

MEMORANDUM

To: Development Services staff

From: Matthew Seubert for Tina Axelrad, Zoning Administrator

Date: November 4, 2019

Re: **Zoning Code Interpretation — Car Sharing Program** Denver Zoning Code (DZC) §10.4.5.3.B

Summary

This written interpretation of the DZC answers the following questions:

Q1: DZC §10.4.5.3.B uses the undefined term ‘car sharing program.’ How is this term to be interpreted?

A1: This written interpretation of the zoning code interprets the term ‘car sharing program’ as:

A fee-based service that provides all qualified drivers access to a dedicated car(s) or light truck(s) on a minute or hourly basis. Vehicles are available 24 hours, 7 days a week at unattended self-service locations. No separate written agreement is required each time a customer uses a vehicle. Vehicle usage is provided without restriction at minute, hourly and/or ‘per mile’ rates that include insurance and maintenance.

Q2: How are the zoning code provisions for a ‘car sharing program’ that qualifies for vehicle parking reductions in §10.4.5.3.B to be applied?

A2: Staff will evaluate a proposal for a car sharing program to qualify for vehicle parking reductions and apply the following analysis and procedures as part of the project review.

- 1) The proposal meets the definition of ‘car sharing program’ in this zoning code interpretation.
- 2) The program does not have unreasonable barriers to participation for residents/employees of the subject property.
- 3) The program has a dedicated car share space(s) on a zone lot that qualifies for the reduction.
- 4) The items above are verified prior to approval of the Zoning Permit or Site Development Plan (SDP) by an executed contract, covering at least the first year of occupancy.

Please see the following pages for more discussion of the above items.

Q3: What happens if the car share program no longer agrees to provide service at the subject project?

A3: It depends on the timing of the service cessation in relation to the status of the zoning permit for the subject primary use(s) to be or already served by the car sharing program. In general:

- 1) If the executed contract is withdrawn or fails to be provided prior to zoning permit or SDP approval, then the proposed parking reduction will not be approved (i.e., the SDP must be amended to remove the parking reduction and address any parking deficiency that results).
- 2) If the SDP or zoning permit has been approved, and the car sharing program does not establish operations, then the SDP or zoning permit must be amended to show compliance with required parking standards. If it is not amended, CPD may pursue suspension and/or revocation of the permit.
- 3) If the SDP or zoning permit has been approved, and the car sharing program has established operations, but then ceases to operate, DZC §10.4.5.3.A.6 provides, first, that the project must comply with the parking regulations in place at the time the program ceases, then, that the Zoning Administrator may allow withdrawal from the special parking arrangement, provided that the owner demonstrates best efforts to maintain and continue a car sharing program or to find alternatives to meeting the required parking standard.
- 4) If the Zoning Administrator does not allow withdrawal from the special parking arrangement, CPD may initiate enforcement actions.

Please see below for more discussion of the above items.

Background

The term ‘car sharing program’ is not defined in the DZC, and the DZC does not establish parameters for what constitutes a ‘car sharing program’ that qualifies for vehicle parking reductions. The term is not referenced in Comprehensive Plan 2040, Blueprint Denver, nor in DenverMoves Transit. Public Works established [Rules and Regulations](#) Pertaining to the Administration of a Car Share Permit Program in 2013. This interpretation of the DZC relies substantially on the definition of Car Share in that document.

This written interpretation of the zoning code provides an interpretation of an undefined term, ‘car sharing program,’ and provides additional clarity on how to apply provisions related to ‘car sharing program’ to guide general application of the Code. However, this written interpretation of the zoning code is not a substitute for policies, ordinances, or rules and regulations related to car sharing currently adopted by the City or that might be adopted in the future.

Car sharing provisions were included in DZC §10.4.5.3.B when it was adopted in 2010. There is no specific intent stated in the DZC related to car sharing or vehicle parking exceptions in general. However, §10.4.1 provides general intent statements related to parking standards, including:

- §10.4.1.1 Balance the provision of adequate off-street parking to meet demand with city-wide objectives to encourage pedestrian-friendly environments and the use of multiple modes of transportation, including mass transit and bike parking requirements to reduce vehicle parking demand.
- §10.4.1.3 Recognize, through parking reductions, the parking efficiencies gained through mixed use development, mixed income development, development proximate to rail and bus transit, and their impact on parking demand.

Since adoption of the DZC in 2010 and adoption of car share Rules and Regulations by Public Works in 2013, car sharing technology and operations have changed. Historically, a car sharing operation was typically membership based, fleet based, and required reservations. Car sharing programs today may or may not be membership based, may or may not be fleet based, and may or may not require reservations.

