

2018 Land Development Code Amendments

Topic	Number	Section	Overview	Current Language	Proposed Change
Definitions	1	Sec. 21-11200	Aggregate	Currently no definition of this use.	Include dirt, gravel, rock, mulch, landscape materials, etc. Excludes salvage and metal.
	2	Sec. 21-11201	Arts/Cultural Uses	Currently no definition of this use.	Includes galleries, theaters, fine arts studios, performance space, museums, etc.
	3	Sec. 21-11200	Artisan/Handcrafted Uses	Currently no definition of this use.	Add the following definition: <i>Manufacturing, Artisan 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.</i>
	4	Sec. 21-11200	Bulk Grain Transfer	Currently no definition of this use.	"The direct transfer of grain from one freight truck to another"
	5	Sec. 21-11200	Distribution Centers	Currently no definition of this use, grouped with transportation terminal.	Distinguish distribution uses like McLane and DTS from cross-dock transportation terminals like Old Dominion.
	6	Sec. 21-11200	Toxic/Hazardous Uses	Currently only I-3 with CUP. Definition: <i>Hazardous Materials shall mean those chemicals or substances, which are physical or health hazards as defined and classified in the fire and building codes adopted by the city. Hazardous materials categories include explosives and blasting agents, compressed gases, flammable and combustible liquids, flammable solids, organic peroxides, oxidizers, pyrophoric materials, unstable materials, water-reactive solids and liquids, cryogenic fluids, highly toxic and toxic materials, radioactive materials, corrosives, carcinogens, irritants, sensitizers and other health hazards.</i>	Clarify that hazardous occupancy is CUP in I-3. Materials below building/fire code threshold (such as cleaners in supermarket) not included. Materials that make up a small percentage of overall business operations or floor space in building (less than 10%) also not included. Add supplemental regulations for Toxic/Hazardous uses, may apply to many other industrial land uses.
Design Standards	7	Sec. 21-5254	Clarify surface for outdoor storage yards	No surfacing materials are identified in this section. Per Sec. 21-7242(3): <i>At a minimum, outdoor storage areas shall be paved with recycled asphalt or other road base.</i>	Add a subsection referencing Sec. 21-7242(3) or stating minimum paving requirements.
	8	Sec. 21-5450 (table V-4)	Minimum material quality for residential sheds	No design standards exist for residential shed materials.	Add to "Additional Regulations": <i>All sheds shall be constructed of materials suitable for exterior use.</i>
	9	Sec. 21-7237(9)	Electric Vehicle parking incentive	<i>Parking spaces that are dedicated for use as electric vehicle charging stations shall not count toward either the minimum or maximum parking space requirement.</i>	<i>Parking spaces that are dedicated for use as electric vehicle charging stations shall not count toward either the minimum or maximum parking space requirement.</i>
	10	Sec. 21-7238(3)	Reduce number of criteria that must be met to qualify for parking reduction.	Currently up to 20% of minimum parking requirement can be waived if development meets all five approval criteria.	Update language to only require that applicants meet criterion "a" (non-residential use) plus one additional criterion.

