administrative decisions authorized by the Municipal Code.

With consolidation, an effort has been made to structure Title 16 in a clear and efficient manner, avoiding redundancy and organizing the sections in a logical sequence. This process has involved a considerable amount of rearrangement of text and elimination of duplications. To this effect, a redline version of Title 16 would result in a complex and cumbersome document. This document identifies substantive amendments (text additions and deletions) to Title 16.

B. Summary of Amendments to Title 12 - Streets, Sidewalks and Public Places

This title relates to the City's authority relating to streets and the public rights-of-way. As landscaping within the right-of-way is often the responsibility of the adjacent property owner, this title (particularly Chapter 12.32) has been amended to be consistent with the Nuisance Code and updated for clarity. For the most part, enforcement authority of Chapter 12.32 is with the Public Works Department as the Nuisance-related provisions have been moved to the Nuisance Code.

❖ Portions of Title 12 have been amended for clarity and remain in Title 12:

- **(Section 12.24.037) - Administrative review of assessment**, has been amended to reference the relocated Administrative Appeals provisions relocated to Chapter 1.32
- **(Section 12.32.130) - Property owner responsibilities**, has been amended to clarify that the City has the power to require any property owner to trim, remove or maintain vegetation, including trees, that project onto or over City right-of-way and issue a notice requiring such work to be done. The City Engineer (or designee) is given authority to make this determination.
- **(Section 12.32.155) Trees on City property**, has been amended to specify that property owners that abut City right-of-way are obligated to maintain the adjacent landscaping within the right-of-way, including trees. This section further clarifies that permission for planting trees within the City right-of-way requires City approval unless required by an approved plan.
- **(Section 12.32.170) Notice of compliance**, has been updated for clarity and for consistency with current noticing practices.
- **(Section 12.32.180) Appeal procedure**, has been updated to reference new Chapter 1.32.

C. Enforcement Authority Granted by Reference

In addition to enforcement authority for nuisance provisions of the Municipal Code, code enforcement officers also have the authority to enforce the regulations contained in Title 18, the Unified Development Code (UDC). This authority is specified in Section 18.18.02 of the UDC; this authority is incorporated into Title 16 by reference. Similarly, Code Officers are granted authority to enforce the International Property Maintenance Code (excluding the Fire Safety provisions) that have been adopted by the City as part of the International Building Codes. This authority has also been incorporated by reference into Title 16.

D. Minor (targeted) Changes to Title 16 Provisions

Below is a listing of relatively minor but important amendments incorporated into text of Title 16. Please refer to **Attachment 2** for guidance in identifying code text amendments.

1. **Weed, Noxious Weed and Native Grasses:** Definitions are updated to provide consistency with State Statutes and the Larimer County Weed District. The **Ornamental Grasses** definition has been added to distinguish these grasses from weeds, which are considered a nuisance when reaching a height of over 8 inches. Code definitions are written to facilitate the implementation of the Code standards.
2. **Residential refuse containers:** Text has been added to allow containers to be placed behind the front façade of house if the containers cannot be screened from the street by other means. See subsection 16.12.020.A.
3. **Inoperable (unlawful) vehicles:** If not otherwise screened from off-lot view, inoperable vehicles must be covered by a commercial vehicle cover. See 16.20.020.C. Under current code provisions, a tarp is specified as an allowable cover--which sometimes results in ineffective screening.

4. **Trees & vegetation in adjacent street right-of-way:** Text has been added to include irrigation with the maintenance responsibilities for trees, shrubs and other vegetation in the street right-of-way. See discussion on Section 16.28.020 below. Adjacent property owners are required to maintain vegetation in these areas, which commonly includes tree lawns (the planting space) and street trees located between the curb and sidewalk.
5. **Exception for Trees in Ditch Banks:** Section 16.28.050 has been added to the Nuisance Code and gives an enforcement officer the authority to determine when a tree located on a ditch bank is a danger to life and limb and must be removed. If the tree is not such a danger, the property owner is not required to remove the tree.
6. **Sight obstructions:** Section 16.28.070 specifies that enforcement officers have the authority to enforce Section 12.32.160 (sight distance triangles) relating to vegetation. This reference is needed as code officers will not otherwise enforce Title 12 upon adoption of the Nuisance Code.
7. **Nuisance Schedule:** New Section 16.44.020 has been added to clarify the abatement deadlines for specific types of nuisances once a Notice and Order to Abate has been issued to a violator. This schedule has been carefully reviewed by code officers to ensure fair and reasonable treatment of violators.

E. Unlawful use of parked vehicles, tents or other camping facilities

New Chapter 16.24 - Unlawful use of vehicles or camping facilities on private property - has been added to the Nuisance Code to clarify when living or sleeping in motor vehicles, RVs, tents or other camping facilities on private property is prohibited and declared a public nuisance. Unauthorized camping has been an area lacking clarity in the current code. The provisions expressly allow napping in a motor vehicle or recreational vehicle during one 24-hour period. Overnight sleeping in tents or other camping facilities on private property with consent of the property owner is limited to not more than three consecutive nights. Along with this Chapter, the definitions for "Camping Facilities" and "Recreational Vehicle" have been amended and broadened in scope. The regulation does not impact RV parks, campgrounds and similar uses that are approved and consistent with zoning regulations.

F. Property owner responsibilities

Section 16.28.20 correlates with Section 12.32.130 discussed on the previous page. The responsibilities of owners of property abutting City rights-of-way are required to care for shrubs, trees and other vegetation on the abutting right-of-way through irrigation, maintenance and removal unless such duty has been assigned to another party through an adopted plan (typically an HOA). The amended text expands specified responsibilities of the abutting property owner to include irrigation and grants the City the power to require the removal of trees, when necessary. This change has been coordinated with the Public Works Department. Public Works representatives indicated that while the City once had limited funding to maintain, remove and/or replace trees within City rights-of-way, funding for this program has been exhausted and this service is no longer offered. Moreover, Public Works indicates that the restoration of funding for this service is not expected in the foreseeable future. Should funding become available, Mr. Bailey indicated that Public Works would make this service available but believed that that ultimate responsibility for the maintenance and removal of trees within the City right-of-way should be with the abutting property owner. Removal of a healthy tree, as determined by the City, requires City permission.

G. Improper Storage of Materials

New Chapter 16.36 - Improper outdoor storage of materials - has been added to Title 16 to better address outdoor storage on residential property. A definition for "Residential" has been added to clarify what constitutes residential use in terms of Section 16.36.

The Code Enforcement office frequently receives citizen complaints regarding the outdoor storage of tires, appliances, furniture, construction materials and similar materials located on residentially-zoned properties, usually in the backyard portion of the site. The office also receives complaints about the storage of large volumes of materials that may lead to fire safety concerns and related issues. Current Code provisions do not make a distinction between the storage requirements on residential properties and commercial or industrial properties. While screening from the street is currently required, the Code does not address outdoor storage that is excessive, disorganized, potentially dangerous or otherwise inappropriate in a residential setting. In addition, current Code provisions do not require screening of storage materials from neighboring properties.

