



MEMORANDUM

P.O. Box 4100 ♦ FRISCO, COLORADO 80443

TO: MAYOR AND TOWN COUNCIL

FROM: SUSAN LEE, PLANNER; GILLY PLOG, ENVIRONMENTAL PROGRAMS COORDINATOR

RE: A PUBLIC HEARING TO CONSIDER ORDINANCE 2020-23, AN ORDINANCE AMENDING CHAPTER 180 OF THE CODE OF ORDINANCES OF THE TOWN OF FRISCO, CONCERNING THE UNIFIED DEVELOPMENT CODE, BY AMENDING SUBSECTION 180-2.5.2.B.1, CONCERNING THRESHOLDS FOR SITE PLAN REVIEW TYPE; AND SUBSECTION 180-5.1.5, CONCERNING THE TABLE OF ALLOWED USES; AND SECTION 180-5.2, CONCERNING USE SPECIFIC STANDARDS; AND SUBSECTION 180-5.2.3, CONCERNING OUTDOOR STORAGE AREAS; AND SUBSECTION 180-5.3.3, CONCERNING SOLAR ENERGY FACILITIES; AND SECTION 180-6.4.1, CONCERNING IMPROVEMENTS AGREEMENT; AND SECTION 180-6.5, CONCERNING LAND-DISTURBING ACTIVITIES; AND SECTION 180-6.6.2, CONCERNING DRAINAGE PLANS, DESIGN STANDARDS; AND SECTION 180-6.6.4, CONCERNING EROSION AND SEDIMENT CONTROL; AND SECTION 180-6.7, CONCERNING WATER QUALITY; AND SUBSECTION 180-6.11.2, CONCERNING NON-VEHICULAR ACCESS REQUIREMENTS; AND SUBSECTION 180-6.13.1, CONCERNING PARKING AND LOADING REQUIREMENTS, APPLICABILITY; AND SUBSECTION 180-6.13.3, CONCERNING ON-PREMISE PARKING REQUIREMENTS; AND SUBSECTION 180-6.13.4, CONCERNING BICYCLE PARKING; AND SUBSECTION 180-6.13.7, CONCERNING SNOW STORAGE AREAS; AND SUBSECTION 180-6.14.2, CONCERNING LANDSCAPING AND REVEGETATION REQUIREMENTS, APPLICABILITY; AND SUBSECTION 180-6.14.5.E, CONCERNING REVEGETATION OF DISTURBED LAND; AND SECTION 180-6.17, CONCERNING REFUSE MANAGEMENT; AND SECTION 180-9.3, CONCERNING GENERAL DEFINITIONS, ON SECOND READING.

DATE: JANUARY 12, 2021

Summary and Background: This is the second reading of Ordinance 20-23. In order to support Town Council's Strategic Plan goals related to implementing the Climate Action Plan and Water Efficiency Plan, staff has been pursuing building and land use code revisions in collaboration with a multi-jurisdictional task force headed by High Country Conservation Center (HC3). The group

worked collectively to prepare an updated version of the Summit Sustainable Building Code (SSBC) that was adopted by Frisco Town Council on April 14, 2020.

In conjunction with the building code update, the HC3 task force held work sessions to develop guidelines to create more sustainable land use regulations. At these work sessions, HC3 and local planners reviewed general land use and development code requirements designed to promote sustainability through transportation, water efficiency, water quality, waste diversion, and solar readiness. Using these topic areas and research from the working group as a guide, each jurisdiction pursued land use code revisions independently, due to the uniqueness of each entity's land use regulations.

On June 9th of 2020, a preliminary list of sustainable land use topics was presented to Council for consideration. At that meeting, the Council provided feedback and requested that staff solicit additional feedback on the code revisions from developers, builders, architects, and landscapers (henceforth referred to as "developers"), that may potentially be impacted by the updates.

Staff presented the developers' feedback to Council at the September 8th, 2020, Town Council meeting. A summary of comments along with the final proposed change can be found below. At the work session Town Council directed staff to develop draft code language in support of the sustainable land use code recommendations and hold a public hearing with the Planning Commission to review the same.

Planning Commission held a public meeting on November 5, 2020 to consider the proposed code text amendments. The Planning Commissioners recommended approval of the proposed code amendments with four modifications. More detail on the modifications can be found in the analysis below.

On December 8, 2020, the Town Council unanimously approved Ordinance 20-23 on first reading.

Analysis: The following is a brief outline of the proposed sustainable land use code changes, a description of stakeholder responses, direction from Town Council, recommended modifications from the Planning Commission, and proposed code changes for each topic. During the research and development of the actual code language several items were modified from the originally suggested change.

