

ORDINANCE NO. 2515

INTRODUCED BY: ALLEN-THOMAS, CHACON, DOUGLAS, FORD, HURST, HUSEMAN, KIM, MADERA, NOBLE

AN ORDINANCE AMENDING SECTION 21-3210 OF THE CITY OF COMMERCE CITY LAND DEVELOPMENT CODE ADDING FOUNDATION-ONLY PERMITS AND EXTENSIONS THERETO AS BUILDING PERMIT TYPES FOR REVIEW AND APPROVAL

WHEREAS, the building permit process requires an extensive and time consuming review by City of Commerce City staff before any work may proceed with construction of a building;

WHEREAS, the City Council desires to allow for expedited construction for prioritized development within the community by providing the ability for an applicant to construct their foundation while administrative reviews are still pending;

WHEREAS, a foundation-only permit allows applicants to begin construction of a proposed building's foundation prior to full approval of a building permit or planning approval;

WHEREAS, a foundation-only permit extension request allows applicants to begin vertical construction of a proposed building, stemming from the foundation, to include floor(s) and roof construction, bearing walls and columns;

WHEREAS, limitations to when a foundation-only permit and extensions should exist to include requiring grading permits, execution of assumptions of risk and a liability release, sureties, submittal of construction documents, and prohibiting permits where there are active public hearing applications; and

WHEREAS, the City Council desires to amend section 21-3210 of the City of Commerce City Land Development Code to include the ability for the public to submit and receive foundation-only permits and extensions thereto.

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

SECTION 1. Findings. The recitals to this ordinance are incorporated as findings of the City Council. This ordinance is found to be necessary for the preservation of the public health, safety, and welfare and in the public interest.

SECTION 2. Amendments. Section 21-3210 Building and Sign Permits, of the City of Commerce City Land Development Code is hereby amended as set forth in Exhibit A to this ordinance, with the specific changes as depicted in Exhibit B to this ordinance.

SECTION 3. Repealer. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency.

SECTION 4. Effective Date. This ordinance shall be effective immediately upon passage on second and final reading.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED
THIS 24TH DAY OF JULY, 2023.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED
THIS 14TH DAY OF AUGUST, 2023.

CITY OF COMMERCE CITY, COLORADO

Benjamin A. Huseman, Mayor

ATTEST

Dylan A. Gibson, City Clerk

Exhibit A to Ordinance 2515

Sec. 21-3210. Building and Sign Permits

- (1) *Description.* A building permit, including a foundation-only permit or foundation-only extension request, allows the permit holder to undertake construction of a project; a sign permit allows a person to install and/or display a sign.
- (2) *Requirement.* No person shall erect, construct, enlarge, alter, repair, improve, remove, convert, move, or demolish any building or structure without obtaining a building permit. No person shall erect or display a sign without obtaining a sign permit.
- (3) *Review.* The building official reviews building and sign permit applications and is authorized to approve, approve with conditions, or deny the applications based on the approval criteria outlined below.
- (4) *Approval Criteria.* Permits may be issued if:
 - a. The proposed development is consistent with any previously approved subdivision plat, development permit, zoning, site plan, or other land use approval;
 - b. The proposed development complies with all applicable city standards and codes, unless a minor modification or a variance has been granted;
 - c. There is no evidence to suggest that the development violates any federal, state, or local requirements;
 - d. All development fees have been paid in full; and
 - e. A surety has been secured for a foundation-only permit or extension request securing the full cost of removal and remediation of the property in the event further required approvals are not granted.
- (5) *Foundation-Only Permits and Foundation-Only Permit Extension Requests.*
 - a. *Eligibility.* When the relevant approval criteria have been met, the building official is authorized to issue a building permit for construction of the foundation, in whole or in part, of a building or structure (“Foundation-Only Permit”), with accompanying construction documents sufficient to allow the building official to determine compliance with relevant Codes, criteria, standards and specifications, only where:
 - i. The foundation is not for a single family detached or single family attached structure or building; and
 - ii. A grading permit or early grading permit has been obtained from Public Works; and

