

COTTONWOOD HEIGHTS

ORDINANCE NO. 421

AN ORDINANCE AMENDING TITLE 19 OF THE COTTONWOOD HEIGHTS CODE OF ORDINANCES (SEPTEMBER 2024 CODE MAINTENANCE)

WHEREAS, the “Municipal Land Use, Development, and Management Act,” UTAH CODE ANN. §10-9a-101 *et seq.*, as amended (the “*Act*”), provides that each municipality may enact a land use ordinance and a zoning map establishing regulations for land use and development; and

WHEREAS, pursuant to the Act, the municipality’s planning commission shall prepare and recommend to the municipality’s legislative body, following a public hearing, a proposed land use ordinance and a zoning map, or amendments thereto, that represents the planning commission’s recommendations for zoning the area within the municipality; and

WHEREAS, the Act also provides certain procedures for the municipality’s legislative body to adopt or amend the land use ordinance and zoning map for the City; and

WHEREAS, on 14 July 2005, the legislative body (the “*Council*”) of the city of Cottonwood Heights (the “*City*”) enacted its Ordinance No. 25 adopting a land use ordinance for the City and codifying such ordinance as Title 19 (“*Title 19*”) of the City’s code of ordinances (the “*Code*”); and

WHEREAS, thereafter, the City’s planning commission (the “*Planning Commission*”) formulated proposed amendments (the “*Amendments*”) to Title 19 to clarify ambiguous definitions and procedures and rectify conflicting provisions in the Code as part of general maintenance of the Code; and

WHEREAS, because certain of the Amendments affect Title 19, and to provide an opportunity for public input concerning all the proposed Amendments, a public hearing was held before the Planning Commission where citizens were given the opportunity to provide written or oral comment concerning the proposed Amendments; and

WHEREAS, such public hearing before the Planning Commission was preceded by all required legal notices; and

WHEREAS, following the public hearing, the Planning Commission recommended the Amendments to the Council for adoption; and

WHEREAS, the Council subsequently took additional public comment concerning the Amendments; and

WHEREAS, the Council has reviewed and is familiar with the Amendments, a copy of which is annexed as an exhibit to this ordinance, including any amendments proposed by the Council to the form of the Amendments affecting Title 19 that were recommended for adoption by the Planning Commission, as authorized by UTAH CODE ANN. 10-9a-502(2); and

WHEREAS, on 10 September 2024 the Council met in regular meeting to consider, among other things, amending the Code to enact the Amendments, including any such revisions; and

WHEREAS, after careful consideration of the recommendations of the Planning Commission, comments at the public hearing and other public meetings, and other relevant input, the Council has determined that it is in the best interest of the health, safety and welfare of the citizens of the City to adopt and enact the Amendments as proposed;

NOW, THEREFORE, BE IT ORDAINED by the city council of the city of Cottonwood Heights as follows:

Section 1. **Adoption of Amendments.** The Council hereby adopts and enacts the Amendments in the form of the attached exhibit, wherein deletions to the current affected ordinances are ~~struck through~~ or otherwise shown as deletions and additions to the current affected ordinances are underlined or otherwise shown as additions.

Section 2. **Action of Officers.** All actions of the officers, agents and employees of the City that are in conformity with the purpose and intent of this ordinance (this “*Ordinance*”), whether taken before or after the adoption hereof, are hereby ratified, confirmed and approved.

Section 3. **Severability.** It is hereby declared that all parts of this Ordinance are severable, and if any section, paragraph, clause or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect the remaining sections, paragraphs, clauses or provisions of this Ordinance.

Section 4. **Repealer.** All ordinances or parts thereof in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

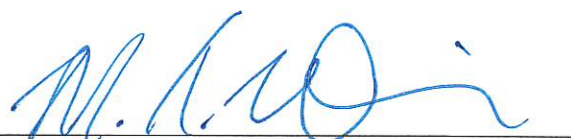
Section 5. **Effective Date.** This Ordinance, assigned no. 421, shall take immediate effect as soon as it shall be published or posted as required by law and deposited and recorded in the office of the City’s Recorder, or such later date as may be required by Utah statute.

PASSED AND APPROVED this 10th day of September 2024.

ATTEST:

COTTONWOOD HEIGHTS CITY COUNCIL

By:  Paula Melgar, Recorder

By:  Michael T. Weichers, Mayor



VOTING:

Michael T. Weichers	Yea <u>X</u>	Nay ____
Matt Holton	Yea <u>X</u>	Nay ____
Suzanne Hyland	Yea <u>X</u>	Nay ____
Shawn E. Newell	Yea <u>X</u>	Nay ____
Ellen Birrell	Yea <u>X</u>	Nay ____

DEPOSITED in the Recorder's office this 10th day of September 2024.

POSTED this 11 day of September 2024.

Yard Elements Proposed Changes

Staff has observed ongoing confusion regarding the development standards for yard projects, such as swimming pools, gazebos, pergolas, etc. While city code has generalized regulations which staff utilizes to review these projects, it lacks specific mention of these elements, which creates confusion when residents and contractors attempt to locate the regulations in code. As such, staff proposes the following code edits to specifically reference these common yard projects, including definitions and regulations. These edits are tracked below in blue.

Title 19 – Zoning

19.04 - Definitions

19.04.125 Appeals Hearing Officer

An individual appointed by the manager with advice and consent of the city council, who is authorized to, inter alia, make special exceptions to the city's zoning ordinance (i.e., variances) and to hear and decide certain appeals alleging error in an order, requirement, decision or determination as provided in this title.

19.04.130 Arbor

A free-standing arch utilized as an ornamental gateway to a path or yard area, not to exceed eight feet in height and three feet in depth.

19.04.135 Art Gallery Or Museum

An institution for the collection, display and/or distribution of objects of art or science, and which is typically sponsored by a public or quasi-public agency and generally open to the public.

19.04.140 Assisted Living Facility

A congregate residence facility for ten or more elderly (over 55 years of age) persons, regardless of legal relationship, who need limited assistance with daily living activities. A limited number of support services such as meals, laundry, housekeeping, transportation, social /recreational activities, hairdressing, etc. may be provided or associated with the assisted living facility. Units may be attached or detached, single- or double-occupancy, and may include limited or full kitchen facilities. Full-time medical or nursing care is not typically provided by the facility, but may be privately arranged for by individual residents on a part-time or temporary basis (e.g., visiting nurses, etc.).

19.04.950 Fire Department

The Unified Fire Authority or other fire or emergency services contract provider for the city.

[19.04.955 Flagpole](#)

[A freestanding structure or a structure attached to a building or to the roof of a building on a parcel of record and used for the sole purpose of displaying flags.](#)

19.04.960 Flood Plain

An area of land subject to inundation by a 100-year frequency flood as determined using standard engineering practices and generally as shown on the FIRM Flood Insurance Rate Map of the city.

19.04.1110 Gasoline Service Or Filling Station

See "automotive gasoline or motor fuel service station."

[19.04.1115 Gazebo](#)

[A freestanding structure or building, or attached structure or building with a pitched-roof design, and a maximum area of 600 sq. ft., not to be utilized for habitation.](#)

19.04.1120 General Commercial Plant

Establishments other than personal service shops for the treatment and/or processing of products as a service on a for-profit basis including, but not limited to, newspaper printing, laundry plant, or cleaning and dyeing plants.

19.04.2010 Personal Service Shop Or Custom Personal Services

Establishments of less than 2,000 square feet in gross floor area, primarily engaged in providing services generally involving the care of the person or his apparel and including, without limitation, barber/beauty shops, dressmaking, shoe shining and repair, dry-cleaning and laundry pick-up stations, tailor or seamstress services, and other similar types of uses. Outside storage is prohibited.

