ARTICLE 12. ZONING PROCEDURES & ENFORCEMENT

This page intentionally left blank

Contents

ARTICLE 12. ZONING PROCEDURES & ENFORCEMENT

DIVISION 12.1 GENERAL PROVISIONS 12.1-1
Section 12.1.1 General 12.1-1
DIVISION 12.2 REVIEW AND DECISION MAKING BODIES 12.2-1
Section 12.2.1 City Council 12.2-1
Section 12.2.2 Planning Board 12.2-1
Section 12.2.3 Manager of Community Planning & Development 12.2-1
Section 12.2.4 Zoning Administrator 12.2-2
Section 12.2.5 Development Review Committee 12.2-3
Section 12.2.6 Board of Adjustment 12.2-3
Section 12.2.7 Cherry Creek North Design Advisory Board 12.2-6
Section 12.2.8 Downtown Design Advisory Board 12.2-6
Section 12.2.9 Summary Table of Authority and Notice 12.2-8
DIVISION 12.3 REQUIREMENTS COMMON TO ALL ZONING PROCEDURES 12.3-1
Section 12.3.1 General 12.3-1
Section 12.3.2 Pre-Application Meeting/ Concept Plan Review 12.3-1
Section 12.3.3 Submission of Applications 12.3-2
Section 12.3.4 Public Notice Requirements 12.3-5
Section 12.3.5 Effect of Approved Applications, Plans and Permits 12.3-10
Section 12.3.6 Approval Period, Lapse of Approval, and Extension of Approval Period 12.3-11
Section 12.3.7 Modification or Amendment of Applications, Plans and Permits 12.3-12
Section 12.3.8 Withdrawal of Recorded Site Development Plans and General Development Plans 12.3-16
DIVISION 12.4 ZONING APPLICATION AND REVIEW PROCEDURES 12.4-1
Section 12.4.1 Zoning Permit Review 12.4-1
Section 12.4.2 Zoning Permit Review With Informational Notice 12.4-6
Section 12.4.3 Site Development Plan Review 12.4-8
Section 12.4.4 Zone Lot Amendments 12.4-13
Section 12.4.5 Administrative Adjustment 12.4-15
Section 12.4.6 Code Interpretations and Determination of Unlisted Uses 12.4-27
Section 12.4.7 Variance 12.4-30
Section 12.4.8 Appeal of Administrative Decision 12.4-37
Section 12.4.9 Zoning Permit with Special Exception Review 12.4-38
Section 12.4.10 Official Map Amendment (Rezoning) 12.4-40
Section 12.4.11 Text Amendment 12.4-46
Section 12.4.12 Large Development Review 12.4-48
Section 12.4.13 Regulating Plan 12.4-56
Section 12.4.14 Infrastructure Master Plan 12.4-60
Section 12.4.15 Comprehensive Sign Plan Review Procedure 12.4-64
Section 12.4.16 Delay of Enforcement 12.4-67
DIVISION 12.5 COMPLIANT USES 12.5-1
Section 12.5.1 Intent 12.5-1
Section 12.5.2 Definition 12.5-1
Section 12.5.3 Effect 12.5-1
Section 12.5.4 Termination of Compliant Uses 12.5-2
Section 12.5.5 Determination of Compliant Status 12.5-4

DIVISION 12.6 COMPLIANT STRUCTURES. 12.6-1
Section 12.6.1 Intent 12.6-1
Section 12.6.2 Definition. 12.6-1
Section 12.6.3 Effect 12.6-1
Section 12.6.4 Determination of Compliant Status 12.6-6
DIVISION 12.7 NONCONFORMING USES 12.7-1
Section 12.7.1 Intent 12.7-1
Section 12.7.2 Applicability 12.7-1
Section 12.7.3 Limited Continuance of Nonconforming Uses Allowed 12.7-1
Section 12.7.4 Compliance with Limitations on External Effects of Uses 12.7-2
Section 12.7.5 Zone Lot for Structures Containing Nonconforming Uses 12.7-2
Section 12.7.6 Maintenance of Off-Street Parking and Loading Spaces 12.7-2
Section 12.7.7 Termination of Nonconforming Uses 12.7-2
Section 12.7.8 Signs for Nonconforming Uses 12.7-4
Section 12.7.9 Regulations for Specific Nonconforming Heavy Automobile Service Uses 12.7-4
Section 12.7.10 Determination of Nonconforming Status 12.7-5
DIVISION 12.8 NONCONFORMING STRUCTURES 12.8-1
Section 12.8.1 Intent 12.8-1
Section 12.8.2 Applicability. 12.8-1
Section 12.8.3 Continuance and Enlargement 12.8-1
Section 12.8.4 Termination of Nonconforming Structures 12.8-1
Section 12.8.5 Determination of Nonconforming Status 12.8-3
DIVISION 12.9 NONCONFORMING SIGNS. 12.9-1
Section 12.9.1 Nonconforming On-Premise Signs 12.9-1
Section 12.9.2 Nonconforming Outdoor General Advertising Devices 12.9-2
DIVISION 12.10 NONCONFORMING ZONE LOTS 12.10-1
Section 12.10.1 Intent 12.10-1
Section 12.10.2 Definition. 12.10-1
Section 12.10.3 Use & Development Allowed. 12.10-1
Section 12.10.4 Development on Carriage Lots 12.10-3
Section 12.10.5 Amendments to Nonconforming Zone Lots Limited 12.10-6
Section 12.10.6 Determination of Nonconforming Status 12.10-6
DIVISION 12.11 ENFORCEMENT, VIOLATIONS AND PENALTIES. 12.11-1
Section 12.11.1 General Purpose 12.11-1
Section 12.11.2 Violations. 12.11-1
Section 12.11.3 Offenses and Liabilities Preserved. 12.11-2
Section 12.11.4 Continuing Violations 12.11-2
Section 12.11.5 Statute of Limitations for City Only 12.11-2
Section 12.11.6 Enforcement Powers, Penalties and Remedies 12.11-2

DIVISION 12.1 GENERAL PROVISIONS

SECTION 12.1.1 GENERAL

12.1.1.1 Purpose

This Article 12 establishes the procedures and criteria by which the City will review proposed land use and development for compliance with this Code.

12.1.1.2 Applicability

In addition to compliance with other D.R.M.C. requirements, all use and development of land or structures, construction of buildings and improvements to land, and changes in the use of land or structures, shall be required to obtain permits and approvals according to this Article 12, unless specifically exempted.

12.1.1.3 Zoning Approval Required Prior to Building or Occupancy

No building permit shall be issued prior to the approval of a zoning permit required by this Article 12 for the proposed development, occupancy, or activity, unless specifically permitted by the Zoning Administrator.

12.1.1.4 Zoning Permits Issued in Error

A zoning permit issued in conflict with this Code shall not be construed as a permit allowing a violation of this Code.

This page intentionally left blank.

DIVISION 12.2 REVIEW AND DECISION MAKING BODIES

Division 12.2 states the roles and responsibilities of all bodies with respect to administering and enforcing this Code.

SECTION 12.2.1 CITY COUNCIL

12.2.1.1 General Authority

The City Council may exercise powers described by the charter, ordinances, and rules and regulations.

12.2.1.2 Authority for Final Action

The City Council is responsible for final action regarding:

A. Official Map Amendments (Rezoning)

B. Text Amendments

SECTION 12.2.2 PLANNING BOARD

12.2.2.1 General Authority

The Planning Board may exercise the powers described by D.R.M.C. Sec. 12-45, Powers and Duties of the Planning Board, and as described in this Code.

12.2.2.2 Authority for Final Action

The Planning Board is responsible for final action regarding:

A. District Sign Plans in the Downtown Theater zone district.

B. District Sign Plans in the CMP-NWC, CMP-NWC-C, CMP-NWC-G, CMP-NWC-F and CMP-NWC-R zone districts.

12.2.2.3 Review Authority

The Planning Board shall review and make recommendations to the authority responsible for final action shown in Section 12.2.9, Summary Table of Authority and Notice, regarding:

A. Official Map Amendments (Rezoning)

B. Text Amendments

C. Comprehensive Sign Plans for Large Facilities

SECTION 12.2.3 MANAGER OF COMMUNITY PLANNING & DEVELOPMENT

12.2.3.1 Short Title

The Manager of Community Planning and Development shall be known as “Manager” for the purposes of this Code.

12.2.3.2 General Authority

The Manager may exercise powers described by the Charter and D.R.M.C., Section 12-17, General Powers and Duties, and other ordinances, rules and regulations. In addition, the Manager shall:

A. Maintain the Official Map showing the current zoning classification of all land in the city;

B. Record with the Denver County Clerk and Recorder and file with the Denver City Clerk all matters and documents required by this Code to be recorded or filed;

C. Maintain written records of all actions taken by the department under this Code; and

D. Adopt rules and regulations when necessary to implement this Code, according to Chapter 12 (Community Planning and Development), Section 12-18 (Rule-making) of the Denver Revised Municipal Code.

12.2.3.3 Enforcement Authority

The Manager shall be responsible for the enforcement of this Code through the powers and procedures stated in Chapter 12 (Community Planning and Development) of the Denver Revised Municipal Code and stated in Article 12, Division 11 (Enforcement, Violations and Penalties) of this Code.

12.2.3.4 Review Authority

The Manager shall review and make recommendations to the City Council or other final decision-making body regarding:

A. Official Map Amendments (Rezoning)

B. Text Amendments

C. Site Development Plan Review

D. Zoning Permit with Special Exception Review

12.2.3.5 Delegation of Authority

The Manager may designate any staff member to represent the Manager in any function or authority assigned by this Code. The Manager shall remain responsible for any final action.

SECTION 12.2.4 ZONING ADMINISTRATOR

12.2.4.1 Appointment by Manager

The Manager shall appoint a Zoning Administrator to exercise the authority granted under this Section 12.2.4.

12.2.4.2 Authority for Final Action

The Zoning Administrator is responsible for final action regarding:

A. Zoning Permit

B. Zone Lot Amendment

C. Administrative Adjustment

D. Comprehensive Sign Plan for Large Facilities; and

E. Code Interpretation and Determination of Unlisted Uses.

12.2.4.3 Review Authority

With respect to this Code, the Zoning Administrator shall review and make recommendations to the Manager regarding text amendments and site development plans, and shall review and make recommendations to the Board of Adjustment regarding variances, special exceptions, and appeals of administrative decisions.

12.2.4.4 Delegation of Authority

The Zoning Administrator may designate any staff member to represent the Zoning Administrator in any function or authority assigned by this Code.

SECTION 12.2.5 DEVELOPMENT REVIEW COMMITTEE

12.2.5.1 Creation

The Development Review Committee ("DRC") shall consist of the Manager, the manager of the Department of Transportation and Infrastructure ("DOTI"), and the manager of Parks and Recreation, or their designated representatives, provided that additional agencies may participate at the discretion of the Manager.

12.2.5.2 Authority for Final Action

The Development Review Committee is responsible for final action regarding:

A. Site Development Plan Review

B. Minor Deviations and Repeals of General Development Plans

C. Large Development Review

D. Infrastructure Master Plan

12.2.5.3 Review Authority

The Development Review Committee shall review and make recommendations to the Zoning Administrator regarding:

A. Zoning Permit Review, as the Zoning Administrator may determine on a case-by-case basis.

SECTION 12.2.6 BOARD OF ADJUSTMENT

12.2.6.1 Authority for Final Action

The Board of Adjustment is responsible for final action regarding:

A. Variance (see Section 12.4.7)

B. Appeal from Administrative Decisions (see Section 12.4.8)

C. Zoning Permit with Special Exception Review (see Section 12.4.9) and

D. Delay of Enforcement (see Section 12.4.16)

12.2.6.2 Creation; Alternates; Required Training

A. Pursuant to section 3.2.9 of the Charter, City Council hereby establishes a Board of Adjustment consisting of 5 members subject to the composition requirements set forth in this section. Two appointments to the Board of Adjustment shall be made by City Council; two appointments shall be made by the Mayor; and one appointment shall be made jointly by the Mayor and City Council. Effective Monday, May 29, 2023, the terms of the current members of the Board of Adjustment shall be altered by their respective appointing authority to the following expiration dates:

1. Two terms shall be altered to expire on June 30, 2024 or until a successor is duly appointed.

2. One term shall be altered to expire on December 31, 2024 or until a successor is duly appointed.

3. Two terms shall be altered expire on June 30, 2025 or until a successor is duly appointed.

4. Subsequent appointments under this section shall be appointed for a term of three years or until a successor is duly appointed.

B. A member of the Board of Adjustment may be removed by their appointing authority for cause. The unexcused absence of any board member from three (3) consecutive meetings, unless the board chair has excused the absence for good and sufficient reasons as determined by the board chair, shall be deemed cause for removal.

C. City Council and the Mayor each may appoint, for a term of 3 years, 1 alternate member of the Board of Adjustment in addition to the 5 members. When a member of the Board is recused or is absent, an alternate member shall act in their place. The Board shall make an effort to alternate between the city council alternate and the mayoral alternate when possible. Alternates may be removed for cause by their appointing authority. Effective Monday, May 29, 2023, the terms of the current alternates of the Board of Adjustment shall be altered by their respective appointing authority to the following staggered expiration dates:

   1. One term shall be altered to expire on December 31, 2024 or until a successor is duly appointed.

   2. One term shall be altered to expire on June 30, 2025 or until a successor is duly appointed.

   3. Subsequent appointments under this section shall be appointed for a term of three years or until a successor is duly appointed.

D. No member of the Board of Adjustment shall be on the staff of the Board or be employed by Community Planning and Development.

E. Any vacancy in any appointed position of the Board of Adjustment shall be promptly filled by the appropriate appointing authority to serve the remainder of the unexpired term of the member who vacated the position.

F. The composition of the Board of Adjustment shall be as follows:

   1. At least one member shall be an architect.

   2. At least one member shall be a licensed attorney, with a preference for attorneys with administrative law experience.

   3. At least one member shall have background and experience in urban planning, construction, engineering, or development.

   4. Remaining members, if any, should have a demonstrated interest in zoning, land use, or urban design.

G. Relevant city agencies shall provide training to the Board of Adjustment on the following subjects as new members are appointed or upon major legal or policy updates:

   1. The Denver zoning code;

   2. Adopted land use, transportation, climate, and housing plans of the City and County of Denver;

   3. Open meetings and decorum;

   4. Proper use of evidence and conducting a quasi-judicial hearing;

   5. Proper application of findings of fact as the basis for decisions;

   6. Diversity, equity, and inclusion, as well as the Fair Housing, Civil Rights, and Americans with Disabilities Acts; and

   7. All members shall receive periodic supplemental training on the above topics and any additional topics as deemed necessary by the Chairperson of the Board.

12.2.6.3 Staff

The staff of the Board of Adjustment shall consist of a director and such other assistants as may be authorized by City Council. The director shall be the technical advisor to the Board of Adjustment and custodian of its records, shall conduct official correspondence, and generally supervise the clerical and technical work of the Board of Adjustment. The director shall be appointed by the Board of Adjustment and shall devote all time to the duties of the office. The salary of the director, the number of additional assistants, and the salaries of such additional assistants shall be fixed by City Council.

12.2.6.4 Rules for Proceedings Before Board

The Board of Adjustment shall adopt rules governing all proceedings before it. Such rules of the Board of Adjustment shall be maintained and available for public review in the office of director.

12.2.6.5 Officers

For the purpose of exercising the powers provided under this Code, the Board of Adjustment shall elect a chairperson and vice-chairperson.

12.2.6.6 Oaths and Attendance of Witnesses

The chairperson or, in the chairperson's absence, the vice-chairperson or acting chair shall administer oaths to or accept affirmations from all witnesses, and may compel the attendance of witnesses. A failure or a refusal to appear in response to a subpoena issued by the Board of Adjustment shall constitute a violation of this Code.

12.2.6.7 Limitations on Powers

A. Concurring Vote Required

1. The concurring vote of 4 members of the Board of Adjustment shall be necessary to reverse any order, decision, or determination of any administrative official authorized to act under this Code as described in Section 12.4.8, Appeal of Administrative Decision.

2. The concurring vote of 3 members of the Board of Adjustment shall be necessary to decide in favor of the applicant on any other matter for which the Board of Adjustment is the decision-making or reviewing authority under this Code.

B. Recording of Hearings and Findings of Fact

1. All proceedings before the Board of Adjustment shall be recorded.

2. Every decision of the Board of Adjustment shall be based upon findings of fact and every finding of fact shall be supported in the record of its proceedings. The enumerated conditions herein shall be construed as limitations on the power of the Board of Adjustment. Mere recitation of the conditions unaccompanied by findings of specific facts shall not constitute compliance with this Code. All findings of fact shall be available for public review within 21 days from the date of the Board of Adjustment's final decision.