Examples of car sharing and car rental operations in Denver

- 1) **Traditional car rental.** These are fleet-based operations which traditionally rent by the day or week, although some now rent hourly, usually at staffed locations. They do not operate 24 hours a day in many locations, are not exclusively membership based, encourage but do not require reservations, typically require a separate written agreement with each rental, and typically charge additional fees for insurance. Examples include Enterprise, Hertz, Budget, and their subsidiaries.
- 2) **One way.** A fleet-based operation where cars may be rented on a short-term basis at one location, driven, and then parked at a different location. Cars may be parked at dedicated car share spaces on a qualifying zone lot as well as at on-street spaces, which may or may not be dedicated car share parking spaces. Rentals can be arranged 24 hours a day via an online platform. Rental locations are not staffed, and there are no additional charges for insurance. Examples formerly operating in Denver include car2go¹, which is a subsidiary of ShareNow.
- 3) **Round trip.** A fleet-based operation where cars are rented on a short-term basis, driven, and subsequently returned to the same location, which is typically a dedicated car share space. Rentals can be arranged 24 hours a day via an online platform. Rental locations are not staffed, and there are no additional charges for insurance. Examples include ZipCar, eGo, and Getaround.

¹ car2go ceased operations in Denver on October 31, 2019.

- 4) **Peer to peer car rental.** These are not fleet based, instead relying on participating owners to rent their private vehicles through an online platform. Cars are typically parked and rented on the street or in a public location, and returned to that same vicinity, rather than utilizing a dedicated car share space, and may not always be available 24 hours a day. Examples include Getaround, Turo, and Drift.
- 5) **Private car share.** These may be operated by an employer or building owner who provides a car share vehicle(s) for employees or residents, sometimes without fee to the user. They are often fleet based, may not operate 24 hours a day, and may have barriers to participation, such as being available to only certain employee groups and/or a requirement to participate in a defensive driving program or other training. Examples include fleet cars available for day use by employees in government office buildings.

City staff have requested guidance on how to verify and evaluate if a proposal is a 'car sharing program' that qualifies for vehicle parking reductions in the DZC, and on how to implement Code provisions related to car sharing. This written interpretation of the DZC interprets the term 'car sharing program' and provides guidance on how to apply provisions related to 'car sharing program' to help applicants and City staff evaluate and verify if the proposed car sharing program can qualify for vehicle parking reductions.

In the past, some applicants have provided a letter of intent from a car sharing operator at the time the project is reviewed at the concept stage of site development. However, in some instances the car sharing operator has subsequently stated that they have chosen not to operate a car sharing program at the subject property as the project moves through the formal approval process, which may take twelve months or more to complete after the concept stage. In at least one instance, the offer to operate car sharing was withdrawn after zoning approval and building construction, although prior to the project being issued a Certificate of Occupancy. Consequently, staff has concluded that a letter of intent is not sufficient to approve the requested vehicle parking reduction, because of such unpredictability.

DZC §10.4.5.3.B uses the term 'car sharing program' in reference to vehicle parking reductions. The DZC allows vehicle parking reductions for car sharing programs for on-site and off-site programs.

- An on-site car sharing program operates in the same building or on the same zone lot as the Primary Use(s) generating the required parking. The DZC specifies that the car sharing program must be made available to the residents in the same building or zone lot where the car sharing program is located. Required parking may be reduced at a ratio of 5 required spaces for each 'car share space' provided. Although the term 'car share space' is not the primary subject of this interpretation, it can be thought of as a parking space on the zone lot that is reserved exclusively for parking of a car share vehicle that is provided and maintained by the car sharing program.
- An off-site car sharing program operates on a zone lot within walking distance of the zone lot containing the Primary Use(s) generating the required parking. The amount of reduction in required vehicle parking is determined by the Zoning Administrator. Factors staff may consider in the determination may include, but are not limited to: distance from the subject site and number of car share spaces in relationship to the parking spaces required or provided at the subject project.

Definitions and Discussion

There are several components to the term 'car sharing program' that can be explained as follows. A 'car' is a vehicle, typically an automobile or light truck (van, pickup, or sport utility vehicle), but not a motorcycle or a heavy truck. 'Sharing' in this case means that although the car may be owned by an individual person or corporate entity, it may be rented by multiple individuals. In this case, 'program' means a service which provides the vehicle(s) and which arranges the car rentals.

How is a Car Sharing Program to be Interpreted in the DZC?

