

**ARTICLE 1  
GENERAL PROVISIONS**

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## **DIVISION 1.1 ORGANIZATION OF LAND USE CODE**

The City of Fort Collins Land Use Code is organized into five (5) Articles as follows:

Article 1	General Provisions
Article 2	Administration
Article 3	General Development Standards
Article 4	District Standards
Article 5	Definitions

The General Provisions contained in Article 1 address the organization of this Land Use Code; its title, purpose and authority; the establishment of the Zoning Map and Zone Districts; rules for interpretation and measurements; rules for nonconformities and legal matters.

Article 2, Administration, guides the reader through the procedural and decision-making process by providing divisions pertaining to general procedural requirements and a twelve-step common development review process, as well as providing a separate division for each type of development application and other land use requests.

The General Development Standards contained in Article 3 establish standards which apply to all types of development applications unless otherwise indicated. This article is divided into divisions addressing standards for site planning and design, engineering, environmental and cultural resource protection, compact urban growth, buildings, transportation and circulation, and supplemental uses.

All zone districts within the City of Fort Collins and their respective list of permitted uses, prohibited uses and particular development standards are located in Article 4, District Standards. These zone districts directly relate to the Zoning Map and Zone Districts established in Article 1.

Definitions of terms used throughout this Land Use Code are included in Article 5.

This method of organization, which distinguishes and separates general provisions, administration, general development standards, district standards and definitions, is intended to provide a user-friendly and easily accessible Land Use Code by consolidating most city regulations addressing land use and development, standardizing the regulatory format, providing common development review procedures, separating and clarifying standards and separating and clarifying definitions.

When this Land Use Code is amended, any amendments to procedural provisions will be made in Article 2, Administration. Amendments to general development standards will occur in Article 3, General Development Standards. Amendments to District

Standards (Zone Districts) will be made in Article 4. And Article 5 will be the place to change or add definitions.

For an overview on how to use this Land Use Code when applying for a development application or other request, reference should be made to Section 2.1.2, Overview of the Development Review Process.

This symbol:

***Examples & Explanations***

appears under selected subsections of the Land Use Code. It refers to a nonregulatory manual explaining the Land Use Code's approach to development using example pictures and diagrams. The manual, called the *Fort Collins Design Manual*, is available separately.

(Ord. No. 183, 2000 §1, 12/19/00)

**DIVISION 1.2 TITLE, PURPOSE AND AUTHORITY**

**Sections:**

- 1.2.1 Title
- 1.2.2 Purpose
- 1.2.3 Authority
- 1.2.4 Applicability
- 1.2.5 Minimum Standards

**1.2.1 Title**

The provisions contained herein shall be known, cited and referred to as the "City of Fort Collins Land Use Code," or the "Land Use Code."

**1.2.2 Purpose**

The purpose of this Land Use Code is to improve and protect the public health, safety and welfare by:

- (A) ensuring that all growth and development which occurs is consistent with this Land Use Code, City Plan and its adopted components, including but not limited to the Structure Plan, Principles and Policies and associated sub-area plans.
- (B) encouraging innovations in land development and renewal.

- (C) fostering the safe, efficient and economic use of the land, the city's transportation infrastructure, and other public facilities and services.
- (D) facilitating and ensuring the provision of adequate public facilities and services such as transportation (streets, bicycle routes, sidewalks and mass transit), water, wastewater, storm drainage, fire and emergency services, police, electricity, open space, recreation, and public parks.
- (E) avoiding the inappropriate development of lands and providing for adequate drainage and reduction of flood damage.
- (F) encouraging patterns of land use which decrease trip length of automobile travel and encourage trip consolidation.
- (G) increasing public access to mass transit, sidewalks, trails, bicycle routes and other alternative modes of transportation.
- (H) reducing energy consumption and demand.
- (I) minimizing the adverse environmental impacts of development.
- (J) improving the design, quality and character of new development.
- (K) fostering a more rational pattern of relationship among residential, business and industrial uses for the mutual benefit of all.
- (L) encouraging the development of vacant properties within established areas.
- (M) ensuring that development proposals are sensitive to the character of existing neighborhoods.
- (N) ensuring that development proposals are sensitive to natural areas and features.