C. Powers Strictly Construed

Nothing herein contained shall be construed to empower the Board of Adjustment to amend the text of this Code, to effect changes in the Official Zoning Map, or to add to the specific uses permitted in any district. The powers of the Board of Adjustment shall be construed to strictly enforce this Code and the Official Zoning Map.

12.2.6.8 Appeals from the Board of Adjustment to District Court

A. Procedure

Any person or any taxpayer aggrieved, the City, or any officer or department of the City may have a decision of the Board of Adjustment reviewed in the manner provided by the Colorado Rules of Civil Procedure. The plaintiff in any appeal to District Court shall be responsible for all costs to prepare the Board of Adjustment's record for transmittal to the court, according to fees set by the Board, which shall be paid prior to transmittal of the record to the District Court.

B. Effect of Appeal

The filing of an appeal to District Court shall not stay proceedings upon the decision appealed from, unless the court grants a restraining order or stay.

SECTION 12.2.7 CHERRY CREEK NORTH DESIGN ADVISORY BOARD

12.2.7.1 Creation

A. The Cherry Creek North Design Advisory Board shall consist of seven members appointed by the mayor.

B. The board shall consist of the following individuals to be appointed by the mayor from a list of nominations provided by the board of Cherry Creek North Business Improvement district: three licensed architects and one licensed landscape architect who reside in Denver; one member of the board of Cherry Creek North Business Improvement District or its designated successor; one property owner from the district; and one retailer from the district.

C. The members of the board shall be appointed by the mayor for a term of three years and shall serve at the pleasure of the mayor. Vacancies shall be filled within 30 days by the mayor from the date on which the vacancy occurs.

12.2.7.2 Review Authority

Within the C-CCN zone districts, the Cherry Creek North Design Advisory Board shall review and make recommendations to the Development Review Committee or the Zoning Administrator as specified in this Code or in adopted rules and regulations, as may be amended from time to time.

SECTION 12.2.8 DOWNTOWN DESIGN ADVISORY BOARD

12.2.8.1 Creation

A. The Downtown Design Advisory Board shall consist of nine members appointed by the Mayor. The nine members shall include individuals from the following categories: four design professionals, including architects, landscape architects, and urban designers, at least one of whom shall be a landscape architect; one owner of property in the downtown area; three residents or community representatives of the downtown area; and one representative of the development/construction industry, including but not limited to engineers, contractors, and developers. All board members must be residents of Denver.

B. The members of the board shall be appointed by the Mayor for terms of three years and shall serve at the pleasure of the Mayor. Terms of office shall be staggered by making the appointments so that approximately one-third of the members' terms expire each year. Vacancies shall be filled by the mayor within 30 days from the date on which the vacancy occurs.

12.2.8.2 Board Meetings

All meetings of the Downtown Design Advisory Board shall be open to the public and allow opportunity for public comment.

12.2.8.3 Review Authority

Within the Downtown Golden Triangle (D-GT), Downtown Arapahoe Square 12+ (D-AS-12+), Downtown Arapahoe Square 20+ (D-AS-20+), Downtown Central Platte Valley – Auraria Transition (D-CPV-T), Downtown Central Platte Valley – Auraria River (D-CPV-R), and Downtown Central Platte Valley – Auraria Center (D-CPV-C) zone districts, the Downtown Design Advisory Board shall review and make recommendations to the Development Review Committee or Zoning Administrator as specified in this Code or in adopted rules and regulations, which may be amended from time to time.

SECTION 12.2.9 SUMMARY TABLE OF AUTHORITY AND NOTICE

	REVIEW AND DECISION-MAKING AUTHORITY D = Decision-Making Authority R = Review and Recommendation Authority * = Public Hearing Required						TYPE OF PUBLIC NOTICE REQUIRED ■= Notice Required Blank Cell = Notice Not Required					
							Informational Notice			Notice of Public Hearing		
	Zoning Administrator	Manager	DRC	Board of Adjustment	Planning Board	City Council	Written and Posted Notice of Community Information Meeting	Written and Posted Notice of Receipt of Application	Posted Notice of Final Administrative Decision	Written	Posted	Published
Zoning Permit Review	D											
Zoning Permit Review with Community Information Meeting	D						■					
Zoning Permit Review with Informational Notice	D							■	■			
Site Development Plan Review	R	R	D/R See Sec. 12.4.3 for site development plans where DRC has review and recommendation authority		D* See Sec. 12.4.3 for site development plans that require public notice			■ See Sec. 12.4.3 for site development plans that require public notice	■ See Sec. 12.4.3 for site development plans that require public notice	■ See Sec. 12.4.3 for site development plans that require notice of a public hearing		
Zone Lot Amendment	D											
Administrative Adjustment	D											
Code Interpretation, Determination of Unlisted Use	D											
Comprehensive Sign Plan	D				R*			■		■	■	
Repeal of an Approved Comprehensive Sign Plan	D							■				
Variance	R			D*				Refer to rules of Board of Adjustment				
Appeal of Administrative Decision	R			D*				Refer to rules of Board of Adjustment				
Special Exception	R	R		D*				Refer to rules of Board of Adjustment				
Delay of Enforcement	R			D*				Refer to rules of Board of Adjustment				

	REVIEW AND DECISION-MAKING AUTHORITY						TYPE OF PUBLIC NOTICE REQUIRED					
	D = Decision-Making Authority R = Review and Recommendation Authority * = Public Hearing Required						**■= Notice Required Blank Cell = Notice Not Required**					
							Informational Notice			Notice of Public Hearing		
	Zoning Administrator	Manager	DRC	Board of Adjustment	Planning Board	City Council	Written and Posted Notice of Community Information Meeting	Written and Posted Notice of Receipt of Application	Posted Notice of Final Administrative Decision	Written	Posted	Published
Official Map Amendment (Rezoning)		R			R*	D*		■		■	■	■
Text Amendment	R	R			R*	D*				■		■
Infrastructure Master Plan	R		D									
Large Development Review			D				■					
Repeal of an Approved General Development Plan			D							■	■	
Regulating Plan	R	D										

This page intentionally left blank.

DIVISION 12.3 REQUIREMENTS COMMON TO ALL ZONING PROCEDURES

Division 12.3 states those procedural steps or requirements that are generally common to all zoning procedures stated in this Article, unless otherwise stated in this Code. Division 12.4 states the procedural steps and requirements specific to each type of zoning application procedure, which will include references to the common requirements stated in this Division 12.3 as applicable.

SECTION 12.3.1 GENERAL

The following review procedures are common to all zoning procedures, unless otherwise stated in this Code, and shall apply to applications submitted under this Code. Additional details may be included in the specific procedures included in Division 12.4 of this Article.

SECTION 12.3.2 PRE-APPLICATION MEETING/ CONCEPT PLAN REVIEW

12.3.2.1 Optional

Except as stated in Section 12.3.2.2 below, an applicant may schedule a pre-application meeting or concept plan review with the Manager to discuss the procedures, standards, and regulations required for approval in accordance with this Code.

12.3.2.2 Mandatory

Before submitting an application for the following, an applicant shall schedule a pre-application meeting or concept plan review with the Manager to discuss the procedures, standards, and regulations required for approval in accordance with this Code.

A. Zoning Permit Review for Temporary Managed Community, except that the Zoning Administrator may waive the requirement for a mandatory pre-application meeting upon request of the applicant if the applicant has previously operated a permitted Temporary Managed Community and demonstrated an understanding of the procedures, standards, and regulations required for approval, or in case of emergency according to Section 11.11.17.3.I, Emergency Suspension of Zoning Code Standards and Procedures.

B. Site Development Plan

C. Zoning Permit with Special Exception Review

D. Administrative Adjustment

E. Variance

F. Official Map Amendment (Rezoning)

G. Text Amendment

H. Large Development Review (LDR)

I. Infrastructure Master Plan (IMP)

12.3.2.3 Effect of the Pre-Application Meeting or Concept Plan Review

Except as otherwise expressly stated in this Code or in any rules or regulations for administering this Article 12, Manager and other staff opinions or comments made during a pre-application meeting or concept plan review are informational only and do not represent a commitment on behalf of the City regarding a final decision on the development proposal. However, at the pre-application meeting , the Manager may waive application submittal requirements or request that additional information be submitted.

12.3.2.4 Timely Application Submittal Required

Except as otherwise expressly stated in this Code or in any supplementary rules or regulations for administering this Article 12, if an application is not submitted within 180 days after a mandatory pre-application meeting or concept plan review, the Manager may require a new pre-application meeting or concept plan review.

SECTION 12.3.3 SUBMISSION OF APPLICATIONS

12.3.3.1 Authority to File Applications

The person having legal authority to take action according to the approval sought shall file an application for review or approval under this Code, and is hereinafter referred to as the "Applicant." That person is presumed to be the owner of record, purchaser under a sale with the owner's consent, or the duly authorized agent of the owner of record, unless otherwise authorized in Division 12.4.

12.3.3.2 Applications

Applications shall be submitted only after a pre-application meeting or concept plan review, if mandatory. All applications shall be submitted to Community Planning and Development.

12.3.3.3 Application Contents

A. Application Contents—General

The Manager is authorized to establish submittal requirements for all applications required by this Code, and to update and amend such requirements as necessary to ensure effective and efficient review.

B. Submittal Waivers

The Manager may waive certain application submittal requirements:

1. To tailor the requirements to the information necessary to review a particular application; or

2. Where the Manager finds that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly justify such waiver.

C. Additional Information Requested

The Manager shall have the authority to request additional information from the applicant when necessary to complete review of the application.

12.3.3.4 Application Fees

A. Except as specified in paragraph B. below, the Manager shall adopt, and may amend from time to time, a fee schedule setting forth an assessment of fees to defray the cost of processing applications under this Code.

B. The Board of Adjustment shall recommend, and the City Council shall approve, processing fees for all applications determined by the Board of Adjustment, including applications for variances, zoning permit with special exception reviews, and appeals from administrative decisions. The application fee schedule for Board of Adjustment applications, as may be amended from time to time, can be found in the rules of the Board of Adjustment.

C. At the time of submittal, all applications shall include payment of the application fee, except that application fees are not required for an application initiated by the City Council, an individual City Council member, the Manager, or the manager of a city agency or department.

D. An applicant may submit a written request to the Manager for the waiver of all or a portion of fees. Upon a finding by the Manager that, owing to exceptional or extraordinary circumstances,

collection of the required fees will result in unnecessary hardship, the fees may be reduced or waived by the Manager.

E. Other fees, such as recording fees, may be applicable in addition to Community Planning and Development application fees.

12.3.3.5 Statements During Review

A. Except as otherwise expressly stated in this Code or in any rules or regulations for administering this Article 12, statements that are necessary for compliance with this Code that are made by the applicant in the course of the application review process and/or public hearings may, in the sole discretion of the decision-making body, be made specific conditions of approval.

12.3.3.6 False or Misleading Information

Any false or misleading information given by the applicant in an application, or in other statements to staff, or in a public hearing as applicable, may result in suspension or rescission of a permit, as permitted under Division 12.11, Enforcement, Violations and Penalties, of this Article.

12.3.3.7 Complete Applications Required for Processing

A. All applications shall be complete and sufficient for processing before any review of the application will begin.

B. An application is complete when the Manager finds that it is submitted in the required form, includes all information necessary to decide whether the application will comply with the requirements of this Code, including all items or exhibits specified during a pre-application meeting or concept plan review, and is accompanied by the applicable fee or fees.

C. An application shall be considered incomplete if the Manager determines that the submittal is inconsistent or contrary to a previous plan or permit approval that is regulatory and controlling.

D. An application for an official map amendment (rezoning) shall be considered incomplete if the Manager determines that the submittal does not meet the location and adjacency requirements or any other minimum requirements for rezoning to the proposed zone district. See Section 12.4.10, Official Map Amendment (Rezoning).

12.3.3.8 Determination of Complete Application

A. Except as otherwise expressly stated in this Code or in any rules or regulations for administering this Article 12, the Manager shall review the application and make a determination of completeness by no later than 15 days from the date of receipt of the applicant's submittal. Failure to make a determination of completeness within the requisite 15-day time period shall automatically deem the application"complete."

B. A "complete" application shall be processed according to this Article.

C. If the Manager determines that the application is incomplete, the Manager shall notify the applicant and specifically identify how the application is deficient and state that Community Planning and Development will not process incomplete applications. The application shall then be classified as "Incomplete."

D. Community Planning and Development shall not review an incomplete application and shall not forward such application to any review or decision-making bodies, until the application is made complete. Wherever this Code refers to the forwarding or referral of an application to any review or decision-making body, the obligation to forward or refer the application shall not arise until the application is determined to be complete.

12.3.3.9 Concurrent Applications

A. Applications may be filed and reviewed concurrently, at the option of the applicant, and with the approval of the Manager. Any application that also requires a variance shall not be eligible for final approval until the variance has been granted.

B. Applications submitted concurrently may be subject to approval of all other related applications. Disapproval of any concurrently submitted application may stop consideration of related applications until the disapproved application is resolved.

C. Notwithstanding Section 12.4.10.2, Zone Districts Not Available for Rezoning, creation of a new zone district by text amendment according to Section 12.4.11, Text Amendment, may, with the Manager's approval, be filed and reviewed concurrent with a map amendment according to Section 12.4.10, Official Map Amendment (Rezoning). In no case, however, shall a map amendment rezoning land into a new zone district be approved until the text amendment creating the new zone district is approved.

12.3.3.10 Modification of a Pending Application

With the Manager's approval, a pending application may be modified at the applicant's request at any time before public notice of a public hearing, as applicable, is given. After public notice for a public hearing has been given, the applicant may request modifications to the application at the public hearing, which the review- or decision-making body may accept as conditions of approval.

12.3.3.11 Withdrawal of Pending Applications

A. Except where otherwise expressly provided (e.g., see Section 12.3.3.12, Inactive Applications), only the applicant or owner of record may withdraw an application. The applicant or owner of record shall request the withdrawal in writing, and after such withdrawal, the Manager will not take further action on the application. To re-initiate review after withdrawal, a new application shall be submitted, which in all respects shall be treated as a new application for purposes of review, scheduling, and payment of fees.

B. Withdrawal from consideration of an application from a public meeting or hearing agenda is discretionary with the applicable review or decision-making body.

12.3.3.12 Inactive Applications

Except as otherwise expressly stated in this Code or in any supplementary rules or regulations for administering this Article 12, the following provisions shall apply to inactive applications:

A. Expiration and Closure of Application

An application for approval or a permit under this Code may expire, and plans and other data submitted for review may thereafter be disposed of by the Manager, if one of the following conditions occurs:

1. Additional information required for determination of a Complete Application according to Section 12.3.3.8 has not been submitted within 45 days of the Manager notifying the applicant that additional information is required.

2. The plan review or other applicable fee is not paid within 45 days of the Manager notifying the applicant that the fee is ready to pay.

3. After receipt of a Complete Application, the Manager has notified the applicant that additional or corrected materials are required, and the applicant has not submitted such materials or responded with a request for a reasonable extension within 180 days after the date of such notification.

4. The applicant has not responded to a staff report, or has not agreed to a date for a required meeting or hearing before the Planning Board, City Council, or Board of

Adjustment, or has not given proper public notice as required by this Code, or has not taken other affirmative steps within a reasonable time frame that are within the applicant's control and are necessary to advance the application for a final determination.

B. Notification Prior to Expiration or Closure
Before or after any of the time periods specified in Section 12.3.3.12.A, Expiration and Closure of Application, have passed, the Manager may notify the applicant in writing that an application may become or is considered inactive and will be automatically withdrawn unless the applicant takes action to revive the application according to the Manager's direction and specified time frame.

C. Requests for Time Extensions
The Manager may extend the time for action by the applicant for a single period not exceeding 180 days upon approval of a written request showing that circumstances beyond the applicant's control have prevented action from being taken. All requests to extend a time period subject to this Section 12.3.3.12 shall be made in writing to the Manager before the expiration of such time period.

D. Effect After Expiration or Closure
An inactive application shall be considered automatically withdrawn. A new application shall be submitted to re-initiate review after an application is withdrawn, which in all respects shall be treated as a new application for purposes of review, scheduling, and payment of fees.

E. No further processing of an inactive application shall occur until the deficiencies are corrected and the application revived. If the applicant does not correct the deficiencies or take other substantial action to address the deficiency within the 30-day correction period.

SECTION 12.3.4 PUBLIC NOTICE REQUIREMENTS

12.3.4.1 General Provisions and Intent
All applications that require public hearings before the Planning Board, the Board of Adjustment, or the City Council shall be subject to this Section's public notice of hearing requirements. In addition, certain applications require public notice of receipt of such application and/or notice of the final decision or appeal opportunities. Some types of applications require a public meeting prior to submission of an application, during which the community can learn more about the proposed development. Public notice is intended to provide an the opportunity for public participation or public information regarding land use and development applications under this Code.

12.3.4.2 Types of Public Notice
There are three types of public notice addressed by this Section:

A. Notice of Public Hearings
When required by Section 12.2.9, Summary Table of Authority and Notice, "Notice of Public Hearings" provides the public with advance notice of a required hearing at which a review- or decision-making body will take action on an application under this Code. Such notice may be provided in writing (mailed), by posting (signs), or by publication.

B. Informational Notice
When required by Section 12.2.9, Summary Table of Authority and Notice, "Informational Notice" provides the public with notice of Community Planning and Development's receipt of an application for review (e.g., a zoning permit or site development plan), and/or the approving authority's final decision on such application and available avenues for appeal. Such notice may be provided in writing (mailed) and/or by posting (signs).

C. Notice of Community Information Meetings
When required by Section 12.2.9, Summary Table of Authority and Notice, a "community information meeting" provides the opportunity for the public to learn directly from the applicant about a potential application before it is submitted. Notice of the community information meeting shall be provided in writing (mailed) and by posting signs.

12.3.4.3 Public Notice – When Required

Required public notices are summarized in the table shown in Section 12.2.9, Summary Table of Authority and Notice. More detailed information may be included with each specific zoning procedure described in Division 4 of this Article 12.

12.3.4.4 Notice of Public Hearing

A. Written Notice of Public Hearings

When required by Section 12.2.9, Summary Table of Authority and Notice, written notice of a public hearing shall be provided in compliance with the following standards:

1. Official Map Amendment (Rezoning) - Written Notice of Planning Board Public Hearings

a. No later than 15 days before a required Planning Board public hearing on a proposed official map amendment (rezoning), the Manager shall notify the following parties:

i. The city council members in whose district the subject property is located.

ii. The at-large city council members.

iii. Registered neighborhood organizations registered according to D.R.M.C. Section 12-94 whose boundaries encompass or are located within 200 feet of the proposed official map amendment (rezoning).

iv. The owners and tenants (if the latter is different from owners) of any real property within the City and County of Denver, located in whole or in part within, or within 200 feet of, the proposed official map amendment (rezoning).

2. All Other Applications - Written Notice of Planning Board Public Hearings

a. Except for an official map amendment (rezoning) application, no later than 15 days before a required Planning Board public hearing on an application, the Manager shall notify the following parties:

i. The city council members in whose district the subject property is located.

ii. The at-large city council members.

iii. Registered neighborhood organizations registered according to D.R.M.C. Section 12-94 whose boundaries encompass or are located within 200 feet of the proposed application.

3. Written Notice of City Council Public Hearings

No later than 21 days before a required City Council public hearing on an application, the Manager shall notify the city council members in whose district the subject property is located and the at-large city council members. In addition, if the subject application affects areas within, or within 200 feet of, a registered neighborhood organization's boundaries, the Manager shall notify such registered neighborhood organizations registered according to D.R.M.C. Section 12-94.

4. General Requirements

a. The notice shall be sent via U.S. mail first class or by electronic mail if the recipient has indicated their acceptance of notice by electronic mail.

b. Notification shall include, where applicable, the location and general description of the proposed action; the process to be followed, including the date, time and place of the scheduled public hearing and/or public meeting.

5. Minor Defects in Notice Do Not Impair Hearing

Minor defects in a notice shall not impair the notice or invalidate proceedings under the notice if a *bona fide* attempt has been made to comply with applicable notice requirements. Where written notice was properly mailed to the most recent addresses available to the city, failure of a party to receive written notice shall not invalidate any subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing and the location of the subject property shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the review or decision-making body shall make a finding regarding whether there was substantial compliance with the notice requirements of this Code before proceeding with the hearing.

B. Posted Notice of Public Hearings

When required by Section 12.2.9, Summary Table of Authority and Notice, posted notice of a required public hearing shall be provided in compliance with the following standards:

1. No later than 15 days prior to the required Planning Board public hearing, and no later than 21 days prior to the required City Council public hearing, the applicant shall be responsible for posting signs on the subject property providing public notice thereof.

2. Posted notice shall be in number, size, location, and content as prescribed by the Manager and shall indicate the time and place of the public meeting or hearing, and any other information prescribed by the Manager.

3. The applicant shall take all reasonable efforts to assure that posted signs remain on the site in the number and location prescribed by the Manager, and in good condition to maintain legibility, during the posting period.

4. Posted notices shall be removed by the applicant from the subject property no later than 15 days after the public hearing has been held. Failure to do so shall constitute a violation of this Code.

C. Published Notice of City Council Public Hearing

No later than 21 days prior to the required City Council public hearing, the Office of the City Council, together with the Denver City Clerk's Office, shall publish notice of the time and place of a required public hearing before the City Council in the official newspaper.

12.3.4.5 Informational Notice – General Provisions

A. Written Notice of Receipt of Application

When required by Section 12.2.9, Summary Table of Authority and Notice, written notice of receipt of application shall be provided in compliance with the following standards:

1. Official Map Amendment (Rezoning) - Timing of Notice

For an official map amendment (rezoning) application, Community Planning and Development shall cause written informational notice to be provided no later than 10 days after the determination that a complete application has been received in accordance with Section 12.3.3.8, Determination of Complete Application. Community Planning and Development shall cause written informational notice to be sent to the following parties:

a. The city council members in whose district the subject property is located.

b. The at-large city council members.

c. Registered neighborhood organizations registered according to D.R.M.C. Section 12-94 whose boundaries encompass or are located within 200 feet of the proposed official map amendment (rezoning).

d. The owners and tenants (if the latter is different from owners) of any real property within the City and County of Denver, located in whole or in part within, or within 200 feet of, the proposed official map amendment (rezoning).

2. All Other Applications - Timing of Notice

Except for an official map amendment (rezoning) application, no later than 10 days after receipt of a complete application, Community Planning and Development shall cause written informational notice to be sent to the city council members in whose district the subject property is located, to the at-large city council members, and to those neighborhood organizations registered according to D.R.M.C. Section 12-94, whose boundaries encompass or are within 200 feet of the proposed development.

3. Notice to Landmark Preservation Commission

If the subject property falls within an area designated as a structure or district for preservation according to the D.R.M.C., Chapter 30 (Landmark Preservation), Community Planning and Development shall notify the Denver Landmark Preservation Commission regarding the application within the same time periods specified in paragraphs 1 and 2 above.

4. General Rules

a. The informational notice shall be sent via U.S. mail first class or by electronic mail if the recipient has indicated their acceptance of notice by electronic mail.

b. Notification shall include the location and general description of the application and proposed action; and the process to be followed, including the date, time and place of any related public meeting or hearing, if such has been scheduled; and information concerning, as applicable, when and where written comments may be submitted.

c. The failure to receive a notification required hereunder, for whatever reason, shall not invalidate any final action by the city.

B. Posted Notice of Receipt of Application

When required by Section 12.2.9, Summary Table of Authority and Notice, posted notice of receipt of an application shall be provided in compliance with the following standards:

1. Official Map Amendment (Rezoning)

a. For an official map amendment (rezoning) application, no later than 10 days after receipt of a complete application, the applicant shall post the subject property in a conspicuous location for at least 15 days, or until replaced by posted notice of a required public hearing, whichever is shorter, with a sign or sign template provided by Community Planning and Development.

b. Such sign shall include a general description of the proposed official map amendment and any other information prescribed by the Manager, and give directions for submitting comments to Community Planning and Development.

2. All Other Applications

a. Except for an official map amendment (rezoning) application, no later than 10 days after receipt of a complete application, the applicant shall post the subject property in a conspicuous location for 10 days with a sign or sign template provided by Community Planning and Development. The start of the 10-day period shall be the first day of the posting of the sign.

b. Such sign shall describe the proposal, give directions for submitting comments to Community Planning and Development within 30 days from the beginning of the posting period, and state that any final decision to approve the application shall be posted at the same location for 15 days as soon as it is effective.

c. Posted notices shall be removed by the applicant from the subject property by no later than 15 days after the end of the posting period. Failure to do so shall constitute a violation of this Code.

C. Posted Notice of Final Administrative Action

When required by Section 12.2.9, Summary Table of Authority and Notice, posted notice of final administrative action on an application shall be provided in compliance with the following standards:

1. Within 7 days after reaching a final decision to approve an application subject to informational notice, Community Planning and Development shall cause the applicant to post the property with a copy of the approving decision for a period of 15 days.

2. The applicant shall post the property in a conspicuous location with a sign or sign template provided by Community Planning and Development.

3. The effective date of the final administrative action and the start of the period during which appeals may be made to the Board of Adjustment shall be the first day of the posting of the sign. Such sign shall describe how a timely appeal from the final administrative decision may be filed and shall provide contact information for obtaining the standards and criteria that will govern the appeal.

12.3.4.6 Community Information Meeting

A. Timing of Community Information Meeting

When required prior to submitting an application, the applicant shall schedule a community information meeting (in-person or remotely) and provide public notice of the community information meeting according to the following standards.

1. Large Development Review

The applicant shall schedule a community information meeting following the DRC's preliminary determination of the LDR scope according to Section 12.4.12.6, and prior to application for Large Development Review according to Section 12.4.12.8, Application and Fees.

2. Residential Care

The applicant shall schedule a community information meeting prior to application for a zoning permit.

3. Temporary Managed Community

The applicant shall schedule a community information meeting following a pre-application meeting according to Section 11.11.17.3.C.1 unless the pre-application meeting requirement is waived according to Section 12.3.2.2.A, and prior to application for a zoning permit.

B. Required Public Notice

1. Written Notice of Community Information Meeting

The applicant shall send written notice at least 21 days prior to the date of the community information meeting in compliance with the following standards:

a. The written notice of the community information meeting shall be sent to:

i. Owners and tenants (if the latter is different from owners) of the subject site and any real property located within 400 feet of the subject site;

ii. The City Council members in whose districts the subject site is located, and the at-large City Council members;

iii. Any neighborhood organizations registered according to D.R.M.C. Section 12-94, whose boundaries encompass or are within 400 feet of the subject site;

iv. Other community organizations that are not registered neighborhood organizations and are either located within 400 feet of the subject site or operate within the statistical neighborhood or neighborhoods that contain

the subject site or district boundary. Applicants shall use reasonable efforts to identify such organizations, examples of which may include schools, religious assemblies, and other community-based nonprofit organizations.

b. In addition to the written notice required by Section 12.3.4.6.A.1, above, written notice for a Large Development Review shall also be sent to:

i. Any neighboring municipality or county that is contiguous to any boundary of the LDR area;

ii. Denver Public Schools if the LDR area anticipates residential development; and

iii. Any special district of which any part of the district's boundaries is included in the LDR area.

c. The written notice shall be sent via U.S. mail first class or by electronic mail if the recipient has indicated their acceptance of notice by electronic mail.

d. Notification shall include the location and general description of the proposed application, the location (in-person or remotely), time and date of the community information meeting, and, if applicable, the process to be followed, including date, time and place of any related public meeting or hearing, if such has been scheduled.

e. The failure, for whatever reason, to receive a notification required hereunder shall not invalidate any final action by the city.

2. Posted Notice of Community Information Meeting

Posted notice of the community information meeting shall be provided in compliance with the following standards:

a. No later than 21 days prior to the date of the required community information meeting, the applicant shall be responsible for posting one or more signs on the subject property providing public notice thereof.

b. Posted notice shall be in number, size, location, and content as prescribed by the Manager and shall indicate the time and place (in-person or remotely) of the community information meeting, and any other information prescribed by the Zoning Administrator.

c. The applicant shall take all reasonable efforts to assure that posted signs remain on the site in the number and location prescribed by the Manager, and in good condition to maintain legibility, during the posting period.

d. Posted notices shall be removed by the applicant from the subject property no later than 15 days after the community information meeting has been held. Failure to do so shall constitute a violation of this Code.

3. Conduct of Community Information Meeting, General

The Manager shall publish guidelines for the conduct of community information meetings specific to the application types for which such meetings are required.

SECTION 12.3.5 EFFECT OF APPROVED APPLICATIONS, PLANS AND PERMITS

Unless otherwise lapsed or withdrawn according to this Code, all applications, plans and permits approved under this Article 12 and this Code shall be binding upon the applicants, their successors and assigns. In addition, all approved applications, plans and permits shall limit and control the issuance and validity of all subsequent site development plans and zoning permits, and shall restrict and limit the construction, location, use, and operation of all land and structures in accordance with such plans or permits. See also Section 12.3.7, Modification and Amendment of Approved Applications, Plans and Permits, below.

SECTION 12.3.6 APPROVAL PERIOD, LAPSE OF APPROVAL, AND EXTENSION OF APPROVAL PERIOD

12.3.6.1 In General - Lapse of Approved Applications, Plans and Permits

An application, site development plan, or zoning permit approved under this Code may lapse if certain actions related to the approved application, plan, or permit are not taken within a specified time as set forth in Division 12.4, Zoning Application and Review Procedures. See Division 4 of this Article for specific actions that must be taken regarding each application, plan, or permit to avoid lapse of the approval.

12.3.6.2 Beginning of Approval Period - General Rule

Unless otherwise specified in Division 12.4, Zoning Application and Review Procedures, an approval period of an approved application, plan, or permit shall begin on the date of the decision-making body's final decision to approve, which shall be affixed to all approved applications, plans or permits.

12.3.6.3 Extension of Approval Period

A. For extensions of the approval periods for a variance related to construction, the provisions in Section 12.4.7.7.A shall apply instead of this Section 12.3.6.3.

B. The Zoning Administrator may grant an extension of an approval period up to 12 months according to the process and limitations contained herein, unless otherwise prohibited elsewhere in this Code.

C. In no case shall the Zoning Administrator grant an extension if, since the date of the original approval, the subject property's zoning designation has changed or the applicant proposes an amendment to the approved application, plan, or permit with the request for extension. See Section 12.3.7, Modification or Amendment of Applications, Plans and Permits, below.

D. All requests for extensions shall be submitted to Community Planning and Development in writing before the expiration of the approval period. An extension request shall include:

1. Payment of any required fee for the extension review; and

2. A narrative stating the reasons for the applicant's or owner's inability to comply with the specified deadlines, listing any changes in the character of the neighborhood, any changes to the Comprehensive Plan or this Code that have occurred since the original approval date and that affect the subject development, and the anticipated time schedule for completing the development.

E. The Zoning Administrator will review the request for extension and shall approve, approve with conditions, or deny the extension request based on consideration of the following criteria:

1. The Applicant's showing of good cause for the extension, including but not limited to a showing that development was delayed by economic or physical problems beyond the applicant's or property owners' control;

2. Consistency with the intent of this Code;

3. Consistency with the intent of the applicable neighborhood context and zone district; and

4. Consistency with the intent of any changes to the Denver Comprehensive Plan or this Code that have occurred since the original approval date and that affect the subject Development.

F. Additional review of the application, permit or plan may result in additional conditions placed on the extended approval, application, permit or plan, as applicable.

G. The grant of an extension shall be effective and counted as of the date of the original permit or plan's approval period expiration date and not the date the extension request is approved.

H. If the extension is denied, the applicant may re-submit a new application, subject to the fees, standards, and regulations in effect at the time of re-submittal, for the same project.

SECTION 12.3.7 MODIFICATION OR AMENDMENT OF APPLICATIONS, PLANS AND PERMITS

12.3.7.1 Modifications to Pending or Approved Applications, Plans or Permits

A. Applicability

1. This Section 12.3.7.1 shall not apply to modifications to LDFs, IMPs, or GDPs; instead, see Sections 12.4.12, Large Development Review, and 12.4.14, Infrastructure Master Plan.

2. For purposes of this Section 12.3.7.1, the phrase "site development plan" shall also include site development plans previously approved under Former Chapter 59 that are applicable to land zoned and mapped under the Denver Zoning Code. Site development plans under Former Chapter 59 include site plans approved according to Former Chapter 59, Article VIII - Special Zone Lot Plans for Planned Building Groups.

3. The minor modifications, changes, removal, or release of either (1) the Code standards applicable to a pending application; or (2) the Code provisions applicable to, or the conditions attached to, an approved application, plan, or permit described in this Section 12.3.7.1, shall be treated as "modifications" rather than "amendments," and may be approved administratively by the Zoning Administrator according to this Section.

