

**CURRENT PLANNING DIVISION**

410 E. 5th Street | Loveland, CO 80537 | 970-962-2523
 eplan-planning@cityofloveland.org | cityofloveland.org/DC

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

Attachment 3

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

Attachment 3

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 templates Provide 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.

Attachment 3

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.