### **1.2.3 Authority**

The City Council of the City of Fort Collins has the authority to adopt this Land Use Code pursuant to Article XX of the Colorado Constitution; Title 31, Article 2 of the Colorado Revised Statutes, the Charter of the City of Fort Collins, Colorado, and such other authorities and provisions as are established in the statutory and common law of the State of Colorado.

### **1.2.4 Applicability**

The provisions of this Land Use Code shall apply to any and all development of land within the municipal boundaries of the city, unless expressly and specifically exempted or provided otherwise in this Land Use Code. No development shall be

undertaken without prior and proper approval or authorization pursuant to the terms of this Land Use Code. All development shall comply with the applicable terms, conditions, requirements, standards and procedures established in this Land Use Code.

Except as hereinafter provided, no building, structure or land shall be used and no building or structure or part thereof shall be erected, constructed, reconstructed, altered, repaired, moved or structurally altered except in conformance with the regulations herein specified for the district in which it is located, nor shall a yard, lot or open space be reduced in dimensions or area to an amount less than the minimum requirements set forth herein or to an amount greater than the maximum requirements set forth herein.

This Land Use Code establishes procedural and substantive rules for obtaining the necessary approval to develop land and construct buildings and structures. Development applications for overall development plans, project development plans, and final plans will be reviewed for compliance with the applicable General Development Standards and District Standards. Building permit applications will also be reviewed for compliance with the applicable General Development Standards and District Standards, and will be further reviewed for compliance with the approved final plan in which they are located.

This Land Use Code shall also apply to the use of land following development to the extent that the provisions of this Land Use Code can be reasonably and logically interpreted as having such ongoing application.

(Ord. No. 59, 2000 §1, 6/6/00)

### **1.2.5 Minimum Standards**

The provisions of this Land Use Code are the minimum standards necessary to accomplish the purposes of this Land Use Code.

## **DIVISION 1.3 ZONING MAP AND ZONE DISTRICTS**

### **Sections:**

- 1.3.1 Establishment of Zone Districts
- 1.3.2 Establishment of Zoning Map
- 1.3.3 Establishment of Zone District and Development Standards
- 1.3.4 Addition of Permitted Uses

### **1.3.1 Establishment of Zone Districts**

In order to carry out the purposes of this Land Use Code, the city is hereby divided into the following zone districts:

- Rural Lands District (R-U-L)
- Urban Estate District (U-E)
- Residential Foothills District (R-F)
- Low Density Residential District (R-L)
- Low Density Mixed-Use Neighborhood District (L-M-N)
- Medium Density Mixed-Use Neighborhood District (M-M-N)
- Neighborhood Conservation, Low Density District (N-C-L)
- Neighborhood Conservation, Medium Density District (N-C-M)
- Neighborhood Conservation, Buffer District (N-C-B)
- High Density Mixed-Use Neighborhood District (H-M-N)
- Transition District (T)
- Public Open Lands District (P-O-L)
- River Conservation District (R-C-D)
- Downtown District (D)
- River Downtown Redevelopment District (R-D-R)
- Community Commercial District (C-C)
- Service Commercial District (C-S)
- Community Commercial - Poudre River District (C-C-R)
- Commercial District (C)
- Commercial - North College District (C-N)
- Neighborhood Commercial District (N-C)
- Limited Commercial District (C-L)
- Harmony Corridor District (H-C)
- Employment District (E)
- Industrial District (I)

(Ord. No. 89, 1999 §1, 6/1/99; Ord. 131, 2006, 9/19/06; Ord. No. 028, 2009 §2, 3/24/09)

### **1.3.2 Establishment of Zoning Map**

The boundaries of the zone districts are hereby established as shown on a map entitled "Zoning Map of the City of Fort Collins, Colorado," dated March 28, 1997, as amended, which map is hereby made a part of this Land Use Code by reference. Where uncertainty exists regarding the boundary of a zone district on the Zoning Map, reference should be made to Division 1.4, Interpretations.