B. Modifications to Regulating Plans, Site Development Plans or Zoning Permits

1. Modifications to a pending or approved regulating plan, site development plan, or zoning permit application that are expressly permitted as “administrative adjustments” under Section 12.4.5, Administrative Adjustment, may be approved by the Zoning Administrator according to the procedures and criteria in Section 12.4.5.

2. Modifications to an approved regulating plan, site development plan, or zoning permit to reduce or eliminate the minimum number of vehicle parking spaces required shall be submitted to the Zoning Administrator for review and approval under this Section 12.3.7.1. Such modification may include withdrawal from participation in plans or programs previously required, such as shared parking or off-site parking plans or agreements.

3. The Zoning Administrator may allow one or more Accessory Dwelling Unit uses in excess of any specified number of dwelling units or maximum density in an approved regulating plan or site development plan according to the applicable procedure specified below.

   a. Accessory Dwelling Units in a Plan-allowed Structure
   Where the Accessory Dwelling Unit use will be located within a Primary Structure or Detached Accessory Structure that is allowed by an approved regulating plan or site development plan, and the building footprint of the approved structures will not be expanded, the Accessory Dwelling Unit may be approved by Zoning Permit.

   b. Accessory Dwelling Units With Expanded Building Footprint
   Where an Accessory Dwelling Unit use will be located in a Primary Structure or Detached Accessory Structure and the building footprint(s) will be expanded beyond those shown in an approved regulating plan or site development plan, the Accessory Dwelling Unit may be approved by modification to the approved regulating plan or site development plan.

4. The Zoning Administrator may allow minor changes to an approved regulating plan, site development plan or zoning permit provided such minor changes do not constitute an "amendment" under Section 12.3.7.2.B, "Amendments to Approved Regulating Plans, Site Development Plans and Zoning Permits," below.

5. All modifications to an approved regulating plan, site development plan or zoning permit shall be submitted to the Zoning Administrator for review and approval.

6. The applicable standards for review of modifications to an approved regulating plan, site development plan or zoning permit are those standards in effect at the time a final decision is made on the modification, unless otherwise expressly allowed by a duly adopted ordinance of the City Council.

7. After approval, the Zoning Administrator shall record a modified regulating plan or site development plan in the records of the Denver County Clerk and Recorder's Office, and shall register a modified zoning permit in the records of Community Planning and Development.

C. Other Modifications to Approved Applications, Plans, or Permits

1. Changes, modifications, removal, or release of all or some of the provisions of an approved application, plan, or permit, which do not otherwise qualify as "modifications" under Section 12.3.7.1.A above, or as an "amendment" under Section 12.3.7.2, Amendment to Approved Applications, Plans and Permits, below, may be approved by the Manager, using the same review process and criteria applicable to Administrative Adjustments stated in Section 12.4.5 of this Code.

2. The applicable standards for review of such change, modification, removal, or release of an approved application, plan, or permit are those standards in effect at the time a final decision is made on the change, unless otherwise expressly allowed by a duly adopted ordinance of the City Council.

12.3.7.2 Amendments to Approved Applications, Plans, and Permits

This Section 12.3.7.2 shall not apply to amendments to LDFs, IMPs, or GDPs. See Sections 12.4.12, Large Development Review, and 12.4.14, Infrastructure Master Plan.

A. Procedure and Applicable Rules for Amendments

1. Same Rules and Process Apply as if New Application

An "amendment" to an approved application, plan, or permit shall be reviewed according to the same procedures and subject to the same limitations and requirements, including the payment of fees, as if it were a new application, including, where applicable, review at a public hearing before the Planning Board. The applicable standards for review of the amendment are those standards in effect at the time a final decision is made on the amendment, unless otherwise expressly allowed by a duly adopted ordinance of the City Council.

2. General Rule - Entire Land Area and All Owners Must be Included

Except as otherwise allowed in this Section or this Code, each application for amendment shall include the entire land area of the original approved application, plan, or permit, and shall be initiated by all the owner(s) or agent of the owner(s) of the property to which the amendment applies.

3. Amendments to Approved Site Development Plans - Exception Allowed

a. Applicability of Exception

i. The exception stated in this subsection 12.3.7.2.A.3 shall apply to site development plans previously approved under this Denver Zoning Code and to site development plans previously approved under Former Chapter 59 that are applicable to land zoned and mapped under the Denver Zoning Code.

ii. Site development plans under Former Chapter 59 include development plans and site plans approved according to Former Chapter 59, Article VIII - Special Zone Lot Plans for Planned Building Groups. The phrase "site development plan" in this Section shall include all types eligible for the exception stated herein.

b. Exception to General Rule - Review Process

Contrary to the standards or limitations stated in this Section 12.3.7.2.A and in Former Chapter 59, the Development Review Committee (DRC) may allow an application for an amendment to a previously approved site development plan that is not initiated by all the owners of the property to which the original approved plan applies. In addition, the DRC may allow an application for an amendment to a previously established Zone Lot located within the boundaries of a previously approved site development plan, where the Zone Lot amendment is not initiated by all the owners of the affected Zone Lot(s) and provided the affected Zone Lot(s) does not contain a single unit or two unit Dwelling use. The DRC may approve such exceptions only if the following conditions and criteria are met:

i. The applicant for the amendment participates in a mandatory Pre-Application Meeting review step, according to Section 12.4.3.3.B. of this Code, before submitting an application to amend the previously approved site development plan and/or Zone Lot.

a) As authorized by Section 12.3.3.3.C of this Code, in requiring additional information necessary to make its decision on the exception, the DRC may include analysis of the potential impacts on infrastructure construction, operations, or maintenance referenced or contained in a separate document, report, or plan that supported or justified the approval of the original plan.

b) **For example**, the DRC may require the applicant to analyze the amendment's impact on a Transportation Engineering Plan (TEP) approved by DOTI outside the previously approved site development plan but a condition precedent to DOTI's approval of the original plan.

c) **For example**, the DRC may require the applicant to analyze the amendment's impact on a Development Agreement executed and recorded outside the previously approved site development plan but a condition of the DRC's approval of the original plan.

ii. No later than 30 days after the Pre-Application Meeting is held but before the DRC makes a final decision on whether to allow the exception, Community Planning and Development shall cause the applicant to send written (mailed) informational notice to all owners of real property located within the boundaries of the originally approved site development plan and/or Zone Lot area. The contents of the notice shall comply with the provisions stated in Section 12.3.4.5.A.4, General Rules [for Informational Public Notice], and shall give direction for submitting comments to Community Planning and Development within 30 days from the date of mailing.

iii. The DRC, with advice from other affected city or public agencies or departments, will decide whether to approve or deny the exception based on evidence presented, comments from non-participating owners, and applying the following review criteria:

a) No material adverse impacts from the proposed amendment will result to non-participating owners subject to the previously approved plan or Zone Lot approval, or to other affected properties or neighborhoods, or substantial mitigation of such material adverse impacts will be included in the amendment application; and

b) Commitments made in the original approved plan, including all conditions of approval, to provide public benefits, including dedications, construction of infrastructure including parks and open space, or affordable housing, will be fulfilled if the amendment is approved.

iv. Within 15 days after the DRC makes a final decision to approve an application for an exception, Community Planning and Development shall cause the applicant to provide written (mailed) informational notice about the approving decision and right to timely appeal to be sent to all owners of real property located within the boundaries of the originally approved site development plan area. The effective date of the DRC's final decision shall be the date of this mailing.

4. SDP Amendments Must be Recorded

The Manager shall record all amendments to a site development plan approved according to this Section in the records of the Denver County Clerk and Recorder's Office.

B. Amendments to Approved Regulating Plans, Site Development Plans and Zoning Permits

1. All changes to all or some of the provisions of an approved regulating plan, site development plan or zoning permit, including those changes to a site development plan in a PUD District (but excluding a PUD District Plan amendment which requires City Council approval), which do not qualify as a “modification" under Section 12.3.7.1 above, shall be considered amendments subject to this Section 12.3.7.2.

2. In addition, any of the following changes to an approved regulating plan, site development plan or zoning permit, including but not limited to a site development plan in a PUD District (but excluding a PUD District Plan amendment which requires City Council approval), shall be considered amendments subject to this Section 12.3.7.2:

a. An increase in the maximum height of any building by more than 5 feet or 5 percent, whichever is less, but not including allowed height exceptions or incentives, and excepting Accessory Dwelling Units as provided in Section 12.3.7.1.A.2;

b. An increase in the floor area ratio (FAR) or Gross Floor Area (GFA), by greater than 10 percent as calculated on a total project basis, except when the increase is caused by the addition of permitted Accessory Dwelling Units;

c. A change to the permitted uses or mix of primary uses if the proposed primary uses are more intensive than the approved primary uses, as determined by the Zoning Administrator according to the criteria in Section 12.4.6 (Code Interpretations and Determination of Unlisted Uses), excepting Accessory Dwelling Units as provided in Section 12.3.7.1.A.2;

d. A change to the location of permitted primary land uses that would substantially change the development's character or impacts on surrounding property, as determined by the Zoning Administrator, excepting Accessory Dwelling Units as provided in Section 12.3.7.1.A.2;

e. Changing the vehicle access from and through public rights-of-way; provided, however, that curb cut locations may shift unless specifically established by the approved plan or permit, excepting Accessory Dwelling Units as provided in Section 12.3.7.1.A.2;

f. Changing or negating a condition of approval, except where the condition of approval relates only to provision of a minimum amount of vehicle parking spaces; or

g. Modifying any other element of an approved application, plan, or permit, including but not limited to architectural concepts, building elevations, facade treatments and exterior building materials, on- and off-site traffic circulation or the overall design of parking areas, on-site drainage, landscaping, or other existing improvements that would substantially change its character or impacts on surrounding property, as determined by the Manager.

SECTION 12.3.8 WITHDRAWAL OF RECORDED SITE DEVELOPMENT PLANS AND GENERAL DEVELOPMENT PLANS

12.3.8.1 This Section 12.3.8 shall not apply to a Large Development Framework. See Section 12.4.12, Large Development Review.

12.3.8.2 Pursuant to the same procedure and subject to the same limitations and requirements by which such Site Development Plans, Infrastructure Master Plans (IMPs), or General Development Plans (GDPs) were approved and recorded, all Site Development Plans, IMPs, and GDPs recorded under this Code may be withdrawn, either partially or completely, if all land and structures remaining under such site development plans can be made to comply with all regulations established by this Code. Upon approval of an application to withdraw, the Manager shall record in the real property records of the Denver County Clerk and Recorder an appropriate certificate of such withdrawal.

DIVISION 12.4 ZONING APPLICATION AND REVIEW PROCEDURES

Division 12.4 contains the specific procedures and review criteria for land use and development applications required by this Code (collectively referred to as "zoning applications"). Applicants should also refer to Division 12.3, Requirements Common to All Zoning Procedures, for procedural requirements generally applicable to all zoning applications, including provisions governing pre-application meetings, application submittals, public notice, and vested rights.

SECTION 12.4.1 ZONING PERMIT REVIEW

12.4.1.1 Purpose

The purpose of the zoning permit review process is to ensure compliance with the standards and provisions of this Code, while encouraging quality development in Denver reflective of the goals, policies, and strategies found in the Comprehensive Plan.

12.4.1.2 Applicability

A. Uses

A zoning permit is required prior to the following:

1. Establishment of a Primary Use.
2. Change of a Primary Use.
3. The establishment of an Accessory Use, or the change of Accessory Use, but only when a zoning permit is required in the Use Tables found in Articles 3-9.
4. The establishment of a Temporary Use of any structure or land, but only when a zoning permit is required in the Use Tables found in Articles 3-9.
5. Changes in the total Gross Floor Area ("GFA") of a use, including increases in the GFA of a use that is subject to a maximum area limit in this Code (e.g., an Accessory Dwelling Unit use or garage parking use accessory to a Single Unit Dwelling use).

B. Structures

1. General Rule: Zoning Permit Required

Unless otherwise specifically excepted, a zoning permit is required prior to construction of a new structure, changes to an existing structure, changes in the gross floor area of a structure, and any development that includes a request for an administrative adjustment or variance.

2. Exceptions in All Zone Districts

A zoning permit is not required for the following types of development, unless the development includes a request for an administrative adjustment or variance, or is listed in Section 12.4.1.2.A.3, Exceptions Do Not Apply to Historic Structures and Districts:

a. Structures or portions of structures that are 12 inches or less in height, as measured from Finished Grade at the lowest point of the structure, except that a zoning permit is required for construction or changes in the construction of in-ground swimming pools, spas, and hot tubs. *See also* Section 12.4.1.2.C. below, which states when development related to an Off-Street Parking Area, including new vehicle driveways, requires a zoning permit.

b. Changes to the interior or exterior of an existing structure when neither of the following apply:

i. The structure is not located within the boundaries of any area subject to Urban Design Standards and Guidelines; or

ii. The changes do not affect the structure's gross floor area, location, footprint, height in feet or stories, or compliance with build-to, transparency, or pedestrian access requirements.

c. Regular maintenance and normal repairs to existing structures that do not change the location, increase the footprint, or change the assigned building form of the original permitted structure.

d. Structures that comply with the standards for the Minor Detached Structure building form stated in Articles 3-9.

e. Treehouses, swings, playsets, slides, and other playground equipment intended for children's use and accessory to a single unit dwelling or two unit dwelling Primary Use.

f. Flagpoles, movable or permanent basketball goals, and other detached accessory structures with a similar profile and minimal footprint that may otherwise exceed the standards applicable to the Minor Detached Structure building form, as determined by the Zoning Administrator.

g. Building-mounted solar panels.

h. Electric Vehicle Supply Equipment (EVSE), as defined in the Denver Building Code.

i. Wall-mounted fixtures, wiring, conduit, piping, and vents integral to conventional mechanical, electrical, plumbing, and fire protection systems including electrical panel boards, controllers, sensors, meters, drains, hose bibs, hydrants, fire department connections, sprinklers, alarms, dryer vents, bathroom vents, furnace vents, radon exhaust fans, lighting fixtures, and similar minor utility features approved by the Zoning Administrator.

j. Modifications to a wireless service facility, including removal, discontinuance, or replacement, that are not determined to be physically substantial according to Section 11.5.2.4.A, Modifications and Collocations that are Physically Substantial; provided that the owner or operator of the wireless facility has notified the City in writing of the modification to the wireless service facility or associated equipment.

3. Exceptions Do Not Apply to Historic Structures and Districts

The Exceptions listed in Section 12.4.1.2.B.2 shall apply to structures for preservation and districts for preservation, as defined in D.R.M.C. Ch. 30 (Landmark Preservation), unless any of the following apply:

a. Changes to existing structures and new construction affecting a Porch visible from a Primary Street or Side Street.

b. Construction of or changes to a Minor Detached Structure when the structure meets one or more of the following:

i. The Minor Detached Structure is located forward of a Street-facing Façade of a designated structure for preservation;

ii. The Minor Detached Structure is located in the front 50 percent of the Zone Lot Depth; or

iii. The Minor Detached Structure is located 5 feet or less from the structure for preservation when measured from the Exterior Wall of each structure.

C. Off-Street Parking Areas

1. General Rule: Zoning Permit Required

Unless otherwise specifically excepted, a zoning permit is required prior to the establishment of a new Off-Street Parking Area or expansion of an existing Off-Street Parking Area.

2. Exceptions in All Zone Districts

A zoning permit is not required for the establishment or modification, including expansion, of an Off-Street Parking Area when all of the following conditions are met:

a. The Off-Street Parking Area is located on a Zone Lot containing either one primary single unit Dwelling or one two unit Dwelling use;

b. Such development is not located within a required Primary Street Setback; and

c. Such development does not alter an existing curb cut on a Public Street.

D. Signs

1. General Rule: Zoning Permit Required

A zoning permit is required for the erection, alteration, or maintenance of any Sign, except where the requirement for a zoning permit is expressly waived in Division 10.10, Signs.

E. Fences, Walls, and Retaining Walls

1. General Rule: Zoning Permit Required

Unless otherwise specifically excepted, a zoning permit is required prior to construction of a new Fence, Wall, or Retaining Wall and prior to changes to an existing Fence, Wall, or Retaining Wall.

