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**Title:** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AMENDING CERTAIN SECTIONS AND ENACTING NEW SECTIONS OF THE BRIGHTON MUNICIPAL CODE IN CHAPTER 17, LAND USE & DEVELOPMENT CODE, RELATED TO BUILDING TYPES, ACCESSORY STRUCTURES, COMMON OWNERSHIP COMMUNITIES, SITE DESIGN, SIGNS, AND CORRECTION OF ERRORS

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. CC Ordinance 5678911\_ProposedCode\_11.17.22\_Attny Approved, 2. PC Resolution 22-7, 3. Website Notice\_CC, 4. Website Notice Posted, 5. Shannon McDowell\_Code Amendments CC Presentation12-20-22, 6. 429 PPT

Date	Ver.	Action By	Action	Result
1/3/2023	1	City Council		
12/20/2022	1	City Council		

**Department of Community Development**

**Reference:** *Land Use & Development Code Amendments, Articles 5, 6, 7, 8, 9, and 11*

**To:** Mayor Gregory Mills and Members of the City Council

**Through:** Michael P. Martinez, City Manager

**Prepared By:** Shannon McDowell, Senior Long Range Planner

**Date Prepared:** November 28, 2022

**PURPOSE**

When the *Land Use & Development Code (the "LUDC")* was modified into a form-based code, it was anticipated that putting the code into practical use would help identify provisions that require adjustment. Since the new LUDC became effective in January of 2020, City Council, residents, developers, and staff have identified provisions and adjustments to improve the code. These are being brought forth in batches. The first batch focused on Articles 2, 3, and 4 and was approved in late 2020. The amendments summarized here would be the second batch of amendments since 2020.

**PROCESSES**

The LUDC outlines the code amendment process, which allows for initiation of amendments by the City Council, Planning Commission, and Staff on behalf of these entities.

The City Council should use the Review Criteria outlined in LUDC Section 2.10 B. The code amendment criteria generally include but are not limited to: furthering the purposes of the *LUDC*, bringing forth amendments in accordance with the Comprehensive Plan, promoting the public safety, health and general welfare of the community, and improving the effectiveness and efficiency of administering the *LUDC*.

## **STRATEGIC FOCUS AREA**

- Recognizable and Well-Planned Community

## **BACKGROUND AND SUMMARY OF AMENDMENTS**

The City of Brighton adopted the LUDC at the end of 2019, with an effective date of January 1, 2020. With an entirely new code, it is difficult to see every conflict or error during the review process. Staff anticipated needing to adjust the Code once it was actively used for land use review and brought one round of amendments for approval in late 2020. In addition, some of the recommendations made by staff address new development patterns and new challenges that were not anticipated when the code was adopted. Following is a summary of the major changes proposed in each Article and any supporting information needed to understand the reason this change is proposed. Note that the proposed amendments described below can be found in their full text in the Draft Ordinance attached to this report. Additions are shown in **bold font** and deletions are shown in ~~strikethrough~~.

### 1. Add Senior Living Facility building type

This code regulates both uses and building types. Currently, the Code lacks a building type for senior living facilities, which is typically a hybrid of an apartment and a commercial building type. Adjustments to several tables are also necessary to add standards for the Senior Living Facility building type.

### 2. Table 5-2 adjustments

There is a lack of consistency between the zone districts where certain uses are permitted and where the building types for those uses are permitted. Several changes are proposed to better match the allowed uses in Article 4 to the allowed building types in Table 5-2. Additionally, changes are proposed to eliminate maximum lot sizes for row houses and apartments. Clarifications are made regarding the lot open space requirement, specifying that the requirement is per unit. Last, the detached house, duplex, and row house building types have a required rear setback of twenty-five feet. We received a request from the development community to reduce the rear setback to five feet when a home has an alley loaded attached garage, which staff believes is an appropriate request.

### 3. Table 5-5 adjustments

Table 5-5 defines frontage types for residential buildings. Currently, a front entry feature such as a porch or stoop is optional for the Suburban Yard and Buffer frontage types. When applied to actual building permits, the outcome is not visually appealing. A front entry feature is proposed to be required for all residential buildings, regardless of frontage type. In addition, a misspelling and erroneous code reference corrections are proposed.

### 4. Residential Accessory Buildings

In residential areas, clarifications are proposed regarding the location of accessory buildings. In addition, the “small shed” size is proposed to match the maximum size able to be constructed without a building permit. A new “open structure” category is proposed to address growing popularity of pergolas and gazebo structures.

One variance has been approved and many complaints have been received about the size limitation imposed on larger accessory buildings. Staff is proposing to increase the maximum size and also base the size on the lot area rather than the home size. This change will afford lots with small homes the same size of an accessory building as their counterparts with larger homes when situated on similar lot sizes.