### **1.3.3 Establishment of Zone District and Development Standards**

The General Development Standards contained in Article 3 include standards which are applicable to all development unless expressly and specifically exempted or

provided otherwise in this Land Use Code. The District Standards contained in Article 4 are standards which apply to development located within a specified zone district. The District Standards are organized on a zone district by zone district basis, and specify the purpose of each applicable zone district, the permitted uses allowed in each zone district, and other standards and criteria which apply in each zone district. The General Development Standards contained in Article 3 and the District Standards contained in Article 4 are hereby established and are declared to be minimum standards.

#### **1.3.4 Addition of Permitted Uses**

- (A) ***Required Findings.*** In conjunction with an application for approval of an overall development plan, a project development plan, a final plan or any amendment of the foregoing, and upon the petition of the applicant or on the Director's own initiative, the Director (or the Planning and Zoning Board as specifically authorized in subparagraphs (5) and (6) below) may add to the uses specified in a particular zone district any other similar use which conforms to all of the following conditions:
- (1) Such use is appropriate in the zone district to which it is added;
  - (2) Such use conforms to the basic characteristics of the zone district and the other permitted uses in the zone district to which it is added;
  - (3) Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences or any more traffic hazards, traffic generation or attraction, adverse environmental impacts, adverse impacts on public or quasi-public facilities, utilities or services, adverse effect on public health, safety, morals or aesthetics, or other adverse impacts of development, than the amount normally resulting from the other permitted uses listed in the zone district to which it is added;
  - (4) Such use is compatible with the other listed permitted uses in the zone district to which it is added;
  - (5) Such use is not specifically listed by name as a prohibited use in the zone district to which it is added, or if such use is prohibited, the proposed use is specific to the proposed site, is not considered for a text amendment under paragraph (B) below, and is specifically found by the Planning and Zoning Board to not be detrimental to the public good and to be in compliance with the requirements and criteria contained in Section 3.5.1;
  - (6) Such use is not specifically listed as a "Permitted Use" in Article 4 and the proposed use is specific to the proposed site, is not considered for a text amendment under paragraph (B) below, and is specifically found by

the Planning and Zoning Board to not be detrimental to the public good and to be in compliance with the requirements and criteria contained in Section 3.5.1. (See Section 2.9 for the procedures for text amendments.)

- (B) ***Codification of New Use.*** When any use has been added by the Director to the list of permitted uses in any zone district in accordance with this Section, such use shall be promptly considered for an amendment to the text of this Land Use Code under Division 2.9. If the text amendment is approved, such use shall be deemed to be permanently listed in the appropriate permitted use list of the appropriate zone district and shall be added to the published text of this Land Use Code at the first convenient opportunity, by ordinance of City Council pursuant to Division 2.9. If the text amendment is not approved, such use shall not be deemed permanently listed in the zone district, except that such use shall continue to be deemed a permitted use in such zone district for only the development proposal for which it was originally approved under (A) above.
- (C) ***Conditions.*** When any use has been added to the list of permitted uses in any zone district in accordance with this Section, the Director (or the Planning and Zoning Board, if applicable) may impose such conditions and requirements on such use as are necessary or desirable to accomplish the purposes and intent of this Land Use Code, to ensure consistency with City Plan and its adopted components and associated sub-area plans, to prevent or minimize adverse effects and impacts upon the public and neighborhoods, and to ensure compatibility of uses.

(Ord. No. 90, 1998, 5/19/98; Ord. No. 177, 1998 §4, 10/20/98; Ord. No. 59, 2000 §2, 6/6/00; Ord. No. 073, 2008 §1, 7/1/08; Ord. No. 006, 2009 §1, 7/7/09)

#### **DIVISION 1.4 INTERPRETATIONS**

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##### **Sections:**

- 1.4.1 Authority
- 1.4.2 Initiation
- 1.4.3 Procedures
- 1.4.4 Rules for Interpretation of Boundaries
- 1.4.5 Cases Not Covered by Section 1.4.4
- 1.4.6 Division of a Lot of Record by a Boundary
- 1.4.7 Nonregulated Land Transfers
- 1.4.8 Continuity of Zoning
- 1.4.9 Rules of Construction for Text
- 1.4.10 Rules for Measuring Distances

### 1.4.1 Authority

The Director shall have the authority to make all interpretations of the text of this Land Use Code and the boundaries of zone districts on the Zoning Map.

### 1.4.2 Initiation

An interpretation may be requested by any person.

