

ORDINANCE NO: 2158

INTRODUCED BY: DAVIS, DOUGLAS, ELLIOTT, FORD, FRANK, GUARDIOLA, HUSEMAN, MADERA, TETER

AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE LAND DEVELOPMENT CODE, INCLUDING REQUIREMENTS FOR FLOODPLAIN DEVELOPMENT PERMITS, MINOR MODIFICATIONS TO PUD ZONE DOCUMENTS, REVOCATION OF LAND USE APPROVALS, CHILD CARE FACILITIES, BULK STANDARDS FOR ACCESSORY USES AND STRUCTURES, DRIVEWAY WIDTHS, ELECTRIC VEHICLE PARKING SPACES, ADMINISTRATIVE VARIANCES, SCREENING REQUIREMENTS FOR MECHANICAL EQUIPMENT, DEVELOPMENT STANDARDS FOR SINGLE-FAMILY DWELLING GARAGES, UTILITY UNDERGROUNDING EXCEPTIONS, FENCING AND WALL STANDARDS, AND RELATED DEFINITIONS.

WHEREAS, the City Council of the City of Commerce City adopted the Land Development Code, effective March 1, 2009, by Ordinance 1720, which has been amended from time to time;

WHEREAS, the ongoing application and interpretation of the Land Development Code has identified areas where minor additional regulation and/or clarification are needed;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

SECTION 1. Section 21-3213(3) of the Land Development Code relating to the Approval Criteria for Floodplain Development Permits is amended by the addition of a new subparagraph (j) as set forth in Exhibit A.

SECTION 2. Section 21-3215(1) of the Land Development Code relating to deviations from City standards and PUD zone documents that are eligible for a minor modification approval is amended by the addition of a new subparagraph (f) as set forth in Exhibit A.

SECTION 3. Section 21-3410 of the Land Development Code relating to the revocation of an approved plat, plan, or permit is amended as set forth in Exhibit A.

SECTION 4. Section 21-5224 of the Land Development Code relating to standards applicable to Child Care Facilities is amended by the deletion of subsection (2) and renumbering of subsection (3) as set forth in Exhibit A.

SECTION 5. Section 21-5450 (Table V-4) of the Land Development Code relating to the Bulk Standards for Accessory Structures and Uses applicable to storage sheds is amended as set forth in Exhibit A.

SECTION 6. Section 21-7205(1) of the Land Development Code relating to the width of driveways is amended as set forth in Exhibit A.

SECTION 7. Section 21-7237(9) of the Land Development Code relating to the exclusion of Electric Vehicle (EV) Charging Stations from the maximum parking space requirement is amended as set forth in Exhibit A, attached and incorporated by reference.

SECTION 8. Section 21-7561 of the Land Development Code relating to the standards for administrative variances is amended as set forth in Exhibit A.

SECTION 9. Section 21-7602(2) of the Land Development Code relating to the screening of mechanical equipment is amended as set forth in Exhibit A.

SECTION 10. Section 21-7622(3) of the Land Development Code relating to Development Standards for single-family dwelling garages is amended as set forth in Exhibit A.

SECTION 11. Section 21-7721 of the Land Development Code relating to exceptions from the utility undergrounding requirement is amended by the addition of new subsections (4) and (5) as set forth in Exhibit A.

SECTION 12. Section 21-7730(3) of the Land Development Code relating to the standards for combined fence styles is amended as set forth in Exhibit A.

SECTION 13. Section 21-7732 of the Land Development Code relating to Fence and Wall Standards is amended by the modification of Table VII-21 and addition of a new subparagraph (2)(f) as set forth in Exhibit A.

SECTION 14. Section 21-11200 of the Land Development Code relating to Definitions is amended by addition of definitions for “Arts and/or Cultural Center,” “Artisan/Handcrafted Manufacturing,” “Family Child Care Home,” “Distribution Center,” and “Materials Piles,” the modification of the definition of “Transportation Terminal,” and the deletion of the definition of “Day Care Home” as set forth in Exhibit A.

SECTION 15. Exhibit A is attached and incorporated by reference.

SECTION 16. This ordinance is necessary and appropriate to protect the public health, safety, and welfare and in the general public interest.

SECTION 17. Except as specifically modified herein, the provisions of the Land Development Code shall remain unchanged and in full force and effect.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 19TH DAY OF NOVEMBER, 2018.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS 17TH DAY OF DECEMBER, 2018.