- iii. The building or structure, or group of the same, is commercial or multi-family residential and will equal or exceed 250,000 square feet of total building square footage; or
 - iv. The building or structure, or group of the same, is within an Urban Renewal Area; or
 - v. The building or structure will be multi-family residential with affordable housing available for persons at 80 percent Area Median Income (AMI) or below.
- b. *Approval Criteria.* The building official may approve, deny, or approve with conditions, a Foundation-Only Permit according to the Approval Criteria above.
- c. *Effect of concurrently pending applications.* Consideration of a Foundation-Only Permit may proceed where a complete and pending application for a plat, development plan, or PUD Development Permit application is in the review process. No Foundation-Only Permit shall issue, however, where the proposed use of the building or structure is not a use-by-right pursuant to existing zoning.
- d. *Liability.* The applicant, developer, and property owner shall proceed under any Foundation-Only Permit or Foundation-Only Permit Extension Request(s) (as described below) issued pursuant to this subsection at their own risk and without assurance or representation that a building permit for the entire building or structure, development plan, or PUD development permit will be approved or a plat will be approved. Before issuing a Foundation-Only Permit or Foundation-Only Permit Extension Request under this subsection, the applicant, developer, and property owner must execute an assumption of risk and a release of all rights and claims of any type whatsoever, including any claim of vested rights, against the City relating to the Foundation-Only Permit or Foundation-Only Permit Extension Request, and any related approval, and indemnifying the City from any related claim for damages, and in a form acceptable to the City.
- e. *Foundation-Only Permit Extension Request above foundations.* Where a Foundation-Only Permit has been issued, the building official shall approve, deny, or approve with conditions, the Foundation-Only Permit Extension Request in writing to allow the applicant to continue with vertical construction above the foundation under the following conditions:
- i. A building permit application, including a complete set of construction documents, has been submitted for the entire building;
 - ii. After the first-round review of the construction documents by the building official, no deficiencies or code violations have been identified in the proposed elements to be constructed and included in the Foundation-Only Permit Extension Request;
 - iii. All special inspection reports, if applicable, have been approved with no outstanding code violations; and
 - iv. A written Foundation-Only Permit Extension Request is made directly to the building official.

- (6) *Appeal.* The denial of a building or sign permit based upon any standard contained in this land development code may be appealed to the board of adjustment. The denial of a building or sign permit for any other reason may be appealed to the building board of appeals.
- (7) *Lapse.* If the work described in a permit is not commenced within six months, or substantially completed within two years of the date the permit was issued, the permit shall automatically lapse and be null and void.
- (8) *Certificate of Occupancy.* No land or building may be changed in use, nor may any new structure, building, or land be occupied or used, unless a certificate of occupancy or completion has been issued by the city. As long as the proposed use, or the structure intended to be occupied, complies with the provisions of this land development code and all other laws and regulations of the city, a certificate of occupancy or completion shall be issued.
- (9) *Application Inactivity.* In the event that an applicant, having been notified that additional information or corrected materials are required, fails to submit such information or materials within the time specified in the building code or the residential code, as applicable, the application shall be deemed inactive and shall be considered withdrawn.

Exhibit B to Ordinance 2515

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

Sec. 21-3210. Building and Sign Permits

(1) *Description.* A building permit, including a foundation-only permit or foundation-only extension request, allows the permit holder to undertake construction of a project; a sign permit allows a person to install and/or display a sign.

(2) *Requirement.* No person shall erect, construct, enlarge, alter, repair, improve, remove, convert, move, or demolish any building or structure without obtaining a building permit. No person shall erect or display a sign without obtaining a sign permit.

(3) *Review.* The building official reviews building and sign permit applications and is authorized to approve, approve with conditions, or deny the applications based on the approval criteria outlined below.