The new Chapter 16.36 requires materials to be screened from off-site view. To more clearly determine and regulate such nuisances, six nuisance factors have been developed, and any residential property exhibiting three or more of the factors constitutes a nuisance.

H. Chronic Nuisance Properties

New Chapter 16.40 - Chronic Nuisance Properties - has been developed and added to Title 16. Code officers expend a lot of time and resources on properties that have repeat violations. This new section is designed to deal with repeat offenders more effectively and efficiently.

"Chronic nuisance property", is newly defined as:

- a) a property for which enforcement officers have issued a Notice and Order to Abate on two or more occasions during any sixty day period or on five or more occasions during any twelve month period; or
- b) any abandoned property where nuisance activity exists.

An owner of property which meets this definition will be notified by two methods and be required to contact the code officer in 10 days and develop an Abatement plan agreed to by the code officer. The Abatement plan sets a timeframe for the abatement of violations and allows the code officer to inspect the property during the abatement period. If abatement is not completed by the deadline, an immediate summons to Municipal Court can be issued. Any owner who disputes the chronic nuisance property declaration may appeal the declaration as set forth in Section 1.32 of the Municipal Code.

FIRST READING: _____

SECOND READING: _____

ORDINANCE NO. _____

**AN ORDINANCE AMENDING PORTIONS OF TITLES 5, 7 AND 12 OF
THE LOVELAND MUNICIPAL CODE AND ADOPTING A NEW TITLE
16 - NUISANCES**

WHEREAS, the Loveland Municipal Code (the “Code”) prohibits various nuisances from occurring in the City, including but not limited to dangerous trees, refuse and rubbish, unlawful vehicles, weeds, and graffiti. The City’s Code Administration Division enforces the Code with respect to such nuisances; and

WHEREAS, Code Administration reviewed the Code as it relates to the enforcement and abatement of nuisances, and identified a need to revise portions of the existing Code, consolidate existing sections, and address deficiencies with a streamlined, uniform abatement policy; and

WHEREAS, Code Administration proposes a consolidation of existing sections 7.12 (Nuisances – Unsanitary Conditions), 7.18 (Weed Control), 7.26 (Accumulations of Waste Material), 7.30 (Graffiti), and portions of Section 12.32 (Trees and Shrubs); the creation of Title 16 Nuisances, containing a uniform abatement process; and certain other amendments to the Code to update the City’s nuisance provisions; and

WHEREAS, City Council finds that amendments to the Code in Title 5, Title 7 and Title 12 and the creation of Title 16 of the Loveland Municipal Code, are necessary in the interest of the health, safety and welfare of the citizens of Loveland.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOVELAND,
COLORADO ORDAINS:**

Section 1. That Section 5.28.080(C) – City clerk’s approval required, suspension, revocation, renewal, appeal - of the Loveland Municipal Code is amended to read as follows:

C. The revocation, suspension or denial of the issuance, transfer or renewal of a license or manager's certificate may be appealed to the City Manager pursuant to the appeals procedure set forth in Chapter 1.32 of this Code.

Section 2. Chapter 7.04 – Health Department - of the Loveland Municipal Code is amended to read as follows:

Chapter 7.04

HEALTH AND SANITATION

Sections:

7.04.010 Powers and duties.

The City Manager or his or her designee shall have the supervision and control of all matters relating to health and sanitation within the City, and shall have the power to compel the removal or abatement of any nuisance, source of filth, or cause of disease within the City. The City Manager may consult with Larimer County as he or she deems appropriate regarding matters of health and sanitation.

Section 3. That Chapter 7.12 – Nuisances - of the Loveland Municipal Code is repealed.

Section 4. That Chapter 7.18 – Weed Control - of the Loveland Municipal Code is repealed.

Section 5. That Chapter 7.26 – Accumulations of Waste Material - of the Loveland Municipal Code is repealed, except that Section 7.26.150 of the Loveland Municipal Code is repealed and reenacted as Section 7.16.210.

Section 6. That Chapter 7.30 – Graffiti - of the Loveland Municipal Code is repealed.

Section 7. That Chapter 7.70 – Administrative Appeals Procedure of the Loveland Municipal Code is repealed and reenacted as Chapter 1.32.

Section 8. That Section 12.24.037 – Administrative review of assessment - of the Loveland Municipal Code is amended to read as follows:

Any owner who disputes the amount of assessment made against such owner's property under Section 12.24.035 may, within twenty days of receipt of notice of such assessment, petition the City Manager for a revision or modification of such assessment in accordance with Chapter 1.32 of this Code.

Section 9. That Section 12.32.130 – Property owner responsibilities - of the Loveland Municipal Code is amended to read as follows:

The City shall have the power to require any property owner to trim, remove, or protect any tree, shrub, or other vegetation on such owner's property which may project past the property line onto or over the right-of-way abutting the same if deemed necessary by the City Engineer. The City shall cause a notice requiring such work to be performed to be served upon the property owner in accordance with Section 12.32.170 and such work shall be done within the time specified in the notice.

Section 10. That Sections 12.32. 140 – Removal of dead or dangerous trees - and 150 – Removal or treatment of infected or infested trees -, of the Loveland Municipal Code are repealed.

Section 11. That Section 12.32.155 – Trees on City property - of the Loveland Municipal Code is amended to read as follows:

The City may maintain trees within City-owned right-of-way or other City-owned property through trimming, pruning, removal and other maintenance activities. The City's maintenance of such trees shall not however alter the abutting property owner's obligations for maintenance and care of vegetation in the right-of-way, including trees, as set forth in Chapter 16.28.020 or for the repair of sidewalks, curbs and gutters as set forth in Chapter 12.20. It is unlawful for any person to knowingly plant a tree upon City-owned right-of-way or other City-owned property unless the City has provided written consent to such planting or unless required by an approved plan.

Section 12. That Section 12.32.170 – Notice of compliance - of the Loveland Municipal Code is amended to read as follows:

It is unlawful for any person to fail to comply with the requirements of any notice given pursuant to Section 12.32.130 within the time specified in such notice. In all cases, the City shall notify the property owner or his or her agent to maintain and care for the trees and shrubs within 30 days or other period of time thereof deemed reasonable by the City from the date of service of such notice. The notice shall be in writing and may be served on the property owner by posting on the property or by registered or certified United States mail. If, at the end of the 30 days, or other time established, the property owner has failed to care for and maintain the tree or shrub as required by the City, the City may complete the work and assess the costs incurred by the City to the property owner. The City shall mail a copy of such assessment to the property owner to the property owner's last known address and the assessment shall become and remain a lien upon the property until it is paid. Failure to pay the amount assessed for tree or shrub maintenance, care or removal including inspection and incidental costs within 30 days of the mailing of the assessment shall cause the property owner to be subject to the lien and collection provisions of Chapter 3.50 of this Code.