2. Exceptions in All Zone Districts

In all zone districts, a zoning permit is not required for the following:

a. New construction of a Retaining Wall that is 12 inches or less in height, or changes to the height or location of an existing Retaining Wall that is 12 inches or less in height, unless located on a Zone Lot that:

i. Contains a structure for preservation designated under D.R.M.C., Chapter 30 (Landmark Preservation); or

ii. Is located in a district for preservation designated under D.R.M.C., Chapter 30 (Landmark Preservation).

b. New construction of a Fence or Wall (not including a Retaining Wall) 4 feet or less in height, or changes to the location or footprint of a Fence or Wall that is 4 feet or less in height, unless located on a Zone Lot that:

i. Contains a structure for preservation designated under D.R.M.C., Chapter 30 (Landmark Preservation);

ii. Is located in a district for preservation designated under D.R.M.C., Chapter 30 (Landmark Preservation); or

iii. Abuts a Parkway designated under D.R.M.C., Chapter 49.

c. Regular maintenance and normal repairs to a permitted Fence or Wall, or replacement of all or a portion of a permitted Fence or Wall with like materials, which do not change the location or increase the footprint or height of the original permitted Fence or Wall.

3. Exceptions in the I-A, I-B, and CMP-NWC Zone Districts Only

In the I-A, I-B, and CMP-NWC Zone Districts, a zoning permit is not required for the following:

a. The addition of barbed wire or razor wire to the top of a permitted Fence or Wall or the addition of a non-lethal electrified Fence system combined with a permitted Fence or Wall, if approved by the Fire Department. See Section 10.5.5.1.E, Material Standards, for additional standards.

12.4.1.3 Prohibitions and Requirements Prior to Zoning Permit Issuance

A. Prohibitions on Activities Prior to Zoning Permit
No Development shall occur on property subject to these requirements for zoning permit review until a zoning permit has been approved, unless the Zoning Administrator allows an exception in writing.

B. Approval of Required Site Development Plan
When a Site Development Plan is required by Section 12.4.3, no zoning permit for construction shall be issued until a Site Development Plan is approved.

C. Landmark Preservation Approvals
When the subject Zone Lot contains a structure for preservation designated under D.R.M.C., Chapter 30 (Landmark Preservation) or is located in a district for preservation designated under D.R.M.C., Chapter 30 (Landmark Preservation), no zoning permit shall be approved until a required certificate of appropriateness is issued.

D. Payment of Gateway Regional Systems Development Fee
No zoning permit for an applicable Zone Lot, except a zoning permit only for a sign or fence and wall, shall be issued until the regional systems development fee established by the Gateway Regional Metropolitan District on land within the Gateway Regional Metropolitan District has been paid for the subject Zone Lot.

E. Manager of Parks and Recreation Approval of Uses and Development in the OS-A District
No zoning permit for an applicable Zone Lot shall be issued for any use or development in an OS-A zone district until the Manager of Parks and Recreation, or designee, has agreed to the approval of the zoning permit in writing.

F. Denver International Airport (DIA) Review of Uses and Development in the DIA Influence Area Overlay District (AIO)
No zoning permit shall be issued for any use, development, or structure in the DIA Influence Area Overlay District until the Manager of Aviation, or designee, has found that the proposed use, development, or structure complies with the DIA Influence Area Overlay District standards in Article 9 of this Code. The Manager of Aviation shall comment within 14 days from the referral of the complete application. Non-response by the Manager of Aviation within the 14-day time period, or any extension agreed to by the Zoning Administrator, shall be deemed a recommendation of approval.

12.4.1.4 Review Process

A. Initiation
The owner[s] of the subject property or the owner's authorized agent may initiate an application for zoning permit review.

B. Pre-Application Meeting
A pre-application meeting is optional before submittal of a zoning permit review application. See Section 12.3.2, Pre-Application Meeting/Concept Plan Review.

C. Application and Fees

1. Submittal in Writing
All applications for zoning permit review shall be submitted in writing to Community Planning and Development. The applicant shall pay all required fees at the same time the application is submitted. See Section 12.3.3, Submission of Applications.

2. Concurrent Applications
The applicant may submit a zoning permit review application concurrent with the submittal of other applications according to Section 12.3.3.9, Concurrent Applications. In

no case, however, shall a building permit be issued until the zoning permit according to this Section is approved, unless the Zoning Administrator allows an exception in writing.

D. Review, Referral and Final Decision

The Zoning Administrator may refer the zoning permit application to other affected or interested agencies and parties for review and comment, as deemed necessary to make a decision on the application. The Zoning Administrator shall make a final decision to approve, approve with conditions, or deny the zoning permit application, taking into consideration relevant agency or other party comments. Wherever higher or more restrictive standards are established by the provisions of any other applicable statute or ordinance than are established by the provisions of this Code, the Zoning Administrator may take the provisions of such other governing statute or ordinance into consideration in making a final decision. For example, the Zoning Administrator may deny a zoning permit application for a plant husbandry use that, while permitted by the provisions of this Code, is prohibited by D.R.M.C., Chapter 6 Licenses, due to proximity to a school. See Section 1.1.3.3, Conflicting Provisions.

12.4.1.5 Review Criteria

The Zoning Administrator shall use the following criteria in making a decision on an application for zoning permit review:

A. The zoning permit is consistent with all prior approvals that are regulatory and controlling for the subject property, as applicable. For example, all zoning permits shall be consistent with a previously approved Large Development Framework, Infrastructure Master Plan, General Development Plan, Regulating Plan, or Site Development Plan.

B. The zoning permit complies with all applicable regulations in this Code.

12.4.1.6 Requirements and Limitations After Zoning Permit Issuance

A. Expiration

1. Except as otherwise allowed in subsection C. below, all approved zoning permits authorizing construction shall expire after 180 days after the date of issuance if a building permit has not been issued within the 180-day time period and is not thereafter cancelled.

2. Except as otherwise allowed in subsection C. below, an approved zoning permit authorizing a permitted use shall expire if a building permit has not been issued within the 180-day time period or if the permitted use is not established within the 180-day time period. After the use is validly established, an approved zoning use permit shall run with the land except as otherwise restricted by this Code.

3. If a zoning permit is granted upon review and approval of a Site Development Plan according to Section 12.4.3 of this Code, then the zoning permit authorizing construction or a permitted use shall expire at the same time as the approved Site Development Plan.

B. Modification and Rescission

The Zoning Administrator may change, modify, or rescind any zoning permit decision, whether or not the decision has been appealed to the Board of Adjustment. Rescission of a permit is allowed according to the procedure and criteria stated in Section 12.11.6 of this Code.

C. Modifications and Amendments to an Approved Zoning Permit

Modifications and amendments to an approved zoning permit are allowed according to Section 12.3.7 of this Code.

SECTION 12.4.2 ZONING PERMIT REVIEW WITH INFORMATIONAL NOTICE

12.4.2.1 Purpose

The purpose of the zoning permit review with informational notice process is to ensure compliance with the standards and provisions of this Code, while encouraging quality development in Denver reflective of the goals, policies, and strategies found in the Comprehensive Plan. Zoning permit review with informational notice is intended for specific types of development or establishment of specific permitted uses that are consistent with the intent of the zone district and generally compatible with surrounding building forms and uses, but which have the potential for adverse off-site impacts. Zoning permit review with informational notice provides an opportunity for potentially affected parties to be notified of the city's receipt of the application, the process for making comments, the final decision, and appeal opportunities.

12.4.2.2 Applicability

Zoning permit review with informational notice is required for the following types of development:

A. Establishment, expansion or enlargement of a primary, accessory, or temporary use permitted subject to informational notice, as indicated by the designation "ZPIN" (Zoning Permit with Informational Notice) in the applicable Use Tables found in Articles 3 through 9 of this Code.

B. Establishment, expansion or enlargement of a primary, accessory, or temporary use permitted in a zone district under Articles 3 through 9 or under any other provision in this Code, where such provision explicitly requires zoning permit review with informational notice and approval prior to establishment of the use.

12.4.2.3 Prohibitions and Requirements Prior to Zoning Permit Issuance

A. Prohibitions on Activities Prior to Zoning Permit

No development shall occur on property subject to these requirements for zoning permit review until a zoning permit has been approved, unless the Zoning Administrator allows an exception in writing.

B. Landmark Preservation Approvals

When the subject Zone Lot contains a structure for preservation designated under D.R.M.C., Chapter 30 (Landmark Preservation) or is located in a district for preservation designated under D.R.M.C., Chapter 30 (Landmark Preservation), no zoning permit shall be approved until a required certificate of appropriateness is issued.

C. Payment of Gateway Regional Systems Development Fee

No zoning permit for an applicable Zone Lot, except a zoning permit only for a sign or fence and wall, shall be issued until the regional systems development fee established by the Gateway Regional Metropolitan District on land within the Gateway Regional Metropolitan District has been paid for the subject Zone Lot.

D. Denver International Airport (DIA) Review of Uses and Development in the DIA Influence Area Overlay District (AIO)

No zoning permit shall be issued for any use, development, or structure in the DIA Influence Area Overlay District until the Manager of Aviation, or designee, has found that the proposed use, development, or structure complies with the DIA Influence Area Overlay District standards in Article 9 of this Code. The Manager of Aviation shall comment within 14 days from the referral of the complete application. Non-response by the Manager of Aviation within the 14-day time period, or any extension agreed to by the Zoning Administrator, shall be deemed a recommendation of approval.

12.4.2.4 Review Process

A. Initiation

The owner[s] of the subject property or the owner's or owners' authorized agent may initiate an application for zoning permit review with informational notice.

B. Pre-Application Meeting

A pre-application meeting is optional before submittal of an application for zoning permit review with informational notice. See Section 12.3.2, Pre-Application Meeting/ Concept Plan Review.

C. Application and Fees

1. Submittal in Writing

All applications for zoning permit review with informational notice shall be filed in writing with Community Planning and Development. The applicant shall pay all required fees at the same time the application is submitted. See Section 12.3.3, Submission of Applications.

2. Concurrent Applications

The applicant may submit a zoning permit review with informational notice application concurrent with other required applications according to Section 12.3.3.9, Concurrent Applications. In no case, however, shall a building permit, as applicable, be issued until the zoning permit is issued according to this Section, unless the Zoning Administrator allows an exception in writing.

D. Informational Notice

Written and posted notice of receipt of application shall be provided according to Sections 12.3.4.5.A and 12.3.4.5.B.

E. Review, Referral and Final Decision

1. Review and Referral

The Zoning Administrator may refer the zoning permit review with information notice application to other affected or interested parties and agencies for review and comment as deemed necessary to make a decision on the application.

2. Final Decision

a. The Zoning Administrator shall make a final decision to approve, approve with conditions, or deny the zoning permit application, taking into consideration relevant agency or other party comments.

b. The Zoning Administrator may attach conditions to the zoning permit approval reasonably necessary to protect the health, safety and welfare of the community and to minimize adverse impacts on adjacent properties, as authorized by this Code.

F. Posted Informational Notice of Final Administrative Action

The applicant shall provide posted informational notice of the final administrative action according to Section 12.3.4.5.C.

12.4.2.5 Review Criteria

The Zoning Administrator shall consider all public comment and the following criteria in making a decision on an application for zoning permit with informational notice review:

A. The zoning permit is consistent with all prior approvals that are regulatory and controlling for the subject property, as applicable. For example, all zoning permits shall be consistent with a previously approved Large Development Framework, Infrastructure Master Plan, General Development Plan, Regulating Plan, or Site Development Plan.

B. The zoning permit complies with all applicable regulations in this Code.

C. The proposal will not substantially or permanently injure the appropriate use of adjacent conforming properties, taking into consideration all proposals for mitigation of such impacts.

12.4.2.6 Requirements and Limitations After Zoning Permit Issuance

A. Expiration

1. Except as otherwise allowed in subsection C. below, all approved zoning permits authorizing construction shall expire after 180 days after the date of issuance if a building permit has not been issued within the 180-day time period and is not thereafter cancelled.

2. Except as otherwise allowed in subsection C. below, an approved zoning permit authorizing a permitted use shall expire if a building permit has not been issued within the 180-day time period or if the permitted use is not established within the 180-day time period. After the use is validly established, an approved zoning use permit shall run with the land.

3. If a zoning permit is granted upon review and approval of a Site Development Plan according to Section 12.4.3 of this Code, then the zoning permit authorizing construction or a permitted use shall expire at the same time as the approved Site Development Plan.

B. Modification and Rescission

The Zoning Administrator may change, modify, or rescind any zoning permit decision, whether or not the decision has been appealed to the Board of Adjustment. Rescission of a permit is allowed according to the procedure and criteria stated in Section 12.11.6 of this Code.

C. Modifications and Amendments to an Approved Zoning Permit

Modifications and amendments to an approved zoning permit are allowed according to Section 12.3.7 of this Code.

SECTION 12.4.3 SITE DEVELOPMENT PLAN REVIEW

12.4.3.1 Purpose

The purpose of the site development plan review process is to ensure compliance with the standards and provisions of this Code and other applicable city standards, rules and regulations, while encouraging quality development in Denver reflective of the goals, policies, and strategies found in the Comprehensive Plan. Site development plan review is generally reserved for development with the potential for significant on-site and off-site impacts necessitating inter-departmental and inter-agency referral, review, and, in some cases, approval prior to final action by Community Planning and Development. After the City's approval of a site development plan, Community Planning and Development is authorized to issue requisite zoning permits under this Code.

12.4.3.2 Applicability

A. Site Development Plan Review Required

Unless specifically excepted in Section 12.4.3.2.B below, Site Development Plan review is required for:

1. Development in all zone districts, as the term "development" is defined in Division 13.3 of this Code.

2. All Zone Lot amendments resulting in the creation of more than 2 new Zone Lots.

3. Where a provision of this Code explicitly requires site development plan review and approval prior to establishment of a use.

4. The Zoning Administrator may require Site Development Plan review for any other development, including development otherwise excepted in Section 12.4.3.2.B below, where the proposed development requires approval by a City agency or department other than the Community Planning and Development Department.

B. Exceptions - No Site Development Plan Review Required

The following types of development are not subject to this Section's Site Development Plan review process:

1. Development of one Primary Structure for establishment of a Single Unit Dwelling use or a Two-Unit Dwelling use, with or without development of one or more detached Accessory Structures for associated accessory uses, and where all such structures are developed on a single Zone Lot.

2. Development of two Primary Structures for establishment of a Single Unit Dwelling use in each such structure, with or without development of one or more detached Accessory Structures for associated accessory uses, and where all such structures are developed on a single Zone Lot.

3. When subject to an approved regulating plan or site development plan, development of Accessory Dwelling Units where the Accessory Dwelling Unit use will be located within approved Primary Structures or Detached Accessory Structures and the building footprint of the approved structures will not be expanded.

4. Development within a PUD District subject to an approved Detailed PUD District Plan under Section 9.6.1.3, Requirement for a PUD District Plan.

5. Development listed in Section 12.4.3.2.A above, after a Pre-Application Concept Plan review is completed according to Section 12.4.3.3.B, where approval by another review process is determined by the Zoning Administrator to be sufficient. The determination shall be based on finding that a different review process, such as Zoning Permit or Zone Lot Amendment review, is sufficient based on the scale of proposed development and the extent of required approvals or review by a City agency or department other than Community Planning and Development.

6. Manufactured Home Replacement.

C. Prohibition on Activities Prior to Site Development Plan Approval - Exceptions

1. General Rule

Except as allowed herein, no development shall occur on property subject to Site Development Plan review until a Site Development Plan has been approved, and requisite zoning and building permits issued.

2. Exceptions

The Zoning Administrator may allow the application for and issuance of permits before approval of a Site Development Plan to allow:

a. Environmental remediation of a site or building;

b. Demolition of existing structures;

c. Grading, subject to compliance with minimum tree preservation standards in DRMC, Chapter 57 and minimum drainage and grading standards stated in this Code or any other applicable city code or rule;

d. Preparation for utilities and utility installation, or

e. Other similar land or existing structure preparation activities as determined by the Zoning Administrator.

3. Applicant Proceeds At Risk
An Applicant who successfully applies for and starts such permitted activity before approval of the Site Development Plan does so at their own risk of violating this Code or other city codes or rule because of either subsequent conditions attached to the approved Site Development Plan, any subsequent changes in this Code or other city code or rule, or because the Site Development Plan is withdrawn administratively due to inactivity according to Section 12.3.3.12, Inactive Applications.

12.4.3.3 Review Process

A. Initiation

The owner(s) of the subject property or the owner's or owners' authorized agent may initiate an application for site development plan review.

B. Pre-Application Concept Plan Review

1. A pre-application concept plan review is mandatory before submittal of a formal site development plan application. During the concept plan review, the DRC will confirm the applicability of site development plan review to the proposed development activity and the specific procedure steps and submittal requirements the applicant will follow. See also Section 12.3.2, Pre-Application Meeting/ Concept Plan Review.

