



# STAFF REPORT

## Planning Commission

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### ORDINANCES #2158, 2185, 2186, 2187, 2188, 2190, 2191

<b>PC Date:</b>	November 7, 2018	<b>Case Planner:</b>	Caitlin Hasenbalg Long
<b>CC Date:</b>	November 19, 2018		
<b>Location:</b>	City-Wide		
<b>Applicant:</b>	City of Commerce City		
<b>Address:</b>	7887 East 60 <sup>th</sup> Avenue, Commerce City, CO 80022		

### Case Summary

**Request:** Commerce City Staff is requesting a series of minor amendments to the Land Development Code.

**Project Description:** The Land Development Code (LDC) (Ordinance #1798) was adopted by City Council in January 2009 and went into effect on March 1, 2009. This Land Development Code was a comprehensive update to the Commerce City Zoning Ordinance, which included a wide variety of topics dealing with development and land use, such as application types, zoning districts, use standards, subdivision procedures, design standards and signs. Thousands of items are included within the Land Development Code and overall, the updated code has been a tremendous help to staff and applicants when reviewing development proposals.

Since that time, there have been annual amendments to this document to reflect changing development trends and community needs. This year, there are 35 proposed amendments to the LDC in five general categories: additions to the Land Use Table; new definitions; updating various fencing standards; updating various design standards; and clarifying certain processes. For legal clarity, some of these will be adopted as separate ordinances.

**Staff Recommendation:** Approval

**Attachments for Review:** *Checked if applicable to case.*

☒ Proposed Language of Amendments

## Background Information

The Land Development Code is a “living document” that acts as a tool to guide future development of a community, protect neighborhoods, focus development, and enhance the environment. As a part of the public review process for the LDC, it was mentioned that the code would be an “on-going work in progress,” and that this document would continually evolve to reflect the needs and desires of the city. To implement this, changes or amendments are implemented periodically.

Since 2010, the Planning Commission and City Council have reviewed and approved a variety of updates to the Land Development Code. Some of these updates are topic specific (floodplain, marijuana, and telecommunications) while others have been general or "housekeeping" in nature, which work to advance the goals and desires of the community.

As a growing community, Commerce City’s needs are constantly evolving and monitoring development regulations helps to ensure that the regulations are relevant and reflect the community’s values. Therefore, future amendments and updates should be expected. Currently, there are no limitations or preclusions related to the number of zoning code amendments that the city may adopt.

## Request and Analysis

The Comprehensive Plan adopted in 2010 identifies provisions for regular amendments and updates to the City’s LDC. Therefore, the general concept of regular LDC amendments is supported by the Comprehensive Plan and the specific amendments are compliant with the Comprehensive Plan as identified below.

### Comprehensive Plan

The Development Review Team (DRT) believes that the proposed amendments are supported by the following Comprehensive Plan Goals:

<u>Section</u>	<u>Goal</u>	<u>Description</u>
Land Use and Growth	LU 2b	Land Development Code (LDC) Amendments/Focus Areas: Consider code amendments in Focus Areas that address infill development potential, including: (a) Change dimensional standards to promote contextually-based infill development (e.g. to fit traditional lot sizes and current setbacks, and building massing); (b) Provide flexibility for infill development (e.g. parking requirements, open space set aside, and setbacks). Current standards may not be appropriate for infill in traditional neighborhoods or mixed-use projects.
<u>Analysis:</u>	Many of the amendments that are proposed take into account the unique needs of infill development, and some of the unique situations within Commerce City, such as updating standards for fencing, screening, and outdoor storage.	
<u>Section</u>	<u>Goal</u>	<u>Description</u>
Economic Development	ED 3	<u>Recruit New Employment and Commercial Development:</u> Attract and promote new commercial and employment uses to the Historic City that will provide jobs and services for residents and revenues for city operations. The city will reserve undeveloped lands for future commercial and employment activities, as designated on the Future Land Use Plan.
<u>Analysis:</u>	With the addition of new uses to the Land Use Table, the city will increase the number of potential uses that can occur in the city. These additions include arts and cultural uses, artisan/handcrafted manufacturing, and allowing more industrial uses by right.	

<u>Section</u>	<u>Goal</u>	<u>Description</u>
Redevelopment and Reinvestment	RR 2e	LDC Assessment/Amendment: Assess effectiveness of parking and other standards for this Plan's goals. Amend as necessary.
<b><u>Analysis:</u></b>	Many of the amendments being proposed are intended to encourage additional reinvestment in the city. Some examples are amendments designed to give greater flexibility in parking requirements, updates to fencing standards to better match real-life site conditions, and simplification of requirements for certain industrial uses.	

### **Comprehensive Plan Summary:**

The City's adopted Comprehensive Plan is intended to be a guiding document that articulates the City's long-term vision. One of the tools the City uses to implement this vision is the Land Development Code (LDC). The LDC outlines development processes, development regulations, and subdivision regulations. In order to ensure that the LDC continues to meet the needs of the community and reflect the City's long-term vision, the Comprehensive Plan encourages regular amendments to the LDC.

### **Identifying LDC Amendments:**

Potential amendments to the LDC are identified in a variety of ways. Some amendments are identified through the development review process, some are identified through the building permit review process, some are identified through our industry's "best practices", and some are identified by the community. When a potential amendment has been identified, staff adds the item to a list for future consideration. Once there are enough amendments under consideration, staff conducts an internal review process to determine which amendments will be carried forward for consideration by the Planning Commission and the City Council.

### **Requests:**

Ordinance 2158: The proposed amendments for 2018 can generally be characterized into five categories: definitions; design standards; fencing; land use table; and process clarification. The new and amended definitions add terms to the code that do not currently exist, and update others to better differentiate them from other uses or to align with state or industry regulations. The design standard amendments pertain to the physical appearance of development, including simplifying screening requirements for mechanical equipment and outdoor storage, updating standards for driveway widths, and reducing the burden of undergrounding electrical utilities for single-family homeowners, among others. The fencing amendments address widespread community concern with setbacks and height for side and rear yards along public rights-of-way, preventing dumping on vacant properties, and simplifying the approval process for gate setback reductions. The updates to the Land Use Table include addition of land uses which are not currently listed but which staff feels are appropriate for Commerce City, and revisions to some existing industrial uses to expand the areas in which they are allowed by right. Some of these new land uses will also have supplemental regulations regarding their operations, which will be contained in Article V of the LDC. The process clarification amendments are intended to ensure consistency throughout the code and simplify how certain processes are handled, such as revocation of approvals. In addition to the main ordinance for minor amendments in various sections of the code, certain amendments will be adopted as separate ordinances for legal clarity. These amendments are explained below.

Ordinance 2185: This amendment will add a new description for the Height Exception process and update the approval criteria to match. There currently is no description for this process, and at times it has been unclear for staff and applicants what the purpose of this process is. Having a description

(similar to most other processes) will make it more explicit in what situations a Height Exception can be applied for and how a decision will be determined.

**Ordinance 2186: Small Cell Telecommunications Facilities.** This amendment will update the existing Small Cell Telecommunications regulations to reflect recent court decisions regarding small cell facilities placed in the right-of-way, and will add a new section of standards for small cell facilities located on new poles to be installed in the right-of-way. These changes will align the code with state law while preserving the city's ability to reasonably regulate the design and appearance of such facilities within the public right-of-way. A separate fee resolution will accompany this request at City Council for new application fees and right-of-way access fees for these facilities.

**Ordinance 2187: Hardship Reductions for Off-Street Parking Requirements.** This amendment will reduce the number of approval criteria which must be met to approve a Minor Modification to reduce the number of required off-street parking spaces for non-residential uses. Currently all five criteria must be met. The proposed change will reduce that number to two to allow greater flexibility in our parking requirements, particularly for infill lots or redevelopment of existing sites which often have practical challenges meeting the current minimum parking requirements.

**Ordinance 2188: Courtyard Wall Standards.** The LDC currently allows for courtyards to be incorporated into single-family home design; however, there are no specific standards in place for what a courtyard should look like and where they may be located. In addition, there has been increased demand from property owners to have more private outdoor living space. This new section within the Fence and Wall Standards provides regulations for the height, setback, and design of courtyard walls.

**Ordinance 2190: Bulk Grain Transfer Facilities.** This ordinance will add a new use in Commerce City to the LDC, including allowed zone districts, supplemental regulations, and a definition. The need for this amendment arose with increased interest from customers regarding this use, and a lack of adequate regulations in the code to appropriately address it.

**Ordinance 2191: Supplemental Regulations for Hazardous Materials.** The LDC currently defines "Hazardous Materials" very broadly in a way that can be interpreted to include storage of household cleaners, paint, and similar items commonly available for sale or in use at retail and similar establishments, and limits such uses to I-3 zone district upon approval of a CUP. In application, retail stores and other uses which may technically fall under the definition of hazardous materials have not been held to those strict limitations. Given the advancement of building and fire codes since this provision originally went into effect, this amendment adds a new section of supplemental regulations for hazardous materials which clarify that only those uses which require an "H" occupancy under the building code will have to meet the listed I-3 with CUP requirement. This not only expands the potential for industrial users which deal with small quantities of hazardous materials under the thresholds established by building and fire codes to be allowed by-right in a wider variety of industrial zone districts, but also encourages investment in fire sprinkler systems and operational changes to reduce the quantities of hazardous materials stored on site for overall safer industrial practices.

**Table of All Proposed Amendments:** Those amendments which will be adopted by separate ordinance have their associated ordinance number noted with their topic.

Category	#	Topic	Proposed Change	LDC Section	Purpose/Intent
	1	Arts and Cultural Uses	Add definition, including galleries, theaters, fine arts studios, performance space, museums, etc.	21-11200	New use that has come to the city for which no standards currently exist.
	2	Artisan/Handcrafted Manufacturing	Add definition for handmade products	21-11200	New use that has come to the city for which no standards currently exist.
	3	Bulk Grain Transfer (Ord. 2190)	Add definition for transfer of grain from one truck to another	21-11200	New use that has come to the city for which no standards currently exist.
	4	Day Care Home	Change title to Family Child Care Home, update maximum number of children from 7 to 12	21-11200, Table V-1	Align with state regulations for greater clarity and to reduce public hearing process.
	5	Distribution Center	Add definition to distinguish distribution uses from transportation terminals.	21-11200	Code currently defines these as the same, but distribution centers are less impactful than transportation terminals and need own definition
	6	Material Piles	Add definition, including dirt, gravel, mulch, etc. Exclude metal, salvage, garbage, etc.	21-11200	These types of uses exist in several places, but there are currently no regulations to address them.
	7	Surface for outdoor storage yards	Add subsection requiring recycled asphalt to be consistent with other sections of LDC.	21-5254	Clarify for customers and staff seeking outdoor storage standards the exact requirements.
	8	Outdoor Storage screening requirements	Simplify screening requirements for easier review and enforcement	21-5254	Current standards are difficult to review and enforce. The changes will clarify and simplify for easier administration.
	9	Material quality for sheds	Add to standards that sheds must be constructed of finished materials suitable for exterior use	21-5450 (Table V-4)	Currently no material standards for residential sheds, and some have been constructed with materials inappropriate for outdoor shelter.
	10	Electric Vehicle (EV) parking incentive	Clarify that parking spaces dedicated for charging EV do not	21-7237	Incentivize developers to add parking spaces for alternative fuel vehicles.

		count toward maximum parking count		
<b>11</b>	Criteria for Parking Reduction (Ord. 2187)	Reduce number of criteria which must be met for greater flexibility	21-7238	Allow greater flexibility for small lots, infill development, and uses which would face a hardship providing all of the required parking.
<b>12</b>	Rooftop Equipment screening	Simplify screening requirements for easier review and enforcement	21-7602	Current standards are difficult to review and enforce. The changes will clarify and simplify for easier administration.
<b>13</b>	Maximum garage size	Fix discrepancy between Accessory Structures and Single Family Development standards.	21-7622	Internal conflict between LDC sections. Proposed change allows the larger garage size.
<b>14</b>	Single-family driveway width	Increase maximum driveway width for homes with 3+ car garages from 24 feet to 30 feet.	21-7205	Update LDC to reflect current policy for single-family homes.
<b>15</b>	Eliminate driveway transition	Remove section requiring tapered transition	21-7205	This section is burdensome to homeowners and difficult for staff to review and enforce, while serving little public benefit.
<b>16</b>	Single-family electrical upgrades exempt from undergrounding	Do not require undergrounding for existing homes which upgrade to meet current code.	21-7221	Update LDC to reflect current policy, which relieves burden for homeowners.
	<b>17</b>	Materials for combination-style fences	21-7730	Expand allowed materials to reflect changing trends in fencing.
	<b>18</b>	Fencing for vacant properties	21-7732	Vacant properties are often targets for illegal dumping. Allowing some form of fence on these lots will help limit dumping while not precluding future development.
	<b>19</b>	Reduce restrictions for residential side and rear yards along right-of-way	21-7732 (Table VII-21)	Residential side-yard fencing standards are not comparable to other jurisdictions, and are the subject of frequent complaints from the community. The changes will allow greater flexibility.

	<b>20</b>	Increase height for public properties along right-of-way	Increase maximum allowed height from 6 feet to 8 feet.	21-7732 (Table VII-21)	Allow public uses the ability to provide greater security of their facilities.
	<b>21</b>	Simplify approval process for gate setback reduction	Allow reductions to gate setbacks to be in accordance with ECSS	21-7732 (Table VII-21)	Review of requests for gate setback reductions is already based on engineering standards. This change reduces the burden for applicants of such requests.
	<b>22</b>	Allow courtyard walls (Ord. 2188)	Add new standards for outdoor living areas enclosed by courtyard walls	21-7736	Residential design standards allow courtyards, but currently no standards exist. These will provide requirements for courtyards.
	<b>23</b>	Arts and Cultural Uses	Allow by right in C-1, C-2, C-3, MU-1, I-1, I-2, I-3, PUBLIC	Table V-1	New use that has come to the city for which no standards currently exist.
	<b>24</b>	Artisan/Handcrafted Manufacturing	Allow by right in C-1, C-2, C-3, MU-1, I-1, I-2, I-3, PUBLIC	Table V-1	New use that has come to the city for which no standards currently exist.
	<b>25</b>	Bulk Grain Transfer (Ord. 2190)	Allow with Use-by-Permit in I-2 and by right in I-3, with supplemental regulations	Table V-1, 21-5223	New use that has come to the city for which no standards currently exist.
	<b>26</b>	Construction Crane Storage	Use by right in I-3, with outdoor storage supplemental regulations	Table V-1, 21-5254	Clarify zone districts and standards for a common use in the city.
	<b>27</b>	Hazardous Materials (Ord. 2191)	Add supplemental regulations for CUP in I-3 for uses requiring hazardous occupancy under building/fire codes.	21-5239	Clarify that regular storage of hazardous materials (cleaning supplies, etc.) does not require CUP.
	<b>28</b>	I-1S Zone District	Add existing I-1S Zone District to Land Use Table for greater clarity of allowed uses.	Table V-1	Add clarity to Land Use Table by making I-1S district explicitly shown.
	<b>29</b>	Material Piles	Allow pile heights greater than 8 feet with CUP in I-2 and I-3, with outdoor storage supplemental regulations	Table V-1, 21-5254	These types of uses exist in several places, but there are currently no regulations to address them.
	<b>30</b>	Metal Manufacturing uses	Update land uses to better align with NAICS industry descriptions, allow more by right in I-3 with Hazardous	Table V-1	Clarify internal conflicts within the Land Use Table, align uses with common classifications, and deregulate where practical.