Section 13. That Section 12.32.180 – Appeal procedure - of the Loveland Municipal Code is amended to read as follows:

Any owner who disputes the terms of any notice of assessment made against such owner's property pursuant to Section 12.32.170, may, within 20 days of receipt of notice, petition the City Manager for a revision or modification of such notice of assessment, in accordance with Chapter 1.32 of this Code.

Section 14. That a new Title of the Loveland Municipal Code Title 16 - Nuisances is hereby adopted and shall read as follows:

Title 16

NUISANCES

Chapter 16.04

GENERAL PROVISIONS

16.04.010 Purpose of Title.

The purpose of this Title 16 is to promote the health, safety, order, prosperity and welfare of the present and future citizens of the City.

16.04.020 Severability.

In the event that any provision of this Title is declared to be unconstitutional or invalid for any reason, the remaining provisions of this Title shall be upheld and enforced.

16.04.030 Powers and duties.

- A. The City Manager or his or her designee shall have the supervision and control of all matters relating to public nuisances, and shall have the power to compel the removal or abatement of any nuisance, source of filth, or cause of disease within the City. The City Manager shall consult with Larimer County as he or she deems necessary regarding matters of health and safety.
- B. The Municipal Judge may grant inspection warrants as found in Chapter 1.08, enforce violations, order abatements, and pursue any other remedy available under this Code or any other remedy available under the law.

16.04.040 Definitions.

As used in this Title, the following definitions shall apply:

- A. “Abandoned property” for purposes of defining a chronic nuisance, means a property over which the person in charge no longer asserts control due to death, incarceration, or any other reason, and which is either unsecured or subject to occupation by unauthorized individuals.
- B. “Abate” or “abatement” shall mean eliminating or nullifying a nuisance.
- C. “Abatement plan” shall mean any agreement entered into by the City and an owner designed to eliminate nuisances from a property or properties.
- D. “Approved plan” shall mean a landscape or other plan approved by the City in connection with, but not limited to, the annexation, zoning, development or redevelopment of a property.
- E. “At the curb” shall mean at or near the perimeter of the premises, whether or not there is a curb, but does not mean or permit placement on the sidewalk or in the lane of travel in the street, alleyway and/or drive aisle.
- F. “Camping facilities” means tents, huts, lean to's, tarps, cardboard boxes or structures, or other similar items intended to provide temporary shelter.
- G. “City Manager” means the City Manager of the City of Loveland, Colorado, or the City Manager's designee.

H. “Chronic nuisance property” means: (a) a property for which enforcement officers have issued a Notice and Order to Abate on two or more occasions during any sixty day period or on five or more occasions during any twelve month period; or (b) any abandoned property where nuisance activity exists.

I. “Commercial vehicle cover” shall mean a standard vehicle cover designed and manufactured for the purpose of covering a vehicle.

J. “Compost” shall mean a mixture consisting of decayed organic matter used for fertilizing and conditioning soil.

K. “Enforcement officer” means a police officer or code enforcement officer of the City of Loveland.

L. “Garbage” shall mean solid wastes from the domestic and commercial preparation and handling of food and from the storage and sale of produce.

M. “Graffiti” means any defacing of public or private property by means of painting, drawing, writing, etching, inscription, or carving with paint, spray paint, ink, knife, or any similar method, with any contrast medium whatsoever, without advance authorization by the owner of the property or, which despite such advance authorization, is otherwise a public nuisance.

N. “Grasses” shall mean native grasses, ornamental grasses, and turf grasses, collectively.

O. “Hazardous waste” shall mean any chemical, compound, substance or mixture that state or federal law designates as hazardous because it is ignitable, corrosive, reactive or toxic including but not limited to solvents, degreasers, paint thinners, cleaning fluids, pesticides, adhesives, strong acids and alkalis and waste paints and inks.

P. “Health Hazard” mean an accumulation of refuse and rubbish that may create a fire, health or safety hazard, or may provide harborage for rodents, snakes or other nuisance wildlife.

Q. “Native grasses” shall mean perennial grasses native to the local ecosystem or suitable for Colorado landscapes, including but not limited to Big bluestem (*Andropogon gerardi*); Silver beard grass (*Andropogon saccharoides*); Sideoats grama (*Bouteloua curtipendula*); Buffalo-grass (*Bouteloua dactyloides*); Blue grama (*Bouteloua gracilis*); Sand lovegrass (*Eragrostis trichodes*); Switchgrass (*Panicum virgatum*); Little bluestem (*Schizachyrium scoparium*-syn. *Andropogon scoparius*); Alkali sacaton (*Sporobolus airoides*); Indian-grass (*Sorghastrum nutans*); Indian rice-grass (*Achnatherum hymenoides* – syn. *Oryzopsis hymenoides*); Arizona fescue (*Festuca arizonica*); Prairie june-grass (*Koeleria macrantha*); and Western wheatgrass (*Pascopyrum smithii* – syn. *Agropyron smithii*).

R. “Natural area” shall mean any areas, whether public or private, that are designated:

1. by the Director of the Parks and Recreation Department as a natural area, wildlife corridor, open lands or wetlands; or
2. by the Director of the Development Services Department as a natural area; or
3. as natural areas, wildlife corridors, wetlands or other areas intended to be maintained in a relatively natural, undeveloped state, on an approved plan.

S. “Notice and Order to Abate” shall mean a notice requiring the owner, agent or occupant of property on which a violation of this Title, Title 15, and Title 18 exists to abate the nuisance caused by the violation as directed in the notice;

T. “Notice and Order of Abatement” shall mean a notice advising the owner, agent or occupant of property on which a violation of this Title, Title 15 and Title 18 exists of the City’s intent to abate the nuisance caused by the violation;

U. “Noxious weed” shall mean any noxious weeds designated by the Colorado Noxious Weed Act (C.R.S 35-5.5-101, et seq.) (the “weed act”) from time to time, including but not limited to Yellow starthistle (*Centaurea solstitialis*); Mediterranean sage (*Salvia aethiopis*); Myrtle spurge (*Euphorbia myrsinites*); Cypress spurge (*Euphorbia cyparissias*); Orange hawkweed (*Hieracium aurantiacum*); Purple loosestrife (*Lythrum salicaria*); Field bindweed (*Convolvulus arvensis*); Leafy spurge (*Euphorbia esula*); Canada thistle (*Cirsium arvense*); Russian knapweed (*Acroptilon repens*); Perennial sowthistle (*Sonchus arvensis*); Puncturevine (*Tribulus terrestris*).