2. During the concept plan review, the DRC may waive an otherwise mandatory requirement for site development plan review if the DRC finds that the nature and complexity of the proposed development, and the development's compliance with this Code, can be fully addressed through the zoning permit review procedure in Section 12.4.1.

3. During the concept plan review, the DRC shall determine whether Large Development Review (LDR) or an Infrastructure Master Plan (IMP) is required for the proposed development activity according to Sections 12.4.12 and 12.4.14. If the DRC determines a LDR or IMP is required the Site Development Plan application shall not be approved until a LDR or IMP, as applicable, is completed and/or approved.

C. Application and Fees

1. Submittal in Writing
All applications for site development plan review shall be filed in writing with Community Planning and Development. The applicant shall pay all required fees before a final decision is made on the site development plan application. See Section 12.3.3, Submission of Applications.

2. Concurrent Applications
Concurrent applications may be allowed according to Section 12.3.3.9, Concurrent Applications. Except as allowed in Section 12.4.3.2.C, Prohibition on Activities Prior to Site Development Plan Approval - Exceptions, In no case shall a building permit, as applicable, be issued until the site development plan is approved and all zoning permits issued according to this Article, unless the Zoning Administrator allows an exception in writing.

D. Review, Referral and Decision by Development Review Committee

1. The DRC shall refer the site development plan application to other affected or interested agencies for review and comment.

   a. For proposed development in the DIA Influence Area Overlay District, the DRC shall refer the site development plan application to the Department of Aviation for review. The DRC shall not approve a site development plan in the DIA Influence Area Overlay District until the Manager of the Department of Aviation, or designee, has found that the proposed development complies with the DIA Influence Area

Overlay District standards in Article 9 of this Code. The Manager of Aviation shall comment within 14 days from the referral of the complete application. Non-response by the Manager of Aviation within the 14-day time period, or any extension agreed to by the DRC, shall be deemed a recommendation of approval.

2. The DRC shall consider the relevant comments of all interested parties, the actions taken by other agencies on the site development plan, as applicable, the recommendation by the Planning Board, as applicable, and the review criteria stated below, in approving, approving with conditions, or denying a site development plan application.

3. The DRC may attach conditions to the site development plan approval reasonably necessary to protect the health, safety and welfare of the community and to minimize adverse impacts on adjacent properties, as authorized by this Code.

12.4.3.4 Review Criteria

The following criteria shall be considered in making a decision on an application for Site Development Plan review:

A. The Site Development Plan has been reviewed and approved by the DRC, where such approval is authorized and required by the D.R.M.C. The DRC or Planning Board shall not approve a Site Development Plan until all DRC departments have approved the site development plan pursuant to their charter or D.R.M.C. authority.

B. The Site Development Plan is consistent with all prior approvals that are regulatory and controlling for the subject property, as applicable. For example, the Site Development Plan shall be consistent with a previously approved Large Development Framework, Infrastructure Master Plan, General Development Plan, or Regulating Plan.

C. The Site Development Plan complies with all applicable regulations in this Code.

12.4.3.5 Appeal

Section 12.4.8, Appeal of Administrative Decision, shall apply.

12.4.3.6 Requirements and Limitations After Site Development Plan Approval

A. Recordation of Approved Site Development Plans

Community Planning and Development shall register a copy of the approved Site Development Plan among its records and shall record the approved site development plan in the real property records of the Denver County Clerk and Recorder.

B. Effect of Approval

1. A Site Development Plan approved according to this Section shall regulate the future use and development of the subject property.

2. Approval of a Site Development Plan means a proposed development complies with the standards and provisions of this Code and, consequently, the City may issue zoning permits to an applicant, assuming all other City standards and regulations have been satisfied. See Section 12.4.3.2.C, Prohibition on Activities Prior to Site Development Plan Approval, for limited authority to issue permits before Site Development Plan approval.

3. After approval of the site development plan and all requisite zoning permits, if the Zoning Administrator finds that development is not proceeding in accordance with the approved site development plan, the Manager, through its enforcement authority, may immediately issue an order stopping any or all work on the property that does not comply with such plans, until such time as any noncompliance is remedied. See Division 12.11, Enforcement, Violations and Penalties.

C. Expiration

1. An approved Site Development Plan shall expire after the number of months stated in Sections 12.4.3.6.C.1 a and b below from the date of approval if a zoning permit and building permit, as applicable, have not been obtained and if construction, as applicable, has not started. See Article 13 for definition of "start of construction".
   a. A Site Development Plan approved on or before December 31, 2025: 66 months
   b. A Site Development Plan approved after December 31, 2025: 30 months

2. An approved Site Development Plan is not eligible for any extension to the approval periods listed above.

D. Modification and Rescission

The Zoning Administrator may change, modify, or rescind any site development plan decision, whether or not the decision has been appealed to the Board of Adjustment. Rescission of an approved site development plan is allowed according to the procedure and criteria stated in Section 12.11.6 of this Code.

E. Modifications and Amendments to or Withdrawal of Approved Site Development Plans

Modifications and amendments to an approved site development plan are allowed according to Section 12.3.7 of this Code. Withdrawal of an approved and recorded site development plan is allowed according to Section 12.3.8 of this Code.

12.4.3.7 Site Development Plan Rules and Regulations

The Manager has the authority to adopt rules and regulations to establish alternative procedures for review of different types of site development plans, including but not limited to different review process for relatively less complex site development plans. In no case, however, shall rules and regulations vary the review criteria established in this Section 12.4.3 for approval of a site development plan. Once adopted by the Manager, such rules and regulations shall supersede the process, time frames, and application contents for site development plan review established in this Section 12.4.3.

SECTION 12.4.4 ZONE LOT AMENDMENTS

12.4.4.1 Purpose

This Section establishes the administrative process to amend the boundaries of a previously designated Zone Lot. See also, Article 1, Division 1.2, Zone Lots, for general requirements related to Zone Lots.

12.4.4.2 Applicability

This Section's procedures shall apply to all requests to amend the boundaries of a previously designated Zone Lot, except as specified in Section 12.4.4.3 below.

12.4.4.3 Exceptions for Zone Lot Amendments by the Zoning Administrator

A. See Section 1.2.2.2, Zone Lot for Existing Structures and Uses, for limited exceptions where a Zone Lot may be determined by the Zoning Administrator or automatically amended without resort to this Section's Zone Lot amendment review procedures.

B. In the case of adding or removing land through either (1) a judgment or settlement ending a lawsuit or (2) acceptance of right-of-way dedication, vacations of right-of-way, land acquisition, or condemnation, the Zoning Administrator may amend the boundaries of the Zone Lot(s) at issue in the government act without an owner-initiated Zone Lot amendment under this Section 12.4.4., even if the legal status of the resulting Zone Lot(s), or structures thereon, changes (e.g., an existing structure's legal status changes from conforming to compliant or nonconforming).

12.4.4.4 Review Process

A. Initiation

All owners of the subject property shall initiate an application for a Zone Lot amendment.

B. Pre-Application Meeting

A pre-application meeting is optional before submittal of an application for Zone Lot amendment. See Section 12.3.2, Pre-Application Meeting/Concept Plan Review.

C. Application and Fees

1. Submittal in Writing

All applications for Zone Lot amendment shall be filed in writing with Community Planning and Development. The applicant shall pay all required fees at the same time the application is submitted. See Section 12.3.3, Submission of Applications.

2. Concurrent Applications

The applicant may submit a Zone Lot amendment application concurrent with other required applications according to Section 12.3.3.9, Concurrent Applications.

D. Review, Referral and Final Decision by Zoning Administrator

1. The Zoning Administrator may refer the Zone Lot amendment application to other affected or interested parties and agencies for review and comment as deemed necessary to make a decision on the application.

2. In deciding to approve, approve with conditions, or deny the proposed Zone Lot amendment, the Zoning Administrator shall consider relevant comments of all interested parties.

3. The Zoning Administrator may attach any condition to the Zone Lot amendment reasonably necessary to protect the health, safety and welfare of the community and to minimize adverse impacts on adjacent properties.

12.4.4.5 Review Criteria

The Zoning Administrator may approve an application for Zone Lot amendment only if the application meets the following review criteria:

A. All owners of the Zone Lot have indicated in writing their agreement to the amendment.

B. A Zone Lot amendment shall not result in the creation of a new nonconforming or compliant Zone Lot, structure or land use, except in the following situation:

1. In a Zone Lot amendment application to divide an existing Zone Lot into two or more new Zone Lots, creation of a new nonconforming or compliant structure is allowed when it results from noncompliance with a maximum height in feet or stories, or a bulk plane standard, where the height or bulk plane condition pre-existed the Zone Lot amendment and remains unchanged after the Zone Lot amendment.

For example: An existing single-unit dwelling structure sits on one Zone Lot today and is a Conforming Structure as to building height, given the Zone Lot width of the original Zone Lot (e.g., a 35' tall urban house on a 100' wide Zone Lot in a U-SU-C zone district). No modifications, alterations, or expansions are proposed for the existing structure, but a Zone Lot amendment is proposed to divide the subject single Zone Lot into two new Zone Lots. In all respects, the Zone Lot amendment complies with this Code except that the proposed Zone Lot amendment, and reduction in Zone Lot width for the new Zone Lots, will cause the existing structure to become a compliant structure because the structure does not meet the maximum building height for the resulting Zone Lot that has a reduced Zone Lot width (e.g., standard changes to a max of 30' height when the Zone Lot width is reduced to 50'). Assuming no other violations are created by the Zone Lot amendment, the Zone Lot amendment may be approved without pursuing zoning relief per this review criteria. After the Zone Lot amendment is approved, the previously conforming existing structure will become a Compliant Structure as to height in feet, as "Compliant Structure" is defined in this Code.

C. A Zone Lot amendment shall not increase an existing nonconforming or compliant structure's degree of nonconformity with this Code's standards, except in the following situation:

1. In a Zone Lot amendment application to divide an existing Zone Lot into two or more new Zone Lots, an increase in an existing nonconforming or compliant structure's degree of nonconformity is allowed when it results from an increase in the degree or extent of violation with a maximum height in feet or stories standard or a bulk plane standard, where the height or bulk plane violation pre-existed the Zone Lot amendment and remains unchanged after the Zone Lot amendment.

For example: An existing single-unit dwelling structure sits on one Zone Lot today and is a Compliant Structure as to building height, given the Zone Lot width of the original Zone Lot (e.g., a 40' tall urban house on a 100' wide Zone Lot in a U-SU-C zone district where 35' is the maximum height allowed). No modifications, alterations, or expansions are proposed for the existing structure, but a Zone Lot amendment is proposed to divide the subject single Zone Lot into two new Zone Lots. In all respects, the Zone Lot amendment complies with this Code except that the proposed Zone Lot amendment, and reduction in Zone Lot width for the new Zone Lots, will cause the existing structure to exceed the maximum height by more than what pre-existed (e.g., standard changes to a max of 30' height when the Zone Lot width is reduced to 50', increasing the pre-existing height nonconformity by 5 feet). Assuming no other violations are created by the Zone Lot amendment, the Zone Lot amendment may be approved without pursuing zoning relief per this review criteria. After the zone lot amendment is approved, the previously compliant existing structure will remain a Compliant Structure as to height in feet, as "Compliant Structure" is defined in this Code.

D. A Zone Lot amendment shall not result in the creation of a Zone Lot that contains multiple Zone Districts when any Zone District on the amended Zone Lot(s) is a Protected District.

E. Zoning Relief from Compliance with Zone Lot Amendment Review Criteria Available

1. An applicant may request zoning relief in the form of an administrative adjustment or variance, as applicable, from the application of the review criteria for Zone Lot amendments stated in this Section 12.4.4.5.

2. In all cases for zoning relief, the Zoning Administrator shall determine the applicability of the administrative adjustment process based on whether an administrative adjustment to the specific zoning standard violation that prevents approval under the Zone Lot amendment review criteria is within the authority granted in Section 12.4.5 of this Code.

   For example: A Zone Lot amendment application is denied because a proposed combination of two Zone Lots results in the creation of a side interior setback violation for an existing Urban House building form, which is not allowed under the Zone Lot amendment review criteria stated in Section 12.4.4.5.B. If the 25% extent of administrative adjustment allowed for a side interior setback standard in Section 12.4.5 would resolve the violation of the Zone Lot amendment review criteria, then the applicable zoning relief procedure would be the administrative adjustment procedure rather than the variance procedure.

12.4.4.6 Requirements After Approval and Effect of Approval

A. Recordation

The Zoning Administrator shall record all approved Zone Lot amendments in the real property records in the office of the Denver County Clerk and Recorder.

B. Effect of Approval – Expiration

1. A Zone Lot amendment approved according to this Section shall regulate the future use and development of the subject property as stated in Division 1.2, Zone Lots, of this Code.

2. An approved Zone Lot amendment shall not expire and shall run with the land.

12.4.4.7 Appeal

Section 12.4.8, Appeal of Administrative Decision, shall apply.

SECTION 12.4.5 ADMINISTRATIVE ADJUSTMENT

12.4.5.1 Purpose

The Zoning Administrator may adjust, in minor ways, certain provisions of this Code applicable to a property according to the procedures in this Section and consistent with the purpose and intent of this Code.

12.4.5.2 Permitted Administrative Adjustments

A. Administrative Adjustments to Ensure Compliance with Overriding Laws

1. Compliance with Federal Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA)

a. Applicability

The Zoning Administrator may grant administrative adjustments to regulations of this Code as applied to an individual property in order to eliminate a substantial burden on free exercise of religion protected by the Federal Religious Land Use and Institutionalized Persons Act of 2000, as amended.

b. Extent of Adjustment Authorized

i. The Zoning Administrator may grant administrative adjustments to any use, building form, or design standard stated in Articles 3 through 11. In no circumstance shall the Zoning Administrator approve an adjustment that allows a religious assembly use, or any uses/structures/activities accessory to it, in a zone district where Articles 3 through 11 prohibit such use or accessory use/structure/activity.

ii. In granting an administrative adjustment, the Zoning Administrator may require conditions that will substantially achieve the intent of the modified standard and will substantially mitigate any adverse impact on the environment or on adjacent properties, including but not limited to additional landscaping or screening.

c. Review Criteria

The Zoning Administrator may approve an adjustment authorized under this Section only if the applicant demonstrates that the adjustment is necessary to comply with the Federal Religious Land Use and Institutionalized Persons Act of 2000, as amended.

2. Reasonable Accommodations under the Federal Americans with Disabilities Act (ADA) and the Federal Fair Housing Act (FFHA)

a. Applicability

The Zoning Administrator may grant administrative adjustments to provide reasonable accommodations under the Federal Americans with Disabilities Act (ADA) or the Federal Fair Housing Act (FFHA).

b. Extent of Adjustment Authorized

The Zoning Administrator may grant relief from any standard or definition in this Code. The Zoning Administrator may approve a type of reasonable accommodation different from that requested by the applicant if the Zoning Administrator concludes that a different form of accommodation would satisfy the requirements of the ADA or FFHA with fewer adverse impacts on adjacent areas.

c. Review Criteria

The Zoning Administrator may approve an adjustment authorized under this Section 12.4.5.2.A.2 if the applicant demonstrates that there is a qualified disability at issue and that the adjustment is necessary to provide a reasonable accommodation under the ADA or FHA, as amended.

3. Compliance with Other Overriding Laws

The Zoning Administrator may approve administrative adjustments necessary to ensure compliance with any other applicable federal or state law, provided the adjustment is no greater than any adjustment specifically authorized by this Section 12.4.5. Requests for adjustments that are not otherwise authorized by this Section may only be approved through a Variance or Official Map Amendment (Rezoning) process.

B. Administrative Adjustments for Historic Structures or Properties Located in a Landmark District

1. Applicability

This Section 12.4.5.2.B applies only to proposed development on a Zone Lot that:

a. Contains a structure for preservation or is located in a district for preservation designated under D.R.M.C., Chapter 30 (Landmark Preservation); or

b. Contains a structure or is located in a district listed on the Colorado State Register of Historic Properties, or the National Register of Historic Places;

2. Extent of Adjustment Authorized

The Zoning Administrator may approve an administrative adjustment to any building form standard or development standard stated in this Code, without limit, except that a height adjustment to a Detached Accessory Dwelling Unit building form cannot exceed 2 stories.

3. Review Criteria

The Zoning Administrator may grant an administrative adjustment according to this Section 12.4.5.2.B only when the approving authority under D.R.M.C. Chapter 30 has found that development conforming to the requirements of this Code would have an adverse impact upon the historic character of the structure designated for preservation or the Landmark District.