CITY OF COMMERCE CITY, COLORADO

Sean Ford, Mayor

ATTEST:

Laura J. Bauer, MMC, City Clerk

EXHIBIT A TO ORDINANCE 2158

(Underlined text indicates new material; strikethrough text indicates deletions.)

Sec. 21-3213(3) of the Land Development Code is amended as follows:

Sec. 21-3213. Floodplain Development Permits

- (3) Approval Criteria. A floodplain development permit may be approved if the floodplain administrator finds:
- (a) The applicant has obtained all necessary federal, state, and local permits.
 - (b) If alteration or relocation of any watercourse is involved, the applicant has notified all adjacent communities and the Colorado Water Conservation Board of the alteration or relocation and has submitted evidence of such notification to the Federal Emergency Management Agency. The floodplain administrator must also find that the flood-carrying capacity within the altered or relocated portion of the watercourse is not diminished.
 - (c) The danger that materials may be swept onto other lands or cause the injury to others is minimal;
 - (d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner and adjacent upstream and downstream property owners is minimal;
 - (e) The proposed use is compatible with existing and anticipated development as set forth in, or reasonably inferred from, the comprehensive plan;
 - (f) The safety of access to the property in times of flood for ordinary and emergency vehicles is adequate;
 - (g) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems is not excessive;
 - (h) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site is minimized; and
 - (i) Alternative locations for the proposed use that are not subject to flooding or erosion damage do not exist.
 - (j) The proposed use minimizes disturbing the natural topography of the floodplain, and promotes passive flood mitigation strategies and preserves native wildlife habitat and recreational opportunities to the maximum extent feasible given the benefits of the proposed development.

Sec. 21-3215(1) of the Land Development Code is amended as follows:

Sec. 21-3215. Minor Modifications

- (1) Description. The following deviations from the city's general standards or approved PUD zone documents are considered minor modifications:
- (a) Up to 20 percent of any minimum or maximum standard;
 - (b) An additional one foot of fence height;
 - (c) Up to 50 percent of the minimum fence setback;
 - (d) A screen fence instead of an open style fence; ~~or~~
 - (e) A reduction to the Floor Area Ratio requirement; or
 - (f) Up to 50 percent of the minimum required landscaping.

The modification of any design standard set forth in article VII shall not be considered a minor modification and shall be governed by the sections in article VII that discuss alternative compliance.

Sec. 21-3410 of the Land Development Code is amended as follows:

Sec. 21-3410. Revocations

The city may revoke any approved plat, plan, or permit if the applicant for such plat, plan, or permit fails to comply with the plat, plan, or permit as approved or with any of the conditions that were imposed by the city in conjunction with the approval. In such cases, the city will notify the applicant of the proposed revocation and the body or staff member who approved the plat, plan, or permit or who imposed the conditions will hear and decide whether the plat, plan, or permit should be revoked.

Sec. 21-5224 of the Land Development Code is amended as follows:

Sec. 21-5224. Child Care Facilities

The following provisions apply to all child care facilities:

- (1) All child care facilities shall be licensed and operated in conformance with all applicable federal and state regulations.
- ~~(2) At least 50-square feet of floor space shall be set aside for school purposes for each child, and at least 200-square feet of outdoor, fenced play area shall be provided for each child. These space requirements apply to both principal and accessory use childcare facilities.~~
- (2) ~~(3)~~ An off-street vehicular loading area or driveway shall be provided for the purpose of loading and unloading children.

Sec. 21-5450 Table V-4 of the Land Development Code is amended as follows:

Storage sheds	<p>5-foot side setback. 5-foot rear setback. Prohibited in a front yard and side on street yard.</p> <p>Townhouses without legally subdivided outdoor space must meet the above requirements and also be set back at least 2 feet from the side and rear boundaries of their allocated outdoor space.</p>	<p>200-sq.ft., total of all storage, in residential Districts (except townhouses).</p> <p>Townhouses: maximum shed size shall be 120 sq. ft.</p> <p>200-sq.ft., total of all storage, in commercial districts.</p> <p>15-foot maximum height, except in an industrial district where height cannot exceed that of the existing principal structure.</p>	<p><u>All sheds shall be constructed of finished materials suitable for exterior use.</u></p> <p>Metal containers and portable-on-demand storage containers are prohibited on property zoned or used for residential or commercial purposes.</p> <p>Storage sheds in commercial districts must incorporate the enclosed trash dumpster area as part of the shed. The color, style, and materials must match the principal commercial structure.</p>
---------------	---	---	---