V. “Ornamental grasses” shall mean annual or perennial grasses suitable for Colorado landscapes and grown as ornamental plants as a part of an overall landscaped area, including but not limited to those listed on the City’s Approved Plant List and the following: Indian ricegrass (*Schnatherum hymenoides* -syn. *Oryzopsis hymenoides*); Big bluestem (*Andropogon gerardii*); Sideoats grama (*Bouteloua curtipendula*); Blue grama (*Bouteloua gracilis*); Sand lovegrass (*Eragrostis trichodes*); Arizona fescue (*Festuca arizonica*); Blue fescue or Elijah blue (*Festuca cinerea* or *Festuca glauca*); Idaho fescue (*Festuca idahoensis*); Blue oat grass (*Helictotrichon sempervirens*); Prairie junegrass (*Koeleria macrantha*); Silky threadgrass or Mexican feathergrass (*Nassella tenuissima*); Little bluestem (*Schizachyrium scoparium*); Indiangrass (*Sorghastrum nutans*); and Prairie dropseed (*Sporobolus heterolepis*).

W. “Owner” shall mean the owner as shown by the records of the County Assessor, whether person, firm or corporation; any agent or representative of the owner; or any person leasing, occupying or having control or possession of the property or premises.

X. “Property” means:

1. any real or personal property, including without limitation, vacant land, improvements to land, fixtures, buildings, structures, vehicles, and dumpsters, or
2. in addition to the owner's lot or tract of land, whether improved or vacant, the area to the center of an alley abutting the lot or tract of land, if any, all easements of record, and the sidewalk, curb, gutter and parking areas of any street abutting such lot or tract of land.

Y. “Private property” includes but is not limited to the following locations owned by private individuals, firms, corporations, institutions, or organizations: yards, grounds, driveways, entranceways, passageways, parking areas, working areas, storage areas, vacant lots, open space, parks and recreation facilities.

Z. “Public nuisance” or “nuisance” means any condition affecting a property which: (1) creates a health or safety hazard; (2) directly or indirectly causes the devaluation of the property or of any neighboring property; (3) constitutes a gang communication; or (4) promotes crime, vandalism or gang communication.

AA. “Recreational vehicle” shall mean a vehicular type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motor power or is drawn by another vehicle. “Recreational vehicle” shall include but is

not limited to travel trailers, motor homes, fifth wheel trailers, slide-in campers, truck campers, tiny homes pulled on a chassis, or boats.

BB. “Refuse” shall mean solid or liquid wastes, except hazardous wastes, whether putrescible or nonputrescible, combustible or noncombustible, organic or inorganic, including by way of illustration and not limitation, wastes and materials commonly known as trash, garbage, debris or litter, animal carcasses, offal or manure, paper, ashes, cardboard, cans, yard clippings, glass, rags, discarded clothes or wearing apparel of any kind, or any other discarded object not exceeding three feet in length, width or breadth.

CC. “Refuse container” shall mean a watertight receptacle of a solid and durable metal or nonabsorbent, fire-resistant plastic with a tightly fitting, insect and rodent-proof cover of metal or plastic or a tightly secured plastic bag.

DD. “Residential” shall mean property developed with one-family or two-family dwelling units on land zoned residential.

EE. “Rubbish” shall mean nonputrescible solid wastes of a large size, including by way of illustration and not limitation, large brush wood, large cardboard boxes or parts thereof, large or heavy yard trimmings, discarded fence posts, crates, vehicle tires, junked or abandoned motor vehicle bodies or parts, scrap metal, bedsprings, water heaters, discarded furniture and all other household goods or items, demolition materials, used lumber and other discarded or stored objects three feet or more in length, width or breadth.

FF. “Turf grasses” shall mean any species of grasses commonly bred and designated for use in Colorado landscapes as an irrigated residential lawn or an irrigated open space or common area.

GG. “Unlawful vehicle” means any device which is capable of moving or being moved from place to place upon wheels or tracks, not including a utility trailer or any device designed to be moved solely by muscular power or capable of being moved through water, which:

1. In the reasonable opinion of a police or enforcement officer, is apparently inoperative or legally inoperative due to the vehicle's unsafe condition regarding the potential to endanger persons or property or due to the lack of required equipment as stated in this Code, including but not limited to inflated tires, operable lights, operable brakes, windows, and windshields; or
2. Does not have lawfully affixed thereto an unexpired license plate, if such plate is required by law; or
3. Is wrecked, dismantled, partially dismantled, discarded, or severely dilapidated.

HH. “Utility trailer” means a trailer that is an unpowered vehicle pulled or towed by a powered vehicle such as a car or truck. The trailer has wheels and can be built as a flat-bed open-air trailer or as an enclosed trailer with shelving units or specialty equipment built in. This type of trailer is meant to haul some sort of equipment, either for professional or recreational use.

II. “Weed” shall mean an aggressive, non-native herbaceous plant detrimental to native plant communities or agricultural lands that is not classified as a noxious weed under the weed act, including but not limited to: Dandelion (*Taraxacum officinale*), Silverleaf povertyweed or Skeletonleaf bur ragweed (*Ambrosia tomentosa* or *Franseria discolor*), Mouse-ear poverty weed (*Iva axillaris*), Fanweed or Field Pennycress (*Thlaspi*

arvense), mustards (*Brassica sp.*), Purple groundcherry (*Quincula lobata*), Russian thistle (*Salsola sp.*), Kochia (*Kochia scoparia*), Redroot amaranth or Pigweed (*Amaranthus retroflexus*), Mat sandbur (*Cenchrus longispinus*), Flatspine stickseed (*Lappula occidentalis*), Buffalobur (*Solanum rostratum*), Common ragweed (*Ambrosia artemisiifolia*), and cocklebur (*Xanthium sp.*). This list is not exclusive, but rather is intended to be indicative of those types of plants which are considered a nuisance and a detriment to the public health and safety. “Weeds” shall not include flower gardens, plots of shrubbery, vegetable gardens, hay crops, corn crops, small-grain plots (wheat, barley, oats, and rye), turf grasses, ornamental grasses, native grasses, industrial hemp or marijuana. “Weed district” shall mean the Larimer County Weed District.

16.04.050 Nuisances – generally

Any violation of this Title, Title 15 or Title 18 of this Code is declared to be a nuisance.

16.04.060 Determination of nuisance.

An enforcement officer shall be empowered to make a prima facie determination of whether a nuisance exists within the City. If such condition is determined to exist, an enforcement officer shall have the authority to issue a Notice and Order to Abate or a Notice and Order of Abatement or conduct an emergency abatement for purposes of public health or safety.

16.04.070 Code enforcement guidelines.

A duly appointed enforcement officer of the City may enforce the provisions of this Title by the issuance of a summons and complaint as provided in Rule 204 of the Colorado Municipal Courts Rules of Procedure.

16.04.080 Penalties.

Any person found guilty of violating this Title shall be sentenced in accordance with Chapter 1.12 of this Code. Additionally, any person found guilty of violating this Title may be ordered by the municipal court to abate any nuisance or to pay for any such abatement assessed by the City.

16.04.090 Unlawful acts.

It is unlawful for any person, being the owner, agent or occupant of any premises or property within the City to fail, neglect or refuse to comply with any lawful order made by an enforcement officer, or to fail to remove and abate any nuisance within the time stated in the notice served upon such person.