			Materials supplemental regulations		
	31	Small Cell Telecommunications (Ord. 2186)	Update existing standards for placing facilities on existing pole structures, add new standards for placing new poles in the right-of-way	21-5606, 21-5607	Update existing standards to address new legal guidance from supreme court.
	32	Strengthen Floodplain Development Permit approval criteria	Add criterion to encourage maintaining existing natural floodplain landscape and wildlife habitat.	21-3213	Align approval criteria with intent to preserve natural landscape in the Comprehensive Plan.
	33	Discrepancy in administrative landscape reductions	Refer to Minor Modification process instead of Variance process.	21-3215 & 21-7561	Clarify internal conflict regarding process and criteria.
	34	Purpose of Height Exceptions (Ord. 2185)	Add paragraph describing when and why to use height exception process	21-3220	Clarify when the Height Exception process is to be used, update approval criteria to align.
	35	Revocations when approval no longer needed	Allow revocation if development does not occur as approved in plans or permits, and allow hearing officer to hear administrative revocations	21-3410	Current process requires staff to conduct administrative hearing, which does not portray fairness or transparency. A third-party hearing officer will provide this.

### **Study Sessions:**

On February 6, 2018, staff held a study session with Planning Commission to discuss the proposed amendments. During the course of this study session, Planning Commission expressed their support for the proposed amendments, and encouraged arts and cultural uses and artisan/handcrafted manufacturing to be allowed in all non-residential zone districts.

On June 11, 2018, staff held a study session with City Council to discuss the proposed amendments, with the feedback from Planning Commission incorporated. City Council expressed their support for the proposed amendments and did not have any changes.

### **Summary:**

Staff has proposed these minor amendments to the Land Development Code based on their ability to implement the City's Comprehensive Plan and positively impact the community. These amendments are intended to better meet the needs of the community by ensuring that the code is clear, consistent, and modern. Therefore, the DRT is recommending that Planning Commission forward a recommendation of approval to City Council for all ordinances associated with the 2018 minor amendments to the LDC.



## **Development Review Team Recommendation**

Based upon the analysis above, the Development Review Team recommends that the Planning Commission forward the requested amendments to the LDC to the City Council with a recommendation of approval.

## **\*Ordinance 2158 Recommended Motion\***

### **To recommend approval:**

I move that the Planning Commission recommend that City Council approve Ordinance #2158, an ordinance amending the Commerce City Land Development Code.

## **Ordinance 2158 Alternative Motions**

### **To recommend approval subject to condition(s):**

I move that the Planning Commission recommend that City Council approve Ordinance #2158, an ordinance amending the Commerce City Land Development Code subject to the following conditions:

*Insert Condition(s)*

### **To recommend denial:**

I move that the Planning Commission recommend that City Council deny Ordinance #2158, an ordinance amending the Commerce City Land Development Code because it fails to meet the following criteria:

*List the criteria not met*

I further move that, based upon this finding, the Planning Commission recommend that the City Council deny Ordinance #2158.

## **\*Ordinance 2185 Recommended Motion\***

### **To recommend approval:**

I move that the Planning Commission recommend that City Council approve Ordinance #2185, an ordinance amending the Commerce City Land Development Code.

## **Ordinance 2185 Alternative Motions**

### **To recommend approval subject to condition(s):**

I move that the Planning Commission recommend that City Council approve Ordinance #2185, an ordinance amending the Commerce City Land Development Code subject to the following conditions:

*Insert Condition(s)*

### **To recommend denial:**

I move that the Planning Commission recommend that City Council deny Ordinance #2185, an ordinance amending the Commerce City Land Development Code because it fails to meet the following criteria:

*List the criteria not met*

I further move that, based upon this finding, the Planning Commission recommend that the City Council deny Ordinance #2185.

