

A GUIDE TO ASPEN'S LAND USE CODE UPDATES 2017

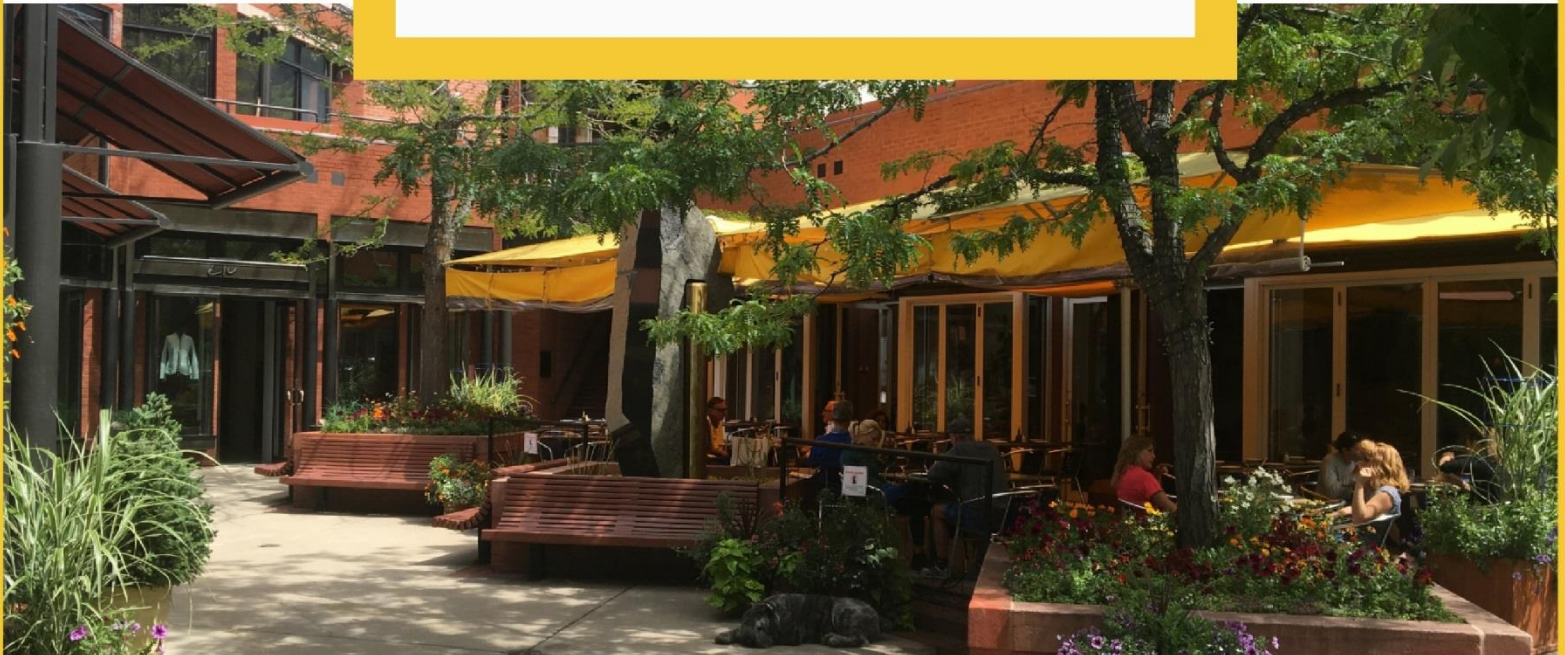


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Executive Summary

In January 2017, City Council approved extensive changes to the City of Aspen Land Use Code to implement the 2012 Aspen Area Community Plan. This guide provides a summary of the changes and includes examples of how to use the new code sections, but does not supersede the adopted code language. It is intended as a tool to assist the community in understanding the new code. The City Council adopted the following 5 ordinances, which go into effect as listed in the table below:

Ordinance #	Short Title	Summary	Date Adopted	Effective Date
29 (Series 2016)	Dimensions and Use Mix	Updates the allowed uses and dimensions in all commercial zone districts	Jan 23, 2017	Feb 22, 2017
30 (Series 2016)	Definitions and Miscellaneous	Updates use category definitions and calculations	Jan 23, 2017	Feb 22, 2017
31 (Series 2016)	GMQS (Growth Management Quota System)	Updates affordable housing mitigation rates	Jan 30, 2017	March 1, 2017
32 (Series 2016)	Transportation and Parking Management	Updates options for transportation and parking mitigation with increased mobility options	Jan 24, 2017	Feb 23, 2017
33 (Series 2016)	Commercial Design	Updates the Commercial Design Guidelines and Standards	Jan 23, 2017	Feb 22, 2017

The moratorium ends on March 17, 2017, at which point new applications may be made under the updated code.

Ordinance 29: Zone District and Dimensional Standards



KEY CHANGES

- A** Building height 28 ft. for 2 story buildings
- B** Reductions in FARs
- C** Cannot create housing credits in CC, C-1, SCI, and NC zone districts
- D** Free Market Residential is limited to existing FAR
- E** Creation of Essential Business Overlay (EBO)

Applicability. The new dimensions apply to all new construction, remodels, renovations and additions in CC, C-1, NC, S/C/I and MU zones. Projects that have a valid existing development order or that have applied prior to the effective date of Ordinance 29 are not subject to the changes.

Intent. Height and allowable FARs have been reduced to create more appropriate massing and use mixes in commercial zone districts. Updated regulations can be found by zone district below. (New dimensional standards are highlighted in green).

How to use this Chapter: To find allowed dimensions and uses.

Commercial Core Zone District (Section 26.710.140). Changes include reduced heights to 28 feet and associated FAR reductions, a prioritization of commercial uses over residential uses through FAR allowances, removal of the ability to create certain types of Affordable Housing credits unless for a fraction of a unit, and clarifying that all types of Affordable Housing can be constructed.

	Old Code	New Code
Height (Ft.)	28 for 2-story buildings; 3 stories up to 40 allowed on n side of street if for lodging	28 for 2-story buildings
Public Amenity	25%	25%
Setbacks: Front, Rear, Sides (Ft.)	0	0
Maximum Total FAR	2.75:1	2.25:1
Commercial FAR	2:1	2.25:1
Arts/Civic FAR	2.75:1	2:1

Lodging FAR	0.5:1; 2.5:1 w/ 500 sq. ft. units	0.5:1; 1.5:1 w/ 500 sq. ft units
AH Res. FAR	No limitation	Greater of existing FAR or 1:1; cannot create housing credits other than for a fraction of a unit
FM Res. FAR	Limited to existing FAR	Limited to existing FAR
Commercial to Residential ratio	1:1	1.5:1
Max. Residential unit size (Sq. Ft.)	2,000, 2,500 w/ TDR	2,000, 2,500 w/ TDR

Commercial C-1 Zone District (Section 26.710.150). Changes include reduced heights to 28 feet and associated FAR reductions, a prioritization of commercial uses over residential uses through FAR allowances, removal of the ability to create certain types of Affordable Housing credits unless for a fraction of a unit, and clarifying that all types of Affordable Housing can be constructed.