16.04.100 Owners have ultimate responsibility for violations.

Every owner remains liable for violations of responsibilities imposed upon an owner by this Title, Title 15 and Title 18 of the Code even though an obligation is also imposed on the occupant of the property and even though the owner has by agreement imposed on the occupant the duty of maintaining the property or furnishing required refuse containers and collection.

16.04.110 Conflict in standards.

Nothing in this Title shall be construed to conflict with applicable state statutes where such statutes provide for standards more restrictive than those provided herein. Exceptions to applicable state standards shall be considered as provided by state statutes, and the City Council

shall act as the body responsible for the granting of exceptions, modifications and exemptions to such applicable state standards, as authorized by and under the provisions of the laws of the state of Colorado.

16.04.120 No duty upon City.

Nothing in this Title, Title 15 or Title 18 shall impose an affirmative duty upon the City to remove a nuisance or create liability for failure to remove any nuisance. Nothing in this Title, Title 15 or Title 18 shall prevent the City Manager, an enforcement officer, or the municipal judge from providing additional notice and time for abatement to a property owner or agent of a property owner, should it appear to the City Manager, enforcement officer, or the municipal judge that such extra notice and time for abatement is likely to produce abatement.

Chapter 16.08

UNSANITARY CONDITIONS

16.08.010 Intent.

It is the intent of this Chapter to reduce the occurrence of situations which negatively effect the health and general welfare of the public or that are likely to be injurious to humans, plant or animal life, or property, or which unreasonably interfere with the enjoyment of life or property.

16.08.020 Feeding lots prohibited.

It is unlawful for any person to maintain or keep within the City, any cattle yards or sheep yards or hog yards for the purpose of feeding cattle, sheep or hogs for fattening, and all such places so kept are also declared to be a nuisance and an offensive business and establishment and may be abated.

16.08.030 Fly-producing conditions prohibited.

It is unlawful for any person to maintain or keep within the City any of the following unsanitary fly-producing, disease-causing conditions, and such conditions are declared to be a public nuisance:

- A. Any accumulation of manure on premises where animals are kept, unless the premises are kept clean and the manure is kept in a box or vault which is screened from flies and emptied at least once each week;
- B. Privies, vaults, cesspools, pits or like places which are not securely screened to protect them from flies;
- C. Garbage in any quantity which is not covered or screened to protect it from flies;
or
- D. Trash, litter, rags or anything whatsoever in which flies may breed or multiply.

Any of the foregoing conditions are nuisances and may be abated as such, in addition to any penalty which may be imposed for a violation of this Code.

16.08.040 Rat and/or mouse-producing conditions prohibited.

It is unlawful for any person to maintain or keep any premises within the City which are infested with rats and/or mice or to keep on any premises any uncovered garbage or waste materials of any kind which might attract, sustain or cause an infestation of rats. All such premises and conditions are declared to be a public nuisance and may be abated as such, in addition to any penalty which may be imposed for a violation of this Code.

Chapter 16.12

ACCUMULATIONS OF WASTE MATERIAL

16.12.010 Intent.

The purpose of this Chapter is to protect the public health, safety and welfare by regulating the accumulation, storage, transportation and disposal of refuse and rubbish to prevent conditions that may create fire, health or safety hazards, harbor undesirable pests, impair the aesthetic appearance of the neighborhood, or degrade property values in the immediate area.

16.12.020 Refuse and rubbish accumulation prohibited.

- A. The owner and the occupant of any premises within the City, whether business, commercial, industrial, agricultural or residential premises, shall maintain the property in a clean and orderly condition, permitting no deposit or accumulation of materials other than those collected in conjunction with a business enterprise lawfully situated and/or licensed for such storage or collection. All refuse shall be stored on the premises in refuse containers and the storage area shall be kept free of loose refuse. Any refuse or rubbish which by its nature is incapable of being stored in refuse containers may be neatly stacked or stored. The number and size of refuse containers shall be sufficient to accommodate the accumulation of refuse from the property. Containers shall be secured and placed where they are not spilled by animals or wind or other elements and screened from view of the street. To the extent that a container on residential property cannot be screened from view of the street, it shall be placed behind the front façade of the house.
- B. No person shall store or permit to remain on any business, commercial, industrial, agricultural or residential premises owned or occupied by such person, any manure, refuse, animal or vegetable matter or any foul or nauseous liquid waste, which is likely to become putrid, offensive or injurious to the public health, safety or welfare, for a period longer than twenty-four hours at any one time.
- C. No owner or occupant of any premises which are adjacent to any portion of an open area, vacant lot, ditch, detention pond, storm drain or watercourse shall cause the accumulation of refuse, rubbish, or storage of any material within or upon such adjacent areas.
- D. The property owners and the contractors in charge of any construction site shall maintain the construction site in such a manner that refuse and rubbish will be prevented from being carried by the elements to adjoining premises. All refuse and rubbish from construction or related activities shall be picked up at the end of each workday and placed in containers which will prevent refuse and rubbish from being carried by the elements to adjoining premises.

E. The accumulation of refuse and rubbish which constitutes or may create a fire, health or safety hazard or harborage for rodents is unlawful and is hereby declared to be a public nuisance and a nonconforming use of the premises.

16.12.030 Compost piles permitted if not nuisance.

An occupant of any one or two-unit residential property may maintain a compost pile that is a separated area containing alternate layers of plant refuse materials and soil maintained to facilitate decomposition and produce organic material to be used as a soil conditioner. A compost pile shall be fully enclosed and maintained to prevent it from becoming a public nuisance by putrefying or attracting insects or animals.

16.12.040 Burning of refuse and rubbish prohibited.

No person shall cause or allow the disposal of refuse or rubbish by burning except in an incinerator that is designed for such purpose and under an operating permit from the state Department of Health. In no event may rubbish or refuse be burned in a stove or fireplace except for clean, dry, untreated wood.

16.12.050 Refuse, rubbish, or compost.

The City Manager or designee is authorized and directed to inspect and supervise the premises within the City and if it is found that any refuse, rubbish, or compost exists on any property in violation of this Chapter, the City Manager or designee shall in addition to any other action permitted under this Code remove or cause to be removed from the property all refuse and rubbish found on the premises or in the adjoining streets and alleys and assess and collect a reasonable charge from the owner or occupant all in accordance with the notice, removal and assessment provisions of Chapter 16.44.

16.12.060 Implementation.

The City Manager may adopt such other rules and regulations concerning the collection, removal and hauling of refuse and rubbish as may be necessary to implement the provisions of this Chapter not in conflict with such provisions.

16.12.070 Collection and disposal of refuse and rubbish.

A. The occupant and the owner of any premises where any refuse or rubbish is produced or accumulated shall be jointly and severally responsible to provide for collection service and removal of refuse and rubbish to the degree of service necessary to maintain the premises in a clean and orderly condition. Neither the occupant nor owner shall contract or arrange for such collection and removal except with solid waste collectors operating under Chapter 7.16 of the Loveland Municipal Code. An individual may dispose of his or her own refuse and rubbish in conformity with all City and Larimer County regulations, provided that it is properly disposed of at the Larimer County Landfill or at any other disposal site which is approved by the state.