### 1.4.3 Procedures

- (A) ***Submission of Request for Interpretation.*** Before an interpretation may be provided by the Director, a Request for Interpretation must be submitted to the Director in a form established by him or her.
- (B) ***Determination of Sufficiency.*** After receipt of a Request for Interpretation, the Director shall determine whether the request is complete, specific, clear and ready for review. If the Director determines that the request is not complete, he or she shall serve a written notice on the applicant specifying the deficiencies. The Director shall take no further action on the Request for Interpretation until the deficiencies are remedied.
- (C) ***Rendering of Interpretation.*** After the Request for Interpretation has been determined to be sufficient, the Director shall review and evaluate the request in light of the terms and provisions of this Land Use Code and/or the Zoning Map, whichever is applicable, and render an interpretation. The Director may consult with the City Attorney and other City departments before rendering an interpretation.
- (D) ***Form.*** The interpretation shall be in writing and shall be delivered to the applicant. Interpretations that are not in writing shall have no force or effect. Interpretations shall have no precedential value and shall be limited in their application to the property, if any, identified in the interpretation.
- (E) ***Official Record.*** The Director shall maintain an official record of all interpretations in the Community Planning and Environmental Services Department. Such official record shall be available for public inspection during normal business hours.
- (F) ***Appeal.*** Appeals of any interpretation under this Section shall be made only in accordance with Division 2.11.

(Ord. No. 90, 1998, 5/19/98; Ord. No. 177, 1998 §4, 10/20/98)

#### 1.4.4 Rules for Interpretation of Boundaries

Interpretations regarding boundaries of zone districts on the Zoning Map shall be made in accordance with the provisions of this section.

- (A) ***District Regulations Extend to all Portions of Districts Surrounded by Boundaries.*** Except as otherwise specifically provided, a district symbol or name shown within district boundaries on the Zoning Map indicates that district standards and other district regulations pertaining to the district extend throughout the whole area surrounded by the boundary line.
- (B) ***Boundaries.*** Where uncertainty exists as to the boundaries of zone districts as shown on the Zoning Map, the following rules shall apply:
  - (1) Boundaries indicated as approximately following the centerlines of dedicated streets, highways, alleys or rights-of-way shall be construed as following such centerlines as they exist on the ground, except where such interpretation would change the zoning status of a lot or parcel, in which case the boundary shall be interpreted in such a manner as to avoid changing the zoning status of any lot or parcel. In case of a street vacation, the boundary shall be construed as remaining in its location except where ownership of the vacated street is divided other than at the center, in which case the boundary shall be construed as moving with the ownership.
  - (2) Boundaries indicated as approximately following lot lines, public property lines and the like shall be construed as following such lines; provided, however, that where such boundaries are abutting a dedicated street, alley, highway or right-of-way and the zoning status of the street, highway, alley or right-of-way is not indicated, the boundaries shall be construed as running to the middle of the street, highway, alley or right-of-way. In the event of street vacation, interpretation shall be as provided in (1) above.
  - (3) Boundaries indicated as approximately following city limits shall be construed as following such city limits.
  - (4) Boundaries indicated as following the centerlines of streams, canals or other bodies of water shall be construed as following such centerlines. In case of a change of the course or extent of bodies of water, the boundaries shall be construed as moving with the change, except where such movement would change the zoning status of a lot or parcel; and in such case the boundary shall be interpreted in such a manner as to avoid changing the zoning status of any lot or parcel.

- (5) Boundaries indicated as entering any body of water but not continuing to intersect with other zoning boundaries or with the limits of jurisdiction of the city shall be construed as extending in the direction in which they enter the body of water to the point of intersection with other zoning boundaries or with the limits of city jurisdiction.
- (6) Boundaries indicated as following physical features other than those listed above shall be construed as following such physical features, except where such interpretation from mapped location would change the zoning status of a lot or parcel, in which case the boundary shall be interpreted in such manner as to avoid changing the zoning status of any lot or parcel.
- (7) Boundaries indicated as parallel to or extensions of features indicated in (1) through (6) above shall be construed as being parallel to or extensions of such features.
- (8) Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map on the page of the Zoning Map showing the property in question.