[19.04.2015 Pergola](#)

A freestanding structure or structure attached to a building forming a sitting area or passageway that is composed of vertical posts or pillars that usually support cross-beams and a sturdy open lattice.

19.04.2020 Pet And Animal Grooming Shop

A retail establishment offering small animals, fish and/or birds for sale as pets, where such creatures are housed within the building, and which may include the grooming of dogs, cats and similar animals.

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19.04.2080 Playfield Or Stadium (Private)

An athletic field or stadium not owned and operated by a public agency.

19.04.2085 Playground, Swing Set

An outdoor apparatus with equipment for children's recreation, such as swings, slides, and climbing frames, not including any water or electricity connections, nor habitable space.

19.04.2090 Portable Building Sales (Outdoor Display)

An establishment which displays and sells structures capable of being carried and transported to another location, but not including mobile homes.

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19.04.2210 Radio, Television Or Microwave Tower

See "antenna, microwave reflector and antenna support structure."

19.04.2215 Raised Beds, Planters

Above ground planting vessels which solely serve a decorative or gardening purpose, and are not enclosed by structures.

19.04.2220 Rear Yard

See "yard, rear."

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19.04.2380 Retail Shop (For Apparel, Gifts, Accessories And Similar Items)

An establishment engaged in the selling of goods and merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. (See also "general retail stores").

19.04.2385 Retaining Wall

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A structure that is designed and constructed to stabilize two generally horizontal surfaces which are vertically displaced, and which shall be either a landscape retaining wall or structural retaining wall.

19.04.2390 Retirement Housing For The Elderly (Also Independent Living Center Or Congregate Housing)

A development providing self-contained dwelling units specifically designed for the needs of the elderly. Units may be rented or owner-occupied. To qualify as retirement housing, a minimum of 80% of the total units shall have a household head 55 years of age or greater. No long-term or permanent skilled nursing care or related services are provided.

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19.04.2730 Swimming Pool, Commercial

A swimming pool with accessory facilities which is not part of the municipal or public recreational system and which is not a private swim club, but where the facilities are available for use by the general public for a fee.

19.04.2735 Swimming Pool, Outdoor

An accessory structure, designed to hold water more than 30 inches deep to be used for recreational purposes, including but not limited to above ground pools, in-ground pools, hot tubs, swim spas, and plunge pools.

19.04.2745 ~~6~~ Telemarketing Center

An establishment which solicits business or the purchase of goods and/or services by telephone only. No sales of goods or services to the public occurs at or on the premises. No products are stored at or on the premises.

19.04.2750 Telephone And Exchange, Switching/Relay Or Transmitting Station

A line for the transmission of telephone signals and a central office in which telephone lines are connected to permit communication but not including a business office, storage (inside or outside) or repair yards.

19.04.2930 Transportation And Utility Structures/Facilities

Permanent facilities and structures operated by companies engaged in providing transportation and utility services including but not limited to railroad track rights-of-way, sewage pumping stations, telephone exchanges, transit station turnarounds, water reservoirs and water pumping stations.

19.04.2935 Tree House

An outdoor apparatus constructed within a tree for children's recreation, not exceeding 100 sq. ft., and not including any water or electricity connections, nor habitable space.

19.04.2940 Trellis

A frame of latticework designed to support plants, either freestanding or attached to a structure.

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19.04.2945 Truck

A light or heavy load vehicle (see "light load vehicle" and "heavy load vehicle").

19.04.2950 Truck And Bus Repair

An establishment providing major and minor automotive repair services to heavy load vehicles.

19.04.3040 Variance

An adjustment in the application of the specific regulations of this title to a particular parcel of property which, because of special conditions or circumstances of hardship peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district. Only the appeals hearing officer may grant a variance.

19.04.3045 Veterinarian Clinic

An establishment where animals and pets are admitted for examination and medical treatment (see also "kennels").

19.04.3050 Water Features

A design element where water performs an aesthetic function, such as ponds, fountains, or waterfalls which serve a strictly ornamental purpose, and are not utilized for recreation.

19.04.3055 Weapon

A weapon is (a) any firearm, including, without limitation, any barreled device, of any description, from which any shot, bullet, pellet, dart, paintball or other potentially harmful missile can be discharged, any component part of or accessory to such a firearm, including accessories designed or adapted to diminish the noise or flash caused by the firing of the firearm; (b) any knife, including, without limitation, a belt buckle knife, dirk, dagger, sword, cane sword, pen knife, lipstick knife, switchblade, butterfly knife or any other knife that has a blade longer than 2.5 inches, opens automatically, or has more than one sharp edge; (c) nunchaku; (d) metal knuckles; (e) blow guns in excess of 12" in length; (f) bows and crossbows; (g) ammunition, arrows, bolts, bullets or any explosive device.

Title 19 – Zoning

19.76 – Supplementary and Qualifying Rules and Regulations

19.76.030 Structures, Bulk And Massing Requirements

A. Dwellings, including guest homes, on lots.

1. Every dwelling shall be located and maintained on a lot, as defined in this title. Except for group dwellings and guest houses, not more than one dwelling structure shall occupy a lot.
2. Guest houses shall be a permitted use in the following zones:
 - a) R-1-8; R-1-10; and R-1-15
 - b) RR-1-21; RR-1-29; and RR-1-43
 - c) F-1-21; and F-1-43
 - d) F-20
3. The guest house shall be a detached accessory use to a principal residence and shall be located in the rear yard of the principal lot.
4. The maximum allowed area of the guest house shall not exceed 25% of the area of the rear yard.
5. The floor area of the guest house and principal residence combined shall not exceed the maximum impervious surface coverage for the site.

6. The rental or lease of a guest house, or the use of a guest house as a permanent residence for a second family on the premises shall be prohibited.
7. Installation of separate utility meters for the guest house is prohibited.
8. All bulk and massing requirements for accessory buildings, as per the applicable zone, shall be applicable to the guest house.

B. Accessory buildings—Area of coverage and building area.

1. No accessory building or group of accessory buildings in any residential zone shall cover more than 25% of the rear yard.
2. Accessory buildings shall not be constructed before the principal/main building is constructed.
3. Minimum yard area requirements for accessory buildings are as follows:
 - a) No accessory building shall be located in a front, side, or corner side yard area of any lot.
 - b) Except as otherwise provided in this title, no accessory building shall exceed 20 feet in height. Further, for every foot of height over 14 feet, accessory structures shall be set back from property lines an additional foot from the minimum setback to allow a maximum height of 20 feet.
 - c) Except as otherwise provided in this title, the following setbacks from property lines shall apply, based on accessory structure height:
 1. Accessory building height up to 14 feet: Three foot setback;
 2. Accessory building height up to 15 feet: Four foot setback;
 3. Accessory building height up to 16 feet: Five foot setback;
 4. Accessory building height up to 17 feet: Six foot setback;
 5. Accessory building height up to 18 feet: Seven foot setback;
 6. Accessory building height up to 19 feet: Eight foot setback; and
 7. Accessory building height up to 20 feet: Nine foot setback;
4. All buildings shall be separated by a minimum distance of six feet.

C. Public use—reduced lot area and yards. The minimum lot area and minimum yard requirements of this title may be reduced by the planning commission for a public use. The planning commission shall not authorize a reduction in the lot area or yard requirements if rule 19.76.030(H), "Additional height allowed when," is in use, or unless the evidence presented is such as to establish that the reduction will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.

D. Structure height—Vertical measurement.

1. Structure height shall be measured by taking the average vertical distance measured at the four corners of the main structure. This measurement shall be taken from the original natural grade of the lot to the highest point of the roof structure. In cases where the four corners of the structure are not explicitly clear, the city's building official and the director shall designate the four corners of the structure.
2. Structures may be stepped to accommodate the slope of the terrain provided that each step shall be at least 12 feet in horizontal dimension. The height of each stepped segment shall be measured as required in Subsection (A).
3. Original ground surface shall be the elevation of the ground surface in its natural state before any manmade alterations such as, without limitation, grading, excavation or filling, excluding improvements required by zoning or subdivision ordinances. When the elevation of the original ground surface is not readily apparent because of previous manmade alterations, the elevation of the original grade shall be determined by the director using the best information available.

E. Lot grade—measurement. The percent grade of a lot shall be derived by determining the percent increase or decrease in elevation using the area of the proposed structure footprint and the front yard.

F. Height limitations—Buildings less than one story. No building shall be erected to a height less than one story above grade.

G. Height limitations—Exceptions. In the ORD, CR, MU, NC, RO and PF zones, penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building may be erected above the height limits prescribed in this title when approved by the planning commission, but no space above the height limit shall be allowed for the purpose of providing additional floor space. In the case of conflicting provisions, the stricter requirement shall apply.

H. Additional height allowed when. Public or semipublic utility buildings, when authorized in a zone, may be erected to a height not exceeding 40 feet if the building is set back from each otherwise established building line at least one foot for each additional foot of building height above the normal height limit required for the zone in which the building is erected.

I. Story, first. The lowest story in a building that qualifies as a story, except that a floor level in a building having only one floor level shall be classified as a first story. Where a floor in a building is more than four feet below existing grade for more than 50 percent of the total perimeter of the building, or more than eight feet below existing grade at any point, that floor will not qualify as a story for the purposes of measuring maximum structure height.

J. Yard requirements. "Yard" means a space on a lot, other than a court, unoccupied and unobstructed from the ground upward by buildings or structures, except as follows:

1. Fences;

2. The ordinary projections of windows where the projection is at least 18 inches above floor level, awnings, parapets, relief carvings, roofs, cornices, chimneys, flues, and other ornamental features which project into a yard not more than three feet;
3. Open or lattice-enclosed exterior stairways, located in a commercial or manufacturing zone, projecting into a yard not more than five feet; and
4. Structures less than 18 inches in height from the finished ground surface.

K. Demolition permits.

1. An approved site plan is required before a commercial building can be approved for demolition.
2. The following items must be submitted to obtain a demolition permit:
 - a) An asbestos inspection from an approved asbestos inspector.
 - b) A completed and approved "Pre-demolition Building Inspection Form" from Salt Lake Valley Health Department.
 - c) Approval for demolition from the Utah Division of Air Quality.
 - d) A letter or email, from all service providers to the property or structure, indicating that all utilities have been terminated.
 - e) A completed city building permit application.

L. Portable storage containers. In all municipal, residential, commercial, office or mixed-use zone, portable storage containers are permitted only in accordance with the following:

1. As a temporary use, not to exceed 180 days, during the construction, remodeling or redevelopment of a permanent on site structure with a valid building permit.
2. In no case shall a lot contain more than one of such portable storage containers, nor shall any portable storage container be located in required landscape areas, front yard area, required open space, detention basins, drive aisles, fire lanes, required parking spaces, loading zones or any other location that may cause a threat to public safety, or create a condition detrimental to surrounding land uses and property owners.
3. For commercial, office and mixed-use zones a temporary site plan must be submitted for review by the department. Approval of more than one portable storage containers may be approved by staff if the DRC finds that the addition will not jeopardize the public health, safety or welfare or create a nuisance. In addition, the temporary use of portable storage containers shall not violate a conditional use approval.

M. Construction mitigation plan for all construction. Prior to commencement of construction, a written construction mitigation plan addressing the following elements must be approved by the director or his designee. The construction mitigation plan shall address the following

elements: (Please note: all elements may not apply to each individual project. There may also be additional elements, unique to the project that involve public health and safety issues).

1. Hours of operation. The hours of operation are 7:30 AM to 6:00 PM, Monday thru Saturday, and 9:00 AM to 6:00 PM on Sunday. Upon a clear and convincing showing by the applicant that a waiver to the hours of operation is necessary and will not jeopardize the public health, safety or welfare, the director may modify hours of operation through the building permit. Exclusively indoor construction beyond the hours of operation listed above in this subsection shall be exempt from such hours of operation unless the director determines that such extended hours will adversely impact the surrounding neighborhood.
2. Parking. Construction vehicle parking shall be restricted at construction sites so as to not block reasonable public and safety vehicle access along the street and sidewalks. Within paid and permit only areas, an approved parking plan must be obtained from the Public Works Department.
3. Deliveries. Deliveries of all materials and supplies may be regulated as to time (hours of operation) and routing.
4. Stockpiling & staging. In order to reduce the number of delivery trips to construction sites, the stockpiling of materials on site may be required.
5. Construction phasing. Due to narrow streets, topography, small lot configuration, traffic circulation, weather, construction parking and material staging problems, some projects may be required to be phased. In cases where phasing is deemed necessary, the first project to receive a building permit shall have priority, however, the building official shall have authority to phase projects as necessary to assure efficient, timely and safe construction.
6. Trash management and recycling of materials. Construction sites shall provide adequate storage and a program for trash removal. Construction material recycling bins are encouraged on sites with adequate room for separation of materials.
7. Control of dust & mud. A program for the control dust or other airborne debris shall be required. Provisions must be made to prevent the tracking of mud on streets and it will be required to remove any such mud daily. Placing gravel in the egress and ingress areas to a job site is one method to control mud and dust problems.
8. Noise. Any noise above 65 decibels violates the noise ordinance, as well as any excessive or unusually loud noise that is plainly audible beyond the property line or outside the hours of operation.
9. Grading and excavation. Because of the truck hauling involved in grading and excavation, restrictions on trucking routes as well as the hours of operation may be necessary to mitigate the adverse impacts from such operations. Destination and total cubic yards of dirt shall be addressed. Any excavation six feet (1.8 m) or more

in depth shall be protected from falling hazards by guardrail roofs, systems, fences, or barricades.

10. Temporary lighting. An approved temporary lighting plan must be obtained from the Planning Department if any exterior temporary lighting is necessary for construction.
11. Construction sign. A sign shall be posted in a location where the sign is readable from the street or driveway. The sign shall not exceed 12 square feet in size and six feet in height. The lettering shall not exceed four inches in height. Information on the sign shall include:
 - a) Name, address and phone number of the contractor
 - b) Name, address and phone number of the person responsible for the project
 - c) Name and phone number of the party to call in case of an emergency

N. Private swimming pools.

~~1. Definition. In this title "private swimming pool" means any pool, tank, depression or excavation in or above ground, or other structure, which (a) causes retaining of water over a depth of 18 inches and/or having a larger plane surface of water greater than 150 square feet, (b) is designed or used for swimming, wading or immersion purposes by individuals, and (c) is used or intended to be used solely by the owner, lessee or tenant of the realty on which it is situated (and his family and by friends invited to use it) without payment of any fees.~~

~~1. Setbacks. Swimming pools shall be subject to the same setback, placement, and lot coverage standards for accessory structures or primary structures in the underlying zone, depending on whether the pool is attached or detached from the home. If detached, separation between buildings is not required.~~

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2. Permit. It shall be unlawful for any person to construct, alter or repair a private swimming pool within the city without first having secured a permit from the building official. An application for this permit shall be made on such forms as may be furnished by the city, and shall be accompanied by complete plans and specifications for the private swimming pool, including the type and location thereof with respect to the boundary lines of the land of the applicant. The applicant shall pay the fees established for such permit.

O. Temporary buildings.

1. Temporary buildings for uses incidental to construction work shall be require to obtain a permit from the CBO.
2. Temporary buildings must be removed upon completion or abandonment of the construction work.

3. If such buildings are not removed within 90 days upon completion of construction and 30 days after notice, the buildings will be removed by the city at the expense of the owner.
- P. Residential corner lot rear setback in R-1 zones. Corner lots in the R-1-6, R-1-8, R-1-10 and R-1-15 residential single family zones shall maintain a minimum rear setback of 15 feet for main structures; provided, however, that any portion of a main structure that is located closer than 20 feet from the rear lot line may not exceed 20 feet in height.
- Q. Carports.

1. Residential carports. Residential carports shall be subject to the same height, setback, placement, and lot coverage standards for either attached or accessory structures in the underlying residential zone, depending on whether the carport is attached to the main building or constructed as an accessory structure.
2. Non-residential carports.
 - a) All non-residential carports should be architecturally similar to the primary structure on the property.
 - b) Non-residential carports may not exceed 20 feet in height.
 - c) Non-residential carports which are attached to the primary building shall maintain the same setbacks as are required in the underlying zone for the primary building.
 - d) Non-residential carports which are detached from the primary building shall maintain the following setbacks:
 1. If adjacent land is zoned non-residential, a non-residential carport shall be located in the rear of the primary building(s), at least six feet away from the primary building(s), and shall maintain a minimum setback from side and rear property lines of three feet.
 2. If adjacent land is zoned residential, a non-residential carport shall be located in the rear of the primary building(s), at least six feet away from the primary building(s), and shall maintain minimum setbacks from side and rear property lines which is required for detached structures in the adjacent residential zone.
 3. Any non-residential carport located nearer than five feet from any property line must install a one-hour rated fire wall.
 4. Detached non-residential carports may be permitted in the side or front yard of non-residential properties as approved by the ARC following demonstration by the applicant that this configuration accomplishes the purposes of the city's design guidelines.

R. Miscellaneous Yard Elements

1. Flagpoles

- a) Flagpoles may be located in any yard area, subject to a minimum three-foot setback from property lines, and may exceed the maximum structure height in the underlying zone by a maximum of 10 feet.

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2. Playgrounds

- a) Playgrounds shall be subject to the same height, setback, placement, and lot coverage standards for accessory structures in the underlying zone.

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3. Gazebos and Pergolas

- a) Gazebos and pergolas shall be subject to the same height, setback, placement, and lot coverage standards for either attached or accessory structures in the underlying zone, depending on whether the ~~earport~~ gazebo or pergola is attached to the main building or constructed as an accessory structure.

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4. Tree Houses

- e)a) Tree houses shall be subject to the same setback and height requirements for accessory buildings in the underlying zone, but may also be located in the side and front yards, and are not subject to building separation or lot coverage standards. The height of the structure is measured from existing grade to the highest roof point.

19.76.050 Miscellaneous

E. General height and design regulations for walls, fences and retaining walls.

1. Definitions. In this Subsection (E):

1. "Fence" means a barrier of any material or combination of materials erected to enclose, screen or separate areas.
2. "Fence height" means that a fence or wall shall be measured from the adjacent existing natural grade at the base of the fence or wall, to the top edge of the fence or wall.
3. "Fences atop walls" means that if a fence is atop a wall, the total height shall be measured from the base of the wall to the top of the fence.
4. "Neighbor consent" means that all neighbors abutting the proposed wall/fence will be required to provide written consent for retaining wall/fence height above eight feet up to 12 feet.
5. "Retaining wall" means a structure that is designed and constructed to stabilize two generally horizontal surfaces which are vertically displaced, and which shall be either a landscape retaining wall or structural retaining wall.

2. Permitted height. No fence, wall, hedge, retaining wall or vertical combination of these (hereinafter "fence") may be erected to a height which exceeds the following requirements:
 1. Front yard. Four feet. Lots that are at least one acre in size and have only one primary residence may erect a fence up to six feet in height. A fence may be erected up to six feet in height along a side lot line in the front yard of a key lot, so long as it abuts the rear lot line of an adjacent lot. Fences/walls in these locations shall not be eligible for a wall height extension.
 2. Side and rear yards. Six feet.
 3. Exception. Retaining walls or fencing which comply with the setback requirements for primary structures in the underlying zone, or accessory structures in the underlying zone if in wall or fence is in the rear yard may be erected to the height allowed for each respective structure, measured from existing grade. In cases where this provision conflicts with another portion of city code, the more restrictive provision shall apply.
3. Conditional use. Fences in the side and rear yards may be erected to a maximum height of eight feet as a conditional use upon a clear and convincing showing by the property owner in accordance with Subsections (a) and (b) below:
 1. The existence of unique or special circumstances of a natural, material and adverse nature relating to the property that will be substantially minimized or eliminated by the increased height of the requested fence; and
 2. That erection of such a fence is the most reasonable solution under the circumstances. Any such conditional use permit may be granted by the director or his designee following an administrative hearing preceded by all required notifications. A building permit shall be required for all fences approved as a conditional use.
 3. In no case shall a conditional use permit be granted for a wall height extension in the front yard of a property, including key lots.
4. Neighbor consent. Side and rear yard fences may exceed eight feet in height to a maximum height of 12 feet in cases where the applicant has neighbor consent, and has received conditional use approval in accordance with Subsection 19.76.050(E)(3).
5. Terracing. If a taller retaining wall is necessitated by an engineering requirement as determined by the city engineer, the retaining wall may be terraced. Terracing shall be limited to three tiers. The horizontal width of the terrace between any two wall sections above existing grade shall be at least ten feet. Terraces created between retaining walls shall be landscaped or revegetated (see diagram).
6. Exceptions. Fences, walls, hedges, retaining walls or any vertical combination thereof in the side or rear yard may be constructed to a maximum height of 12 feet without neighbor consent and conditional use approval if the fence is adjacent to property located in a commercial zone or adjacent to a public street.

7. Chain link fences. Chain link fences which are not vinyl coated or galvanized shall not be allowed.
8. Fences, etc. atop retaining walls. Fences and non-retaining walls shall not be constructed on top of a retaining wall unless the fence and/or non-retaining wall is set back 18 inches for every one foot of vertical height above six feet high. In no circumstance shall the combination of the retaining wall and fence and/or non-retaining wall exceed eight feet without a separation of at least three feet.
- 8.9. Permit required. A building permit shall be required for any retaining wall over four feet in height from existing grade, and any fence over six feet in height from existing grade.

Table 1

Maximum Residential Fence/Wall Height		
Height	Location	Required Approval
0-4'	All residential zones, all yards	Permitted
4-6	Side and rear yards, front yards of estate lots and key lots	Permitted
6-8'	Side and rear yards	Conditional Use
8-12'	Side and rear yards	Conditional Use with Neighbor Consent

Historic Preservation Proposed Changes

Earlier in 2024, an update was made to Title 15 of city code ("Buildings and Construction") to adopt stricter penalties for illegal demolition of historic structures. To support these edits to Title 15, staff proposes several minor edits to Title 19 of city code ("Zoning"), in order to cross reference both codes. These edits are tracked below in blue.

Title 19 – Zoning

19.86 – Historic Preservation

19.86.030 Conditional Use Permit Required

1. As [also provided in Chapter 15.15, "Demolition,"](#) a conditional use permit is required for any modifications to a historic site or structure, including modifications to the landscaping, fencing or appearance of any lot, or demolition, construction, alteration, relocation, improvement or conversion of a historic site.
2. Applications for a conditional use permit on a historic site shall be made in the manner and subject to the procedures and requirements set forth in Chapter 19.84, "Conditional Uses." To the extent that the requirements of this chapter and Chapter 19.84, "Conditional Uses," are inconsistent, the requirements of this chapter shall prevail.

19.86.070 Interpretation Of Chapter

This chapter does not guarantee the right of any person, firm or corporation to any provision of this chapter. [Further, any demolition of an historic site also must comply with the requirements of Chapter 15.15, "Demolition," of this code.](#)

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