Transportation		
Suggested Change	Developer Feedback	Proposed Change
Revise parking and loading requirements to reference the new SSBC language requiring EV and EV ready charging stations for commercial and residential uses. Incentivize installation of EV charging stations by reducing parking requirements in exchange for the provision of additional spaces above the SSBC requirements.	<p>"If the Town is over parking the use per the code then the developer may not value the parking anyway. Generally, though, it seems like a good way to get the infrastructure in place and encouraging the transition to EV."</p> <p>"Sounds great, will private property owners be able to charge for the power?"</p> <p>"Seems reasonable, the incremental cost to build</p>	<p>Town Council supports this code revision.</p> <p>Proposed code language includes a reference in UDC §180-6.13 Parking and Loading Requirements to the new building code requirements and creates a parking reduction incentive. The incentive is for non-residential uses with parking lots of 10 spaces or more. It allows for a reduction of one</p>

	<p>additional EV spaces goes down, allows for more area to be landscaped.”</p> <p>“Makes sense, done in other areas and is a good incentive for commercial projects.”</p> <p>“I am not sure what the reasoning is for the 1:1 incentive to reduce parking? In my opinion, the parking requirement is already at a minimum and you want to basically create less parking for standard vehicles. Think of a different incentive to provide the EV charger and make the spaces dual purpose.</p>	<p>space for every additional EV installed space in excess of the building code requirements. The space reduction can be no more than 10% of the total number of spaces. A standard was included to allow the Town to decide whether or not the EV spaces provided under the incentive may be signed for the exclusive use of EV parking so as not to create a parking shortage per this incentive.</p>
Clarify code language requiring new developments to tie into existing bicycle and pedestrian infrastructure.	<p>“Makes sense in a lot of cases. Would the Town/County allow the developer to build onto their land?”</p> <p>“Typical requirement, normal in many other communities.”</p> <p>“Better to have clear standards, typical in most places.”</p> <p>“Yes, but only for multi-family and commercial.”</p>	<p>Town Council supports this change. Proposed code language in UDC §180-6.11.2 references the 2017 Frisco Trails Master Plan and Chapter 155 to offer more concise standards for a proposed development’s bike/pedestrian connection requirements.</p>
Establish requirements for long-term and short-term bicycle parking for multi-family residential uses, and square footage of commercial (1 per 750 SF) and require a 75% to 25% blend of indoor, covered, long-term spaces to short-term uncovered spaces for residential only.	<p>“How would this count toward lot coverage requirements?”</p> <p>“Makes sense for multi-unit projects.”</p> <p>“Could easily add space for bikes in garage corners, between pillars, in otherwise unusable space. Bike parking should have same exemption in the Central Core as car parking. Bikes should be in ROW.”</p> <p>“Agree with proposed bike storage requirements. Town</p>	<p>Town Council supports this change. Based on research into comparable communities, the proposed code language maintains the existing non-residential bicycle parking requirements and requires that multi-family residential developments provide one bicycle parking space per bedroom, with 50% of the total spaces to be enclosed. The revisions to UDC §180-6.13.4 include standards for the enclosed</p>

	<p>should provide dimensional standards for spaces.</p> <p>“Agree, but feel as though each owner should provide their own locks.”</p>	and outdoor bicycle parking.
Water Efficiency and Quality		
Suggested Change	Developer Feedback	Proposed Change
Landscape plan must indicate water usage for proposed plant materials and cannot exceed an established gallon per square foot maximum.	<p>“Makes sense, but be careful that the Town doesn’t impact the aesthetics of Spruce, Aspen, and other trees.”</p> <p>“It’s not over burdensome, it’s okay that the Town can’t enforce today as long as there are plans to enforce in the future.”</p> <p>“Against regulations that won’t/can’t be enforced.”</p> <p>“QWEL certification is too restrictive, variety of ways to achieve irrigation conservation. Drip is best. 90% of current installs are drip. Better design principles result in more water efficient landscapes, focus on the design. Include xeric design principles not just plant lists. Adding the water usage would cost \$200-300 extra, not a big deal.”</p> <p>“It’s important to do this now even though the Town doesn’t have advanced metering infrastructure in place. Good to start doing it so people are aware of their proposed water usage.”</p>	After lengthy discussions regarding water budgets and improvements to irrigation standards Town Council directed staff to remove this item from the sustainable land use code updates. As the water department moves forward with advanced metering systems, and other outdoor water efficiency programs the Town’s ability to enforce and apply this type of regulation will change. Staff will revisit this with Council at that time.
Require geotechnical report at the planning stage for development or disturbance on steep slopes.	<p>“Makes sense. Would head off a lot of problems by doing this earlier in the process.”</p> <p>“Soils reports shouldn’t be required until structural building design. Site planning isn’t based on soils type.”</p>	Town Council directed staff not to modify the geotechnical report requirements. After discussion with Planning Commission and analysis of the existing code requirements, staff is proposing to expand the