(Ord. No. 091, 2004 §1, 6/15/04)

#### **1.4.5 Cases Not Covered by Section 1.4.4**

In cases not covered by Section 1.4.4, or where the property or street layout existing on the ground is at variance with that shown on the Zoning Map, the interpretation of the Zoning Map shall be in accordance with the purpose and intent of this Land Use Code and the City Plan Principles and Policies.

#### **1.4.6 Division of a Lot of Record by a Boundary**

Where a district boundary divides a lot of record at the time the boundary was established, and where the division makes impractical the reasonable use of the lot, the boundary may be adjusted by the Director in either direction not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

#### **1.4.7 Nonregulated Land Transfers**

- (A) Abutting portions of lots may be transferred to adjoining property owners without being subject to subdivision requirements; provided, however, that no such transfer shall imply or confer any right to develop, or create a new lot, create a nonconformity of any nature whatsoever, or circumvent the intent or requirements of this Land Use Code. (This type of transfer is commonly known as a "lot line adjustment" even though the legal lot lines are not changed and cannot be changed except through replatting.)

- (B) Notwithstanding any provision of Colorado law to the contrary, any parcel of land, whether larger or smaller than thirty-five (35) acres, may be conveyed by metes and bounds description or by other usual and customary method of land description, without being subject to subdivision requirements; provided, however, that no such conveyance shall imply or confer any right to develop, or create a new lot upon which development can occur unless such development has, prior to the conveyance, been approved in accordance with this Land Use Code or prior law and provided further that such conveyance shall not be made if it creates nonconformities of any nature whatsoever, or circumvents the intent or requirements of this Land Use Code.

(Ord. No. 165, 1999 §1, 11/16/99; Ord. No. 204, 2001 §2, 12/18/01)

#### **1.4.8 Continuity of Zoning**

In the event any unincorporated property within the County shall hereafter become incorporated into the City, to ensure that there shall be no lapse of zoning, then, if the property is not zoned otherwise by the City, it shall be automatically zoned into the T-Transition zone district.

#### **1.4.9 Rules of Construction for Text**

In construing the language of this Land Use Code, the rules set forth in Section 1-2 of the City Code and this Section shall be observed unless such construction would be inconsistent with the manifest intent of the Council as expressed in this Land Use Code or in City Plan Principles and Policies. The rules of construction and definitions set forth herein shall not be applied to any express provisions excluding such construction, or where the subject matter or context of such section is repugnant thereto. In the event of a conflict between these rules of construction and the rules of construction established in Section 1-2 of the City Code, these rules shall control.

- (A) **Generally.** All provisions, terms, phrases and expressions contained in the Land Use Code shall be so construed in order that the intent and meaning of the Council may be fully carried out. Terms used in the Land Use Code, unless otherwise specifically provided, shall have the meanings prescribed by the statutes of this state for the same terms.

In the interpretation and application of any provision of the Land Use Code, such provision shall be held to be the minimum requirement adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Land Use Code imposes greater restrictions upon the subject matter than another provision of the Land Use Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling. In other words, the more stringent controls over the less stringent.

The definitions are intended to be generally construed within the context of the Land Use Code, except as shall be specified by the term itself within a given context for a select section of the Land Use Code.

- (B) **Text.** In case of any difference of meaning or implication between the text of the Land Use Code and any figure or diagram, the text shall control.
- (C) **Conjunctive/Disjunctive.** Unless the context clearly indicates the contrary, the following words shall be interpreted as follows:
  - (1) "And" indicates that all connected words or provisions apply.
  - (2) "Or" or "and/or" indicates that the connected words or provisions may apply singly or in any combination.
  - (3) "Either...or" indicates that the connected words or provisions apply singly but not in combination.
- (D) **Day.** The word "day" shall mean a calendar day.
- (E) **Delegation of Authority.** Whenever a provision appears requiring the Director or some other City officer or employee to do some act or perform some duty, such provision shall be construed as authorizing the Director or other officer or employee to designate, delegate and authorize professional-level subordinates to perform the required act or duty unless the terms of the provision specify otherwise. With respect to the review of development applications eligible for Type 1 review, in addition to or in substitution for delegation to subordinates as above authorized, the Director may engage the services of an attorney with experience in land use matters.
- (F) **Exhibits.** Any exhibit to this Land Use Code which is taken from another regulation of the City shall be automatically amended upon the making of any amendment to the document of origin, and the Director shall promptly replace such exhibit with the new amended exhibit.
- (G) **Include.** The word "including," "includes," "such as," "additional" or "supplemental" is illustrative and is not intended as an exhaustive listing, unless the context clearly indicates the contrary.
- (H) **Headings.** Article, division, section and subsection headings contained in the Land Use Code are for convenience only and do not govern, limit, modify or in any manner affect the scope, meaning or intent of any portion of the Land Use Code.