	Old Code	New Code
Height (Ft.)	28 for 2-story buildings; 3 stories up to 38 allowed on n side of street if for lodging	28 for 2-story buildings
Public Amenity	25%	25%
Setbacks: Front, Rear, Sides (Ft.)	0	0
Maximum Total FAR	2.5:1	1.75:1
Commercial FAR	1.5:1	1.75:1
Arts/Civic FAR	2.5:1	1.75:1
Lodging FAR	0.5:1; 2:1 w/ 500 sq. ft. units	0.5:1; 1.5:1 w/ 500 sq. ft. units
AH Res. FAR	No limitation	Greater of Existing FAR or 1:1; cannot create housing credits other than for a fraction of a unit
FM Res. FAR	Limited to existing FAR	Limited to existing FAR
Commercial to Residential ratio	1:1	1.5:1
Max. Residential unit size (Sq. Ft.)	2,000, 2,500 w/ TDR	2,000, 2,500 w/ TDR

Service/Commercial/Industrial Zone District (Section 26.710.160). Changes in SCI are focused on limiting Free Market residential to existing FAR and limiting the creation of certain types of Affordable Housing credit. These changes were made to reinforce the commercial focus of the zone district. In addition, the amendments clarify that all types of Affordable Housing units can be constructed.

	Old Code	New Code
Height (Ft.)	35	35
Public Amenity	25%	25%
Setbacks: Front, Rear, Sides (Ft.)	0	0
Maximum Total FAR	2.25:1	2.25:1
Commercial FAR	1.5:1; 0.25:1 for primary care offices if 0.75:1 of other commercial uses on same parcel	1.5:1; 0.25:1 for primary care offices if 0.75:1 of other commercial uses on same parcel

Arts/Civic FAR	-	-
Lodging FAR	-	-
AH Res. FAR	0.5:1	Greater of Existing FAR or 0.5:1; cannot create housing credits
FM Res. FAR	0.25:1 - 0.5:1 if 0.75:1 - 1:1 of other commercial uses exist on same parcel	Limited to existing FAR
Commercial to Residential ratio	N/A	N/A
Max. Residential unit size (Sq. Ft.)	2,000, 2,500 w/ TDR	2,000, 2,500 w/ TDR

Neighborhood Commercial Zone District (Section 26.710.170). Changes include reduced heights to 28 feet and associated FAR reductions, a prioritization of commercial uses over residential uses through FAR allowances, removal of the ability to create certain types of Affordable Housing credits unless for a fraction of a unit, and clarifying that all types of Affordable Housing can be constructed. Free market residential is limited to existing FAR.

	Old Code	New Code
Height (Ft.)	28, may be increased to 32 by Commercial Design Review	28
Public Amenity	25%	25%
Setbacks: Front, Rear, Sides (Ft.)	5	5
Maximum Total FAR	1.5:1	1.5:1
Commercial FAR	1:1	1.5:1
Arts/Civic FAR	1:1	1:1
Lodging FAR	1:1	-
AH Res. FAR	0.5:1	Greater of Existing FAR or 0.5:1; cannot create housing credits other than for a fraction of a unit
FM Res. FAR	0.25:1; 0.5:1 w/ equal amounts FM & AH	Limited to existing FAR
Commercial to Residential ratio	1:1	1:1
Max. Residential unit size (Sq. Ft.)	1,500, 2,000 w/ TDR	1,500, 2,000 w/ TDR

Mixed-Use Zone District (Section 26.710.180). Changes include slightly reduced building heights and better aligning allowed FAR in the historic and no-historic portions of the zone district. Creation of Affordable Housing credits continue to be allowed in the Mixed Use zone district, as does Free Market residential units when part of a solely residential development.

	Old Code	New Code
Height (Ft.)	28, may be increased to 32 by Commercial Design Review	28
Public Amenity	25%	25%
Setbacks: Front, Rear, Sides (Ft.)	10 (5 w/ S.R.), 5, 5	10 (5 w/ S.R.), 5, 5
Maximum Total FAR	Historic Dist.: 1:1, may be increased to 1.25:1 by S.R. Non-Historic: 2:1	"Historic Dist.: 1:1, may be increased to 1.25:1 by S.R. Non-Historic: 1.5:1"

Commercial FAR	0.75:1, may be increased to 1:1 by S.R.	Historic District: 1:1, may be increased to 1.25:1 Non-Historic: 1.5:1 by S.R.
Arts/Civic FAR	0.75:1, may be increased to 1:1 by S.R.	Historic District: 1:1, may be increased to 1.25:1 Non-Historic: 1.5:1 by S.R.
Lodging FAR	0.75:1, may be increased to 1:1 by S.R.	0.75:1, may be increased to 1:1 by S.R.
AH Res. FAR	No limitation	No limitation
FM Res. FAR	0.5:1; 0.75:1 w/ equal amounts FM & AH	Mixed Use Building: Limited to existing FAR; For stand-alone building: 0.5:1; 0.75:1 w/ equal amounts FM & AH
Commercial to Residential ratio	1.5:1	Mixed Use Building: 1.5:1
Single Family FAR	100% - 80% of R-6	100% - 80% of R-6
Duplex FAR	100% - 80% of R-6	100% - 80% of R-6
Max. Residential unit size (Sq. Ft.)	2,000, 2,500 w/ TDR	2,000, 2,500 w/ TDR

Essential Business Overlay (EBO) (Section 26.710.190). The EBO was established to enable site specific review and discussion of unique land use proposals. No dimensions or mitigation incentives are included, as the overlay focuses on uses. Underlying zoning governs the dimensional requirement of the overlay zone. The EBO is a voluntary zoning overlay and is applied through the typical rezoning process, requiring P&Z and Council approval.

Ordinances 29 + 30: Use Mix and Lists



KEY CHANGES

- A Introduction of general use categories including four components: characteristics, examples, accessory uses, and exceptions
- B General retail vs. specialty retail
- C Updates to permitted and conditional uses

Applicability. These changes apply to all buildings in the in CC, C-1, NC, S/C/I and MU zones.

Intent. In order to provide better guidance and clarity as to determination of allowed uses appropriate in commercial zones, general use categories were developed to supplement the use lists in Section 26.700 of the LUC. These use categories are based on the previous use definitions, but additional detail is added to aid in administration.

How to use the Chapter:

Each general use category has four components:

1. **Characteristics:** provides general description of the types of uses appropriate in the category.
2. **Examples:** the list includes acceptable use types in the category but is not comprehensive.
3. **Accessory Uses:** described uses that are allowed only in conjunction with permitted primary uses for the category.
4. **Exceptions:** specific uses that are explicitly not allowed in the use category.

EXAMPLE: Section 26.104.110(C)

Academic uses.

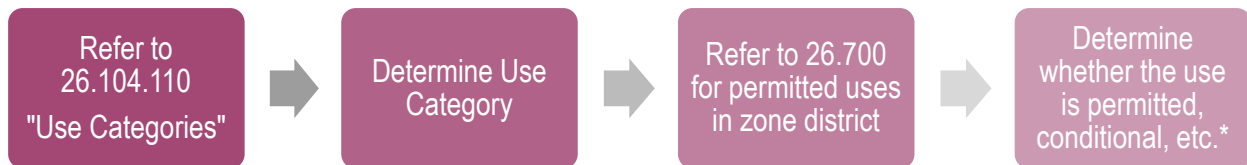
Characteristics The use of land or buildings for public or private educational activities with related accessory uses.

