

# AGENDA ITEM SUMMARY

City Council



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## STAFF

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## SUBJECT

**Second Reading of Ordinance No. 055, 2024, Repealing and Reenacting Section 29-1 of the Code of the City of Fort Collins to Adopt a Revised Land Use Code by Reference that Advances Adopted City Policy Goals and Incorporates Foundational Improvements and Separately Codify the 1997 Land Use Code as Transitional Land Use Regulations.**

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## EXECUTIVE SUMMARY

This ordinance, adopted on First Reading on April 16, 2024, by a vote of 6-1 (Nays: Councilmember Gutowsky) considers adoption of changes to the City's Land Use Code. The Land Use Code (LUC) Phase 1 Update implements policy direction in City Plan, the Housing Strategic Plan, and the Our Climate Future Plan. Regarding Ordinance No. 055, 2024, corrections to clean up inadvertent numbering in Article 4 are recommended, and a suggested motion to do so is on page 5.

Second Reading of Ordinance No. 055, 2024, is considered under discussion due to a split vote at First Reading. Second Readings of Ordinance Nos. 056 and 057, 2024, are being considered with the consent calendar.

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## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

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## BACKGROUND / DISCUSSION

Following the submission and certification of a petition sufficient for referendum, Council reconsidered Ordinance No. 136, 2023, at the Regular Meeting on December 19, 2023. Council adopted Ordinance No. 175, 2023, Repealing Ordinance No. 136, 2023, by a vote of 3-2, *Repealing and Reenacting Section 29-1 of the Code of the City of Fort Collins to Adopt the Land Development Code and Separately Codifying the 1997 Land Use Code As "Transitional Land Use Regulations."* Council directed staff to explore next steps to allow for additional community engagement and refinement of housing-related Land Use Code (LUC) changes.

### Project Overview

The LUC Phase 1 project began in summer 2021. From July 2021-October 2022, staff led a process to explore changes to the Land Use Code. This process included:

- Community engagement
- Policy analysis and synthesis
- Development of guiding principles
- Diagnostic report of the existing Land Use Code
- Code drafting
- Public review of the draft the Land Development Code

Council adopted Ordinance No. 114, 2022, adopting the Land Development Code. In November and December 2022, a group of voters gathered enough signatures through the City’s referendum process to require that Council reconsider the Ordinance. On January 17, 2023, Council repealed Ordinance No. 114, 2022, and directed staff to conduct additional community engagement and further refine housing-related Land Use Code changes.

### **Foundational Land Use Code Changes**

As mentioned above, some aspects of the existing 1997 Land Use Code make it difficult to use and understand, especially without graphic representations of form-based requirements and illogical organization of the Code sections. The changes outlined below attempt to correct some of the deficiencies in the existing Land Use Code, especially those related to organization, ease of use, clarification of terms and requirements, and expanded incentives for affordable housing. Changes staff recommends including within a new draft of the LUC include:

- Reorganize content so the most used information is first in the Code
- Reformat zone districts with consistent graphics, tables, and illustrations
- Create a menu of building types and form standards to guide compatibility
- Update use standards, rules of measurement, and definitions to align with new building types and standards
- Expand and re-calibrate incentives for affordable housing
- Regulate density through form standards and building types instead of dwelling units per acre

*Additional Context for Affordable Housing Incentives:* Throughout the engagement process on housing-related Code changes, community members have highlighted affordable housing as an important priority for updates to the Land Use Code. Accordingly, foundational Land Use Code changes would seek to expand and re-calibrate incentives for affordable housing. In addition, allowing an Administrative Review type for projects with at least 10% deed-restricted affordable housing will likely be necessary to maintain the City’s eligibility for funding through Proposition 123. This change to review types for affordable housing developments is also recommended for inclusion in foundational Land Use Code changes. The approach to foundational changes for affordable housing incentives would emphasize:

- Removing Code barriers to building deed-restricted affordable housing
- Providing market feasible incentives to encourage development of more deed-restricted units in a wider range of zone districts
- Utilizing best practices to incentivize affordable housing development through land use regulation, including incentives for increased height, increased density, and reduced parking requirements

Suggestions to require affordable housing in future developments have been heard through community engagement and discussed by Council. Such requirements may be contemplated in the future; however, the foundational Land Use Code changes outlined above must be in place to begin to build a system whereby policies requiring affordable housing can be contemplated and effectively designed.