- (I) **Shall, May, Should.** The word "shall," "will" or "must" is mandatory; "may" is permissive, "should" is suggestive but not mandatory.
- (J) **Week.** The word "week" shall be construed to mean seven (7) calendar days.
- (K) **Written or In Writing.** The term "written" or "in writing" shall be construed to include any representation of words, letters or figures whether by printing or other form or method of writing.
- (L) **Year.** The word "year" shall mean a calendar year, unless a fiscal year is indicated or three hundred sixty-five (365) calendar days is indicated.

(Ord. No. 081, 2007 §1, 7/17/07)

#### **1.4.10 Rules for Measuring Distances**

When a distance is required between uses as set forth in Article 3 or 4, the distance shall be measured in a straight line from the closest point on the boundary line of one (1) property to the closest point on the boundary line of the other property.

(Ord. No. 107, 2001 §1, 6/19/01)

### **DIVISION 1.5 NONCONFORMING USES AND STRUCTURES**

#### **Sections:**

- 1.5.1 Continuation of Use
- 1.5.2 Change of Use
- 1.5.3 Abandonment of Use
- 1.5.4 Reconstruction
- 1.5.5 Enlargement of Building and Expansion of Facilities, Equipment or Structures
- 1.5.6 Alteration or Repair of Building

#### **1.5.1 Continuation of Use**

A nonconforming use may be continued and a nonconforming building or structure may continue to be occupied or used, except as otherwise provided in this Division.

#### **1.5.2 Change of Use**

A nonconforming use may only be changed to a conforming use.

### **1.5.3 Abandonment of Use**

If active operations are not carried on in a nonconforming use during a period of twelve (12) consecutive months, the building, other structure or tract of land where such nonconforming use previously existed shall thereafter be occupied and used only for a conforming use. Intent to resume active operations shall not affect the foregoing. A nonconforming home occupation business activity shall be considered to be abandoned if the occupants of the dwelling who were conducting such nonconforming home occupation business discontinue either their occupancy of the dwelling or the nonconforming home occupation.

(Ord. No. 228, 1998 §1, 12/15/98)

### **1.5.4 Reconstruction**

A nonconforming building or structure or a building or structure containing a nonconforming use which has been taken by governmental acquisition or damaged by fire or other accidental cause or natural catastrophe, may be reconstructed, provided such work is started within six (6) months of the date of occurrence of such damage and completed within one (1) year of the time the reconstruction is commenced, and provided that, to the extent reasonably feasible, such restoration complies with the standards contained in Articles 3 and 4.

(Ord. No. 90, 1998, 5/19/98; Ord. No. 165, 1999 §2, 11/16/99)

### **1.5.5 Enlargement of Building and Expansion of Facilities, Equipment or Structures**

(A) A proposal for the enlargement or expansion of a building containing a nonconforming use, a proposal for an expansion of existing facilities and equipment which are located on the lot and associated with the nonconforming use (such as expanding the number of fuel pumps at a gas station), and a proposal for adding facilities or structures to the lot which are associated with the nonconforming use, (such as a new canopy over a fuel pump island), shall require the approval of the Planning and Zoning Board. In considering such proposals, the Planning and Zoning Board shall make a finding as to whether or not the enlargement, expansion, or addition would adversely affect the surrounding properties. In making such determination, the Board and the applicant shall be governed by the following limitations:

- (1) The nonconforming use shall not be changed (except to a conforming use) as a result of enlargement, expansion or construction.
- (2) The enlargement, expansion or construction shall not result in the conversion of the nonconforming use of a seasonal to a year-round operation.

- (3) The nonconforming use shall not be expanded beyond the limits of the parcel of property upon which such use existed at the time it became nonconforming.
  - (4) Additional traffic generated by an enlargement, expansion or construction must be incorporated into the neighborhood and community transportation network without creating safety problems, or causing or increasing level of service standard deficiencies.
  - (5) The noise and vibration levels that may be generated by the nonconforming use shall not be increased beyond the levels that existed prior to the enlargement, expansion or construction that is under consideration.
  - (6) The outdoor storage areas shall not be expanded or located any closer to an adjoining residential development as a result of the enlargement, expansion or construction.
  - (7) The proposed enlargement, expansion or construction shall not add more than twenty-five (25) percent of new floor area to existing buildings on the site.
  - (8) The enlargement, expansion or construction shall not exceed the building height requirements of the zone district in which the property is located.
  - (9) The enlargement, expansion or construction shall not further encroach upon any nonconforming setback.
  - (10) The enlargement, expansion or construction shall not increase or amplify any inconsistency with the parking standards contained within this Land Use Code.
  - (11) The enlargement, expansion or construction shall not hinder the future development of surrounding properties in accordance with the Land Use Code.
  - (12) The enlargement, expansion or construction shall not present a threat to the health, safety or welfare of the city or its residents.
- (B) Where a building, facility, equipment or structure is enlarged, expanded or added pursuant to Section 1.5.5(A), the parcel of ground upon which the building, facility, equipment or structure is located shall be brought into compliance with the applicable general development standards contained in Article 3 and the applicable district standards contained in Article 4 of this Land Use Code. Any new structure that is added to said parcel of ground shall

also comply with the applicable general development standards and district standards referenced above.

- (C) The hours of operation of a nonconforming use may not be extended into the hours between 10:00 p.m. and 7:00 a.m.

(Ord. No. 177, 2002 §§1, 2, 12/17/02)

### **1.5.6 Alteration or Repair of Building**

A nonconforming building may be structurally altered or repaired in any way permitted by the Land Use Code. Any building or other structure containing a nonconforming use or any nonconforming building or portion declared unsafe by the Building Permits and Inspections Administrator may be strengthened or restored to a safe condition.

## **DIVISION 1.6 EXISTING LIMITED PERMITTED USES**

### **Sections:**

- 1.6.1 Purpose and Applicability
- 1.6.2 Continuation of Use
- 1.6.3 Change of Use
- 1.6.4 Reconstruction
- 1.6.5 Enlargement of Building and Expansion of Facilities, Equipment or Structures
- 1.6.6 Alteration or Repair of Building
- 1.6.7 Abandonment of Use

### **1.6.1 Purpose and Applicability**

The provisions contained in this Division shall apply to any use which was permitted for a specific parcel of property pursuant to the zone district regulations in effect for such parcel on March 27, 1997, which is not specifically listed as a permitted use under the zone district regulations of the zone district of this Land Use Code in which the parcel of property is located, and which physically existed upon such parcel on March 27, 1997. Such uses are permitted in the various zone districts established in Division 4 under the limitation that such uses shall constitute permitted uses only on such parcels of property. Accordingly, hereafter, such uses shall be referred to as "existing limited permitted uses."

### **1.6.2 Continuation of Use**

An existing limited permitted use may be continued except as otherwise provided in this Division.

### **1.6.3 Change of Use**

An existing limited permitted use may only be changed to a permitted use and when so changed, the prior existing limited permitted use shall be deemed to have been abandoned, and such use may not thereafter be reinstated.

### **1.6.4 Reconstruction**

A building or structure containing an existing limited permitted use which has been taken by governmental acquisition or damaged by fire or other accidental cause or natural catastrophe may be reconstructed, provided that, to the extent reasonably feasible, such reconstruction complies with the standards contained in Articles 3 and 4.

(Ord. No. 90, 1998, 5/19/98; Ord. No. 165, 1999 §3, 11/16/99)

### **1.6.5 Enlargement of Building and Expansion of Facilities, Equipment or Structures**

(A) Any proposal for the enlargement or expansion of a building containing an existing limited permitted use, any proposal for an expansion of existing facilities and equipment which are located on the lot and associated with the limited existing permitted use (such as expanding the number of fuel pumps at a gas station), and any proposal for adding facilities or structures to the lot which are associated with the existing limited permitted use (such as a new canopy over a fuel pump island) shall be subject to basic development review in accordance with Division 2.7. In considering such proposals, the decision maker shall make a finding as to whether or not the enlargement, expansion or addition would adversely affect the surrounding properties. In making such determination, the decision maker and the applicant shall be governed by the following limitations:

- (1) Additional traffic generated by an enlargement, expansion or construction must be incorporated into the neighborhood and community transportation network without creating safety problems, or causing or increasing level of service standard deficiencies.
- (2) The noise and vibration levels that may be generated by the use shall not be increased beyond the levels that existed prior to the enlargement, expansion or construction that is under consideration.
- (3) The outdoor storage areas shall not be expanded or located any closer to an adjoining residential development as a result of the enlargement, expansion or construction.

- (4) The enlargement, expansion or construction shall not further encroach upon any nonconforming setback.
  - (5) The enlargement, expansion or construction shall not increase or amplify any inconsistency with the parking standards contained within this Land Use Code.
  - (6) The enlargement, expansion or construction shall not hinder the future development of surrounding properties in accordance with this Land Use Code.
  - (7) The enlargement, expansion or construction shall not present a threat to the health, safety or welfare of the city or its residents.
- (B) Where a building is proposed to be enlarged, expanded or added by more than twenty-five (25) percent of the gross floor area of such building as it existed on March 27, 1997, the building and the parcel of ground upon which the building is located shall be brought into compliance with the applicable general development standards contained in Article 3 and the applicable district standards contained in Article 4 of this Land Use Code, to the extent reasonably feasible. Any new structure that is added to said parcel of ground shall also comply with the applicable general development standards and district standards referenced above.

(Ord. No. 177, 1998 §4, 10/20/98; Ord. No. 204, 2001 §1, 12/18/01)

#### **1.6.6 Alteration or Repair of Building**

A building containing an existing limited permitted use may be structurally altered or repaired in any way permitted by the Land Use Code. Any building or other structure containing an existing limited permitted use or any such building or portion declared unsafe by the Building Permits and Inspections Administrator may be strengthened or restored to a safe condition.

#### **1.6.7 Abandonment of Use**

If active operations are not carried on in an existing limited permitted use during a period of twelve (12) consecutive months, the building, other structure or tract of land where such existing limited permitted use previously existed shall thereafter be occupied and used only for a permitted use. Intent to resume active operations shall not affect the foregoing.

(Ord. No. 228, 1998 §2, 12/15/98)

## **DIVISION 1.7 LEGAL**

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### **Sections:**

- 1.7.1 Relationship to Code of the City
- 1.7.2 Conflict with Other Laws
- 1.7.3 Severability

#### **1.7.1 Relationship to Code of the City**

This Land Use Code, although not a numbered Chapter of the Code of the City, is a part of the Code of the City with the same legal significance as though it were a numbered Chapter. This Land Use Code may be used, as applicable, to support the implementation of the Code of the City; and the Code of the City may be used, as applicable, to support the implementation of this Land Use Code. Particularly, but without limitation, the provisions of Chapter 1 of the Code of the City are incorporated into this Land Use Code by reference.

#### **1.7.2 Conflict with Other Laws**

Except as is provided in Section 3.1.2, if the provisions of this Land Use Code are internally conflicting or if they conflict with any other statute, code, local ordinance, resolution, regulation or other applicable Federal, State or local law, the more specific standard, limitation or requirement shall govern or prevail to the extent of the conflict. If neither standard is more specific, then the more stringent standard, limitation or requirement shall govern or prevail to the extent of the conflict.

(Ord. No. 90, 1998, 5/19/98)

#### **1.7.3 Severability**

It is the legislative intent of the City Council in adopting this Land Use Code that all provisions hereof shall be liberally construed to protect and preserve the peace, health, safety and general welfare of the inhabitants of the City. It is the further intent of the City Council that this Land Use Code shall stand, notwithstanding the invalidity of any part thereof, and that should any provision of this Land Use Code be held to be unconstitutional or invalid by a court or tribunal of competent jurisdiction, such holding shall not be construed as affecting the validity of any of the remaining provisions.