Sec. 21-7205(1) of the Land Development Code is amended as follows:

Sec. 21-7205. Driveways

- (1) Width. The width of driveway openings (or curb cuts) shall be:
 - (a) Single-Family Residential.
 - (i) Non-shared driveways. For buildings with two or less garage spaces, no curb cut shall be less than 12 feet wide or more than 20 feet wide. For buildings with more than two garage spaces, no curb cut shall be less than 12 feet wide or more than ~~30~~ 24 feet wide. Although wider driveways may be necessary to accommodate approved paved recreational vehicle pads, curb cuts shall not be wider than the standards provided herein.
 - (ii) Shared driveways. No curb cut shall be less than 20 nor more than 24 feet in width.
 - (b) Multi-Family Developments. No curb cut nor driveway shall be less than 24-feet wide. No curb cut shall be more than 36-feet wide unless the city engineer determines that a wider curb cut is required based on the number of trips generated or the need for turning lanes. The exact width of the curb cut shall be determined by the city engineer.
 - (c) Other Uses. Access widths for all other uses shall be based on 12 feet of width for every travel lane.
 - (d) ~~Transitions. Driveways shall not dominate the streetscape and front of housing units. The driveway may transition to the width of the garage starting ten feet behind the sidewalk or front property line.~~

Sec. 21-7237(9) of the Land Development Code is amended as follows:

Sec. 21-7237. Computing Parking and Loading Requirements

- (9) Electric Vehicle (EV) Charging Stations. Parking spaces that are dedicated for use as electric vehicle charging stations shall not count toward either the minimum or maximum parking space requirement.

Sec. 21-7561 of the Land Development Code is amended as follows:

Sec. 21-7561. Variances

An administrative variance not to exceed 50 percent of any requirement contained in this article may be granted by the director in accordance with the provisions of in section ~~21-3222 (Variances)~~ 21-3215 (Minor Modifications). If a variance exceeding 50 percent is sought, a variance from the board of adjustment must be obtained in accordance with section 21-3222 (Variances).

Sec. 21-7602(2) of the Land Development Code is amended as follows:

Sec. 21-7602. Screening Areas of Low-Visual Interest.

- (2) ~~Roof-top~~ Mechanical Equipment. For all primary structures except single-family residential uses, rooftop, wall mounted and ground mounted mechanical equipment and appurtenances shall be screened from all sides ~~so that they are not visible from public streets or adjacent properties less than 200 feet away when viewed from 5 feet above grade level~~. Screening enclosures shall use at least one of the predominant materials used in the facades of the primary structure and one of the predominant colors used in the primary structure. All air conditioning compressors shall be completely screened. All rooftop and wall vents and flues that extend above the top of the nearest parapet shall be painted to match the roof. Multi-family residential air-conditioner units shall be screened to the maximum extent feasible. Any rooftop equipment generating off-site noise also shall be baffled or otherwise attenuated to direct unavoidable noise upward.

Sec. 21-7622(3) of the Land Development Code is amended as follows:

Sec. 21-7622. Development Standards

- (3) Garages. All development shall include a garage, either attached or detached, as part of the new construction or placement.
- (e) The garage shall be constructed prior to the issuance of a certificate of occupancy or certificate of completion.
- (f) The garage ~~shall not exceed a floor area of 864 square feet per residence and shall be no less than 400-square feet in floor area per residence~~ and shall conform to Article V Division 4 (Accessory Uses and Accessory Structures) of this land development code and all building code requirements

~~as adopted by the city. In no case may the garage square foot area exceed the first floor square foot area of the principal residence.~~

- ~~(g) All dwellings proposed for construction with an attached or detached garage that shall conform to article V (Accessory Structures) of the land development code and all building code requirements as adopted by the city.~~
- (c) ~~(d)~~ Upon request by a builder, the director may approve a development plan that provides less than 400-square feet of garage floor area per residence, if all of the following criteria are satisfied:
 - (i) The builder is a non-profit, 501(c)(3) corporation.
 - (ii) The development includes at least 200-square feet of enclosed garage space per residence.
 - (iii) The development plan provides at least 360-square feet of paved, off-street, on-site parking for each residence.
 - (iv) The development plan includes a storage shed of at least 100-square feet for each residence. Storage sheds may be placed in the rear-yard only.
 - (v) Applicant demonstrates that at least 50 percent of the existing single-family homes on the block (measured from public street to public street, including both sides of the street) have less than a standard, enclosed two-vehicle garage.