(4) *Approval Criteria.* Permits may be issued if:

- a. The proposed development is consistent with any previously approved subdivision plat, development permit, zoning, site plan, or other land use approval;
- b. The proposed development complies with all applicable city standards and codes, unless a minor modification or a variance has been granted;
- c. There is no evidence to suggest that the development violates any federal, state, or local requirements; ~~and~~
- d. All development fees have been paid in full; and
- e. A surety has been secured for a foundation-only permit or extension request securing the full cost of removal and remediation of the property in the event further required approvals are not granted.

(5) Foundation-Only Permits and Foundation-Only Permit Extension Requests.

- a. Eligibility. When the relevant approval criteria have been met, the building official is authorized to issue a building permit for construction of the foundation, in whole or in part, of a building or structure (“Foundation-Only Permit”), with accompanying construction documents sufficient to allow the building official to determine compliance with relevant codes, criteria, standards and specifications, only where:
 - i. The foundation is not for a single family detached or single family attached structure or building; and
 - ii. A grading permit or early grading permit has been obtained from Public Works; and

- iii. The building or structure, or group of the same, is commercial or multi-family residential and will equal or exceed 250,000 square feet of total building square footage; or
 - iv. The building or structure, or group of the same, is within an urban renewal area; or
 - v. The building or structure will be multi-family residential with affordable housing available for persons at 80 percent area median income (AMI) or below.
- b. Approval Criteria. The building official may approve, deny, or approve with conditions, a foundation-only permit according to the approval criteria above.
- c. Effect of concurrently pending applications. Consideration of a foundation-only permit may proceed where a complete and pending application for a plat, development plan, or PUD development permit application is in the review process. No foundation-only permit shall issue, however, where the proposed use of the building or structure is not a use-by-right pursuant to existing zoning.
- d. Liability. The applicant, developer, and property owner shall proceed under any foundation-only permit or foundation-only permit extension request(s) (as described below) issued pursuant to this subsection at their own risk and without assurance or representation that a building permit for the entire building or structure, development plan, or PUD development permit will be approved or a plat will be approved. Before issuing a foundation-only permit or foundation-only permit extension request under this subsection, the applicant, developer, and property owner must execute an assumption of risk and a release of all rights and claims of any type whatsoever, including any claim of vested rights, against the City relating to the foundation-only permit or foundation-only permit extension request, and any related approval, and indemnifying the City from any related claim for damages, and in a form acceptable to the City.
- e. Foundation-Only Permit Extension Request above foundations. Where a foundation-only permit has been issued, the building official shall approve, deny, or approve with conditions, the foundation-only permit extension request in writing to allow the applicant to continue with vertical construction above the foundation under the following conditions:
- i. A building permit application, including a complete set of construction documents, has been submitted for the entire building;
 - ii. After the first-round review of the construction documents by the building official, no deficiencies or code violations have been identified in the proposed elements to be constructed and included in the foundation-only permit extension request;
 - iii. All special inspection reports, if applicable, have been approved with no outstanding code violations; and
 - iv. A written foundation-only permit extension request is made directly to the building official.

- (6) *Appeal.* The denial of a building or sign permit based upon any standard contained in this land development code may be appealed to the board of adjustment. The denial of a building or sign permit for any other reason may be appealed to the building board of appeals.
- (7) *Lapse.* If the work described in a permit is not commenced within six months, or substantially completed within two years of the date the permit was issued, the permit shall automatically lapse and be null and void.
- (8) *Certificate of Occupancy.* No land or building may be changed in use, nor may any new structure, building, or land be occupied or used, unless a certificate of occupancy or completion has been issued by the city. As long as the proposed use, or the structure intended to be occupied, complies with the provisions of this land development code and all other laws and regulations of the city, a certificate of occupancy or completion shall be issued.
- (9) *Application Inactivity.* In the event that an applicant, having been notified that additional information or corrected materials are required, fails to submit such information or materials within the time specified in the building code or the residential code, as applicable, the application shall be deemed inactive and shall be considered withdrawn.