## Revisions

This Agenda Item Summary is intended to support Council dialogue by providing a summary of revisions included in the proposed version of the Land Use Code (LUC) included with this AIS. These revisions seek to respond to the feedback received from community members at the public forums and public comments received throughout the project. For each revision, information has been included about what is currently permitted under the existing Land Use Code. Council may also choose to make revisions that have not been outlined here.

### Revisions by Zone District

#### Revisions for RL and UE:

- 1 Remove Accessory Dwelling Unit (ADU) as a permitted housing type

#### Revisions for NCL/OT-A:

- 2 Remove duplex as a permitted housing type
- 3 Maintain current lot size for residential units
- 4 Remove affordable housing incentive of additional housing types (apartment, rowhouse, cottage court)

#### Revisions for NCM/OT-B:

- 5 Maintain current 4 unit maximum for multi-unit building
- 6 Maintain current lot size for residential units
- 7 Remove affordable housing incentive of additional density (+1 unit)

#### Revisions for HOAs:

- 8 Remove language prohibiting HOAs from regulating the number and/or type of dwelling units permitted on a lot
- 9 Remove language prohibiting HOAs from regulating the ability to subdivide property

Residential, Low-Density (RL): The Residential, Low Density (RL) Zone District is the largest residential zone district in Fort Collins. Most neighborhoods within the RL zone district are comprised primarily of single-unit, detached homes. Over 50% of existing housing was built between 1960 and 1997.

Currently allowed under the existing Land Use Code in RL:

- *Housing Types:* Single-unit detached house
- *Max Density:* 1 dwelling unit per lot
- *Lot Size:* 6,000 sq feet minimum *AND* 3 times the total floor area, whichever is greater
- *Maximum Height:* 28 feet for residential buildings

#### Revision for RL:

1. Remove Accessory Dwelling Unit (ADU) as a permitted housing type (this revision would also decrease maximum density permitted on a lot)

Neighborhood Conservation, Low Density (NCL) / Old Town-A (OT-A): The Neighborhood Conservation, Low Density Zone District is similar to the RL Zone District in that it permits primarily single-unit, detached houses; however, the NCL Zone also permits “Carriage Houses” on lots over 12,000 square feet (about 10% of all NCL lots). The NCL Zone District areas are generally west and southeast of Downtown. These neighborhoods were mostly built before 1959 and comprise single-family homes on blocks with alleys. Some blocks in the NCL Zone also include duplexes built prior to the current LUC, and some larger lots include Carriage Houses.

A carriage house is a detached single unit dwelling that is behind another detached single unit dwelling. It is limited in size to a maximum 1,000 sf of floor area and requires an additional parking space.

Currently allowed under the existing Land Use Code:

- *Housing Types:* Single-unit detached house; carriage house
- *Max Density:* 1 unit or 2 units for lots >12,000 sf
- *Lot Size:* 6,000 sf minimum; 12,000 sf minimum for carriage house (10% of NCL lots)
- *Maximum Height:* 2 stories; 24 feet for carriage house or building at the rear of the lot

**Revisions for NCL/OT-A:**

2. Remove duplex as a permitted housing type
3. Maintain current lot size for residential units
4. Remove affordable housing incentive of additional housing types (apartment, rowhouse, cottage court)

NCM (OT-B) – Neighborhood Conservation, Medium Density Zone District: The Neighborhood Conservation, Medium Density Zone District comprises neighborhoods that are adjacent to Downtown and includes a diverse mix of single-unit detached, duplex, and multi-unit residential buildings often integrated on the same block with commercial uses and services within walking distance.

Currently allowed under the existing Land Use Code:

- *Housing Types:* Single-unit detached house; carriage house; multi-unit up to 4 units (e.g. duplex, triplex, fourplex)
- *Lot Size:* 5,000 sf for single-unit detached house; 6,000 sf for multi-unit buildings up to 4 units; 10,000 sf for carriage house
- *Maximum Height:* 2 stories, 24 ft for carriage house or building at the rear of the lot

**Revisions for NCM/OT-B:**

5. Maintain current 4 unit maximum for multi-unit building
6. Maintain current lot size for residential units
7. Remove affordable housing incentive of additional density (+1 unit)

Private Covenants/Homeowners Associations (HOAs): There are currently over 200 HOAs registered in Fort Collins. They vary based on neighborhood size, housing type and the types of things their covenants address.

Current Land Use Code regulations for HOAs:

- *Can not prohibit or limit:* xeric landscaping, solar/photovoltaic collectors on roofs, clothes lines in back yards, odor controlled compost bins
- *Can not require:* turf grass yards/lots

**Revisions for HOAs:**

8. Remove language prohibiting HOAs from regulating the number and/or type of dwelling units permitted on a lot
9. Remove language prohibiting HOAs from regulating the ability to subdivide property

## Corrections to Land Use Code on First Reading – Inadvertent Numbering in Article 4.

The draft of the Land Use Code to be adopted by reference contained some numbering formatting errors in Article 4. Additional numbers were inadvertently added to the Article 4 text on pages 4-11 to 4-13, 4-15 to 4-16, 4-20 to 4-23, 4-35 to 4-37, 4-39 to 4-41, and 4-43 to 4-44. The revised Article 4 with the inadvertent numbering deleted is attached to this AIS in addition to the original version with the numbering errors. Because the Land Use Code is being adopted by reference, and the version that was provided for public review contains the numbering errors, staff recommend that Council adopt a motion specifying that the corrected Article 4 is being adopted. A sample motion is as follows:

“I move that City Council amend the revised Land Use Code to include the version of Article 4 that has corrected numbering as described in, and attached to, the Agenda Item Summary.”

### **Change Names of the Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer Zone Districts to the Old Town (OT) Zone District**

Consistent with the updated references in the revised Land Use Code, Council is considering whether to change the names of the Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer zone districts to the Old Town (OT) zone district and its three corresponding subdistricts OT-A, OT-B, and OT-C.

### **Changes to City Code to Conform to the Revised Land Use Code**

Finally, Council is considering changes to City Code to conform to revisions in the Land Use Code including updating section references and wording.

## **CITY FINANCIAL IMPACTS**

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This implementation work will not require additional funding but will require utilization of existing staff capacity and departmental resources.

The current LUC updates are focused on housing-related changes and Code reorganization, and multiple phases will be required to update the entire LUC. Accordingly, staff is also planning a LUC Phase 2 Update, which will address remaining issues in commercial, industrial, environmental and other areas and will also incorporate Code changes that are not directly tied to housing. Funding has been approved for the LUC Phase 2 project in the 2023-2024 budget cycle. A conversation regarding this topic will be conducted at a Council work session, currently scheduled for June 11, 2024.

## **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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### **Planning and Zoning Commission**

The Planning and Zoning Commission on a 5-0 vote (Absent: Stackmeyer) recommended that Council adopt the revised Land Use Code with the following recommended changes/additions:

- Allow attached ADUs in RL,
- Allow ADUs with design parameters in UE,
- Change lot size from 10,000 square feet to 9,500 square feet for allowing carriage houses in the NCM/OTB zone.

These proposed amendments are not included in the version of the Land Use Code being considered on April 16.

The Commission also recommended on a 5-0 vote (Absent: Stackmeyer) that Council approve the name change of the Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer zone districts to the Old Town (OT) zone district with the corresponding subdistricts OT-A, OT-B, and OT-C.

## **PUBLIC OUTREACH**

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Potential changes to the LUC have resulted in robust community dialogue and many comments shared with City Leaders and staff. Throughout summer 2023, staff engaged with hundreds of residents through online comments, virtual engagement opportunities, and in-person events

## **ATTACHMENTS**

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First Reading attachments not included.

1. Ordinance for Consideration
2. Exhibit A to Ordinance