Examples Public or private schools, colleges or universities; teaching hospitals; research institutions, facilities or testing laboratories; technical schools; personal instructional services (such as musical instruction); tutoring services; auditoriums and other facilities for performances and lectures; or similar uses.

Accessory Uses Accessory uses may include recreational facilities, office, parking, maintenance facility, retail, housing or food service.

Exceptions Religious land uses. Child day care, preschools, and trade schools are classified as a Service use.

When determining if a business or use is allowed in a specific building or zone district, the following process is used:



* If a proposed use or business is not listed, use the characteristics and examples in Section 26.104.100, “Use Categories” to find the appropriate use category.

Retail Categories (Section 26.104.110(C) & 26.710). The retail sector has been divided into two different categories:

1) General Retail – Allowed in all commercial zone districts

Consumer goods for normal personal and household use, including high demand items. Uses include clothing sales, convenience store, office supplies, food and beverage store or retail marijuana sales.

2) Specialty Retail – limited to the CC, C1, and MU zone districts

...the sale of luxury or premium goods, products that are generally purchased on a non-recurring basis... Examples include jewelry, art dealers, luggage, fur and leather goods.

“General retail” is allowed in all commercial zones, while “specialty retail” is limited to the CC, C1, and MU zones only.

Vehicle Sales vs. Automobile Showroom. Additional definitions were added for vehicle sales and show rooms. In addition, limitations on these activities was added as follows:

Automobile Showroom – Conditional Use in the CC, C1, NC & MU zone districts

A building or fully enclosed space within a building that is used to display automobiles and motorcycles for retail purposes, and that is not used to service or maintain the vehicles.

Vehicle Sales – Permitted Use in the S/C/I zone district only

The sale or rental of autocycles, automobiles, bicycles, camper coaches, camper trailers, electrical assisted bicycles, electric personal assistive mobility devices (EPAMDs), golf cars, motorcycles, motor-driven cycles, motorized bicycles, recreational vehicles, and other “vehicles” (including “motor vehicles”) as defined by Section 42-1-102, C.R.S. For purposes of this definition, a “vehicle” includes any off-highway vehicle, snowmobile, farm tractor, or implement of husbandry.

Lodge Key. A definition for lodge key was added as part of Council’s goal to clarify definitions.

An individual rentable division of a larger lodging unit, which shall be available overnight to the general public for a fee, and which includes sleeping, bathing and toilet facilities within the rentable division.

Ordinance 33: Commercial Design Standards



KEY CHANGES

- A Changes to Pedestrian Amenity Requirements
- B Introduction of 2nd Tier space commercial space and replacement
- C Commercial Building Height measurement update
- D Updated Character Areas and map

Applicability. The Commercial Design Standards and Guidelines apply to commercial, lodging and mixed-use development and certain essential public facilities subject to the following triggers:

- **Standards and Guidelines Compliance:** new construction, remodels, and additions.
- **Second Tier Commercial Space:** new construction, redevelopment that triggers demolition.*
- **Pedestrian Amenity:** new construction, redevelopment that triggers demolition.*

*There are some exemptions for building code accessibility requirements.

Intent. The *Commercial, Lodging, and Historic District Design Standards and Guidelines* were revised to improve their usability and more closely reflect the policies of the AACCP.

How to use this Chapter: The *Standards and Guidelines* include new sections and layout, which provide thorough guidance to architects and designers. The revised *Standards and Guidelines* ensure that the architecture and design of commercial and mixed-use buildings reflect the historic scale and community character of Aspen. Some highlighted changes include:

- Reorganization of chapters and content.
- Changes to the Character Areas map boundaries to better reflect existing conditions and neighborhood context.
- The development of Standards (which must be adhered to) and Guidelines (which allow for flexible compliance).
- An increase emphasis on materials on commercial and mixed-use buildings.
- New requirements for second tier commercial space.

Standards vs. Guidelines: The revised *Standards and Guidelines* document makes a distinction between design standards, which must be adhered to, and design guidelines, which are suggested for projects to adhere to. Each chapter of the *Standards and Guidelines* document includes both. They are distinguished from each other visually using color blocks, italics and bolding.

Standards and Guidelines

How are Standards and Guidelines different?

Standards appear like this: Bold, Italics and Color Blocked

Standards are required. Standards are generally topics which have been adopted as requirements in the Land Use Code and are being re-stated here for clarity. When a standard is not met, a project revision or an application for a Variation from the review Board is required.

Guidelines appear like this: Bold and Italics

Guidelines are recommendations; however, an effort to meet the guideline or the intent of the guideline is required for all projects. Guidelines are not applicable in all cases and need to be evaluated in context for the practicality of the measure and the scope of the project. The review Board must determine that the appropriate guidelines have been adequately met in order to approve a project.

Character Area Map. The map below illustrates the adopted changes to the Character Areas:



Second Tier Commercial Space (Section 26.412.080 and Section 26.104.100).

The concept of second tier commercial space was developed to support the AACP policies related to maintaining a healthy commercial mix and sustainable year-round economy in Aspen's commercial zones. It is also intended to

facilitate creative design that adds variety and interest to the built environment. Second tier commercial space is defined as spaces located:

- In a basement, or
- Above the ground floor (but not including rooftop pedestrian amenities), or
- Has its principal point of access along an alleyway or a mid-block pedestrian amenity, or
- Has its front façade and principal entryway on a subgrade courtyard or an enclosed interior courtyard or arcade.

These spaces may not be internally connected to a prime space, or used to by a prime space as an office or for storage.

New development is required to provide second tier space based on the table below:

Zoning District	Second tier commercial space provided	
	Minimum	Maximum
Commercial Core (CC)	20%	75%
Commercial (C-1)	25%	75%
Service Commercial Industrial (S/C/I)	35%	--
Neighborhood Commercial (NC)	35%	--
Mixed Use (MU)	25%	50%

Second Tier Replacement (26.412.100.B.2).

In existing buildings proposed for remodel or redevelopment, at least 50% of the existing net-leasable area which qualifies as second tier commercial space is required to be replaced. For example:

Existing Net-Leasable Area	Existing Second Tier Space	Required Second Tier Replacement
10,000 sq. ft.	6,000 sq. ft.	3,000 sq. ft.

EXAMPLE:

- If your building currently has 6,000 sq. ft. of second tier space and there's a redevelopment, the 50% replacement is 3,000 sq. ft.
- If the new building will have a total of 10,000 sq. ft. of net leasable, the 20% minimum in CC would be 2,000 sq. ft.
- Therefore, the 50% replacement is the larger number, so you would need to have 3,000 sq. ft. of second tier space.