## **\*Ordinance 2186 Recommended Motion\***

### **To recommend approval:**

I move that the Planning Commission recommend that City Council approve Ordinance #2186, an ordinance amending the Commerce City Land Development Code.

## **Ordinance 2186 Alternative Motions**

### **To recommend approval subject to condition(s):**

I move that the Planning Commission recommend that City Council approve Ordinance #2186, an ordinance amending the Commerce City Land Development Code subject to the following conditions:

*Insert Condition(s)*

### **To recommend denial:**

I move that the Planning Commission recommend that City Council deny Ordinance #2186, an ordinance amending the Commerce City Land Development Code because it fails to meet the following criteria:

*List the criteria not met*

I further move that, based upon this finding, the Planning Commission recommend that the City Council deny Ordinance #2186.

## **\*Ordinance 2187 Recommended Motion\***

### **To recommend approval:**

I move that the Planning Commission recommend that City Council approve Ordinance #2187, an ordinance amending the Commerce City Land Development Code.

## **Ordinance 2187 Alternative Motions**

### **To recommend approval subject to condition(s):**

I move that the Planning Commission recommend that City Council approve Ordinance #2187, an ordinance amending the Commerce City Land Development Code subject to the following conditions:

*Insert Condition(s)*

### **To recommend denial:**

I move that the Planning Commission recommend that City Council deny Ordinance #2187, an ordinance amending the Commerce City Land Development Code because it fails to meet the following criteria:

*List the criteria not met*

I further move that, based upon this finding, the Planning Commission recommend that the City Council deny Ordinance #2187.

## **\*Ordinance 2188 Recommended Motion\***

### **To recommend approval:**

I move that the Planning Commission recommend that City Council approve Ordinance #2188, an ordinance amending the Commerce City Land Development Code.

## **Ordinance 2188 Alternative Motions**

### **To recommend approval subject to condition(s):**

I move that the Planning Commission recommend that City Council approve Ordinance #2188, an ordinance amending the Commerce City Land Development Code subject to the following conditions:

*Insert Condition(s)*

### **To recommend denial:**

I move that the Planning Commission recommend that City Council deny Ordinance #2188, an ordinance amending the Commerce City Land Development Code because it fails to meet the following criteria:

*List the criteria not met*

I further move that, based upon this finding, the Planning Commission recommend that the City Council deny Ordinance #2188.

## **\*Ordinance 2190 Recommended Motion\***

### **To recommend approval:**

I move that the Planning Commission recommend that City Council approve Ordinance #2190, an ordinance amending the Commerce City Land Development Code.

## **Ordinance 2190 Alternative Motions**

### **To recommend approval subject to condition(s):**

I move that the Planning Commission recommend that City Council approve Ordinance #2190, an ordinance amending the Commerce City Land Development Code subject to the following conditions:

*Insert Condition(s)*

### **To recommend denial:**

I move that the Planning Commission recommend that City Council deny Ordinance #2190, an ordinance amending the Commerce City Land Development Code because it fails to meet the following criteria:

*List the criteria not met*

I further move that, based upon this finding, the Planning Commission recommend that the City Council deny Ordinance #2190.

## **\*Ordinance 2191 Recommended Motion\***

### **To recommend approval:**

I move that the Planning Commission recommend that City Council approve Ordinance #2191, an ordinance amending the Commerce City Land Development Code.

## **Ordinance 2191 Alternative Motions**

### **To recommend approval subject to condition(s):**

I move that the Planning Commission recommend that City Council approve Ordinance #2191, an ordinance amending the Commerce City Land Development Code subject to the following conditions:

*Insert Condition(s)*

### **To recommend denial:**

I move that the Planning Commission recommend that City Council deny Ordinance #2191, an ordinance amending the Commerce City Land Development Code because it fails to meet the following criteria:

*List the criteria not met*

I further move that, based upon this finding, the Planning Commission recommend that the City Council deny Ordinance #2191.