B. All moveable refuse containers and recyclable materials shall be kept in a storage area except on collection day, or within twelve hours preceding the time of regularly scheduled collection from the premises, when they may be placed at the curb or upon the edge of the alley. Following collection, they shall be returned to a storage area the same day. Refuse containers and recyclable materials shall not, at any time, be placed on the

sidewalk or in the street, or in such a manner as to impair or obstruct pedestrian, bicycle or vehicular traffic.

C. If plastic bags are used as refuse containers, they must be securely tied or sealed to prevent emission of odors, be of a material impenetrable by liquids and greases, and be of sufficient thickness and strength to contain the refuse enclosed without tearing or ripping under normal handling.

16.12.080 Hazardous waste disposal.

No person shall place hazardous waste in refuse containers for collection or bury or otherwise dispose of hazardous waste in or on private or public property within the City. Residents may contact the County Health Department for recommendations on disposal of hazardous waste. Highly flammable or explosive materials shall be stored and disposed of in accordance with Loveland Fire and Rescue Authority regulations at the expense of the owner or possessor of such materials. Except in response to an emergency and under order and direction of the Loveland Fire and Rescue Authority, in no event shall toxic or flammable liquids or any waste liquid containing crude petroleum or its products be disposed of by discharge into or upon any gutter, street, alley, highway, or stormwater facility, lake, or other watercourse or upon the ground unless such liquid has undergone suitable treatment.

Chapter 16.16

GRAFFITI

16.16.010 Intent.

Graffiti is hereby determined to be a public nuisance because it constitutes a visual blight within the area in which it is located and upon the City generally. The existence of graffiti acts as a catalyst for gang communication, the spread of crime, and other antisocial behavior. It is the intent of this Chapter to prevent the destruction and devaluation of public and private property by the application and continued existence of graffiti, and to provide the City with the ability to abate any such graffiti in order to reduce deterioration of neighborhoods within the City.

16.16.020 Graffiti prohibited.

- A. It shall be unlawful for any person to apply graffiti upon any public or private property, except with the advance authorization of the owner of the property.
- B. It shall be unlawful for any person to possess any paint, spray paint, or other substance or article adapted, designed, or commonly used for committing or facilitating the commission of the offense of application of graffiti, with the intent to use the substance or article in the commission of such offense, or with the knowledge that some person intends to use the substance or article in the commission of such offense.
- C. It shall be unlawful for any owner of property to fail to abate graffiti from such property when the graffiti is visible to public view or from an adjacent property, within three days from the time such person knows, or reasonably should have known, either directly or through such owner's agents, of such graffiti.

Chapter 16.20

UNLAWFUL VEHICLES

16.20.010 Intent.

It is the intent of this Chapter to protect the health, safety and welfare of the public by reducing the presence of unlawful vehicles that may serve as attractive nuisances or provide unsafe living conditions.

16.20.020 Unlawful vehicles prohibited.

It shall be unlawful for any person to cause or maintain the location or presence of any unlawful vehicle on any lot, tract, parcel of land or portion thereof, improved or unimproved, within the City. Violation of this section is declared to be a public nuisance. It shall be unlawful for any person to cause or maintain such location or presence of any unlawful vehicle by wrecking, dismantling, rendering inoperable, abandoning or discarding his or her vehicle on the property of another or to suffer, permit, or allow the vehicle to be placed, located, maintained or exist upon his or her own real property, provided this section not apply to a vehicle or part thereof which is:

- A. Completely enclosed and screened from public and private off-lot view; or,
- B. Stored or parked in a lawful manner on public or private property in connection with the business of a licensed vehicle dealer, auto salvage yard, motor vehicle repair garage, or police impound lot; or,
- C. Completely covered by a commercial vehicle cover, which cover shall be of a single earth tone or neutral color and shall be maintained in good condition, free from holes, rips, tears, or other damage. Tarps, plastic sheets, or any other type of material not specifically designed and manufactured to cover vehicles shall not be used.

Chapter 16.24

UNLAWFUL USE OF VEHICLES OR CAMPING FACILITIES ON PRIVATE PROPERTY

16.24.010 Intent

It is the intent of this section to protect the public health, safety and welfare from the health hazards of the use of motor vehicles, recreational vehicles, tents and other camping facilities for living or sleeping purposes outside of areas specified for such use. Such hazards can include lack of sanitation, trash, noise, and other nuisance activities associated with long-term use of motor vehicles, recreational vehicles, tents and similar camping facilities for living or sleeping purposes in locations not intended for such use. The unlawful use of private property in this way is declared a public nuisance.

16.24.020 Parking for Certain Purposes Prohibited.

It shall be unlawful for any person to occupy any parked motor vehicle, recreational vehicle, tent or other camping facilities on any private property in any zone for the purposes of living or sleeping therein, except where expressly permitted by the Loveland Municipal Code.

Incidental short-term napping in a motor vehicle or recreational vehicle facility during one twenty-four (24) hour period when such vehicle is parked shall not alone constitute occupancy for living or sleeping purposes. It is not intended by this section to prohibit overnight sleeping in tents or other camping facilities on private residential property by friends or family of the property owner, so long as the owner consents and the overnight use is limited to not more than three consecutive nights.

Chapter 16.28

TREES AND SHRUBS

16.28.010 Intent

It is the intent of this Chapter to protect the health, safety and welfare of the public by removing trees and shrubs that create dangerous conditions, inhibit travel in public rights-of-way, or threaten the health of other trees in the City.

16.28.020 Property owner responsibilities.

It shall be the duty of the owner of property abutting the right-of-way of any street, alley, sidewalk, or other public place to maintain and care for all shrubs, trees and vegetation on such abutting right-of-way through irrigation, pruning, removal if necessary, and other maintenance activities, unless such duty has been assigned to another party by written document, such as an approved plan. The City shall have the power to require any such property owner to perform such maintenance on any shrub, trees or vegetation on the right-of-way abutting such owner's property as may be necessary, including to maintain any applicable sight distance triangle pursuant to Chapter 18.05.02.02. A property owner shall not remove a healthy tree within the right-of-way without first obtaining the City's written permission. The City shall make the determination of whether or not a tree is healthy. The violation of this section is declared to be a public nuisance.

16.28.030 Removal of dead and/or dangerous trees.

It shall be the duty of the owner of any property to remove any dead trees, dead or hanging limbs which are dangerous to life or property and which are located on the premises of such owner upon receipt of a Notice and Order to Abate pursuant to Chapter 16.44 to do so and within such reasonable time as specified in such Notice and Order to Abate.

16.28.040 Removal or treatment of infected or infested trees.

Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth, health, life or well-being of other trees or plants in the city or which is capable of causing an epidemic spread of communicable disease or insect infestation, such as Dutch elm disease or Emerald Ash Borer disease, the City shall at once cause a Notice and Order to Abate to be served upon the owner of the property pursuant to Chapter 16.44 upon which such diseased tree is situated which Notice and Order to Abate shall require such property owner to eradicate, remove or otherwise control such condition within a reasonable time to be specified in the Notice and Order to Abate.