11	Sec. 21-7602	Simplify rooftop equipment screening	<p>For all primary structures except single-family residential uses, rooftop, wall mounted and ground mounted mechanical equipment and appurtenances shall be screened 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.</p>	<p>For all primary structures except single-family residential uses, rooftop, wall mounted and ground mounted mechanical equipment and appurtenances shall be fully screened. 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.</p>
12	Sec. 21-7622(3b)	Fix discrepancy in maximum garage size	<p>Sec. 21-7622(3b): <i>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. In no case may the garage square foot area exceed the first floor square foot area of the principal residence.</i> Sec. 21-5450: <i>If the first floor area of the home is less than 864-square feet, then in no case can the garage exceed 864-square feet. If the first floor area of the home is greater than 864 square feet, the maximum garage size may exceed 864 square feet, up to 15% of the lot area, but in no case can the garage square footage exceed the first floor area of the home.</i></p>	<p>Combine Sec. 21-7622(3b) and Sec. 21-7622(3c): <i>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. In no case may the garage square foot area exceed the first floor square foot area of the principal residence. All dwellings proposed for construction with an attached or detached garage that and shall conform to article V (Accessory Structures) of the land development code and all building code requirements as adopted by the city.</i></p>
13	Sec. 21-7205 (1ai)	Increase single-family driveway width for 3+ car garages	<p>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 24 feet wide</p>	<p>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 feet wide.</p>
14	Sec. 21-7205 (1d)	Eliminate driveway transition	<p>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.</p>	<p>Delete this section.</p>
Design Standards	Sec. 21-5354(7)	Simplify outdoor storage screening requirements	<p><i>All outdoor storage areas shall be enclosed by a fence or wall adequate to conceal such areas from adjacent non-industrial property and public right-of-way. Outdoor storage can be stacked to eight feet or the height of the screening fence, whichever is less. In addition to not being visible from adjacent non-industrial property and public right-of-way, the outdoor storage shall not be visible to a pedestrian at ground level looking at the storage area from a public facility such as a city park, trail, and open space, or from the first floor of any building not on the subject property to the maximum extent possible. Fences used for screening outdoor storage shall be masonry, brick, decorative rock, stone, textured concrete, stucco, or wood and erected in accordance with the building permit issued by the city. Gates must be opaque, however a gate may be a different material than what would be allowed for the fence. All gates must meet the required setbacks in section 21-7732 (Fences).</i></p>	<p>Delete 7(a) and part of 7(b), modify 7(c): <i>All outdoor storage areas shall be enclosed by a fence or wall adequate to conceal such areas from adjacent non-industrial property and public right-of-way. Outdoor storage can be stacked to eight feet or the height of the screening fence, whichever is less. Additional mitigation may be required depending on the topography and visibility of the site. In addition to not being visible from adjacent non-industrial property and public right-of-way, the outdoor storage shall not be visible to a pedestrian at ground level looking at the storage area from a public facility such as a city park, trail, and open space, or from the first floor of any building not on the subject property to the maximum extent possible. Fences and gates used for screening outdoor storage shall meet the standards in section 21-7732 (Fences) - be masonry, brick, decorative rock, stone, textured concrete, stucco, or wood and erected in accordance with the building permit issued by the city. Gates must be opaque, however a gate may be a different material than what would be allowed for the fence - All gates must meet the required setbacks in section 21-7732 (Fences).</i></p>
			<p><i>All new increases in customer capacity brought on by the property owner or upgrades to existing electrical boxes shall require the undergrounding of service laterals or utility lines.</i></p>	<p><i>All new increases in customer capacity brought on by the property owner or upgrades to existing electrical boxes shall require the undergrounding of service laterals or utility lines. This shall not apply to upgrades for single-family attached and detached homes.</i></p>

Fencing	17	Sec. 21-7730(3)	Allow materials in addition to metal (such as wood or vinyl) as part of combination fences.	<i>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 metal material built on top of that base. Such fencing shall be classified as open style.</i>	Remove the word "metal" to allow other types of fencing materials.
	18	Sec. 21-7730	Allow Santa Fe-style courtyards in residential front yards	Screen style fences/walls are not allowed in residential front yards.	Add a new fence style. Standards to include that the wall must be architecturally integrated with front façade of house, match exterior masonry materials, and that the enclosed courtyard space should act as outdoor living space.
	19	Sec. 21-7732(2)	Allow chain link fencing on vacant properties to prevent dumping. Fences to meet principal structure front setback.	Sec. 21-7330(2) states " <i>screen fencing is not allowed on a lot without a principal structure.</i> " No standards exist for what fencing is allowed on a vacant lot.	Add to Exceptions that vacant properties may have a chain link, wrought iron, or similar open-style fence of equal transparency. Maximum 6' height, minimum front setback equal to principal structure setback for zone district.
	20	Sec. 21-7732 (table VII-21)	Reduce restrictions for residential side-on-street fences	Current standards require minimum setback of 5 feet, maximum height of 5 feet, and an open style such as separated pickets or shadowbox.	Reduce minimum setback to 30 inches, allow a maximum height of 5 feet if screen style (privacy fence) or a maximum height of 6 feet if open style (separated pickets or shadowbox).
	21	Sec. 21-7732 (table VII-21)	Increase allowed height for public uses adjacent to ROW	The existing maximum height is 6 feet.	Increase maximum allowed height to 8 feet.
	22	Sec. 21-7732 (table VII-21)	Simplify approval process for reducing gate setbacks	Reducing gate setback by up to 50% is done through the Minor Modification process (2-3 month review) with Director approval.	Allow City Engineer to approve reductions in gate setbacks.
Land Use Table	23	Table V-1	Bulk Grain Transfer Use	Not a listed use in the LDC.	Allow with approval of a Use by Permit in I-2 and use by right in I-3. Supplemental regulations: <i>The following standards shall apply to all bulk grain transfer operations:</i> (1) All applicable rules and regulations of the state department of health and the tri-county district health department will be complied with. (2) Rodent and pest control programs will be provided and maintained at all times. <i>The operator of a bulk grain transfer shall submit to the city a written vector control plan.</i> (3) No storage of grain is allowed on property.
	24	Table V-1	Arts/Cultural Uses	Not a listed use in LDC, but is allowed in Derby.	Includes galleries, theaters, artist studios, performance space, museums, etc. Allow by right in all non-residential zone districts (C-1, C-2, C-3, MU-1, I-1, I-2, I-3, PUBLIC).
	25	Table V-1	Artisan/Handcrafted Uses	Not a listed use in LDC, but is allowed in Derby.	Includes artist studios, light handcrafted manufacturing by individuals, retail space. Allow by right in all non-residential zone districts (C-1, C-2, C-3, MU-1, I-1, I-2, I-3, PUBLIC).
	26	Table V-1	Aggregate Piles	Currently no separate standards exist, so it defaults to outdoor storage limits (8 feet/height of fence).	Allow pile height greater than 8 feet with Conditional Use Permit in I-2 and I-3. Add supplemental regulations stating a 25-foot maximum height for flammable materials (per fire code), and a 50-foot (zone district) maximum height for non-flammable materials