4. Other Types of Administrative Adjustments Available

As an alternative to the specific relief provided to structures designated for preservation and properties located in a Landmark District by this Section 12.4.5.2.B, relief for the subject property or structure from zoning standards may be requested based on any of the permitted types of Administrative Adjustments, justifying circumstances, and review criteria stated in this Section 12.4.5, Administrative Adjustments.

C. Administrative Adjustments for Public Utility Equipment Placement

1. Applicability

The Zoning Administrator may approve an administrative adjustment for ground-mounted structures installed, constructed, owned, or operated by a public utility that are necessary for efficient electrical distribution. Specific public utility structures include but are not limited to pedestals, transformers, and switch cabinets. This adjustment excludes electric vehicle charging equipment, batteries, or other energy storage equipment or technology and excludes telecommunication facilities regulated under Article 11 of this Code.

2. Extent of Adjustment Authorized

The Zoning Administrator may approve an administrative adjustment to any building form standard or design standard stated in Articles 3 through 10 of this Code, without limit. The adjustment may take into account the area necessary to safely access and operate said structures in accordance with public utility standards.

3. Review Criteria

a. No other location is practical based on utility siting best practices.

b. Would not substantially or permanently impair the reasonable use and enjoyment or development of the subject property or adjacent property.

c. The adjustment is necessary for efficient electrical distribution and/or results in one or more public benefits including but not limited to undergrounding of public utility equipment or facilities.

d. Would be the minimum change that would afford relief and would be the least modification of the applicable provisions of this Code.

D. Administrative Adjustments for Alternative Design for Open Space in Large Developments

1. Applicability

The Zoning Administrator may approve an administrative adjustment to development subject to the Open Space in Large Developments design standards in Section 10.8.1.6.

2. Extent of Adjustment

The Zoning Administrator may approve an administrative adjustment to any of the Open Space in Large Development design standards in Section 10.8.1.6, without limit.

3. Review Criteria

The alternative design approach is consistent with the open space intent and purpose stated in Section 10.8.1.1.

E. Administrative Adjustments for Location Limitations on Certain Zoning Uses

1. Applicability

The Zoning Administrator is authorized to grant administrative adjustments for development establishing a Primary or Temporary Use subject to either:

a. Use limitations stated in Article 11 requiring minimum spacing between or density of the same or similar uses; or

b. Use limitations stated in Article 11 requiring a minimum distance from a Residential Zone District or Residential Use.

2. Extent of Adjustment Authorized

The Zoning Administrator may approve administrative adjustments to the subject minimum spacing or density or the minimum distance use limitations in Article 11, without limit.

3. Review Criteria

a. Primary Use Limitations Requiring Minimum Spacing or Density from Same or Similar Uses

The Zoning Administrator may approve an adjustment authorized under this Section 12.4.5.2.E from the subject use limitation requiring a minimum spacing or density only if the applicant demonstrates that (1) the proposed use and possible external effects and (2) the surrounding built and natural contexts together indicate the adjustment will have no substantial adverse impacts on surrounding conforming land uses contrary to the intent of the minimum spacing or density standard.

b. Primary or Temporary Use Limitations Requiring Minimum Distance from Residential Zone Districts or Residential Uses

The Zoning Administrator may approve an administrative adjustment authorized under this Section 12.4.5.2.E from the subject use limitation requiring a minimum distance from a Residential Zone District or Residential Use only if the applicant demonstrates that (1) the proposed use and possible external effects and (2) the surrounding built and natural contexts together indicate the adjustment will have no substantial adverse impacts on the nearby Residential Zone District or Residential Use.

F. Limited Tolerance for Construction Errors

1. Applicability

The Zoning Administrator may approve an administrative adjustment when all of the following apply:

a. CPD approved and issued a zoning permit for construction of a Structure on a Zone Lot permitted for a Single Unit or Two-Unit Dwelling use.

b. Start of Construction of the Structure has begun, as defined in Article 13 of this Code.

c. During construction, a violation of one or more of the following Building Form Standards found in Articles 3 through 9 of this Code occurred: setback, bulk plane, height in feet, or building coverage.

d. The Structure or portion of the Structure containing the violation has been substantially constructed.

2. Extent of Adjustment Authorized

The violation in question represents a deviation of:

a. No more than a 25% decrease of any side interior, side street, or rear setback standard;

b. No more than a 10% decrease of a Primary Street Setback;

c. No more than a 1-foot vertical or horizontal encroachment through the applicable bulk plane envelope;

d. No more than a 1-foot increase in height in feet; or

e. No more than a 5% increase in building coverage; The 5% adjustment approved is added to the maximum building coverage percentage. For example, if the standard maximum is 37.5% coverage, a 3% adjustment would permit a maximum 40.5% building coverage.

3. Review Criteria

a. The applicant has made best reasonable efforts to comply with the Code and/or to consider other reasonable paths to compliance before making the request for an administrative adjustment. For purposes of applying this criterion, 'best reasonable efforts' means a diligent, reasonable, and good faith effort to comply with the standard at issue.

b. The applicant will face substantial and unreasonable difficulties in fully complying with or correcting the zoning violation.

c. Given the stage of completed construction, the effort or cost to comply with the zoning standard is substantially disproportionate to the type, scale, or size of the error.

G. Administrative Adjustments to Resolve Conflicts Between City Standards

1. Applicability

The Zoning Administrator is authorized to grant administrative adjustments from the applicability of Section 1.1.3.3.A., Conflicting Provisions, when a Standard(s) in this Code conflicts with another Standard(s) in this Code, a Standard(s) adopted by CPD such as the Denver Building and Fire Code, or a Standard(s) adopted by another City department or agency as authorized by the D.R.M.C.

2. Applicant Limitations

A request for an administrative adjustment authorized by this Section 12.4.5.2.G. may only be submitted by the Manager of Community Planning and Development.

3. Extent of Adjustment Authorized

The Zoning Administrator is authorized to waive the applicability of Section 1.1.3.3.A., Conflicting Provisions, and approve an administrative adjustment to any building form standard or design standard stated in Articles 3 though 10 of this Code, without limit.

4. Review Criteria

The Zoning Administrator may grant an administrative adjustment when they find, after weighing the relative public benefit(s) gained from implementation of the City policies, priorities or standards in conflict, that the waiver or adjustment of the zoning Standard(s) at issue would reasonably result in greater public benefit(s) without permanent or substantial impairment to the reasonable use and enjoyment or development of adjacent property.

H. Administrative Adjustments to Certain Standards by Applicable Building Form

1. Applicability

The Zoning Administrator may grant administrative adjustments to the zoning standards shown in the following tables in subsection H.3 below.

2. Extent of Adjustment Allowed

a. The center columns in Tables 12.4.5.2.H.3-1 and -2 below state the extent of administrative adjustments allowed for the standard listed in the corresponding table row.

b. For adjustments to a minimum setback zoning standard, the Zoning Administrator may grant an adjustment that either provides relief from the required minimum setback distance (e.g., reduce a 20-foot Primary Street Setback to a new 10-foot setback) or allows only a limited encroachment into the required setback distance (allow only a specified portion of the building to encroach 10 feet into a required 20-foot Primary Street Setback). The Zoning Administrator's decision shall consider which form of relief is the minimum necessary to address the justifying circumstance.

3. Review Criteria

The last columns in the following Tables 12.4.5.2.H.3-1 and -2 state the applicable review criteria and/or refer to the general review criteria in Section 12.4.5.4 that the Zoning Administrator shall apply to determine whether there are justifying circumstances supporting approval of the administrative adjustment.

TABLE 12.4.5.2.H.3-1
ADMINISTRATIVE ADJUSTMENTS AVAILABLE TO ZONE LOTS WITH THE FOLLOWING PRIMARY BUILDING FORMS: SUBURBAN HOUSE, URBAN HOUSE, DUPLEX, TANDEM HOUSE AND ANY ASSOCIATED DETACHED ACCESSORY STRUCTURE BUILDING FORMS

ZONING STANDARD	EXTENT OF ADJUSTMENT ALLOWED	APPLICABLE REVIEW CRITERIA
HEIGHT AND BULK FORM STANDARDS		
• Maximum height (in stories or feet) • Bulk Plane Dimensions	No limit, except: • In all cases, a height adjustment to a Detached Accessory Dwelling Unit building form shall not result in more than 2 stories; and • The subject building and its elements shall be no taller in feet than a similar building form located within the "existing neighborhood" as defined in Section 12.4.5.4.A.3	Neighborhood Compatibility, Section 12.4.5.4.A
	No limit, except: • In all cases, a height adjustment to a Detached Accessory Dwelling Unit building form shall not result in more than 2 stories	Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B or Affordable Housing, Section 12.4.5.4.C
SITING FORM STANDARDS		
Determination of Primary Street Zone Lot Line(s) on Corner Lots of Oblong Blocks or Square Blocks	The Zoning Administrator may designate either or both Zone Lot Lines parallel to the intersecting streets as a Primary Street Zone Lot Line	Neighborhood Compatibility, Section 12.4.5.4.A
Minimum Zone Lot Width	10%	Neighborhood Compatibility, Section 12.4.5.4.A Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B or Affordable Housing, Section 12.4.5.4.C

TABLE 12.4.5.2.H.3-1
ADMINISTRATIVE ADJUSTMENTS AVAILABLE TO ZONE LOTS WITH THE FOLLOWING PRIMARY BUILDING FORMS: SUBURBAN HOUSE, URBAN HOUSE, DUPLEX, TANDEM HOUSE AND ANY ASSOCIATED DETACHED ACCESSORY STRUCTURE BUILDING FORMS

ZONING STANDARD	EXTENT OF ADJUSTMENT ALLOWED	APPLICABLE REVIEW CRITERIA
Minimum Zone Lot Depth	15%	Neighborhood Compatibility, Section 12.4.5.4.A Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B or Affordable Housing, Section 12.4.5.4.C
Minimum Zone Lot Area	15%	Neighborhood Compatibility, Section 12.4.5.4.A Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B or Affordable Housing, Section 12.4.5.4.C
Primary Street Setback	No limit	Neighborhood Compatibility, Section 12.4.5.4.A
	20%	Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B or Affordable Housing, Section 12.4.5.4.C
Side Interior Setback requirements on Zone Lots greater than 30 feet wide up to and including 40 feet wide	No limit, provided the adjustment results in a Side Interior Setback no less than 3 feet	Neighborhood Compatibility, Section 12.4.5.4.A
Setback requirements, all others	25%	Neighborhood Compatibility, Section 12.4.5.4.A Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B or Affordable Housing, Section 12.4.5.4.C
Detached accessory structure location relative to Primary Street-facing façade	No limit	Neighborhood Compatibility, Section 12.4.5.4.A
	50%	Neighborhood Compatibility, Section 12.4.5.4.A Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B or Affordable Housing, Section 12.4.5.4.C
Maximum building coverage	5% (The % adjustment approved is added to the maximum building coverage %; for example, if the standard maximum is 37.5% coverage, a 3% adjustment would permit a maximum 40.5% building coverage)	Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B or Affordable Housing, Section 12.4.5.4.C
DESIGN ELEMENT FORM STANDARDS		
Attached Garage - location relative to Primary Street-facing façade	No limit	Neighborhood Compatibility, Section 12.4.5.4.A Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B or Affordable Housing, Section 12.4.5.4.C

TABLE 12.4.5.2.H.3-1
ADMINISTRATIVE ADJUSTMENTS AVAILABLE TO ZONE LOTS WITH THE FOLLOWING PRIMARY BUILDING FORMS: SUBURBAN HOUSE, URBAN HOUSE, DUPLEX, TANDEM HOUSE AND ANY ASSOCIATED DETACHED ACCESSORY STRUCTURE BUILDING FORMS

ZONING STANDARD	EXTENT OF ADJUSTMENT ALLOWED	APPLICABLE REVIEW CRITERIA
OTHER ZONING STANDARDS		
Garage and Carport - Minimum Vehicle Maneuvering Area	Up to 3' reduction, provided the adjustment results in a maneuvering area of no less than 18 feet	Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B
Minimum Landscaping Standards	No limit	Adjustment permitted when Zoning Administrator finds the adjustment meets the criteria for one of the following: • 10.5.4.1.B.2 for Physical Limitations; • 10.5.4.1.B.3. for Excessive Improvement Costs; • 10.5.4.1.B.4 for Preservation of Existing Trees; or • Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B

TABLE 12.4.5.2.H.3-2
ADMINISTRATIVE ADJUSTMENTS AVAILABLE TO ZONE LOTS WITH BUILDING FORMS OTHER THAN THOSE LISTED IN TABLE 12.4.5.2.H.3-1

ZONING STANDARD	EXTENT OF ADJUSTMENT ALLOWED	APPLICABLE REVIEW CRITERIA
SITING FORM STANDARDS		
Determination of Primary Street Zone Lot Line(s) on Corner Lots of Oblong Blocks or Square Blocks	Zoning Administrator may designate either or both Zone Lot Lines parallel to the intersecting streets as a Primary Street Zone Lot Line	Neighborhood Compatibility, Section 12.4.5.4.A
Minimum Zone Lot Width	No limit	Neighborhood Compatibility, Section 12.4.5.4.A
	15%	Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B or Affordable Housing, Section 12.4.5.4.C
Primary Street Setback, except in the C-CCN Zone District	20%	Neighborhood Compatibility, Section 12.4.5.4.A Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B or Affordable Housing, Section 12.4.5.4.C
Setback requirements, all others	20%	Neighborhood Compatibility, Section 12.4.5.4.A Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B or Affordable Housing, Section 12.4.5.4.C
Build-to requirement -- Adjustment applies only to the min/max range of required build-to (e.g., an adjustment is permitted to the 0' to 5' range, but not to the minimum 70% build-to portion of the standard)	Not to exceed a min/max build-to range of 0' to 15'	Neighborhood Compatibility, Section 12.4.5.4.A Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B or Affordable Housing, Section 12.4.5.4.C
Build-to requirement to accommodate required water quality and/or detention/retention facilities	Adjustment to allow a build-to alternative (e.g., a garden wall) to count up to 40% (e.g., a standard states up to 25% of the 70% build-to may be met by a garden wall - with adjustment, 25% may be increased to 40%)	Neighborhood Compatibility, Section 12.4.5.4.A Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B or Affordable Housing, Section 12.4.5.4.C
Build-to requirement - Adjustment applies only to zone lots that are 80' wide or less	No limit, provided the build-to adjustment is necessary to provide the required minimum internal drive dimension for public street access required by the City.	Neighborhood Compatibility, Section 12.4.5.4.A Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B or Affordable Housing, Section 12.4.5.4.C

TABLE 12.4.5.2.H.3-2
ADMINISTRATIVE ADJUSTMENTS AVAILABLE TO ZONE LOTS WITH BUILDING FORMS OTHER THAN THOSE LISTED IN TABLE 12.4.5.2.H.3-1

ZONING STANDARD	EXTENT OF ADJUSTMENT ALLOWED	APPLICABLE REVIEW CRITERIA
Build-to requirement - Adjustment applies only to sites with gas station uses existing on June 25, 2010	40%	Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B
Siting of outdoor trash storage areas for multi-unit and nonresidential development in MS Zone Districts	Setback reduction allowed to no less than 10'	Neighborhood Compatibility, Section 12.4.5.4.A Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B or Affordable Housing, Section 12.4.5.4.C The Zoning Administrator must also find that the adjustment: (1) will have no substantial adverse impacts on the abutting Residential Zone District or Residential Use; and (2) the adjustment is consistent with the intent and purpose of the Main Street zone district.
DESIGN ELEMENT FORM STANDARDS		
All Building Configuration Form Standards	15%	Neighborhood Compatibility, Section 12.4.5.4.A Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B or
	No limit	Affordable Housing, Section 12.4.5.4.C
OTHER ZONING STANDARDS		
Required Bicycle Parking	No limit	Adjustment permitted when Zoning Administrator finds the adjustment meets the criteria for one of the following: • Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B, and the Zoning Administrator finds the adjustment is necessary to allow reasonable siting of required electric vehicle charging equipment; • Section 10.5.4.1.B.4 for Preservation of Existing Trees.
Minimum Width of Parking Aisles or Internal Drives in Off-Street Parking Areas	No limit	Must meet Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B, and Zoning Administrator finds the adjustment is necessary to provide safe vehicle access.
Minimum Landscaping Standards	No limit	Adjustment permitted when Zoning Administrator finds the adjustment meets the criteria for one of the following: • 10.5.4.1.B.2 for Physical Limitations • 10.5.4.1.B.3. for Excessive Improvement Costs; • 10.5.4.1.B.4 for Preservation of Existing Trees; or • Unusual Physical Conditions or Circumstances, Section 12.4.5.4.B

12.4.5.3 Review Process

A. Initiation

The owner of the subject property, the owner's authorized agent, a public utility, or the Manager of Community Planning and Development may initiate an application for an administrative adjustment.