Second Tier Space and Pedestrian Amenity

There is a strong relationship between second tier space requirements and the placement and activation of Pedestrian Amenity areas. Site and building designs may be based, in part, on the use of Pedestrian Amenity space to access second tier spaces. Some examples include:

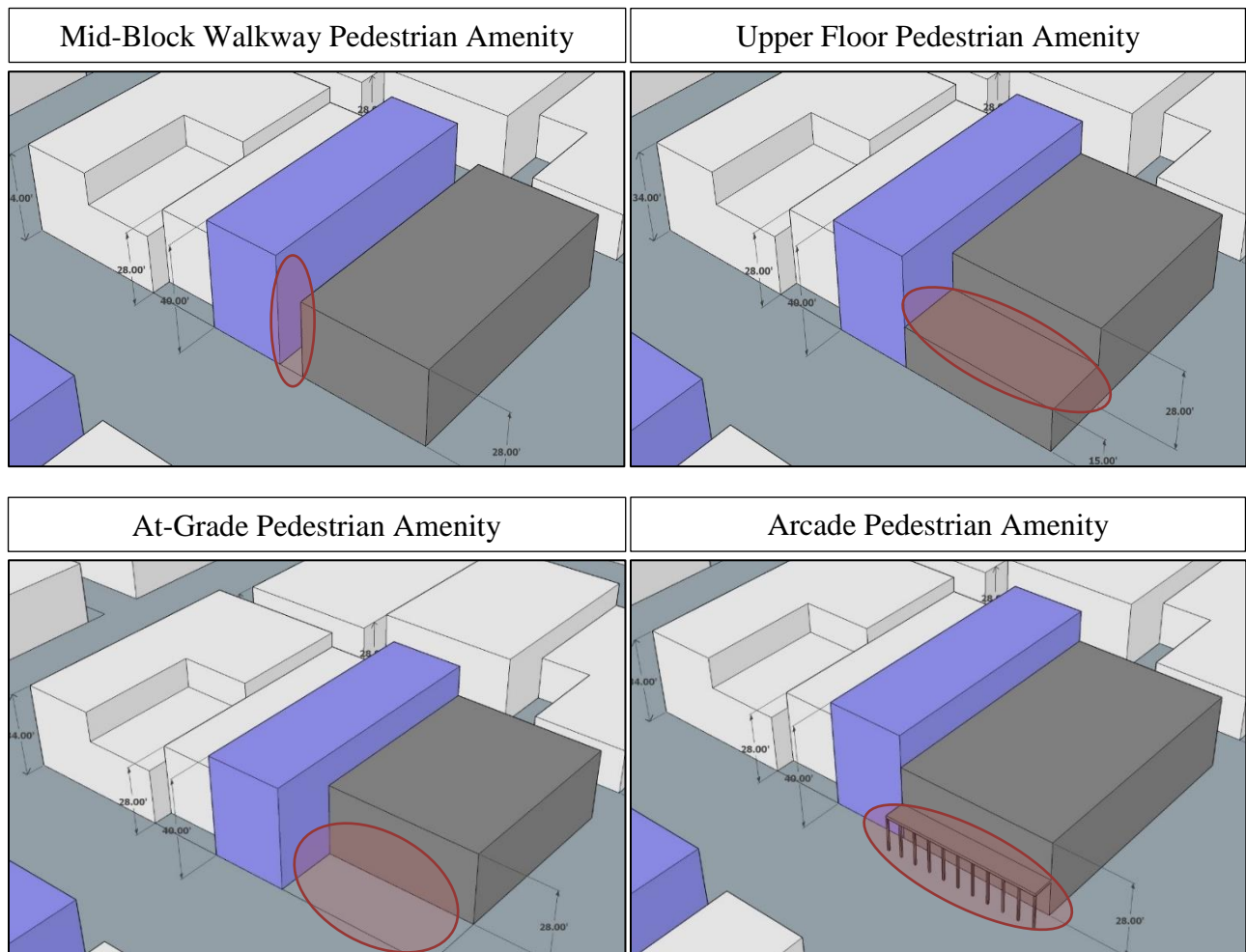
- Mid-block walkways at grade and accessing second tier commercial spaces count as double in the calculation of the 25% requirement for the whole site. (*Guidelines p. 35*)

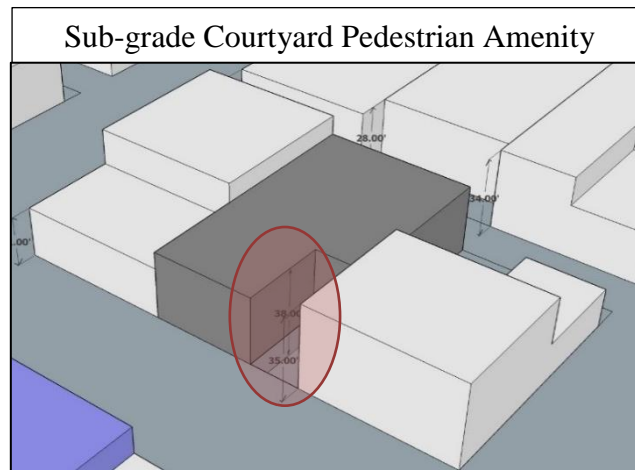
- Over-all building height does not include the exposed wall in a subgrade courtyard which provides access to basement second tier space. (*Section 26.575.020(F)(4)(j)*)

Pedestrian Amenity (Section 26.412.070, Guidelines pp. 30-38).

The changes to the Public Amenity requirement, now called Pedestrian Amenity, are designed to ensure that open spaces on commercial and mixed-use properties are meaningful, accessible and usable. The term Pedestrian Amenity implies that the spaces are meant to enhance the pedestrian experience by providing relief from and allowing nature to blend into the built environment. The following key changes are included in the revised *Standards and Guidelines*.

- 25% of Gross Lot Area must be provided as Pedestrian Amenity.
- 25% Pedestrian Amenity on-site is required for all commercial properties.
- Properties on pedestrian malls are encouraged to pay cash-in-lieu.
- Where on-site is not appropriate, cash-in-lieu or alternative methods of providing pedestrian amenity may be considered.
- The location and measurement of Pedestrian Amenity has increased to enable additional innovation and creativity in design, while also ensuring meaningful open areas on properties. The visuals that follow illustrate five ways that Pedestrian Amenity could be provided, including mid-block, upper floor, at-grade, arcade, and sub-grade courtyard. In addition, interior courtyards and off-site amenity provision are allowed in certain circumstances.