Staff researched car sharing zoning definitions in other cities including [Cambridge](#), Massachusetts, and [San Francisco](#), California, as well as Denver Public Works Rules and Regulations. Staff also analyzed existing car rental and car sharing services operating in Denver, recognizing that this is a dynamic industry and that regulations in the case studies noted above may not address current industry operations. After review of these case studies, existing car share services, and Public Works regulations in Denver, and the analysis in this document, this written interpretation of the Zoning Code interprets the term “car sharing program” as one having all nine of the following characteristics:

- (1) It is a fee-based service, (2) that provides to all qualified drivers (those that have a valid driver’s license), (3) access to a dedicated vehicle, (4) on a short term (minute or hourly) basis.
- (5) Vehicles are available at all times (24 hours, 7 days a week) at (6) unattended self-service locations and (7) rented via an automated system. (8) No separate written agreement is required each time a customer reserves a vehicle. (9) Vehicle usage is provided without restriction at minute, hourly and/or ‘per mile’ rates that include insurance and maintenance.

Requirements for car sharing program to take advantage of vehicle parking reductions under DZC

A car sharing program that qualifies for vehicle parking reductions in DZC §10.4.5.3.B must also meet the following requirements. Characteristics and requirements are also summarized in Table 1 below.

1. The proposal meets the definition of ‘car sharing program’ in this zoning code interpretation.
2. Available to all residents and/or employees of the relevant project, at zero or nominal cost for membership, and without unreasonable barriers to participation. Examples of barriers to participation include, but are not limited to, additional education or training requirements (i.e., requirement to participate in a defensive driving course) not required of all drivers with a valid driver license, or additional fees on a rental or lease.
3. Dedicated parking space(s) for car sharing. DZC refers to this as a ‘car share space.’ These must be dedicated space(s) for the car share vehicle on a qualifying zone lot. Such space(s) must be indicated on the site development plan, and the space(s) must be duly signed or otherwise marked for users to easily identify. A car(s) must also generally be available for rental, except when it is being rented by another customer(s).
4. The items above will be verified prior to approval of the zoning permit or SDP by an executed contract with a minimum term of one year, concurrent or starting from the date of Certificate of Occupancy, with provision for automatic renewal. Staff may require other commitments prior to provision of the executed contract, such as an intent to serve letter or an affidavit. However, these documents will not substitute for the executed contract at time of zoning permit or SDP approval.

Table 1: Characteristics and requirements of car sharing, car rental schemes

Characteristic	Scheme	Traditional Car Rental	One Way	Round Trip	Peer to Peer	Private
Rents by minute or hour?		Generally not	Yes	Yes	Yes	Yes
Cars available 24/7?		No	Yes	Yes	Maybe	Maybe
Automated system?		Maybe	Yes	Yes	Yes	Yes
Unstaffed location?		No	Yes	Yes	Yes	Yes
No separate written agreement?		No	Yes	Yes	Yes	Yes
Insurance included?		No	Yes	Yes	Yes	Yes
No barriers to participation?		Maybe	Yes	Yes	Yes	Maybe
Car share space provided?		Yes	Yes	Yes	Unlikely	Yes
Car sharing program in DZC?		Probably not	Yes	Yes	Unlikely	Maybe

An operation that does not meet the definition of car sharing program in this interpretation and/or does not meet the above criteria may still be permitted to operate at the subject property; however, it will not be able to take advantage of vehicle parking reductions allowed in DZC §10.4.5.3.B.

What are the zoning implications if the car sharing program no longer agrees to provide service at the subject building or the contract is cancelled or not renewed?

It depends on the timing of the cessation of service in relation to the zoning permit for the affected primary land uses. In general:

- 1) If the agreement is withdrawn before zoning permit or SDP approval, then the proposed parking reduction will not be approved.
- 2) If the SDP or zoning permit has been approved, and the car sharing program does not establish operations, then the SDP or zoning permit must be amended to show compliance with required parking standards. If it is not amended, CPD may initiate enforcement action under the provisions of §12.11.6, including but not limited to suspension or revocation of the permit.
- 3) If the SDP or zoning permit has been approved, and the car sharing program has established operations, DZC §10.4.5.3.A.6, Withdrawal from Participation in Plans or Programs, provides first, that the project must comply with the parking regulations in place at the time the program ceases, then, that the Zoning Administrator may allow withdrawal from the special parking arrangement. In order for the Zoning Administrator to allow withdrawal, the owner(s) must demonstrate best efforts to continue the special parking arrangement. If the owner sells the property, the owner's successors are responsible for maintaining the car share program. Please see §10.4.5.3.A.6 for more details on the allowance for withdrawal from special parking arrangements such as a car sharing program.
- 4) If the Zoning Administrator does not allow withdrawal from the special parking arrangement and/or if the property owner does not notify the City of cessation of the special parking arrangement as provided by §10.4.5.3.A.6, CPD may initiate enforcement action under the provisions of §12.11.6. Such actions include but are not limited to conducting investigations to determine compliance, issuing written orders, issuing notices of violation, instituting action in court, and applying penalties.

Authority for Interpretation

DZC §12.4.6, Code Interpretations and Determination of Unlisted Uses, authorizes the Zoning Administrator to make Code interpretations if appropriate findings are made. DZC §12.4.6.1.A establishes a procedure whereby interpretation of the Code's provisions may be determined, including but not limited to:

1. Interpretations of terms, words, and phrases not otherwise defined in the Code;
2. Interpretations of Code provisions when additional clarity is required to apply such provisions to a specific case or to guide general application of the Code.

Applicability

This interpretation applies to all use of the term "car sharing program," in the DZC, including but not limited to the following: §10.4.5.3.B: Vehicle Parking Reductions - Reductions Allowed.

Final Code Interpretation

The Denver Zoning Code is hereby interpreted as follows:

- 1) Wherever the DZC refers to “car sharing program,” such reference is interpreted to mean:

A fee-based service that provides all qualified drivers access to a dedicated car or light truck on a minute or hourly basis. Vehicles are available 24 hours, 7 days a week at unattended self-service locations. No separate written agreement is required each time a customer uses a vehicle. Vehicle usage is provided without restriction at minute, hourly and/or ‘per mile’ rates that include insurance and maintenance.

- 2) To evaluate if a proposed car sharing program qualifies to vehicle parking reductions, staff will apply the following analysis and procedures as part of the project review:
 - a) The proposal meets the definition of 'car sharing program' in this zoning code interpretation.
 - b) The program does not have unreasonable barriers to participation for residents/employees of the subject property.
 - c) The program has a dedicated car share space on a zone lot that qualifies for the parking reduction. The dedicated car share space must be shown on the approved Site Development Plan (SDP) or Zoning Permit and will be indicated by signage and/or pavement markings.
 - d) The items above are verified prior to approval of the Zoning Permit or Site Development Plan by an executed contract, covering at least the first year of occupancy.
- 3) If a car share program no longer provides service at the subject project, staff will apply the following procedures and review criteria:
 - a) If the car sharing agreement is withdrawn before zoning permit or SDP approval, then the proposed parking reduction will not be approved.
 - b) If the SDP or zoning permit has been approved, and the car sharing program does not establish operations, then the SDP or zoning permit must be amended. If it is not amended, CPD may pursue suspension and/or revocation of the permit.
 - c) If the SDP or zoning permit has been approved, and the car sharing program has established operations, DZC §10.4.5.3.A.6, Withdrawal from Participation in Plans or Programs, will apply.
 - d) If the Zoning Administrator does not allow withdrawal from the special parking arrangement under DZC §10.4.5.3.A.6, CPD may initiate enforcement actions.

Review Criteria for Interpretation

DZC §12.4.6.4.A requires the Zoning Administrator to make Code interpretations only upon finding that the interpretation is:

1. Consistent with the intent of this Code; and
2. Consistent with the intent of the subject Neighborhood Context and Zone District(s) and with the intent of any specific Code provision(s) at issue.

Zoning Administrator Findings

1. Per DZC §12.4.6.4.A.1, the Zoning Administrator finds this interpretation is consistent with the intent of this code to guide Denver’s prosperous and sustainable future by providing clear regulations and processes that result in predictable, efficient, and coordinated review processes.
2. Per DZC §12.4.6.4.A.2, the Zoning Administrator finds this interpretation is consistent with the intent of the Suburban, Urban Edge, Urban, and General Neighborhood contexts to enhance the

convenience, ease, and enjoyment of walking, shopping, and public gathering within the city's neighborhoods and streets. This interpretation is also consistent with the intent of the Urban Center Neighborhood context to ensure new development contributes positively to established neighborhoods and character; and is consistent with the intent of the Master Planned Context to provide clarity and predictable outcomes as development proceeds. This interpretation is also consistent with the intent of parking standards in DZC Division, 10.4, in particular §10.4.1.1 to balance the provision of adequate off-street parking to meet demand with city-wide objectives to encourage pedestrian-friendly environments and the use of multiple modes of transportation, and §10.4.1.3 to recognize, through parking reductions, parking efficiencies gained through mixed use development, mixed income development, development proximate to rail and bus transit, and their impact on parking demand.

Appeal

This code interpretation is a final decision of the Zoning Administrator and may be appealed to the Denver Zoning Board of Adjustment within 15 days from the date of this interpretation according to DZC §12.4.8, Appeal of Administrative Decision.