



Community Matters Institute

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To: Palmer Lake Planning Commission
Thru: Dawn Collins, CMC, Town Administrator/Clerk
From: Barb Cole, Executive Director, CMI
CC: Mike Davenport, CMI, Mark Morton, GMS, and Scott Krob, Town Attorney
Date: November 18th, 2024
RE: Overview of Packet and Changes made to Final Draft of Article 2

Your packet includes the following items:

1. Memo on next steps including further review by the Planning Commission.
2. Agreed upon Table of Contents which is the foundation of our work tasks.
3. This memo regarding requested updates to Article 2, definitions in progress and building height.
4. Article 2- final draft for your consideration. As noted, the Planning Commission will review the entire Zoning Code upon Town Attorney review. (*drafting note: formatting issues will be corrected and inconsistencies fixed by DRT.*)
 - Recommendation: We would like you to make a motion to grant conditional approval of both Article 1 (from January 2024) and Article 2 to the Board of Trustees for their conditional approval.
 - Recommendation: The Town's Zoning ordinance shall utilize the definition of height as adopted by the Pikes Peak Regional Building Department International Residential Code (IRC) and International Building Code (IBC) as may be amended.
5. Building Height Recommendation including graphic showing how height using International Building Code definition.
6. Copy of Article 1 from January 24, 2024 Planning Commission Meeting.

SUMMARY OF CHANGES MADE TO ARTICLE 2 BASED ON PLANNING COMMISSION RECOMMENDATIONS

Draft Note: It is likely that Article 2 will be further refined once we receive comments from the Town Attorney and upon the completion of Articles 3 and 4.

1. Light assembly including arts/crafts shops such as woodworking, pottery, jewelry or other craft-based industries have been added as principal uses allowed by right principal in the new BI MU zone. These uses are also allowed as a home occupation as long as there is no exterior indication of such activity as will be further addressed in Article 3.
2. Medical and dental clinics have been added as principal uses allowed by right in the new BI MU zone.
3. Retail sales have been added as principal uses allowed by right in the new DMU & VMU
4. CMI has removed the stipulation that retail establishments can only be on the ground floor level. Retail establishments are allowed in all non-residential zone districts including DMU, BI-MU & VMU.
5. Duplexes are only allowed in the R-5,000 zone district (old R-3) as conditional review uses,
6. Multi-family units are not allowed in the R-5,000 zone district (old R-3) zone district.
7. Multi-family units not to exceed six units per structure are allowed in the RMF zone district. Multi-family dwellings that are over 6 units per structure or over 12 units per acre are a conditional review use.
8. Bed and breakfast establishments have been changed to conditional review uses and are only allowed in the following residential zones: RA, R-2.5 & RMF.
9. Any type of outdoor recreation and entertainment uses have been changed "Low impact recreational uses, the term golf course has been removed, and it is now a conditional review use in the BI MU zone.
10. Vehicle Car Wash has been changed to conditional review use in the new BI-MU (*add car*)
11. Recycling or donation drop-off has been removed as a use, therefore it is prohibited.
12. Storage containers or pods have been removed completely. (*note if we add a section on temporary uses, theses would go here- yet to be determined and not in the scope*).
13. Skeet shooting, a use in the current code, has been removed as a use
14. Public parks, recreation, trails, and open space is allowed in all zone districts.
15. Multi-family units are not allowed in the R3 nor R/SL zone district.
16. Multi-family units not to exceed six units per structure are allowed in the RMF zone district. Multi-family dwellings that are over 6 units per structure or over 12 units per acre are a conditional review use.
17. Motorbike/snowmobile as a use has been removed. This is an allowed use

in the current code.

18. Solar energy systems – community scale: This use remains because of statutory requirements but design standards will be added in Article 3. See footnote in Table.
19. Utilities, major facilities must remain but impacts will be addressed in Article 3. There will be screening standards as well as landscape standards in Article 3
20. Utilities, minor facilities – same as above.
21. Commercial accommodation is a defined term. Once we complete Article 3, we can revisit simplifying the types of lodging but generally, any type of accommodation needs to reflect # of units because that creates the impact.
22. We have combined the following: Accessory structures that are customarily incidental to the permitted principal use and are subordinate in size to the principal structure and are located on the same lot” and pg 23 has “Uses that are customarily incidental to any of the permitted principal uses and are located on the same lot” – they are the same.
23. Private garage subordinate in size to the principal structure has been added as an accessory RA & R-2.5.
24. As the Code is currently drafted, you can have an attached garage as well as a detached garage or other accessory structure. This is in keeping with the new State law that requires that ADUS must be allowed in all residential zone districts. Design standards will be forthcoming in Article 3. Also, as previously noted, any structure under 200 sq. ft. does not need a building permit. However, the property owner still needs to comply with the impervious surface standard. This will be the controlling standard.
25. Adult Day care and senior centers is defined by the CDPHE and requires a license from the state. We recommend that anything with less than 5 children be a permitted accessory use in all zones and anything 5 or more will be a conditional use. The impact is based on the # of children. There are many examples of in-home childcare facilities that occur in someone’s home that are not large commercial establishments which is why it is important to allow these as a conditional use.
26. Lodging and meeting facilities, including hotels, motels and extended stay lodging, reception and banquet halls, event and conference centers, and excluding RV parks was added as a conditional review use to CC/D-MU, lots of small towns have been successful with downtown lodging facilities.
27. Any permanent accessory structure that exceeds 720 square feet per lot is a conditional review use in any zone. (if it meets the requirements outlined in Article 3)
28. Conditional Use has been changed to Conditional Review Use to help applicants understand that impacts need to be mitigated.
29. Any establishment with a drive-thru needs to remain a conditional review use because of the CDOT access requirements.

IDENTIFIED DEFINITIONS THAT WILL BE ADDED TO ARTICLE 8

This is the last article to be drafted but we want to keep a running list of terms that the Planning Commission wants defined. Planning Commissioners and DRT- please add to the list of definitions. Some of the language from State Statute may be referenced.

- Utility facilities. Buildings, telephone exchanges, sewage pumping stations, gas, water and electrical substations, regional storm drainage detention facilities and similar facilities located on a specific site and necessary for the operation of a utility. This definition includes major utility facilities and minor utility facilities.
- Utility facilities, major. Facilities that potentially have a significant impact on adjacent properties, such as administrative offices and operation centers; electric generation facilities; oil and gas transmission facilities; overhead electrical transmission lines, sewage treatment plants; or sanitary landfills.
- Utility facilities, minor. Facilities that do not potentially have a significant impact on adjacent properties and are necessary to provide essential services, such as substations (transmission and distribution); pump stations; water towers and reservoirs; public wells; outfalls; catch basins, retention ponds; water treatment facilities; overhead distribution lines and poles; underground lines and pipes, including water, gas or wastewater trunk lines; transformers and regulator stations; private on-site facilities, such as OSWTS, wells and well houses, etc.
- Commercial accommodations. A building or group of buildings containing 20 or more guest units providing transient accommodations to the general public for compensation. Includes hotel, motel, tourist home, boarding house, lodging house, and dormitories, but not room and board as an accessory use.
- Affordable housing (related to Prop 123)
- Wholesale operations
- Live/Work
- “Childcare centers”, less than 24-hour programs of care defined at Section 26-6-102(1.5), C.R.S., include the following types of facilities:
 - A “large child care center” provides care for sixteen (16) or more children between two and one-half (2- 1/2) and sixteen (16) years of age.
 - A “small child care center” provides care for five (5) through fifteen (15) children between two (2) and sixteen (16) years of age.
 - An “infant program” provides care for children between six (6) weeks and eighteen (18) months of age.
 - A “toddler program” provides care for children between the ages of twelve (12) months (when walking independently) and thirty-six (36) months of age.
 - “Preschool” is a part-day child care program for five (5) or more children

- between the ages of two and one-half (2-1/2) and seven (7) years of age.
 - “Kindergarten” provides a program for children the year before they enter the first grade.
 - A “school-age child care center” means a child care center that provides care for five (5) or more children who are between five (5) and sixteen (16) years of age. The center’s purpose is to provide child care and/or an outdoor recreational experience using a natural environment. The center operates for more than one week during the year. The term includes facilities commonly known as “day camps”, “summer camps”, “summer playground programs”, “before and after school programs”, and “extended day programs.” This includes centers operated with or without compensation for such care, and with or without stated educational purposes.
 - A “building-based school-age child care program” means a child care program that provides care for five (5) or more children who are between five (5) and sixteen (16) years of age. The center is located in a building that is regularly used for the care of children.
 - A “mobile school-age child care program” provides care for five (5) or more children who are at least seven (7) years of age or have completed the first grade. Children move from one site to another by means of transportation provided by the governing body of the program. The program uses no permanent building on a regular basis for the care of children.
 - An “outdoor-based school-age child care program” provides care for five (5) or more children who are at least seven (7) years of age or have completed the first grade. This program uses no permanent building on a regular basis for the care of children. Children are cared for in a permanent outdoor or park setting. 12 Colo. Code Regs. § 2509-8:7.701.2(C).
- Child care centers, less than 24-hour care (referred to as “centers”), provide comprehensive care for children when the parents or guardians are employed or otherwise unavailable to care for the children. Child care centers may operate twenty four (24) hours a day, but the children are cared for at the center fewer than twenty four (24) hours a day. 12 Colo. Code Regs. § 2509-8:7.702.1(A).
- Child care centers, less than 24-hour programs of care, include the following types of facilities:
 - A “large child care center” provides care for 16 or more children between the ages of 2 1/2 and 18 years.
 - A “small child care center” provides care for 5 through 15 children between the ages of 2 and 18 years.
 - An “infant program” provides care for children between the ages of 6 weeks and 18 months.
 - A “toddler program” provides care for children between the ages of 12 months (when walking independently or with a health care provider’s statement indicating developmental appropriateness of placement in a toddler program) and 36 months.
 - “Preschool” is a part-day child care program for 5 or more children between the ages of 2 1/2 and 7 years.
 - “Kindergarten” provides a program for children the year before they enter the first grade.
 - “Full day program” enrolls children for five (5) or more hours per day.
 - “Part day program” enrolls children for a maximum of up to five (5) hours per day. Individual children shall not attend more than one (1) five (5) hour session per day.

- A “drop-in child care center” provides occasional care for 40 or fewer children between the ages of 12 months and 13 years of age for short periods of time not to exceed six (6) hours in any 24-hour period of time or fifteen (15) hours in any seven (7) day period of time. 12 Colo. Code Regs. § 2509-8:7.702.1(B).
- “Family Child Care Home”, defined at Section 26-6-102(4), C.R.S., means a type of family care home that provides less than 24-hour care for two (2) or more children on a regular basis in a place of residence. Children in care are from different family households and are not related to the head of household. 12 Colo. Code Regs. § 2509-8:7.701.2(A)(1).
 - A “Family Child Care Home” (FCCH) is a type of family care home that provides less than twentyfour (24) hour care at any time for two (2) or more children that are unrelated to each other or the provider, and are cared for in the provider’s place of residence. 12 Colo. Code Regs. § 2509-8:7.707.22(A) In a regular (FCCH) home, care may be provided for six (6) children from birth to eighteen (18) years of age with no more than two (2) children under two (2) years of age. 12 Colo. Code Regs. § 2509-8:7.707.22(B).
 - A three (3) under two (2) license is a type of license that allows a provider to care for six (6) children from birth to eighteen (18) years of age with no more than three (3) children under two (2) years of age, with no more than two (2) of the three (3) children under twelve (12) months; the capacity includes the provider’s own children under twelve (12) years of age. 12 Colo. Code Regs. § 2509-9:7.707.22(C).
 - An infant/toddler license is a type of family care home that provides less than twenty-four (24) hour care only for children who are between birth and three (3) years old. 12 Colo. Code Regs. § 2509-9:7.707.22(D).
 - A large child care home is a family child care home that provides care for seven (7) to twelve (12) children. 12 Colo. Code Regs. § 2509-8:7.707.22(E).
- “Residential Child Care Facility”, defined at Section 26-6-102(8), C.R.S., shall provide twenty-four (24) hour residential group care and treatment for five (5) or more children between the ages of three (3) and eighteen (18) years old and for those persons to twenty-one (21) years old who are placed by court order prior to their eighteenth birthday. A residential child care facility must offer opportunities for a variety of experiences through a group living program and specialized services that can be used selectively in accordance with an individual plan for each child. A residential child care facility includes “Shelter Care Facilities”, “Residential Child Care Facilities”, and “Psychiatric Residential Treatment Facilities”.
- “Transition Program” may be a component of an RCCF program in which the child is residing in the RCCF part of the time and in a living situation that child is expected to move to after treatment in the RCCF is completed. The purpose of transition is to enable the child to transition to the home or a less restrictive setting in a manner that prepares the child for success in the new setting. 12 Colo. Code Regs. § 2509-8:7.701.2(G).
- A “residential child care facility (RCCF)” shall provide twenty-four (24) hour residential group care and treatment for five or more children, between the ages of three (3) and sixteen (16) years old and for children from sixteen (16)-eighteen (18) years old and for those persons to twenty-one (21) years old who are placed by court order prior to their eighteenth birthday. A residential child care facility shall offer opportunities for a variety of services that can be used selectively in

accordance with an individual plan for each child. A residential child care facility is operated under private, public or nonprofit sponsorship. 12 Colo. Code Regs. § 2509- 8:7.705.1.

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- Day Treatment Centers: A “Day Treatment Center”, defined at Section 26-6-102(2.4), C.R.S., means a facility that provides less than twenty-four (24) hour care for groups of five (5) or more children three (3) to twenty-one years of age. Nothing prohibits a day treatment center from allowing a person who reaches twenty-one (21) years of age after the commencement of an academic year from attending an educational program at the day treatment center through the end of the semester in which the twenty-first birthday occurs or until the person completes the educational program, whichever comes first. The center must provide a structured program of various types of psychosocial and/or behavioral treatments to prevent or reduce the need for placement of the child out of the home or community. This definition does not include special education programs operated by a public or private school system or programs that are licensed by other regulations of the Department of Human Services for less than twenty-four (24) hour care of children, such as a child care center or part-day preschool. 12 Colo. Code Regs. §§ 2509-8:7.701.2(E), 7.706.1.

SOLAR ENERGY: TO BE ADDED TO DEFINITIONS WITH PORTIONS REFERENCED TO STATUTE

The size of the solar energy system can be regulated by KW hours produced.

Definitions suggested (kilowatts can be adjusted-The average American household needs 15–20 solar panels to meet their energy needs. Most solar panels produce around 2 kWh of electricity per day):

Solar energy *system* means a device or facility that converts the sun's radiant energy into thermal, chemical, mechanical, or electric energy to heat and/or cool indoor space or domestic water and/or provide electric power and light.

Solar energy *system accessory* means a device or facility that converts the sun's radiant energy into thermal, chemical, mechanical, or electrical energy and has a combined name plate DC rating of less than fifteen (15) kilowatts, and includes the equivalent kilowatt measurement of energy for systems.

Solar energy *system, large* means a solar energy system requiring a minimum ten (10) acre lot with twenty-five (25) maximum height limit.

Solar energy *system, small* means a solar energy system that has a combined name plate DC rating of fifteen (15) kilowatts to five hundred (500) kilowatts and includes the equivalent kilowatt measurement of energy for systems.

24-38.5-119. Streamlined **solar** permitting and inspection grant program - creation - eligibility - fund created - gifts, grants, or donations - reporting - legislative declaration - definitions - repeal.

Colorado law (C.R.S. 38-30-168) prohibits HOAs from restricting solar device installation.

Colorado's 1979 Solar/Wind Easements and Rights Law (CRS § 38-30-168) renders void any covenants, restrictions, or conditions that prohibit “renewable energy generation devices” or “energy efficiency measures.”

Renewable energy generation devices include solar energy devices and wind-electric generators that meet the state's interconnection standards.¹ Energy efficiency measures

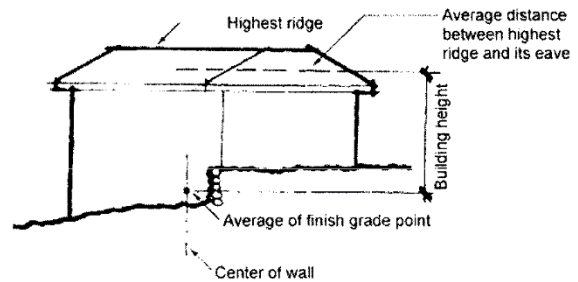
include awnings, attic fans, energy-efficient

lighting, and clotheslines, among other technologies. Some exceptions are made for both renewable energy devices and energy efficiency measures for safety requirements and aesthetic purposes that do not significantly increase the cost of the device or decrease its performance.

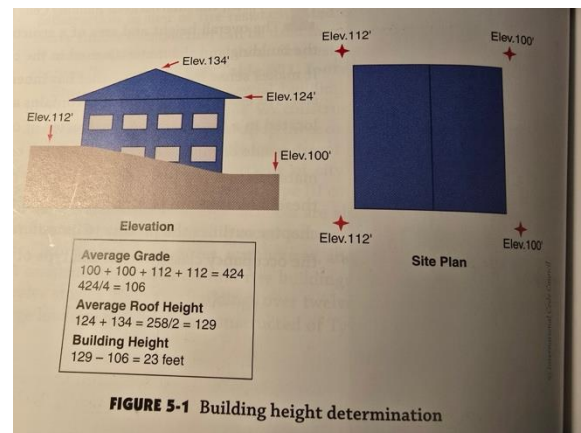
CMI Building Height Recommendations

Recommendation # 1: Use the same definition of building height as used by PPRBD to avoid issues regarding interpretation. (Note: Mike will check to see if this is the latest definition from the International Building Codes and what definition is currently used by PPRBD.)

- *Building height* means the vertical distance above median grade, as defined below, and the highest point of the coping of a flat roof, or to the deck line of a mansard roof, to the average height of the highest gables of a pitched or hipped roof, or to the top of the smokestack of an industrial building. The measurements may be taken from the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of any exterior wall of the building, when such sidewalk or ground surface is not more than ten (10) feet above median grade. OR
- **2022 International Residential Code.** According to the International Residential Code (IRC) 2022, "building height" refers to the vertical distance measured from the average elevation of the finished grade at the exterior building walls to the highest point of the roof surface, taking into account the roof type (flat, gable, hip, etc.) to determine the appropriate measurement point; essentially, the overall height of the building from the ground level to the top of the roof structure. Note the Second illustration is from Building Code Basics Commercial (2012) and is only to illustrate that we need to confer with PPRBD.



Building Height Measurement Example



Recommendation 2: Building Height in all residential zones and all zone districts except the downtown shall remain at 30 ft.

Recommendation 3: The building height in the Downtown Mixed Use zone shall be 3 stories and no more than 32 ft. if the upper floor is stepped back. (NOTE: CMI wants to check with the Historical Society to see the average height of historic structures in the downtown area- if any of you wish to undertake this research, let us know.)