	<p>“Might protect developer from future unknowns but belongs in the Building Permit phase not planning.”</p>	<p>planning level soils report requirement to include slopes over 15%. Currently, it is only required for slopes over 30% at the planning level review phase. Soils reports are required for a building permit.</p>
<p>Modify drainage plan requirement to include design standards (as pulled from CDOT and CDPHE) or professional best practices, or as approved by the Town Engineer.</p>	<p>“It would be nice to have a good reference as long as it’s not overly complex.”</p> <p>“How much cost would this add to development/construction? A caveat would be nice if the development is a certain distance away from a waterbody.”</p> <p>“500 square foot permit requirement should be requirement for regrading/earthwork not simple landscaping. Could be helpful so that people are reminded to call for locates, make sure they’re not in the ROW, etc. Should be administrative review.”</p> <p>“500 square foot requirement seems like a reasonable way to regulate site disturbance without building permits. The Boneyard is a blatant disregard for the Town’s own erosion control standards.”</p>	<p>Town Council supports this change. The proposed code language in UDC §180-6.6 references the CDOT M Standards. A hyperlink to the referenced document will be provided on the Town website and within the code.</p>
<p>Add screened topsoil to a minimum depth of three inches in areas disturbed by construction and add language about screen size – revise language to match Summit County CSU guidelines.</p>	<p>“This is standard.”</p>	<p>Town Council supports this change. References to topsoil requirements have been removed from UDC §180-6.6.4 Erosion and Sediment Control Measures, except to reference the CDOT M Standards. All other topsoil requirements have been consolidated in UDC §180-6.14.5 which calls for screened topsoil with a</p>

		minimum depth of three inches.
Add disturbance and mitigation plan requirements for soil disturbance within the wetland and waterbody setback in cases where a variance is issued.	<p>“This is just best practices for revegetation and erosion control.”</p> <p>“Setbacks shouldn’t require mitigation, just a plan for revegetation and regrading.”</p> <p>“Apply consistent wetland requirements and match neighboring jurisdictions. Make the Town’s definitions match Army Corps and don’t count drainage ditches as waterbodies.”</p> <p>“This is reasonable.”</p> <p>“Would like to have some requirements or a way to help mitigate groundwater issues in older houses.”</p>	Town Council supports this change. The code language for UDC §180-6.7 Water Quality has been revised to clarify that disturbance of waterbodies, wetlands and wetland setbacks is prohibited. It establishes what types of disturbances may be permitted, and the submittal requirements. The section also outlines mitigation requirements, mitigation plan submittal standards and performance measures.
Create mitigation requirements for wetland disturbances similar to the County’s requirements: 1:1 onsite mitigation requirement, 2:1 offsite mitigation if onsite is not an option, or a fee in lieu for 2:1 replacement for conversion to public domain.	<p>“The County example is okay for setback mitigation requirement and definition should match the Corps definition. No mitigation should be required for ditches.”</p> <p>“It isn’t easy to find locations for offsite mitigation, the fee in lieu option would be great so the Town can help with mitigation.”</p>	Town Council supports this change. The proposed code language for UDC §180-6.7.1.D calls for a 1:1 compensation of wetland loss or fee in lieu in cases where creation of new wetlands is not possible.
Waste Diversion		
Suggested Change	Developer Feedback	Proposed Change
Require equal space for refuse and recycling.	<p>“Equal space looks good, the Town should try to address access and address existing areas.”</p> <p>“Dumpsters with a roof should be the norm. Makes it easier to use and maintain in the winter and is wildlife proof. Older properties should be retrofitted.”</p>	Town Council supports this change. The proposed code language eliminates dumpster requirements from UDC §180-5.2.3 Outdoor Storage Areas and consolidates the new requirements under UDC §180-6.17 Refuse Management. The Planning Commission requested that the

	<p>“Nicer looking enclosures are better, incorporate into larger structure if possible and equal space is good. Dumpsters should be required for multi-family projects.”</p> <p>“Better enclosures should be required for multi-family and commercial. Leave it to building management to figure out space requirements for recycling and refuse. Compost is still a work in progress in Summit County, needs more study and discussion.”</p>	<p>proposed code language be amended to include a dumpster enclosure requirement for multi-family developments consisting of five or more units. They cited ongoing trash collection issues with short-term rentals and second homeowners. The proposed language requires a four sided enclosure, with roof, for all non-residential, mixed-use, and multi-family developments of over five units. The enclosures would be required to provide space for recyclable materials, including compost, in an amount equal to the space provided for trash.</p>
Require wildlife proof containers for outdoor trash storage.	<p>“This is reasonable.”</p> <p>“Roofs used to be required, but not enough space was being left inside enclosure, wants to make sure that doesn’t happen in the future and we should try to address the existing structures.”</p> <p>“The Town should require roof enclosures – wildlife proof by design.”</p>	<p>Town Council supports this change. The proposed language for UDC §180-6.17 Refuse Management specifies that the dumpster enclosure must be wildlife proof. A reference to Chapter 127-17, Offenses is also included. This section deals with maintenance and management of all refuse containers.</p>
Solar Readiness		
Suggested Change	Developer Feedback	Proposed Change
<p>Define large scale solar facility in definitions section (facility over 0.5 acres in size) and add to the definition for Public Utilities and Facilities. Add to use table as a use under Public Facilities to be conditional in all zone districts and permitted in Public Facilities. Create new section (§180-5.2.14) for large scale solar facility's 'use specific standards' should</p>	<p>**Town staff received input from solar installers for the suggested changes. The feedback received from developers was that if these changes had already been vetted by solar installers, the developers were in agreement with the proposed changes.</p>	<p>Town Council supports this change. In the proposed language a definition has been added for Large Scale Solar, and it has been added to the use table as a use by right in the Public Facilities zone district and as a conditional use in the Parks and Recreation zone district. A new section (§180-5.2.14) has</p>