16.28.050 Exception for trees in ditch banks.

Where a tree is growing in the bank of a ditch, the owner of the property on which the ditch is located shall not be required by any provision of this Code to remove a tree, unless such tree is a danger to life and limb as determined by an enforcement officer.

16.28.060 Replacement of trees.

An owner shall only be required to replace a removed tree if such tree is required by an approved plan.

16.28.070 Sight obstructions.

An enforcement officer shall have the authority to enforce Section 12.32.160 with respect to any tree, shrub or other vegetation growing on private property.

Chapter 16.32

WEED CONTROL

16.32.010 Intent.

It is the intent of this Chapter to protect the health, safety and welfare of the public by reducing the occurrence of weeds, grass, brush, or other rank or noxious vegetation which is regarded as a common nuisance.

16.32.020 Weeds and grasses; prohibition, cutting and removal

- A. It is unlawful for the owner of any property, lot, block or parcel of land within the City to allow or permit the growth thereon of:
 - 1. Noxious weeds which are required to be eradicated under the weed act, regardless of height; or
 - 2. Noxious weeds which are not required to be eradicated under the weed act, except to the extent that such noxious weeds are managed in accordance with the published recommendations of the weed district; or
 - 3. Weeds other than noxious weeds or grasses to a height of more than eight inches (8”), except as permitted in subsections B and C below.
- B. The eight inch (8”) height limitation set forth subsection A.3 above shall not apply to ornamental or native grasses so long as such grasses are:
 - 1. Shown on an approved plan and are being maintained in accordance with that plan; or
 - 2. Used solely, or in combination with other ornamental, native or turf grasses, as a supplement to or component of the overall landscaped area located on a property; or
 - 3. Growing in a private or public natural area in a manner consistent with the maintenance of the health of such grasses (including permitting them to grow to a mature height and reseed) and are not a threat to public health or safety.
- C. If there is any conflict between the eight inch (8”) height limitation set forth in subsection A.3 above and the published recommendations of the weed district for management of noxious weeds that are not required to be eradicated under the weed act, the published recommendations of the weed district shall control.

D. Any waste from all destroyed or cut noxious weeds, weeds, grasses or marijuana shall be disposed of so that the property is clean and orderly, and the spread of weeds is prevented.

E. It shall be an affirmative defense to a violation of this section that the property upon which the vegetation is growing is City owned property and has been designated by the Director of the Parks and Recreation Department of the City as a natural area, open lands, wildlife corridor, or wetlands, or that the property upon which the vegetation is growing is dedicated public or private natural area as determined by the City's Director of Development Services Department.

F. The failure to comply with this section is declared to be a public nuisance.

Chapter 16.36

IMPROPER OUTDOOR STORAGE OF MATERIALS

16.36.010 Intent.

This Chapter is intended to protect the health, safety and welfare of the citizens of the City of Loveland by ensuring that the aesthetics of the City are maintained at a reasonable level.

16.36.020 Improper outdoor storage of materials.

A. The improper outdoor storage of materials in violation of this section is hereby declared to be a nuisance and a menace to the public welfare, and no owner or occupant of any residential premises in the City shall cause or permit such condition to exist. This declaration of nuisance, and the prohibitions contained in this Section shall apply only to locations that are visible from a public street, sidewalk, alley or from abutting properties, and shall apply whether or not the materials are sheltered or covered or within a carport or other partially enclosed structure. The storage of materials within a garage or other fully enclosed structure shall not be considered outdoor storage for the purposes of this provision.

B. No owner of any residential premises shall permit the outdoor storage on such premises of materials not customarily stored outdoors in residential neighborhoods, such as, but not limited to, construction materials, tires, household appliances, and indoor furniture. Notwithstanding the foregoing, construction materials may be stored outdoors on residential premises for a period not to exceed six months, or for such longer period of time as may have been approved by the City Manager or his or her designee, if such materials are being used in the construction of a structure for which a building permit has been issued by the City.

C. In addition to the prohibition contained in subsection B. above, no owner of any residential premises shall otherwise permit the improper outdoor storage of materials on such premises by storing such materials in violation of this subsection. The presence of at least three of the following factors shall constitute the improper outdoor storage of materials under this Subsection:

1. The materials have been stored for an unreasonable period of time, taking into consideration the nature of the materials;

2. The materials are in disarray and are not kept in a neat and organized manner;
3. The materials are in a dilapidated condition or in disrepair;
4. The volume, arrangement or type of materials creates a safety hazard for the property on which they are located or for the neighborhood;
5. The volume of materials is not compatible with the size and configuration of the lot where they are stored, such as, by way of example but not of limitation, the stacking, piling or other arrangement of materials at a height exceeding a fence or other screening of such materials;
6. The overall appearance of the materials and the manner in which they are stored is not compatible with the character and appearance of neighboring properties.

Chapter 16.40

CHRONIC NUISANCE PROPERTIES

16.40.010 Chronic nuisance properties.

- A. Violation. Any owner of property within the City which is determined by the City to be a chronic nuisance property is in violation of this Title and subject to its remedies.
- B. Determination of chronic nuisance property. An enforcement officer may determine that a property is a chronic nuisance property as defined in this Title. In making this determination, the enforcement officer shall review official documentation such as reports, witness statements, Notices and Orders to Abate, and case files to determine if there are sufficient facts and circumstances to support a determination that the property is a chronic nuisance property.
- C. Notice.
 1. After making a determination that a property is a chronic nuisance property, the enforcement officer will notify the owner of such property in writing that the property is being declared a chronic nuisance property.
 2. The notice shall include the following:
 - i. The street address or a legal description sufficient for identification of the property;
 - ii. A concise description of the nuisance activities that exist or that have occurred on the property and whether the property is abandoned;
 - iii. A statement that the owner of the property may be subject to penalties as set forth in this chapter;
 - iv. A demand that the owner of such property respond to the enforcement officer within ten calendar days of service of the notice to create a plan for abatement; and
 - v. A statement explaining that if the owner of the property does not respond to the enforcement officer, or if the matter is not voluntarily corrected to

the satisfaction of the enforcement officer, the City may file an action to abate the property as a chronic nuisance property pursuant to this chapter and/or take other action against the property or owner, including the issuance of a summons and complaint into the Loveland Municipal Court.

3. The notice shall be served by mailing a copy of the notice to the owner and person in charge at his/her last known address, certified mail, return receipt requested and by either:
 - i. Personal service on the owner and person in charge, or
 - ii. By posting a copy of the notice conspicuously upon the property.