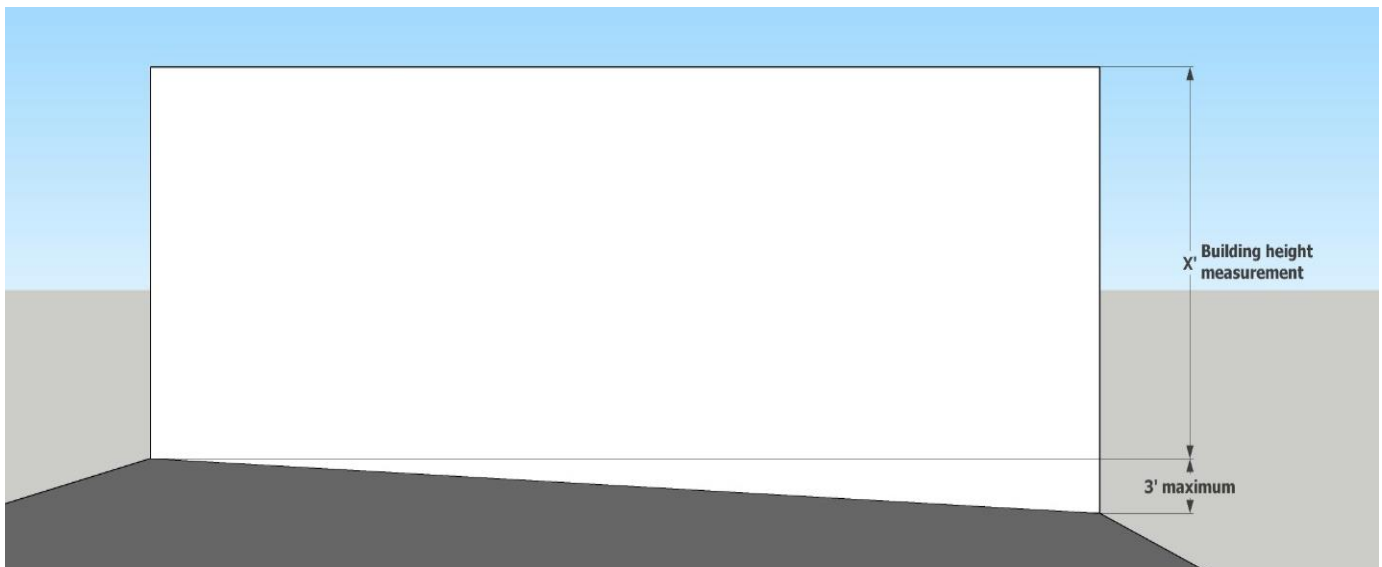


Commercial Building Height Measurement (Section 26.575.020.F.4.i).

The method for measuring commercial building height on sloped lots was revised to allow for some flexibility to design flat-roof buildings on sloped lots. The language allows sloped sites in the core to have a consistent height measurement. The language is below:

“For properties with a slope that declines by 10% or greater from the front lot line, the maximum height of a building's front (street-facing) facade may extend horizontally for the first ten (10) feet of the building's depth.”

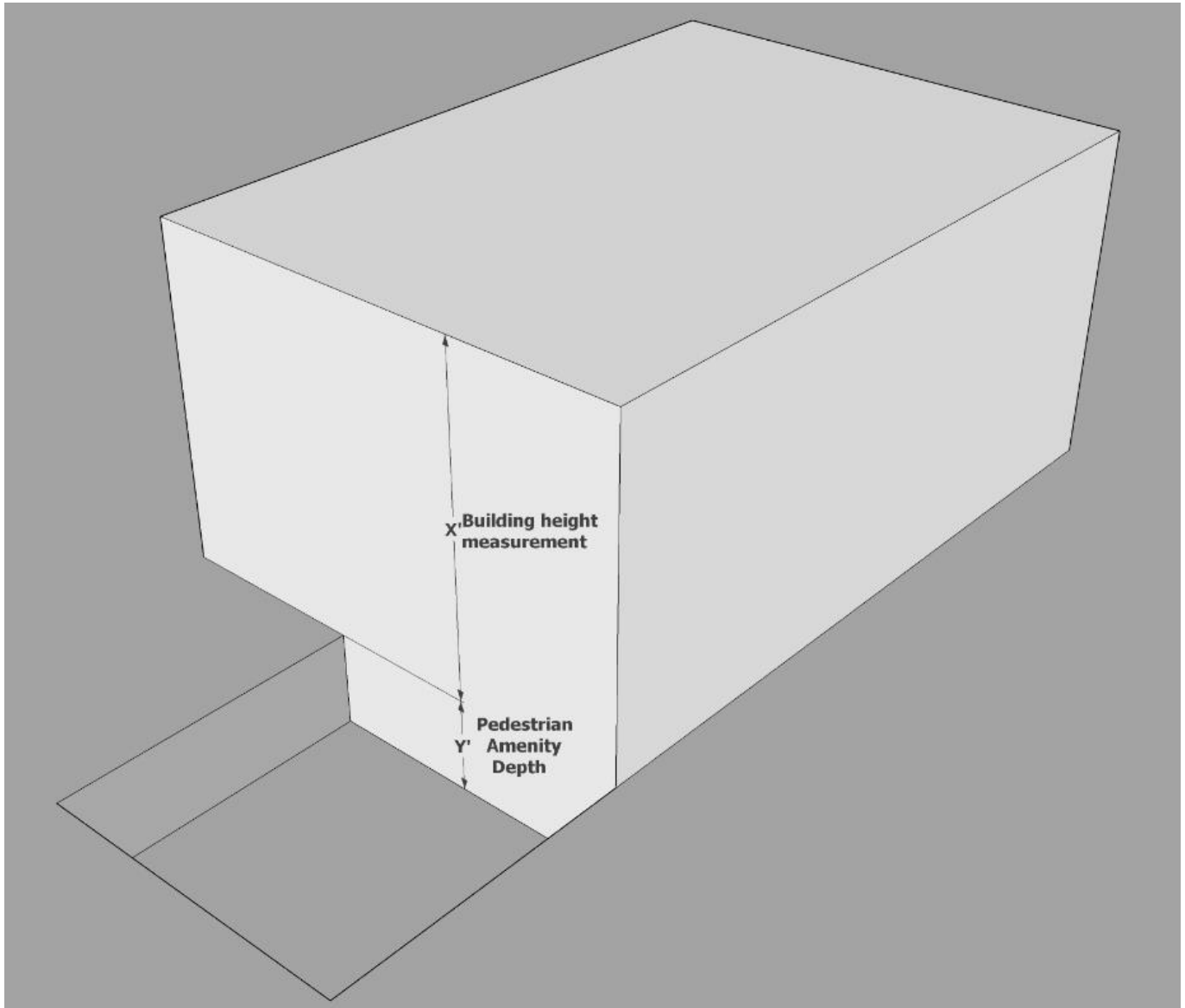
“For properties located in the geographical area bounded by Durant Street, Main Street, Monarch Street and Original Street and have a maximum elevation change of three (3) feet, the maximum height measurement as determined from the highest point of the lot may extend the entire width or length of the lot. See Figure A, below, where “X” is the measured height.”



Subgrade Pedestrian Amenity Building Height Measurement (Section 26.575.020(F)(4)(j))

For properties that contain an areaway that counts toward the pedestrian amenity requirement, the qualifying areaway shall not be counted towards maximum permissible height. See below, where “X” is the measured heights and “Y” is not counted if the subgrade area counts as pedestrian amenity.

Measurement of heights with subgrade pedestrian amenity:



Ordinance 32: Transportation and Parking Requirements



Applicability. All development in the City of Aspen is subject to the parking requirements laid out in Section 26.515. There have been no changes to requirements for single family and duplex development.

Intent. The City has parking and mobility (TIA) requirements for developments. The updated code combines these into a single chapter to assist in clarity and ease of use and to promote the city's policies relating to mobility, access to employment opportunities, and sustainability. It also implements policies from the Aspen Area Community Plan with a focus on mobility, and establishes a variety of ways for property owners and developers to mitigate impacts of development on the transportation network.