Adjustments are proposed to allow all apartments to have multiple accessory buildings, not only those zoned R-3. A clarification has been added regarding clubhouses and leasing offices as well. The language would also be modified to allow public and civic uses to have an accessory building without a principal structure. This is necessary at parks, open spaces, and for pump houses and other utility buildings. Last, the size of detached buildings for civic and open space uses is proposed to be increased. This change should afford City properties enough accessory building area to fulfill storage and equipment needs at a variety of sites.

### 5. Manufactured and Small Format Housing District

Staff would like to incorporate standards for manufactured home developments that were existing prior to the effective date of the LUDC. The current code requirements would work very well for a new manufactured home

developments but are too restrictive to be applied in existing developments.

#### 6. Common Ownership Pattern

One of the fastest growing development patterns is the rental community comprised of single-family dwellings on one lot e.g., Avilla at Prairie Center (southeast corner of Eagle Boulevard and S. 27th Avenue). The single-family rental communities come in many different forms and designs, from all single-family structures to a mixture of single-family detached, attached, and multi-family structures. Typically, homes in these communities have very little outdoor space dedicated to each unit. They may have a common amenity, typically have on street parking, and feel more like an apartment complex than a single-family neighborhood.

The current *LUDC* does not specifically address nor prohibit this type of use. Because all units in rental communities are typically located on one lot, a new development pattern is proposed that addresses building separations, open space and amenities, and parking. Staff's goals for this development pattern would be to provide a common amenity since most units have little dedicated outdoor space and to ensure enough parking will be provided for the units and any guests.

The proposed standards require each unit to meet the multi-family parking standards, which are based on the number of bedrooms in each unit. In addition, we would require additional parking for the leasing office and clubhouse, which could draw visitors who do not live in the development. The proposed standards allow carports or garages in the parking areas, but do not allow these structures to be located between the street and the front of any unit.

Last, staff would propose that each development provide a common amenity sized appropriately for the number of units proposed. The common amenity could take the form of a park, playground, basketball court, pool, or similar feature or a combination of these. This common amenity would be in addition to the normal park and open space dedications required on a per unit basis.

Naturally, the homes would still need to meet the building design standards.

#### 7. Add Lodging Building Type

Currently, the *LUDC* lacks a commercial building type that would accommodate lodging. The commercial building types are focused on retail, service, and office uses and are not easily transferable to a lodging use. The addition of lodging as a building type also requires modifications to tables and other standards in Article 6.

#### 8. Non-Residential Accessory Buildings

The "small shed" size is proposed to match the maximum size able to be constructed without a building permit. Setbacks are clarified. The language would also be modified to allow public and civic uses to have an accessory building without a principal structure. Last, staff would propose the addition of accessory building standards specifically for public or civic uses, which are often quite different than commercial uses due to the services provided.

#### 9. Flexibility

In administering the code, we have found that certain requirements have very specific criteria. A good example of this situation is in Section 6.05 where massing and modulation is discussed. The code specifies breaks in the wall plane must be 18 to 48 inches wide. While this gives a good description of the intent of the code, every building is unique. The flexibility proposed in a variety of sections allows the Director to approve an alternative design if the design equally or better meets the design objectives.

#### 10. Non-Residential Building Materials

Staff proposes to add a provision that allows civic buildings and publicly owned buildings more flexibility with respect to exterior building materials. Public buildings often have different security needs than privately owned buildings, which may prevent the inclusion of windows or certain building materials.

#### 11. Parking

At City Council's direction, staff has included an increase in the parking required for multi-family residential uses. After conducting a survey of nearby municipalities, staff found that Brighton's parking standards are generally in line with other municipalities for single-family homes but are a bit lower than other municipalities for multi-family units. The proposed amendments would increase the parking required for multi-family residential building types, which should alleviate some of the stress put on street parking in neighborhoods and near multi-family developments.

Recent reviews of new warehouses have demonstrated that the parking currently required is higher than necessary. A review of other municipalities showed Brighton's warehouse parking requirements are higher than all but one area jurisdiction. The code amendments propose for warehouse parking requirements to be reduced based on a gradual scale that reduces the parking requirement above certain size thresholds.

#### 12. Landscaping

As the code has been used for public projects, we realize additional flexibility is necessary for landscaping associated with civic and publicly owned buildings. In addition, buffers are typically required between uses of different intensity. The buffers currently in the *LUDC* are based on zone districts and do not apply when adjacent to unincorporated properties or lands in a neighboring city. Staff is proposing to add a buffer requirement for these lands. In addition, staff is proposing to add buffers for development adjacent to lands zoned Open Space and Public Lands to ensure incompatible uses will be buffered.

#### 13. Fencing

Many subdivisions include tracts for open space, park, or trail purposes that are adjacent to or between lots. To ensure these are visible spaces where users feel safe, open fencing standards had been established in the previous *Land Use and Development Code*, but did not get carried through to the current *LUDC*. These provisions are proposed to be incorporated once again.

#### 14. Sign Code

City Council requested modifications to the sign code to permit banners located on fences or poles. This language is included in the amendments proposed, along with a requirement that the banner remain attached on all four corners and be stretched to avoid movement in the wind.

In addition, staff has identified several changes to reduce conflicts as the sign code is applied to properties within the City. The first change is to eliminate any reference to art or murals in the sign code. This was recommended by the consulting team that helped write the sign code, who continue to support us as we implement the code. The distinction between art and a sign can be difficult to discern, so they have indicated it is best to remove these references from the code.

The next change adds display signs, a new sign type for businesses with a drive-through lane or pedestrian area. The sign code was lacking allowances for this type of signage that is interior to the site.

Last, several of the graphics had conflicting information with the text about that sign type and many of the references to other sections of the code were incorrect. These have been proposed for corrections. Clarifications have also been added when the language in the code was somewhat unclear. The definitions related to signs have also been proposed for clarification to add the new sign type and clean up some errors that have been found.

#### 15. Minor Corrections

Staff is also proposing minor corrections throughout each Article. These vary from grammatical errors to corrections to the abbreviations for zone districts to minor language changes to better clarify the intended requirement.

**CRITERIA BY WHICH THE CITY COUNCIL MUST CONSIDER THE ITEM AND STAFF ANALYSIS**

**LAND USE & DEVELOPMENT CODE:**

Modifications to the LUDC must meet the following criteria when considered for adoption:

1. The amendment furthers the purposes of these regulations in Section 1.01.C.

*The amendment supports the Land Use & Development Code by ensuring the code can be clearly applied to a variety of uses, eliminating conflicts that currently exist. The amendment to accessory building allowances balances co-equal rights of property owners, ensuring similar lots have equal opportunities for accessory buildings. The addition of the common lot development pattern ensures new development using this pattern will have a distinct design. The fencing and buffer standards for parks and open space ensure a usable, safe, and pleasant experience for residents.*

2. The amendment is in accordance with the Comprehensive Plan and has been considered for both its long-range effects as well as immediate impacts.

*The Be Brighton Comprehensive Plan has specific recommendations related to the Land Use & Development Code and has many provisions that speak to standards within the Code. The amendment furthers the policies identified in Chapter 4 as follows:*

*Policy 2.1 - Brighton Will Continue to Develop in a Self-Sufficient and Sustainable Manner (Live, Learn, Work, Shop and Play) with an Appropriate Balance between Residential and Non-Residential Uses*

- *The amendment supports this policy by requiring open fencing along open spaces that will provide a feeling of safety for residents using neighborhood trails.*

*Policy 3.2 - Promote Urban Open Space Patterns*

- *The amendment supports this policy by requiring open fencing along narrower open spaces that will provide a feeling of safety for residents using neighborhood trails.*

*Policy 6.1 - Create and Maintain Inviting, Safe, Walkable and Bikeable Streetscapes*

- *The common lot development pattern requires parallel parking rather than the typical 90 degree parking off of internal streets in this development type. This modification creates a safer environment for pedestrians and cyclists as cars parked parallel to the street can easily use mirrors to look ahead and behind for conflicts, but cars backing onto the street from an adjacent 90 degree space have less visibility to oncoming traffic, particularly pedestrians and cyclists.*

*Policy 6.2 - Ensure Residential Lots and Architecture Enhance the Street*

- *The common lot development pattern requires each unit to have access to a street, preventing the stacking of multiple units where some are only accessible via sidewalk.*

*Policy 6.3 - Create Usable, Accessible and Inviting Green Spaces in Neighborhoods*

- *The common lot development pattern requires a park or open space amenity to be included in the development since units typically have very little dedicated outdoor space. This amenity is in addition to the public parks and open space required of every development. The amendment also supports this policy by requiring open fencing along open spaces that will provide a feeling of safety for residents using neighborhood trails.*

*Policy 6.4 - Encourage the Enhancement of and Reinvestment in Existing Neighborhoods*

- *Lots with small homes are currently limited in the size of their accessory buildings, even if enough space is available on the lot to accommodate proper setbacks. The amendment to accessory building size calculations would allow accessory buildings based on the size of the lot rather than the size of the home. Improving properties with accessory buildings will allow for storage and vehicles to be kept within a building, thus enhancing the look of the property.*

*Policy 6.5 - Encourage Projects that Enhance the Diversity of Housing Types and Costs, and Manage*

*Affordability through Supply and Subsidy*

- *The common lot development pattern is a new concept that is an attractive alternative to apartments or multi-family buildings. It can provide similar density, but within separated structures that are more appealing to potential tenants.*

*Policy 7.1 - Continually Update the Citywide Design Guidelines to Ensure They Reflect Core Community Values*

- *The updates to the landscaping requirements for public buildings and building materials ensure that the public services can be provided in structures that meet the needs of their particular use. Some public buildings cannot have variations in building material, multiple window or door openings, or foundational landscaping due to the nature of the use of the building. Public safety and security for critical infrastructure operations can be maintained with amendment to the building materials and landscaping sections of the design guidelines.*

*Policy 7.3 - Promote Well Designed Commercial Centers that Contribute to Brighton's Distinct Visual Quality and Uniqueness*

- *The inclusion of buffers from unincorporated lands, public lands, and parks and open space ensure commercial areas are developed in a manner that enhances Brighton's distinctive character. Allowing for display signs and additional banners ensures the look and feel of Brighton's commercial centers will be of high quality, while allowing businesses to communicate to customers.*

*Policy 7.4 - Design Industrial Areas, Office Parks and Similar Larger Scale Projects to Create and Present a Positive Image of the City*

- *The inclusion of buffers from unincorporated lands, public lands, and parks and open space ensure industrial areas are developed in a manner that enhances Brighton's distinctive character.*

*Policy 7.5 - Design the Streets, Pedestrian Environments and Gateways of Brighton With Consideration to the Visual Character and Experience of Users and Adjacent Development*

- *The amendment supports this policy by requiring open fencing along open spaces that will provide a feeling of safety for residents using neighborhood trails.*
- *The common lot development pattern requires parallel parking rather than the typical 90 degree parking off of internal streets in this development type. This modification creates a safer environment for pedestrians and cyclists as cars parked parallel to the street can easily use mirrors to look ahead and behind for conflicts, but cars backing onto the street from an adjacent 90 degree space have less visibility to oncoming traffic, particularly pedestrians and cyclists.*

3. The amendment promotes the public safety, health and general welfare of the community in the City of Brighton.

The amendment includes provisions that ensure the design of open spaces will provide a safe environment that is welcoming to residents. In addition, the inclusion of buffers when development is adjacent to unincorporated properties and city facilities will provide physical and visual separations that reduce impacts and improve safety. Allowing accessory buildings on public sites provides for easier maintenance accessibility. Amending the building material requirements allows for certain critical infrastructure uses to be conducted in a secure building.

4. The amendment improves the effectiveness and efficiency of administering the Land Development Code.

The amendments proposed to building types eliminate conflicting language and create a clear path forward for those uses. Changes proposed to accessory buildings, landscaping, and building materials will reduce the number of variances requested related to these standards. The inclusion of the common lot development pattern establishes clear standards for rental communities located on one common lot, which was not specifically addressed in the code. The standards proposed will provide staff and developers with a clearer understanding of the requirements that are required to be met with this type of development.

**DEVELOPMENT REVIEW COMMITTEE:**

The Development Review Committee (DRC) reviewed these amendments and recommended approval.

**PUBLIC NOTICE AND INQUIRY**

Notice of the public hearing was published on the City of Brighton website at least 15 days prior to the public hearing, as required by Section 2.01 F. of LUDC. City staff will be publishing notice on social media outlets in the days leading up to the meeting.

### **PLANNING COMMISSION RECOMMENDATION**

The Planning Commission heard the proposed code amendments on October 27, 2022 and November 17, 2022. The Planning Commission recommended approval with a 4-0 vote. Please see the attached Resolution #22-7

### **SUMMARY OF FINDINGS AND STAFF RECOMMENDATION**

Staff finds that the proposed code amendments generally meet the review criteria outlined in Section 2.10 B. Review Criteria, of the LUDC and is therefore recommending approval of the code amendments. Staff has drafted an ordinance for approval if the City Council agrees with this recommendation.

### **OPTIONS FOR CITY COUNCIL CONSIDERATION**

The City Council has four options when reviewing the Code Amendment application. The City Council may:

1. Approve the code amendments via ordinance at first reading as drafted;
2. Deny the code amendments;
3. Approve the code amendments with changes to the drafted ordinance, or;
4. Continue the item to be heard at a later, specified date if the Council feels it needs additional information to ensure compliance with the approval criteria as set forth in the LUDC.

*Note: A second reading of the ordinance, if approved at first reading, will be required at a future meeting.*

### **ATTACHMENTS**

- Draft City Council Ordinance
- Planning Commission Resolution #22-7
- Website Notice
- Website Publication Proof
- City Staff's Draft Presentation