include description, setback requirements, lot coverage exemption, screening and revegetation requirements.		been added to outline the use specific standards for large scale solar.
Increase the height limit of ground-mounted solar from 5 feet to 25 feet in appropriate zone districts, such as the Light Industrial or Public Facilities Districts.		Town Council supports these changes. In the proposed code language new standards have been created for Solar Energy Facilities as an accessory use (UDC §180-5.3.3). The new standards exempt solar from building height requirements with a maximum height of 2' above the roofline for pitched roofs and 10' for flat. Maximum height for ground-mounted is 20'. Foot print requirements have been eliminated. Definitions have been corrected.
Exempt roof-mounted solar from building height limits, include building standards from Fort Collins.		
Delete "Solar energy facilities shall not exceed the greater of one-half of the footprint of the principal structure" (180-5.3.3.C).		
Add ground-mounted solar to the list of exemptions in the Lot Coverage Definitions.		

Analysis (continued): Code text amendments to the UDC are approved by the Town Council after consideration and recommendation by the Planning Commission. At the November 5, 2020 meeting, the Planning Commission recommended approval of the proposed changes with four modifications. The recommended modifications, along with the action taken by staff is as follows:

1. **Recommended modification:** UDC §180-6.5.1, concerning Development on Steep Slopes, be amended to require a soils report for properties with slopes over 15%.
Action by staff: Currently, soils reports are required for developments that disturb slopes over 30%. Extending the requirement to disturbance of 15% slopes improved consistency within the code and did not create a new requirement for developments, as the soils report is required for all developments during the building permit review process. Staff incorporated this modification into the code amendment.
2. **Recommended modification:** UDC §180-6.13.3, concerning Parking and Loading Requirements, be amended to require that EV spaces installed in conjunction with the incentive be located in close proximity to a primary building entrance.
Action by staff: The building code requires that one EV installed space be designated as an ADA accessible space. Typically, the EV installed spaces will be co-located so as to share conduit and proximity to electrical equipment. Based on these conditions staff did not incorporate this modification into the code amendment.
3. **Recommended modification:** UDC §180-6.13.7, concerning Snow Storage Areas, be amended to maintain the requirement that snow storage shall not be located in wetlands or the 25-foot wetland setback.
Action by staff: Snow storage in wetland setbacks is currently prohibited in UDC §180-6.7.2.B In order to maintain this condition within the new code language Staff incorporated this modification into the code amendment in UDC §180-6.13.7 which establishes snow storage standards and requirements.
4. **Recommended modification:** UDC §180-6.17.1, concerning Refuse Management, General Standards, be amended to require that multi-family developments consisting of five or more units, shall be subject to the dumpster enclosure requirements.

Action by staff: UDC §180-9.3, defines multi-family developments as a development of three or more units. The initial draft code language exempted multi-family developments with private garages from the dumpster enclosure requirement due to the fact that smaller developments of five units or less may be unduly burdened by a dumpster enclosure requirement, both in terms of land and trash hauling costs. By limiting the requirement to multi-family developments of over five units, the burden is more equitably distributed. Staff incorporated this modification into the code amendment.

Alignment with Town Council Strategic Plan: The 2019-2020 Town of Frisco Strategic Plan contains several goals and action items that directly relate to the adoption of the sustainable land use code amendments including: implementation of the Climate Action Plan; increasing opportunities and reducing barriers for solar installation within the community; and developing plans to reduce waste within the community.

Environmental Sustainability: Ordinance 2020-23 is intended to bring a higher level of sustainability to the existing land use code.

Staff Recommendation: Staff recommends approval of Ordinance 2020-23, on second reading.

Reviews and Approvals:

Bonnie Moinet, Finance Director-Approved
Nancy Kerry, Town Manager

Attachments:
Ordinance 2020-23