D. Abatement plan.

1. An owner and person in charge who receives notice pursuant to this section must, within ten calendar days, contact the enforcement officer to establish a plan of action in the form of an abatement plan under the terms of which the owner will eliminate the conditions, behaviors or activities which constitute nuisance activities.
2. An abatement plan shall be signed by the owner and shall include the following:
 - i. The name and address of the owner of the property;
 - ii. The street address or a legal description sufficient for identification of the property;
 - iii. A description of the nuisance activities to be abated and whether the property is abandoned;
 - iv. The necessary corrective action to be taken, and a date and time by which the corrective action must be completed;
 - v. An agreement by the owner that, at reasonable times and upon reasonable notice, the enforcement officer may inspect the property as necessary to determine compliance with the abatement plan;
 - vi. An agreement by the owner that the City may abate the nuisance and recover its costs and expenses and penalties imposed pursuant to this chapter from the owner if the terms of the abatement plan are not met; and
 - vii. An acknowledgement by the owner that, if the owner does not comply with the abatement plan, that the City may immediately, as authorized by this Title, issue the owner a summons and complaint into the Loveland Municipal Court for violation of this Title.

E. Enforcement. Nothing in this Title shall be construed as limiting or forbidding the City or any other person from pursuing any other remedies available at law or in equity.

F. Appeals. Any owner who disputes the City's declaration of property as a chronic nuisance property may appeal such declaration as set forth in Section 1.32 of the Code.

Chapter 16.44

ENFORCEMENT

16.44.010 Notice and order to abate.

A. If any person fails to comply with any section of this Title, Title 15 or Title 18, a written Notice and Order to Abate may be served upon the owner, agent or occupant in charge of such property or upon the person who caused the nuisance as set forth in the Code. Such Notice and Order to Abate may specify the extent of the abatement required as reasonably necessary to protect public health or safety and shall be served by personal service, by regular mail, or by posting on the property with a copy mailed to the owner of the property if the property is not occupied by the owner, stating the requirements for abatement to be completed within the timeframe specified in section 16.44.020 after mailing, posting, or delivery of such Notice and Order to Abate.

B. An owner, agent or occupant shall be deemed to have received a Notice and Order to Abate if the Notice and Order to Abate is personally served upon the owner, agent or occupant, posted on the owner's, agent's or occupant's premises, or placed in the U.S. mail, postage prepaid and addressed to the owner, agent or occupant of the real or tangible personal property according to the address of the offense if real property or to the last address given by the owner to the Larimer County Assessor's Office.

16.44.020 Notice Schedule.

The following deadlines shall apply to the issuance of a Notice and Order to Abate. In the event that the Notice and Order to Abate contains multiple violations with varying deadlines, the least restrictive shall apply to all violations listed in the Notice and Order to Abate, except that if one of the violations is a health hazard, such health hazard shall be removed within twenty-four hours as set forth below.

- A. Accumulations of Waste Material:
 - 1. Health Hazard: 24 hours
 - 2. All other designations: 72 hours
- B. Unsanitary Conditions: 24 hours
- C. Refuse and Rubbish: 10 days
- D. Weed Control: 10 days
- E. Removal and Disposal of Abandoned Property Other Than Motor Vehicles: 15 days
- F. Graffiti: 15 days
- G. Unlawful vehicles: 15 days
- H. Trees: 30 days
- I. Shrubs: 15 days
- J. Other Nuisances: 15 days

16.44.030 Complaint of nuisance.

- A. An enforcement officer may issue a Notice and Order to Abate after receiving a complaint and/or witnessing the violation personally using the following process:
- 1. The complainant must identify the location, concern and duration of the offense.
 - 2. A record or incident report shall be kept of any such complaint and investigation.
 - 3. The Notice and Order to Abate shall state that a complaint has been received and/or violation has been observed, recite the date of the alleged violation, and conclude that the owner, agent or occupant has violated a section of this Title or Titles 15 or 18. The Notice and Order to Abate shall advise the owner, agent or occupant of the possible penalties for a violation of the Code. The Notice and Order to Abate shall be identified as being issued by any police or enforcement

officer empowered by the City to enforce the provisions of this Title or Titles 15 or 18.

B. If provided, the identity of a complainant shall be kept confidential until a violation of this Title, Title 15 or Title 18 is charged into the Loveland Municipal Court by issuance of a summons and complaint. If a violation of this Title, Title 15 or Title 18 is to be charged into the Loveland Municipal Court, the enforcement officer may require the complainant to sign an affidavit attesting to the violation or verify in writing the allegations of a complaint prior to its service upon the owner, agent or occupant.

16.44.040 Violations and Penalties.

A. An enforcement officer may issue a summons and complaint into the Loveland Municipal Court pursuant to Rule 204 of the Colorado Municipal Court Rules to any person who fails to comply with a Notice and Order to Abate within the specified timeframe in section 16.44.020.

B. A violation of the requirements of this Title, Title 15 or Title 18 shall be punishable as provided by Chapter 1.12 of the Loveland Municipal Code.

16.44.050 City removal and assessment.

A. If a Notice and Order to Abate is served under this Title, Title 15 or Title 18, and if the nuisance has not been abated within the stated timeframe, the City Manager may cause a Notice and Order of Abatement to be served upon the owner or agent in charge of such property, either by personal service, by posting on the property or by regular first class mail, which Notice and Order of Abatement shall allow the City to enter upon the property or premises or in the adjoining streets and alleys and abate the nuisance and assess the whole cost thereof, including ten percent for inspection and other incidental costs in connection therewith, upon the land.

B. The costs and any charges assessed by the City under this Chapter associated with abatement of any nuisance shall be paid by the owner of the property or agent for such owner within thirty days after mailing of the bill or assessment of such cost by the City to the said owner or agent.

C. If the owner or agent fails to pay the charges associated with abatement within the described thirty day period, a notice of the assessment shall be mailed via certified mail by the City to the owner of the property, notifying the owner that failure to pay the assessed amount within ten days of the date of the letter shall cause the assessment to become a lien against the property.

D. Failure to pay the amount assessed for abatement services including inspection and incidental costs within the ten day period specified in the notice of assessment shall cause the owner of the property to be subject to the lien and collection provisions of Chapter 3.50 of this Code.

16.44.060 Administrative Review of Assessment.

Any owner who disputes the amount of an assessment made against such owner's property under this Title, Title 15 or Title 18, may, within twenty days of receipt of notice of such assessment, petition the City Manager for a revision or modification of such assessment in accordance with Chapter 1.32 of this Code.

Section 15. That nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, liability incurred, or cause of action acquired or existing under any ordinance hereby repealed, nor shall any legal right or remedy of any character be impaired by this Ordinance.

Section 16. That if any title, chapter, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid or unconstitutional.

Section 17. That the City Council hereby finds, determines, and declares that this ordinance is necessary for the preservation of the public health, safety and welfare.

Section 18. That copies of this Ordinance shall be kept on file with the Loveland City Clerk and are open to public inspection.

Section 19. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

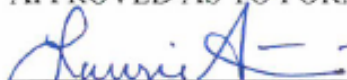
ADOPTED this ____ day of _____, 2020.

Jacki Marsh, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney