

ORDINANCE NO: 2078

INTRODUCED BY: AMADOR, CARSON, DIAZ, ELLIOTT, FORD, MCELDOWNEY,
TETER

AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE LAND DEVELOPMENT CODE

WHEREAS, the City Council of the City of Commerce City adopted the Land Development Code by Ordinance 1720; and

WHEREAS, the Land Development Code became effective March 1, 2009; and

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

WHEREAS, the City Council of the City of Commerce City wishes to address those areas.

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

SECTION 1. The following sections of the Land Development Code of the City of Commerce City are hereby amended to read as follows:

Sec. 21-2110 Amendments

- (1) **Initiation.** Amendments to the comprehensive plan may be initiated by the city or by an owner whose property is the subject of a rezoning request.
- (2) **Minor Amendment.** The director may approve a minor amendment to the comprehensive plan if s/he finds:
 - (a) The comprehensive plan and/or any related element thereof is in need of the proposed amendment;
 - (b) The proposed amendment is compatible with the surrounding area, and the goals and policies of the comprehensive plan;
 - (c) The proposed amendment will have no significant negative impacts on transportation, services, and facilities;
 - (d) The proposed amendment will have minimal effect on service provision, including adequacy or availability of facilities and services, and is compatible with existing and planned service provision;

- (e) The proposed amendment is consistent with the city's ability to annex the property if applicable;
 - (f) The proposed amendment is consistent with the logical expansion of services;
 - (g) Strict adherence to the comprehensive plan would result in a situation neither intended nor in keeping with other key elements and policies of the comprehensive plan; and
 - (h) The proposed plan amendment will promote the public welfare and will be consistent with the goals and policies of the comprehensive plan and the elements thereof.
- (3) **Other Amendments.** All other comprehensive plan amendments shall be reviewed by the planning commission and approved by the city council. Such amendments may be recommended by the planning commission and approved by the city council when the proposed amendment:
- (a) Is consistent with the overall intent of the comprehensive plan;
 - (b) Is consistent with the purposes set forth in section 21-2100 above;
 - (c) Is necessary or desirable because of changing social values, new planning concepts, or other social or economic conditions;
 - (d) Will not have a negative effect on the immediate area;
 - (e) Will not have a negative effect on the future development of the area; and
 - (f) Will promote the public health, safety, and general welfare of the people of the city.
- (4) **Process and Procedure.**
- (a) **Application Filing.** Applications for a major amendment to the comprehensive plan shall be submitted to the director on the forms approved by the city and shall include all required fees and such materials as the director deems necessary or appropriate to carry out the provisions of this land development code. No application shall be considered which is not complete in every detail. Incomplete applications may be returned to the applicant for completion or correction without any further action.
 - (b) **Staff Review and Report.** City staff, and unless deemed unnecessary by the director, the development review team, will review the application to determine whether the proposed amendment meets the criteria listed above. A report summarizing staff's or the development review teams' recommendation will be provided to the appropriate decision maker.

- (c) Neighborhood Meeting. The city may require or schedule a neighborhood meeting to obtain feedback on the application, prior to referring the matter to the appropriate decision maker.
- (d) Planning Commission's Review and Recommendation. Except in the case of minor amendments, the planning commission shall conduct a public hearing and make its recommendation in accordance with section 10-11(b) of the charter. The criteria listed in paragraph (3) of this section shall serve as the basis for the planning commission's recommendation.
- (e) City Council's Review and Decision. Except in the case of minor amendments, the city council shall conduct a public hearing and render a decision in accordance with section 10-11(b) of the charter. In the case of minor amendments, the director is authorized to approve, approve with conditions, or deny the application based upon the approval criteria contained in paragraph (2) of this section.

Sec. 21-3241. Final Plats

- (6) **Dedications and Restrictive Covenants.** Absent any specific language in the plat to the contrary, the execution of the final plat in accordance with paragraph (5) above shall constitute conveyance to the city of fee title to all public dedications of land depicted in the plat. No restrictive covenant shall appear on a plat unless approved by the city.

Sec. 21-3251 PUD Zone Documents

- (5) **Amendment.**
 - (a) Modifications to an approved PUD zone document, other than the minor modifications allowed pursuant to section 21-3215 (Minor Modifications), require the submission of a new PUD zone document amendment application, which will follow the same process as the approved PUD zone document.
 - (b) Unless restricted by the terms of a development agreement or other entitlement granting vested property rights, any property owner within the PUD district or the City may initiate an amendment to a PUD zone document or PUD zone district.
 - (c) A PUD district, or portions thereof, may be rezoned to another non-PUD zone district or districts in accordance with the procedures and standards for zone

changes set forth in this Code. Unless restricted by the terms of a development agreement or other entitlement granting vested property rights, any property owner within the PUD district of the City may initiate an application to rezone a PUD district.

Sec. 21-7238 Minor Modifications Related to Off-Street Parking Requirements

Adjustments to parking requirements may be made by the director as provided in this section. The applicant must apply for the minor modification in accordance with the procedure outlined in section 21-3215 (Minor Modifications) and may be required to submit a parking study prepared by a qualified traffic engineer to justify the requested adjustment(s). The cost of such parking study shall be borne by the applicant.

- (1) **Shared Parking Program.** Where two or more non-residential uses are separate and distinct but share a common or interconnected parking facility, the director may reduce the number of required parking spaces by up to 25 percent if the following criteria are satisfied:

- (a) The uses have substantially different peak traffic usage periods (e.g., a theater and a bank) or share customers (e.g., a barber shop and a tailor);
- (b) The most remote space is located within 300 feet of the use it is intended to serve as measured along the most direct pedestrian path; and
- (c) A reciprocal parking and access easement agreement, that shall run with the life of the development, is recorded with the county assessor.

- (2) **Incentive Programs.**

- (a) Programs:
 - i. Office buildings. The director may reduce the amount of required parking spaces up to 20 percent when an office building contains more than 20,000-square feet of floor area.
 - ii. Mixed Use Parking Reduction. The director may reduce the amount of required parking spaces up to 25 percent when the development is part of a project that includes, as part of the development plan, both residential and non-residential uses.
 - iii. Core Centers. The director may reduce the amount of required parking spaces up to 50 percent for development that occurs within any area identified as an activity center in the comprehensive plan or within a quarter mile of a multi-modal transportation station.
- (b) Approval Criteria. The director may approve the reduction of required parking spaces as provided in paragraph 2(a) of this section if the following criteria are satisfied:

- i. The reduction is appropriate in light of the reasonably anticipated automobile usage by residents, businesses, and visitors to the development, including the proposed mix of uses;
 - ii. The reduction will not be detrimental to the health, safety, convenience, or general welfare of persons residing in or working in the vicinity;
 - iii. The reduction achieves a minimization of conflict of vehicular and pedestrian movements;
 - iv. Transportation modes, other than the automobile, are sufficient; and
 - v. There are adequate public and private parking facilities in the vicinity;
 - (c) Incentive programs may not be combined. If a reduction has been granted based upon one incentive program, the development shall not receive a reduction based upon any other incentive program.
- (3) **Hardship Reductions.** The director may reduce or waive up to 20 percent of the parking requirements, or a minimum of 1 space, for a new development, change in use, or expansion of structure, when the following approval criteria are met:
- (a) With the exception of housing for the elderly or disabled, the structure housing the use was designed and intended for nonresidential use;\
 - (a) The owner or developer substantiates that the provision of additional parking would entail severe hardship;
 - (b) Expected automobile ownership or use patterns of employees, tenants, or other users varies from what is typical in the community or typical for the use;
 - (c) The nature of operational aspects of the use warrants unique parking arrangements; and
 - (d) Sufficient evidence is provided demonstrating how the unique circumstances of the proposed use(s) do not generate the traffic and/or parking demand met by normal code standards.

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.

(10) **Unknown or speculative Uses.** . . .

(11) **Unlisted Uses.**

SECTION 2. The Land Development Code of the City of Commerce City is hereby amended by the addition of the following section:

Sec. 21-5259 Residential Uses

No new residential use shall be established on any property that lies within an airport noise contour of 55 DNL (day-night noise level) or higher.

SECTION 3. Section 21-11200 of the Land Development Code of the City of Commerce City is hereby amended by the by the addition or revision of the following terms:

Office Flex shall mean a type of development designed to be versatile, which may be used in combination with office (corporate headquarters), research and development, quasi-retail sales, wholesale operations, and including but not limited to craft manufacturing, warehouse, and distribution uses.

Catering Service/Facility shall mean an establishment providing the processing, assembly and packaging of food into servings typically designed for consumption off-premises. These facilities may include commercial or on-site kitchens and may be used in an accessory manner for teaching, instructing, or other related indoor activities that utilize the onsite catering service.

Comprehensive Plan Amendment, Minor shall mean minor text changes and corrections that do not impact the substantive portions of the Land Use Plan's mixture or balance and involve properties that are less than 8 acres in size. It shall also include any change mandated by initiatives or state law shall utilize the minor amendment process.

Transportation Terminals shall mean a facility for the receipt, transfer, short-term storage, and dispatching of goods transported by truck. 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 facility. These establishments may also include the accessory uses of warehouses, storage or parking of trucks awaiting cargo, as well as facilities for the light servicing of trucks.

SECTION 4. Table V-1 of the Land Development Code is hereby amended as follows:

“Office Flex” shall be added as a use by right in the I-1, I-2, and I-3 zone districts

SECTION 5. Table VII-2 of the Land Development Code is hereby amended as follows:

- (a) The rows for the specific use types “Restaurant with Drive-Thru/Up” and “Restaurant without Drive-Thru/Up” are deleted in their entirety and replaced with one row for the specific use type “Restaurant” with the minimum off-street parking designated as “1 space/100 s.f.”
- (b) The single row for the specific use type “Warehousing” is replaced with the following three rows:
 - “Warehousing (up to 10,000 s.f.)” with the minimum off-street parking of “1 space/1000 s.f. with a minimum of 3 spaces”
 - “Warehousing (10,001 to 50,000 s.f.)” with the minimum off-street parking of “1 space/2000 s.f.”
 - “Warehousing (over 50,000 s.f.)” with the minimum off-street parking of “1 space/5000 s.f.”

SECTION 6. Except as specifically modified herein, the provisions of the Land Development Code shall remain unchanged and in full force and effect.

SECTION 7. This ordinance shall take effect April 15, 2016.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE
ORDERED THIS 7th DAY OF MARCH, 2016.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE
ORDERED THIS 4th DAY OF APRIL, 2016.

CITY OF COMMERCE CITY,
COLORADO

Sean Ford, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk