

Proposed Change #1 – Entrance of Outlet

As specified in alcohol licensing regulations, an establishment serving alcohol must be located a certain distance away from schools, churches, public libraries, public playgrounds, and parks. This distance is measured from the nearest “entrance of the proposed outlet,” however, City Code lacks a definition for this term.

The below definition, added to Title 5 (Business Licenses and Regulation), aims to clarify this measurement system.

Title 5 – Business Licenses and Regulation

5.24 Alcoholic Beverage License

5.24.020 Definitions

All words and phrases used in this chapter shall have the same meaning given to them in the Alcoholic Beverage Control Act, UTAH CODE ANN. §§32B-1-101 *et seq.*, as amended from time to time. In addition, the following words and phrases shall have the following additional meanings, unless a different meaning clearly appears from the context:

- A. “*Act*” means the Alcoholic Beverage Control Act, UTAH CODE ANN. §§32B-1-101 *et seq.*, as amended from time to time.
- B. “*Alcoholic beverage license*” means a license issued by the city pursuant to this chapter.
- C. “*City*” means the city of Cottonwood Heights.
- D. “*Commission*” means the Alcoholic Beverage Control Commission of the state of Utah.
- E. “*Current business license*” means an alcoholic beverage business license issued by the city pursuant to this chapter.
- F. “*Entrance of outlet*” means any entrance into the structure or unit space for which the license is being applied for.
- G. “*Tavern*” means any business establishment that is engaged primarily in the retail sale of beer to public patrons for consumption on the establishment’s premises and includes a beer parlor, a parlor, a lounge, a cabaret, or a nightclub if the revenue from the sale of beer exceeds the revenue of the sale of food, although food need not be sold in the establishment.
- H. “*Written consent*” means written consent of the city.

Proposed Change #2 – Paved Surface

Although city code includes provisions specifying that controlled vehicles, (i.e. recreational vehicles, commercial vehicles, agricultural vehicles, trailers, etc.) must be stored on a paved surface, it lacks clarity on whether non-controlled vehicles, such as passenger vehicles, require the same paved parking area.

By incorporating a definition for “paved surface,” as well as specifications which require all parking areas to be paved, further clarification is provided. These changes are added to Title 11 (Vehicles and Traffic), Title 12 (Subdivisions), and Title 19 (Zoning), as indicated below.

Title 11 – Vehicles and Traffic

11.04 General Provisions

11.04.010 Definitions

Whenever in this title the following terms are used, they shall have the meanings respectively ascribed to them in this section:

- Q. *“Park”* means the standing of a vehicle, whether occupied or not, otherwise than temporarily, for the purpose of and while actually engaged in loading or unloading.
- R. *“Paved surface”* means an improved surface, generally utilized for parking or access, covered by asphalt, concrete, or other hard surface materials, as approved by the Development Review Committee (DRC). “Paved surface” specifically excludes dry gravel and similar materials as a finished product, but allows for the use of permeable pavement as approved by the Development Review Committee (DRC).
- S. *“Pedestrian”* means any person afoot

11.20 Stopping, Standing, and Parking

11.20.030 Regulation Of Parking

- A. The traffic engineer may place signs on all roads and highways prohibiting or restricting the parking of vehicles where, in his opinion, as evidenced by an order entered in his records, such parking is dangerous to those using the roads or where the parking of vehicles would unduly interfere with the free movement of traffic thereon.
- B. The traffic engineer may prohibit, restrict or regulate the parking, stopping or standing of vehicles on any off-street parking facility or property that the city owns or operates.
- C. No such regulations shall apply until signs giving notice thereof have been erected.
- D. Parking areas shall consist of those paved materials defined under “paved surface” within City Code.

Title 12 – Subdivisions

12.24 Required Improvements

12.24.060 Pavement Requirements

- A. All streets within the city shall be improved with pavements bounded by integral concrete curbs and gutters to an overall width in accordance with the standards, rules and regulations approved by the city council.
- B. Pavements shall be constructed in accordance with the requirements of the standards, rules and regulations approved by the city council.
- C. Pavement for parking areas shall consist of those paved materials defined under “paved surface” within City Code.

12.04 Definitions

12.04.0336 Paved Surface

“Paved Surface” means an improved area, generally utilized for parking or access, covered by asphalt, concrete, or other hard surface material, as approved by the Development Review Committee (DRC).

“Paved Surface” specifically excludes dry gravel and similar materials as a finished product, but allows for the use of permeable pavement as approved by the Development Review Committee (DRC).

Title 19 – Zoning

19.80 Off Street Parking Requirements

19.80.030 General Provisions

- A. Materials for Parking Areas. Parking areas shall consist of those paved materials defined under “paved surface” within City Code.
- B. Maintenance of Parking Areas. Pavement, striping, landscaping, and lighting are required to be maintained in all parking areas. During times of snowfall, parking areas shall be cleared of snow as soon as is practically possible and otherwise in accordance with this code.
- C. Parking Area Access. Parking areas for one or more structures may have a common access. The determination of the locations for a common access shall be based upon the geometry, road alignment, and traffic volumes of the accessed road. All structures other than residential are required to provide parking areas wherewith automobiles will not back across a sidewalk to gain access onto a public street.
- D. Lighting in Parking Areas. Parking areas shall have adequate lighting to ensure the safe circulation of automobiles and pedestrians. Such lighting shall be shielded in such a way as to not be a nuisance to, or otherwise adversely affect, adjacent properties or uses.
- E. Location of Parking Areas. Required off-street parking areas for non-residential uses shall be placed within 600 feet of the main entrance to the building.
- F. Storm Water Runoff. All parking areas other than single family and two family dwellings shall be reviewed and approved by the city engineer for adequate drainage of storm water runoff.

19.04 Definitions

19.04.1990 Parking Space

An off-street (i.e., not on a public street or alley) area, paved in accordance with city’s parking lot standards, that is used for parking a vehicle, and that is accessed from a paved driveway which connects the parking space with public access.

19.04.2000 Paved Surface

An improved area, generally utilized for parking or access, covered by asphalt, concrete, or other hard surface material, as approved by the Development Review Committee (DRC). “Paved Surface” specifically excludes dry gravel and similar materials as a finished product, but allows for the use of permeable pavement as approved by the Development Review Committee (DRC).

Proposed Change #3 – Use Declaration Removal

Staff recommends the removal of this section from city ordinance. After review and a recent application to the Commission utilizing this provision, it is staff’s finding that it is problematic for an ordinance to allow an illegal structure to be declared legal on the basis that it has existed for five years without

complaints being received. This does not address any structural or safety issues that would normally be reviewed for legally permitted structures, and it provides a ‘workaround’ to city zoning and permitting requirements that should not be incentivized in any way.

Additionally, this provision resembles the zoning variance process by allowing a pathway for structures that do not comply with local ordinance to be approved. The city’s variance authority is the Appeals Hearing Officer, which is the avenue that matters like this should be considered.

Title 19 – Zoning

19.88 Noncomplying Buildings and Nonconforming Uses

Proposed Change #4 – Carports

City code currently provides a brief definition for carports, but lacks specification on regulations for carports, as well as standards for residential versus nonresidential carports. This vague information has been updated by specifying that the existing definition is for residential carports, adding a definition for nonresidential carports, and incorporating development standards for carports.

Title 19 – Zoning

19.04 Definitions

19.04.470 Carport, Residential

A structure that is open on a minimum of two sides and designed or used to shelter not more than three vehicles and not to exceed 24 feet on its longest dimension. Also called “covered parking area.”

19.04.471 Carport, Nonresidential

A structure that is open on a minimum of two sides and is designed or used to shelter vehicles. A minimum length of 20’ and a minimum width of 10’ is required for every parking space being covered by the carport.

19.76 Supplementary and Qualifying Rules and Regulations

19.76.030 Structures, Bulk And Massing Requirements

C. 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 upon 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 are subject to a maximum of 20' in height.
- c) Non-residential carports which are attached to the primary building shall maintain the same setbacks required for the primary building in the underlying zone.
- 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 (6) feet away from the primary building(s), and shall maintain a minimum setback from side and rear property lines of three (3) 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 (6) feet away from the primary building(s), and shall maintain the 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 (5) feet to 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.

D. 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.

K. 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, 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.

Proposed Change #5 – Ordinary Projections

City code currently specifies that all structures must meet setbacks from property lines, except for those outlined within a short list, constituting more minor or decorative structures. This list, however, including conflicting provisions regarding carports, as well as vague language surrounding “ordinary projections.” These issues have been remedied through removal of conflicting carport provisions, as well as more elaboration on what constitutes an ordinary projection, including a definition for “ornamental features.”

Title 19 – Zoning

19.76 Supplementary and Qualifying Rules and Regulations

19.76.030 Structures, Bulk and Massing Requirements

K. 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.

19.04 Definitions

19.04.1910 Ornamental Features

Ornamental features are those design elements which serve as an ornament or decoration to the outside of a building. Areas with usable square footage, such as stairwells, decks, cantilevered rooms, bay windows, etc. do not qualify and must meet the standard setback requirements outlined in the underlying zone.

Proposed Change #6 – Nonconforming Uses

City code currently outlines processes by which legal nonconforming buildings, meaning buildings which were considered legal at the time of their construction but no longer conform with current standards, may be modified. However, city code does not specify if these same processes should be followed for the modification of legal nonconforming sites or structures, such as outdoor lighting, which technically are not buildings.

To clarify that the same process which is outlined for the modification of legal nonconforming buildings may be followed for that of nonconforming sites or structures, language which includes these terms has been added. This clarification is consistent with the process followed by the Cottonwood Heights Appeals Hearing Officer.

19.88.040 Repairs And Alterations Permitted

Repairs and structural alterations may be made to a noncomplying building, site, or structure, or to a building housing a nonconforming use.

19.88.060 Expansion Of Use Permitted

A nonconforming use may be extended through the entire existing building, site, or structure in which it is conducted at the time the use became nonconforming, provided no structural alteration is proposed or made for purpose of the extension. The addition of a solar energy device is not a structural alteration under this section.

19.88.070 Additions, Enlargements, Moving And Reconstruction Of Building

- A. A building or site occupied by a nonconforming use and a building or structure noncomplying as to height, area or yard regulations shall not be added to or enlarged in any manner or moved to another location on the lot or reconstructed at another location on the lot except as provided by Subsection B of this section unless such additions and enlargements comply with the regulations and intent of this title.

- B. A building or site occupied by a nonconforming use or a building or structure noncomplying as to height, area or yard regulations may be added to or enlarged or moved to a new location on the lot or reconstructed at a new location on the lot upon a permit authorized by the appeals hearing officer, provided that the appeals hearing officer, after the hearing, shall find:
1. The addition to, enlargement of, moving of, or reconstruction of the noncomplying building or structure at a new location on the lot will be in harmony with one or more of the purposes stated in Section 19.02.020, and shall be in keeping with the intent of this title;
 2. That the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or noncomplying building.
- C. The appeals hearing officer shall have the same authority concerning additions, enlargements and moving of noncomplying structures as with noncomplying buildings, but shall not have the authority to allow reconstruction of noncomplying structures at a new location on the lot.