Land Use Table	27	Table V-1	Crane Construction uses	Currently no separate standards exist, so it defaults to outdoor storage limits (8 feet/height of fence).	Allow as use by right in I-3. Update outdoor storage supplemental regulations to allow crane storage height up to 20 feet, or higher with a CUP.
	28	Table V-1	Metal Manufacturing	Some of the categories are unclear and NAICS codes sometimes reference each other but with different standards.	Align uses with NAICS for greater clarity. See comparison attachment.
	29	Table V-1	I-1S Zone District	Not shown in Land Use Table. Same uses as I-1, but outdoor storage and truck repair allowed with additional permit.	Add I-1S to Land Use Table to make allowed uses more explicit. No changes to allowed uses.
	30	Table V-1	Child Care Center (7+ children)	Use-by-Permit required in all residential zone districts for 7 or more children.	Increase threshold for UBP to 12 children to mirror state requirements. Default to state requirements in supplemental regulations.
	31	Sec. 21-5606	Small Cell Telecommunications in Right-of-Way	Currently allowed with certain standards found in Sec. 21-5606.	Update language to reflect new state law. Specifically, allow for new pole structures to be located in the right-of-way for small and micro-cell facilities.
Processes	32	Sec. 21-3213(3)	Strengthen Floodplain Development Permit approval criteria to protect existing floodplains and wildlife corridors	Current approval criteria do not include considerations for existing natural floodplain landscape and wildlife habitat. The desire to preserve natural conditions is expressed in the Praireways Action Plan and the Comprehensive Plan.	Add additional approval criteria stating: <i>"The proposed use avoids fill and maintains the natural state of the floodplain to the maximum extent feasible to preserve and promote passive flood mitigation strategies, native wildlife habitat, and recreational opportunities."</i>
	33	Sec. 21-3215(1)	Clean up discrepancy regarding administrative landscape reductions	Sec. 21-7561 allows up to a 50% administrative reduction in landscaping, but refers to the Variance section instead of the Minor Modification section.	In Minor Modification section, add additional allowed deviation "Up to 50 percent of the minimum required landscaping," and update the reference in Sec. 21-7561.
	34	Sec. 21-3233	Streamline easement vacation process	All active rights-of-way and easements currently require City Council approval by ordinance.	Clarify specific process required for each type of vacation (Active Right-of-Way, Inactive Right-of-Way, Active Easements, Inactive Easements). For active easements, allow greater flexibility in process in to ease burden to develop encumbered properties (administrative or resolution).
	35	Sec. 21-3220	Clarify purpose of Height Exceptions	Currently there is no "Description" section to explain when Height Exceptions are used, as opposed to a Variance.	Add a description to the beginning of the section stating: <i>"Height Exceptions are used to address situations where the height standards of this land development code inflict practical difficulties on the primary operations on a property that arise due to regulatory changes, technological advancements, or similar circumstances that require structures directly associated with the primary operation to surpass the zone district's maximum allowable height. Fences, signs, and secondary uses (such as telecommunications facilities) are not eligible for Height Exceptions."</i>

Processes	37	Sec. 21-3410	Allow for revocations to occur when approvals are no longer needed	<p><i>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 imposed the conditions will hear and decide whether the plat, plan, or permit should be revoked.</i></p>	<p><i>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. If a staff member approved the plat, plan, or permit, or imposed the conditions then a hearing officer will hear and decide whether the plat, plan, or permit should be revoked. If another body approved the plat, plan, or permit or imposed the conditions then the same body will hear and decide whether the plat, plan, or permit should be revoked.</i></p>
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