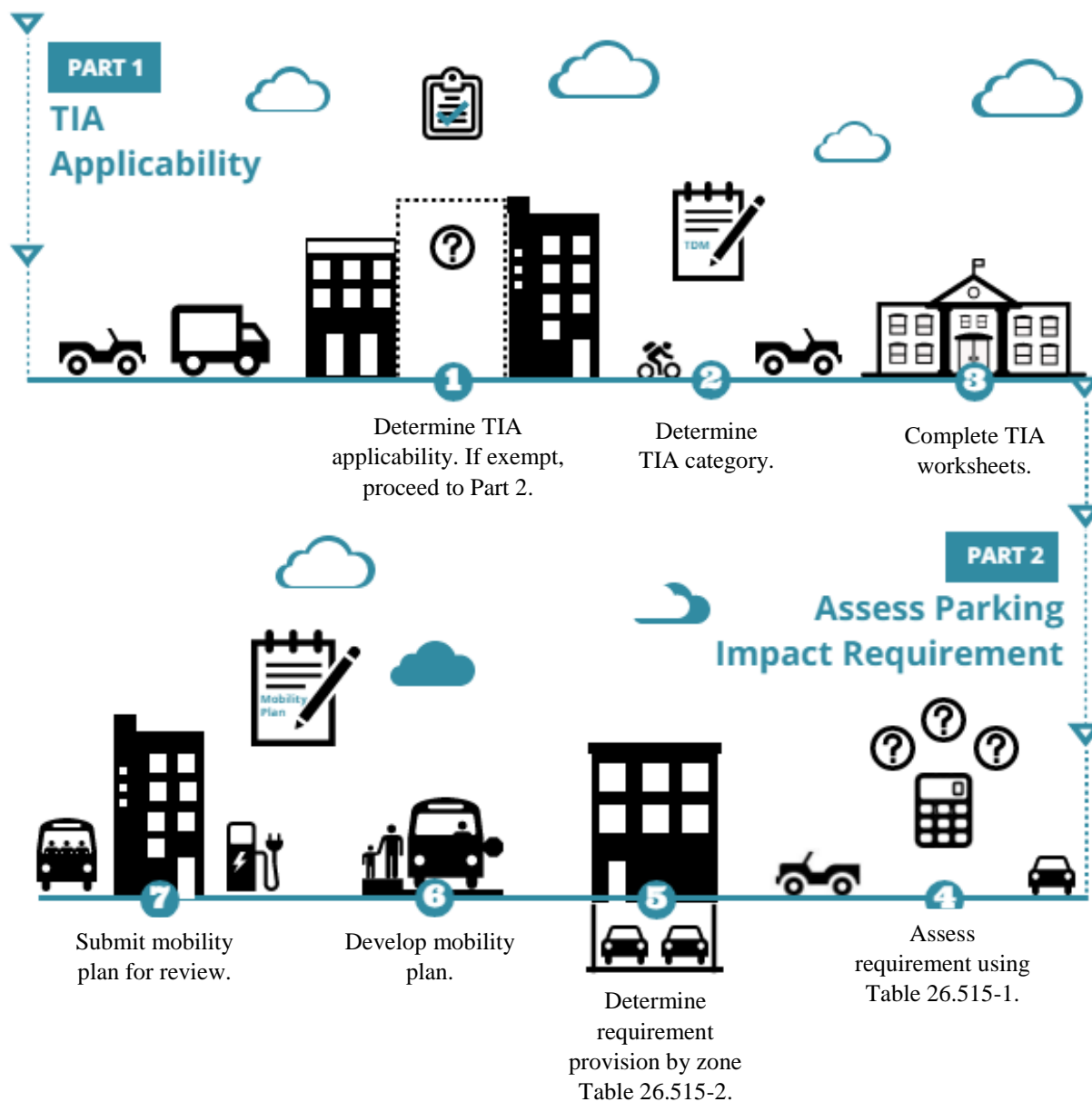
How to use the Chapter.

This Chapter includes two items all development must meet. The first is determining if a Transportation Impact Analysis (TIA) is required, and if so what level (major or minor). The second is determining the parking requirement based on the proposed land use and location. Based on these steps, an applicant must submit a mobility plan.

KEY CHANGES

- A No change to the current Transportation Impact Analysis
- B Once demolition is triggered parking deficits cannot be carried forward
- C Increased mitigation at \$38K per space
- D Updated definitions specific to parking and mobility
- E Maintains Parking Minimums and introduces Parking Maximums
- F Introduction of Shared Parking options
- G Meeting Parking Requirements (Calculations by zone district)

This process is outlined below:



Key Changes. While many elements of the TIA and Off-Street Parking Chapters remain, the key changes have been highlighted below.

Transportation Impact Analysis (26.515.010.A / 26.515.030).

No changes have been made to the TIA requirements. What has changed is combining mobility and parking requirements into a single Chapter. This means certain development projects can choose to meet their current parking requirement with mobility improvements as well as on-site parking spaces. Refer to the Transportation Impact Analysis (TIA) for project applicability.

Parking Deficits

Once demolition (as defined in Section 26.100 in the Land Use Code) is triggered, the property's parking provision must come into compliance with code requirements where parking deficits cannot be carried forward. For projects that are adding space, but do not trigger demolition, only the new space must comply.

Cash-In-Lieu (26.515.090).

The Cash-in-lieu rate has been increased to \$38,000 per Parking Unit (26.515.010.B).

Definitions (26.515.010.B).

Definitions specific to parking and mobility were added for clarity. These definitions are included in the Appendix to this document for ease of reference.

Parking: Minimums and Maximums (26.515.040.B).

Similarly to the previous Off-Street Parking Chapter, all development has a required **parking minimum**, defined as the minimum number of parking spaces or mobility improvements that must be provided on-site for a designated use and is calculated using Table 26.515-1. These numbers have not changed in the code updates. In addition, a soft **parking maximum** has been introduced as a tool to eliminate over-parking sites and capture excess parking as shared parking for developments in commercial areas.

A **parking maximum**, is defined as the maximum number of parking spaces allowed on-site for a designated use, or 125% of the projects minimum parking requirement.

If a development chooses to exceed the maximum, the excess of 125% of the Parking Requirement must be provided as **shared parking**.

Shared Parking (26.515.010.B / 26.515.050.D.2).

Shared parking is parking that is shared between multiple, distinct land uses, on the same site or between proximate sites, to make more efficient use of spaces and reduce overall parking supply needs.

- Shared parking can be used to seek approval to either reduce a project's Parking Requirement, or
- Shared parking can facilitate the use of off-site parking to meet the Parking Requirement.
- Shared parking may include priced parking spaces.

Calculating and Meeting Parking Requirements (26.515.050).

While minimum parking and mobility requirements have not changed, the options for mitigating those requirements have increased. The additional options focus on alternative mobility options, or **mobility commitments**, which are pre-approved alternative mobility measures included in a development application. This can include Transportation Demand Management and/or Multi-Modal Levels of Service Mitigation Tools (located on the City's website) from the TIA.

Use Table 26.515-1 to calculate parking requirements.

EXAMPLE: If a 10,000 sq. ft. commercial development in the Commercial (C-1) zone district comes in for land use review, the applicant would use the chart to determine that the parking requirement:

Minimum: 1 unit per 1,000 NLA=10,000/1,000=10 units

Maximum: 1.25 units per 1,000 NLA=10,000/1,000=10 units x 1.25= 12.5 units

Table 26.515-1 Parking Impact Requirement Calculations			
Use	Aspen Infill Area		All Other Areas Parking Requirement (in units)
	Parking Requirement (in units)	Parking Maximum (in units)	
Commercial ⁽¹⁾	1 unit /1,000 sf Net Leasable Space	1.25 units / 1,000 sf NLA	3 units per 1,000 sf NLA ⁽²⁾

With a minimum parking requirement of 10 units, Table 26.515-2 establishes how to meet this requirement by zone district.

Table 26.515-2 - Parking Requirements by Zone District				
Location	Options for Meeting Parking Requirements			
	Additional TIA Credits (Projects Subject to TIA)	Mobility Commitments (Projects Exempt from TIA)	On-Site Parking Provision	Cash-In-Lieu of Parking Fee Payment
Commercial Core and Commercial-1 zones	Up to 2 Additional TIA Credits	Up to 2 Mobility Commitments	* Up to 20% of the Requirement. Up to 100% of the requirement if subgrade.	Up to 100% of the Requirement

Based upon the information from Tables 26.515-1 and 26.515-2, the following combinations are available to meet requirements (note, the development would choose 1 of the options below):

- 2 Additional TIA credits (Each equalling one parking requirement unit each), 8 subgrade parking spaces, or
- 2 Additional TIA credits (Each equalling one parking requirement unit each), 2 at grade parking spaces, \$228,000 Cash-in-lieu for 6 spaces, or
- 2 at grade parking spaces, \$304,000 Cash-in-lieu, or
- 2 at grade spaces, 5 subgrade spaces, \$114,000 Cash-in-lieu for 3 spaces, or
- 10 subgrade parking spaces, or
- 12.5 or less subgrade parking spaces, or
- More than 12.5 subgrade parking spaces where excess spaces over soft maximum are shared parking spaces, or
- 100% Cash-in-lieu at \$380,000.

Ordinance 31: Growth Management Quota System



KEY CHANGES

- A Increase in affordable housing mitigation to 65%
- B Changes to previously unmitigated existing net-leasable area
- C Tiered rollout of mitigation rate for previously unmitigated existing net-leasable area over 17 years

Applicability. All new construction, remodels, renovations, and changes in use are subject to GMQS. No changes were made to mitigation requirements for single family or duplex development.

Intent. Manage impact of development.

Increased Affordable Housing Mitigation Rate (Section 26.470.050 & 26,470.080).

New 65% mitigation rate

For all new commercial and lodge development, the mitigation rate was increased from 60% to 65%. Mitigation for Historic properties was updated to reflect the 65% rate, but existing incentives were unchanged.

Previously Unmitigated Existing Net-leasable Area

Existing commercial space where no mitigation was provided at the time of construction or redevelopment is now required to provide affordable housing mitigation. This means that if a project was constructed before growth management, or was constructed and not previously subject to growth management, mitigation must be provided upon redevelopment. For the purposes of this section, redevelopment is considered triggering demolition, as the term is defined in the land use code. This is a change from the previous policy that exempted any existing net leasable. The mitigation rate for such spaces is 15%, and it is scheduled to increase 3% annually based on the following table until 65% is reached:

Development Order applied for during calendar year -	Mitigation required (percent of employees generated by the existing space that has previously not mitigated)
2017	15%
2018	18%
2019	21%
2020	24%
2021	27%
2022	30%
2023	33%
2024	36%
2025	39%
2026	42%
2027	45%
2028	48%
2029	51%
2030	54%
2031	57%
2032	60%
2033	63%
2034	65%

Calculating Affordable Housing Mitigation Requirements

Mitigation is now required for any commercial space that was not previously mitigated.

If an applicant can document that mitigation was previously provided, that building is considered exempt from the regulation as long as that mitigation is maintained. This means that if mitigation for the existing building was provided as cash, off-site units, or housing credits, that should be documented as part of the new application and the new project would only be required to mitigate for any net increase in net leasable in a redevelopment scenario.

If, however, the mitigation was provided as on-site units or the previous mitigation is no longer in existence (i.e. the off-site unit has been demolished), the credit for existing commercial space is only maintained if the previous number of FTEs mitigated are replaced either on-site in the redevelopment, off-site, through landing of affordable housing credits, or through a cash-in-lieu payment. This would be part of the new land use application.

*For applications that add new space, but do not trigger demolition, only the new space must comply.

Other Changes. A number of other changes were made to address Council direction and to better align the code with the AACP.

- Affordable housing net liveable equal to 30% of additional free-market residential net liveable includes below grade space now too. Previously the calculation was only based on above grade space.

- Temporary use calculations were updated to show the calculation methodology for mitigation above 14 days.
- Multi-year allotment review criteria was updated to require a minimum of five (5) of the nine (9) criteria must be met.
- The method of Affordable Housing mitigation was updated to require Planning and Zoning review and approval. The previous code allowed an applicant to pick their preferred method.
- The calculation for Multi-Family replacement housing, when replaced with Certificates of Affordable Housing credits was clarified and includes an example calculation.

EXAMPLE:

1) Mitigation Calculation for New Commercial Net-leasable Area/Lodge

The addition of 1,000 square feet of ground floor Net Leasable would be required to mitigate for 65% of the FTEs generated. This could be done on-site, off-site, through credits, or cash-in-lieu (with a review).

In the CC zone district, 4.7 FTEs are generated per 1,000 sq. ft. of net leasable space, therefore the mitigation would be as follows:

$$4.7 \text{ FTEs generated} \times 65\% \text{ mitigation} = 3.055 \text{ FTEs to be mitigated}$$

This can be mitigated by Category 4 housing units or credits. If cash-in-lieu is the preferred mitigation method, the required mitigation would be:

$$3.055 \text{ FTEs} \times \$223,072 \text{ (Category 4 cash-in-lieu rate)} = \$681,484.86$$

2) Mitigation Calculation for Previously Unmitigated Net-leasable Area

In the case of an existing building where some portion of the building never previously mitigated for its affordable housing demand, the existing, unmitigated net-leasable area would be required to provide mitigation at the following rate if demolition is triggered:

$$2,000 \text{ sq. ft. existing} \times 4.7 \text{ FTEs / 1,000 sq. ft.} = 9.4 \text{ FTEs generated}$$

$$9.4 \text{ FTEs} \times 15\% \text{ mitigation rate} = 1.41 \text{ FTEs to mitigate}$$

This can be mitigated by Category 4 units or housing credits. If cash-in-lieu is the preferred mitigation method, the required mitigation would be:

$$1.41 \text{ FTEs} \times \$223,072 \text{ (Category 4 Cash-in-lieu rate)} = \$314,531.52$$

The mitigation rate for such spaces increases annually. Projects are subject to the mitigation rate in place at the time the land use permit application is received and deemed complete by the Community Development Department.

Appendix A: Common Triggers for Regulatory Compliance

	Change of Use	Remodel (no demolition)	Remodel (demolition)	Addition ¹	Redevelopment following demolition
Parking & Mobility			✓		✓
Pedestrian Amenity			✓		✓
Second Tier Space			✓	✓	✓
Second Tier Replacement		✓	✓		✓
Mitigation for Existing Space			✓		✓
Mitigation for New Space		✓	✓	✓	✓
Use Mix	✓	✓	✓	✓	✓
Commercial Design		✓	✓	✓	✓

¹ When a project includes an increase in space but does not trigger demolition, only the new space is required to comply.

Appendix B: Quick Reference Guide to Key Changes

Zone District and Dimensional Standards

Commercial Core Zone District (Section 26.710.140).

Commercial C-1 Zone District (Section 26.710.150).

Service/Commercial/Industrial Zone District (Section 26.710.160).

Neighborhood Commercial Zone District (Section 26.710.170).

Mixed-Use Zone District (Section 26.710.180).

Use Mix and Lists

Definitions (Section 26.104.110)

Updated Uses (Section 26.700)

Commercial Design Guidelines and Standards

Guidelines Document (Section 26.412.060)

Second Tier Commercial Space (Section 26.412.080 and Section 26.104.100).

Second Tier Replacement (26.412.100.B.2)

Pedestrian Amenity (Section 26.412.070, Guidelines pp. 30-38).

Commercial Building Height Measurement (Section 26.575.020(F)(4)(i))

Transportation and Parking Requirements

Transportation Impact Analysis (26.515.010.A / 26.515.030)

Cash-In-Lieu (26.515.090)

Definitions (26.515.010.B)

Minimums and Maximums (26.515.040.B)

Shared Parking (26.515.010.B / 26.515.050.D.2)

Calculating and Meeting Parking Requirements (26.515.050)

Growth Management Quota System

Increased Affordable Housing Mitigation Rate (Section 26.470.050 & 26,470.080).

Appendix C: New Definitions

Use Mix and Lists

General Retail. Involves the sale of consumer goods for normal personal or household use or consumption. These include items where demand tends to increase on a less than proportionate basis or that decreases relative to increases in income, and that are considered household necessities.

Specialty Retail. Involves the sale of luxury or premium goods, products that are generally purchased on a non-recurring basis, and that tend to occupy spaces in more expensive location. These include items where demand tends to increase as household income rises, or where demand increases in proportion to high prices.

Second Tier Commercial Space. Commercial net leasable area that is reserved for and used for principal commercial uses (not for storage, office or other uses accessory to another principal use) and that:

- Is located in a basement, or
- Is located above the ground floor (but not including rooftop pedestrian amenities), or
- Has its principal point of access along an alleyway or a mid-block pedestrian amenity, or
- Has its front façade and principal entryway on a subgrade courtyard or an enclosed interior courtyard or arcade.

When a building is split level, commercial space above the ground floor at street level shall be included in the second tier calculation, while the area below shall not. In these circumstances, a full basement below lower level would count as second tier space (see Figure 26.412.080-A and B below).

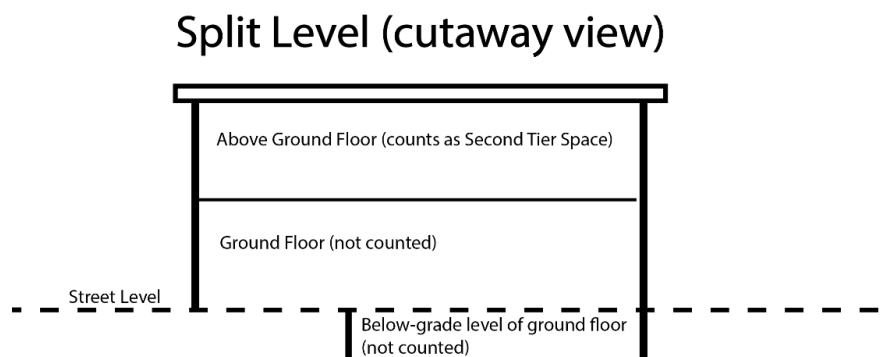


Figure 26.412.080-A Split Level – Cutaway View

Split Level (street view)

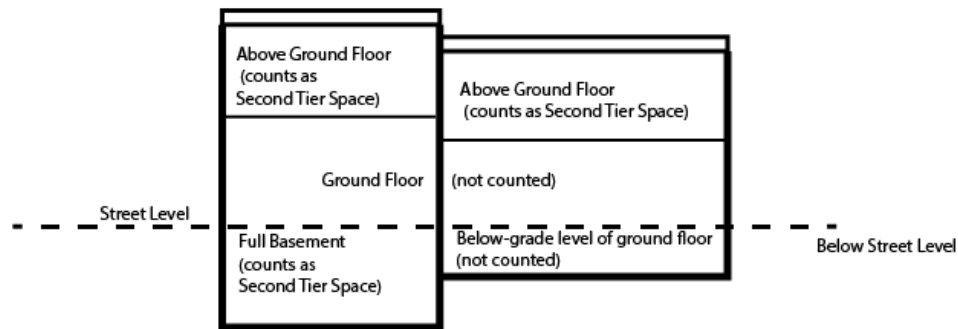


Figure 26.412.080-B Split Level – Street View

Measurement of the space shall be pursuant to Section 26.575.020.I, Measurement of Net Leasable Area and Net Livable Area.

Automobile Showroom. A building or fully enclosed space within a building that is used to display automobiles and motorcycles for retail purposes, and that is not used to service or maintain the vehicles.

Vehicle Sales. The sale or rental of autocycles, automobiles, bicycles, camper coaches, camper trailers, electrical assisted bicycles, electric personal assistive mobility devices (EPAMDs), golf cars, motorcycles, motor-driven cycles, motorized bicycles, recreational vehicles, and other “vehicles” (including “motor vehicles”) as defined by Section 42-1-102, C.R.S. For purposes of this definition, a “vehicle” includes any off-highway vehicle, snowmobile, farm tractor, or implement of husbandry.

Lodge Key (a.k.a. Lock-off Unit). An individual rentable division of a larger lodging unit, which shall be available overnight to the general public for a fee, and which includes sleeping, bathing and toilet facilities within the rentable division.

Transportation and Parking Requirements

Mobility Plan. A complete development mitigation plan that includes both TIA and parking requirements.

Parking Maximum. The maximum number of parking spaces allowed on-site for a designated use.

Parking Minimum. The minimum number of parking spaces that must be provided on-site for a designated use.

Parking Requirement. The sum of a project’s required Parking Units, as provided in Section 26.515.020.C.2.

Parking Space, Reserved. A parking space that is managed to limit access to specified individuals or specific on-site land uses.

Parking Space, Accessory. A parking space that is managed to limit access to individuals engaged with on-site uses (residents, tenants, and their guests/customers), but are shared between all on-site land uses across different peaks in service throughout a 24-hour period.

Parking Space, Public. A parking space that is managed to provide at least 12 hours of public use in any 24-hour period, with approved signage to effectively identify these hours of public access.

Parking Space, Priced. A parking space – whether reserved, accessory, or public – that is priced comparable to market rates at all times of operation.

Parking Space, Municipal. A parking space that is provided within City of Aspen facilities, or directly managed by the City of Aspen, whether located in a private or City-owned parking facility.

Parking Unit. A measure of a project’s parking impact, valued at \$38,000 per parking space, which must be mitigated and/or accommodated via mobility commitments, parking provision, and/or cash-in-lieu.

Shared Parking. Parking that is shared between multiple, distinct land uses, on the same site or between proximate sites, to make more efficient use of spaces and reduce overall supply needs. Shared parking can be used to seek provisional approval to either reduce a project’s Parking Requirement, or to facilitate the use of off-site parking to meet the Parking Requirement. Shared parking may include priced parking spaces.

Transportation Impact Analysis (TIA). Technical analysis guidelines for potential transportation impacts generated by development projects within the City of Aspen.