The placement of the parking and storage shed(s) must comply with the underlying zone district setback requirements without requiring a variance. Any garage floor area less than 200-square feet shall require a variance from the board of adjustment.

- (d) ~~(e)~~ For any single-family detached residential structure with a non-shared side-loaded garage that is accessed from a public street, the minimum garage door setback shall be 15 feet measured from the garage door face to the side lot line.

Sec. 21-7721 of the Land Development Code is amended as follows:

Sec. 21-7721. Exceptions to Underground Requirement

- (1) Temporary aboveground utility lines and service laterals required during construction. Such lines shall be removed when construction is completed or when service to the temporary facility is no longer required. In no case shall the temporary lines remain in place for more than one year without express authorization from the city.

- (2) All services necessary for additional street lighting, where aboveground utilities are in place and in use.
- (3) Electrical Transmission Lines. Electrical transmission lines with a rated voltage of 26 kilovolts or greater and used to distribute electricity to the utility provider substations.
- (4) Existing Single-Family Residential. Increases in customer capacity for existing single-family attached and detached homes which result from additions, remodels, new detached garages, service relocation, or other typical improvements by the property owner shall not require undergrounding of service laterals or utility lines. New residential construction, including scrape-off and rebuild, is not exempt.
- (5) Damage to Existing Aboveground Lines. In situations where the existing service has been damaged due not to the fault of the property owner, undergrounding of service laterals or utility lines shall not be required.

Sec. 21-7730(3) of the Land Development Code is amended as follows:

Sec. 21-7730. Fence and Wall Styles

- (3) Combinations. A fence which combines the elements of both open and screen style fences may be permitted where a solid masonry base shall have a maximum height of two feet and decorative ~~open style metal~~ material built on top of that base. Such fencing shall be classified as open style.

Sec. 21-7732 of the Land Development Code is amended as follows:

Sec. 21-7732. Fence and Wall Requirements by Land Use

- (1) Table. All fences shall comply with the following standards related to land use.

Table VII-21. Fence and Wall Standards.

	AGRICULTURAL	RESIDENTIAL	COMMERCIAL AND MIXED USE	INDUSTRIAL	PUBLIC/ INSTITUTIONAL
Height Maximum					
Front Yard	42 inches	42 inches	42 inches	6 feet	6 8 feet
Rear Yard	6 feet	6 feet	8 feet	8 feet	8 feet
Side Yard	6 feet	6 feet	6 feet	8 feet	8 feet
Side or rear yard along public right-of-way	5 feet	5 feet if screen style, 6 feet if open style	6 feet	6 feet	6 8 feet
Along a public or private open space, park or trail.	5 feet	48 inches	6 feet	8 feet	8 feet
Setback Minimum as measured from property line and/or back of sidewalk					
Front Yard	0	30 inches	10 feet	20 feet	10 feet
Rear Yard	0	0	0	0	0
Side Yard	0	0	0	0	0
Side Yard or rear yard along public right-of-way.	0	5 feet 30 inches	10 feet	20 feet	20 feet

	AGRICULTURAL	RESIDENTIAL	COMMERCIAL AND MIXED USE	INDUSTRIAL	PUBLIC/ INSTITUTIONAL
Along a public or private open space or park.	0	0	0	0	0
Fence Style					
Front Yard	Open	Open	Open or Screen	Open or Screen	Open or Screen
Rear Yard	Open or Screen	Open or Screen	Open or Screen	Open or Screen	Open or Screen
Side Yard	Open or Screen	Open or Screen	Open or Screen	Open or Screen	Open or Screen
Side Yard or rear yard along public right-of-way	Open	Open if over 5 feet in height, Open or Screen if 5 feet in height or less	Open or Screen	Open or Screen	Open or Screen
Along a public or private open space, park or trail.	Open	Open	Open or Screen as determined by the director.	Open or Screen as determined by the director.	Open or Screen as determined by the director.
Minimum length of driveway or drive aisle between gate to public-right-of-way (may be reduced in accordance with ECSS (Engineering Construction Standards & Specifications))					
	20 feet	20 feet	50 feet	50 feet	50 feet

(2) Exceptions.

- (e) When a property sides onto an arterial, state, or federal highway, a solid fence up to a maximum six feet in height may be allowed in residential districts subject to the setbacks listed above.
- (f) When an interior lot backs onto another public right-of-way, a solid fence up to a maximum 6 feet in height may be allowed in residential districts subject to the setbacks listed above.
- (g) Tennis Courts, baseball field, or similar outdoor recreational use may consist of a fence with a maximum height of 12 feet, provided that the fence is open style and is not located in any required setback. These recreational use fences may not be used for any standard property line fencing mentioned above. In addition, mesh netting is allowed for these outdoor recreational use fences.
- (h) Any gates located along interior lot lines or along alleys do not have to meet the required gate setback.
- (i) Fencing over 42 inches in height for individual mobile home lots or spaces is prohibited. Perimeter fencing around an entire mobile home park or district is allowed utilizing the public/institutional fence standards.
- (j) Vacant lots may have only a chain-link, wrought iron, or similar open-style fence of equal transparency to prevent illegal dumping. The maximum allowed height for such a fence is 6 feet, and the front setback shall be equal

to the minimum front setback for a principal structure in that zone district. Barbed wire, razor wire, and electric fences are prohibited.

Sec. 21-11200 of the Land Development Code is amended as follows, with new definitions to be inserted alphabetically and all paragraphs renumbered as needed.

Arts and/or Cultural Center shall mean a space providing for creation, display, performance, or enjoyment of heritage, history, or the arts. This use includes but is not limited to: museums, performance space, artist's studios, galleries, interpretive sites, independent theaters.

Artisan/Handcrafted Manufacturing shall mean the shared or individual use of hand-tools, mechanical tools and electronic tools for the manufacture of finished products or parts including design, processing, fabrication, assembly, treatment, and packaging of products; as well as the incidental storage, sales and distribution of such products. Typical artisan manufacturing uses include, but are not limited to: electronic goods, food and bakery products; non-alcoholic beverages; printmaking; household appliances; leather products; jewelry and clothing/apparel; metal work; furniture; glass or ceramic production; paper manufacturing.

Child Care Center shall mean a facility, excepting Family Child Care Homes, which is maintained for the whole or part of a day for the care of children under the age of 18 46 years who are not related to the owner, operator, or manager thereof, whether such facility is operated with or without compensation for such care, and shall include facilities commonly known as day nurseries, nursery schools, preschools, play groups, day camps, summer camps, centers for developmentally disabled, and those facilities which give 24-hour care for dependent and neglected children; and shall include those facilities for children under the age of 6 years with stated educational purposes operated in conjunction with a public, private, parochial college or a private or parochial school, except that the term shall not apply to any kindergarten maintained in connection with a public, private, or parochial elementary school system of at least 6 grades.

~~Day Care Home shall mean a residence which is used by its owner or legal occupant for the purpose of providing care or training to 6 or fewer children who are under the age of 16 years and unrelated to the care provider. For purposes of this land development code, operation of a day care home is considered to be an accessory use to a principal residential use.~~

Family Child Care Home shall mean a residence which is used by its owner or legal occupant for the purpose of providing care or training to 12 or fewer children who are under the age of 18 46 years and unrelated to the care provider. For the purposes of this land development code, operation of a day care home is considered to be an accessory use to a principal residential use.

Distribution Center shall mean a facility for the receipt, transfer, storage, and dispatching of goods transported by truck. Unlike Transportation Terminals, these establishments commonly utilize a warehouse, sometimes specialized with refrigeration or air conditioning, and may include the accessory uses of order processing, package handling,

cross-dock, storage or parking of trucks awaiting cargo, as well as facilities for the light servicing of trucks.

Material Piles shall mean outdoor storage of loose materials in piles, e.g. construction aggregate piles (sand, gravel, crushed stone, recycled concrete or asphalt, etc.) and landscape material piles (topsoil, compost, mulch, etc.), in heights that exceed the limit allowed for regular outdoor storage. This definition specifically excludes scrap metal, salvage, garbage, debris, refuse, as well as any landfill approved by the City and the State of Colorado.

Transportation Terminal shall mean a facility for the receipt, transfer, short-term storage, and dispatching of goods transported by truck. Unlike Distribution Centers, these establishments commonly utilize a cross-dock facility and may also include the accessory uses of warehouse, storage or parking or trucks awaiting cargo, as well as facilities for the light servicing of trucks. Included in this definition would be express and other mail and package distribution facilities, including such facilities operated by the U.S. Postal Service, other than a traditional post office.

[END OF EXHIBIT A TO ORDINANCE 2158]