B. Pre-Application Meeting

A pre-application meeting is mandatory before submittal of an application for administrative adjustment. See Section 12.3.2, Pre-Application Meeting/Concept Plan Review.

C. Application and Fees

All applications for administrative adjustments shall be filed in writing with Community Planning and Development. The applicant shall pay all required fees at the same time the application is submitted. See Section 12.3.3, Submission of Applications.

D. Timing of Administrative Adjustment Requests

1. Adjustments Authorized Prior to Application Submittal

a. The Zoning Administrator may approve administrative adjustments in response to a written request made prior to the submittal of an application for review of a Site Development Plan, zoning permit, or Zone Lot Amendment application. The Zoning Administrator may approve the requested adjustment if the Zoning Administrator finds the request is necessary to enable the applicant to submit a complete development application for review.

i. **For example**, the Zoning Administrator may approve a request to adjust the Primary Street Setback before formal zoning permit application review of the construction of a new single unit dwelling, because a final decision on the Primary Street Setback is necessary for the applicant to prepare development plans for the new dwelling that demonstrate compliance with all applicable zoning standards.

b. The Zoning Administrator shall not approve administrative adjustments prior to submittal of an application for review of a Site Development Plan or zoning permit for development in an approved PUD District, unless the terms of the PUD District Plan and documents expressly authorize administrative adjustments according to this Section 12.4.5.

2. Administrative Adjustments to Pending Zoning Applications

The Zoning Administrator may approve administrative adjustments submitted concurrently with any other required zoning application according to Section 12.3.3.9, Concurrent Applications, except that the Zoning Administrator may approve administrative adjustments to a pending Site Development Plan or zoning permit for development in an approved PUD District only when the terms of the PUD District Plan and documents expressly authorize administrative adjustments according to this Section 12.4.5.

3. Administrative Adjustments to Approved Applications, Plans and Permits

a. The Zoning Administrator may approve administrative adjustments to a previously approved application, plan, or permit approved pursuant to this Code.

b. The Zoning Administrator may only approve administrative adjustments to a previously approved Site Development Plan or zoning permit for development in an approved PUD District when the terms of the PUD District Plan and documents expressly authorize administrative adjustments according to this Section 12.4.5.

c. The Zoning Administrator shall not approve an administrative adjustment to a previously approved application, plan, or permit that qualifies as an "amendment" according to Section 12.3.7.2, Amendments to Approved Applications, Plans, or Permits.

E. Authority to Refer Requests to the Board of Adjustment

The Zoning Administrator may refer a request for an administrative adjustment to the Board of Adjustment to be heard and decided in combination with variance request(s) related to the same subject property or development when the Zoning Administrator finds that the outcome of the administrative adjustment is dependent on or closely related to the variance request(s). In such case, all requests that could have been considered as administrative adjustments shall be treated and reviewed by the Board of Adjustment as variance requests according to Section

12.4.7, Variance, and the Board's decision shall be final. The same zoning relief request shall not be reheard by the Zoning Administrator as a request for an administrative adjustment after the Board's final decision.

F. Review, Referral and Final Decision by Zoning Administrator

1. The Zoning Administrator may refer the administrative adjustment application to other affected or interested parties and agencies for review and comment, as deemed necessary to make a decision on the application.

2. In deciding to approve, approve with conditions, or deny the proposed adjustment, the Zoning Administrator shall consider relevant comments of all interested parties and agencies.

3. The Zoning Administrator may attach any condition to approval of an administrative adjustment reasonably necessary to protect the health, safety, and welfare of the community, to secure substantially the objectives of the modified standard, and to minimize adverse impacts on adjacent properties.

12.4.5.4 Review Criteria

Except for the administrative adjustments allowed in Section 12.4.5.2.A through G above, the Zoning Administrator may approve an administrative adjustment only upon finding that the adjustment complies with at least one of the following review criteria supporting justifying circumstances:

A. Neighborhood Compatibility

The Zoning Administrator may grant an administrative adjustment when:

1. The property could be reasonably developed in conformity with the provisions of this Code, but the proposed adjustment will result in a building form that is more compatible with similar building forms in the existing neighborhood in which the subject property is located than a project that complies with this Code in terms of:
   a. Building height,
   b. Siting, and
   c. Design elements

2. A proposed adjustment to Zone Lot area or Zone Lot dimensions will result in a Zone Lot that is as or more compatible with the pattern of Zone Lots in the existing neighborhood in which the subject property is located.

3. For purposes of making a determination of whether the subject property, with the proposed adjustment, would be more compatible with the existing neighborhood, the following rules shall apply:
   a. "Existing Neighborhood" shall mean any Zone Lot or similar building form on a Zone Lot that is located on the same Face Block, opposite Face Block, or adjacent Face Block to the subject property. The Existing Neighborhood may extend beyond the aforementioned limits if the Zoning Administrator deems it reasonable and necessary to make a determination of compatibility with the most relevant existing neighborhood.
   b. While a finding of "more compatible" does not have to adhere to a strict mathematical formula, such as an exact finding that 51% or more of the existing neighborhood's Zone Lots are dimensioned or contain building form elements similar to the requested adjustment, the Zoning Administrator shall consider the following in making a final decision based on neighborhood compatibility:
      i. Whether the existing pattern of the Zone Lots in the identified existing neighborhood that have Zone Lot dimensions or contain building form

elements substantially similar to the subject property supports a finding of neighborhood compatibility; and/or

ii. Whether the grant of the administrative adjustment would establish a precedent in the Existing Neighborhood for similar future requests, which would adversely impact the existing character and built context in the identified Existing Neighborhood.

B. Unusual Physical Conditions or Circumstances

The Zoning Administrator may grant an administrative adjustment when the adjustment is necessary to provide reasonable relief from unusual physical conditions or circumstances and the Applicant shows that all the following criteria (1 through 6) are met:

1. There are unusual physical circumstances or conditions, including but not limited to:
   a. Irregularity, narrowness, or shallowness of the lot;
   b. Exceptional topographical or other physical conditions peculiar to the affected property;
   c. The circumstances or conditions relate to drainage conditions and challenges, not including location in a designated floodplain;
   d. Presence of Established Trees that would otherwise be removed with the strict application of standards; or
   e. Unusual physical circumstances or conditions arising from a Conforming, Compliant, or Nonconforming Structure existing on the subject property or on an abutting Zone Lot.
2. The circumstances or conditions do not exist throughout the neighborhood or zone district in which the property is located, except for those adjustments based on any one of the following:
   a. Those based on drainage conditions, as described in subsection B.1.c above, or
   b. Those based on Nonconforming or Compliant Structures, as described in subsection B.1.e. above, or
   c. Those based on the reuse of an existing structure when the request is to adjust minimum bicycle parking standards, as described in Table 12.4.5.2.H.3-2 above.
3. The unusual physical circumstances or conditions have not been created by the Applicant.
4. Would not substantially or permanently impair the reasonable use and enjoyment or development of the subject property or adjacent property.
5. The unusual physical condition or circumstance causes the need for the adjustment.
6. The proposed design addresses any concerns raised by the Zoning Administrator or other city agencies in their review of the request.

C. Affordable Housing

The Zoning Administrator may grant an administrative adjustment when:

1. The proposed development or design would result in more Income Restricted Units than would be created without the administrative adjustment;
2. The adjustment to the subject standard cannot be accomplished through any specific incentives available in this Code or in mandates for the provision of Income Restricted Units under other City laws;
3. The purpose of the adjusted standard will still be achieved or substantially advanced if the adjustment is approved;

4. Would not substantially or permanently impair the reasonable use and enjoyment or development of the subject property or adjacent property;

5. The proposed design addresses any concerns raised by the Zoning Administrator or other city agencies in their review of the request.

D. Other Required Findings

For administrative adjustments to certain standards by building form authorized by Section 12.4.5.2.H, and where the right-most column of Tables 12.4.5.2.H.3-1 and 12.4.5.2.H.3-2 refer to applicable review criteria that are not specifically stated in this Section 12.4.5.4, the Zoning Administrator shall apply those particular review criteria stated in the Tables.

12.4.5.5 Effect of Approval - Expiration

A. Administrative adjustments approved under Section 12.4.5.3.D.1., Adjustments Authorized Prior to Application Submittal, shall expire 180 days after the approval date unless the applicant submits a complete application for a Site Development Plan, zoning permit, or zone lot amendment necessary to execute the approved administrative adjustment. A failure to obtain an approved Site Development Plan, zoning permit, or zone lot amendment shall automatically extinguish the administrative adjustment by operation of law.

B. As applicable, an approved administrative adjustment shall be valid for the same time frame as the approval with which it was joined or for the same time frame as the originally approved plan or permit.

C. In all other cases, an administrative adjustment shall be valid for the same time frame and have the same effect as the zoning application with which it is joined, as such application is ultimately approved.

12.4.5.6 Appeal

An applicant or interested party may appeal a final decision on a request for an administrative adjustment to the Board of Adjustment according to Section 12.4.8, Appeals from Administrative Decision.

SECTION 12.4.6 CODE INTERPRETATIONS AND DETERMINATION OF UNLISTED USES

12.4.6.1 Purpose and Applicability

A. This Section establishes a procedure whereby interpretation of this Code's provisions may be sought and determined, including but not limited to:

1. Interpretations of terms, words, and phrases not otherwise defined in this 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;

3. Determination which of two or more conflicting provisions apply generally or to a specific case;

4. Determination of whether a specific unlisted primary, accessory, or temporary use type may be permitted in one or more zone districts, and what type of use review is required (i.e., no zoning permit, ZP, ZPIN, or ZPSE); and

5. Interpretations regarding disputed boundaries of zone districts shown on the Official Zone Map.

B. The provisions of this Section shall not apply to permit any specific use that is expressly prohibited in a zone district or by this Code's provisions. If, pursuant to this Section, a specific

use type cannot clearly be determined to be in a use classification or category permitted in a particular zone district or by this Code's provisions, such use may be incorporated into the zoning regulations only by a text amendment to this Code, as provided in Section 12.4.11.

12.4.6.2 Authority to Make Code Interpretations

The Zoning Administrator shall be the final decision-maker for all Code Interpretations and Determinations of Unlisted Uses.

12.4.6.3 Review Process

A. Initiation

Any of the following persons may initiate a request for Code Interpretations and Determinations of Unlisted Uses:

1. A member of the City Council;
2. A member of the Planning Board;
3. The City Attorney;
4. The Manager;
5. The manager or director of any other city department or agency; or
6. A private party with an interest in the subject real property when the Code Interpretation would affect the status or treatment of a proposed or submitted zoning application, or the status of an existing or proposed use, related to such property.

B. Pre-Application Meeting

A pre-application meeting is optional prior to submittal of a request for Code Interpretations and Determinations of Unlisted Uses. See Section 12.3.2, Pre-Application Meeting/ Concept Plan Review.

C. Application and Fees

All applications for Code Interpretations and Determinations of Unlisted Uses shall be filed in writing with Community Planning and Development. The applicant shall pay all required fees at the same time the application is submitted. See Section 12.3.3, Submission of Applications.

D. Review by Zoning Administrator

Within 30 days of receipt of a complete application for Code Interpretations and Determinations of Unlisted Uses, the Zoning Administrator shall:

1. Review and evaluate the application in light of this Code, the Comprehensive Plan, established administrative practices and past interpretations, the potential for establishing a precedent with the interpretation, and any other relevant policy and regulatory documents;
2. Review and evaluate the application with consideration of the general rules of interpretation specified in Section 12.4.6.3.F, as applicable; and
3. Consult with the Manager, City Attorney, other agencies and staff, as necessary.

E. Final Decision by Zoning Administrator

1. Timing of Final Decision

Within 30 days of receipt of a complete application for Code Interpretations and Determinations of Unlisted Uses, the Zoning Administrator shall complete the review and make a final interpretation or determination unless the applicant agrees to an extension of time.

2. Authority to Impose Reasonable Conditions
In making a determination to allow an unlisted use, the Zoning Administrator may impose reasonable conditions on such use, which conditions shall be uniform throughout the zone district. In imposing conditions, the Zoning Administrator shall consider, at a minimum, the compatibility of the use within the zone districts in which the use may be permitted, the intensity of the use, the amount and configuration of physical space occupied by the use, and the potential for adverse impacts on adjacent properties.

3. Determination of Applicable Zoning Procedure
As part of a Code Interpretation or Determination of Unlisted Uses, the Zoning Administrator shall, as applicable, make a determination whether one or more of this Code's zoning procedures apply. For example, in determining that an unlisted use is permitted as a primary use in a zone district, the Zoning Administrator shall also determine what zoning procedure applies (e.g., ZP, ZPIN or ZPSE). The Zoning Administrator's determination of applicable zoning procedure shall be based on consideration of the zoning procedure(s) applicable to similar land uses or subject matter, and/or the degree to which the zoning procedure may inform mitigation of possible adverse impacts from the subject Code Interpretation or Use Determination.

4. Form of Determination
The Zoning Administrator shall provide the Code Interpretation or Determinations of Unlisted Uses to the applicant in writing. Such interpretation or determination shall also be kept in the files of the Zoning Administrator.

F. General Rules of Interpretation
When making a Code Interpretation or Determination of Unlisted Uses, the Zoning Administrator shall employ the following general rules, as applicable:

1. Employ the definitions contained in Article 13 to determine the meaning of words and phrases, or if not defined in Article 13, apply the plain meanings of all other words and phrases. When not defined in Article 13, if a word or phrase is subject to differing interpretations, then the Zoning Administrator shall apply the meaning assigned first by the D.R.M.C., as applicable, and then by a dictionary in general use.

2. Employ the definitions of land uses in Article 11 to determine the appropriate use classification, use category and/or specific use type in which to classify an unlisted use.

3. Where more than one interpretation of required procedures is possible, the Zoning Administrator shall select the interpretation of procedures that requires the lesser time and expense to the applicant consistent with the provisions of the charter, the D.R.M.C., and this Code.

4. Where more than one interpretation of required provisions or procedures is possible, the Zoning Administrator shall chose that interpretation that best implements the Comprehensive Plan and/or this Code in a manner consistent with applicable law.

5. In the case of any conflict between the General Rules for Interpretation in this Section 12.4.6.3.F and the Rules of Interpretation found in Division 13.2 of this Code, the General Rules of Code Interpretation in this Section 12.4.6.3.F shall apply.

12.4.6.4 Review Criteria

A. General Review Criteria for All Code Interpretations and Determinations of Unlisted Uses
The Zoning Administrator shall make Code Interpretations and Determinations of Unlisted Uses only upon finding that the interpretation or determination 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.

B. Additional Review Criteria for Unlisted Use Determinations

In addition to applying the general review criteria stated in Section 12.4.6.4.A, the Zoning Administrator shall apply the following criteria for a Determination of Unlisted Use:

1. The proposed use has a character and impact that are similar in nature, function, and duration to the other uses permitted in the zone district(s). In making such finding, the Zoning Administrator shall assess all relevant characteristics of the proposed use, including but not limited to the following, as applicable:
   a. The typical volume and type of sales (retail or wholesale); size and type of items sold; and nature of inventory on the premises;
   b. Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, distribution; and any dangerous, hazardous, toxic, or explosive materials used in the processing;
   c. The nature and location of storage and outdoor display of merchandise; whether storage is enclosed, open, inside, or outside the principal building; and predominant types of items stored (such as business vehicles, work-in-process, inventory, and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders hazardous or not);
   d. The type, size, and typical massing of buildings and structures associated with the unlisted use;
   e. Transportation requirements, including the modal split for people and freight, by volume type and characteristics of traffic generation to and from the site; trip purposes and whether trip purposes can be shared by other uses on the site;
   f. The amount and nature of any external effects generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation and fumes;
   g. Any special public utility requirements for serving the proposed use, including but not limited to water supply, waste water, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities; and
   h. The type and extent of impacts on adjacent properties created by the proposed use in comparison to impacts from other uses permitted in the zone district.

SECTION 12.4.7 VARIANCE

12.4.7.1 Purpose

The Board of Adjustment may authorize variances from the terms of this Code, subject to terms and conditions fixed by the Board of Adjustment, as will not be contrary to the public interest and where owing to justifying circumstances, deviation from literal enforcement or application of this Code is reasonable.

12.4.7.2 Related Procedure

Under certain circumstances, modifications of this Code's standards may be permitted according to the administrative adjustment procedure in Section 12.4.5, without resorting to this variance procedure.

12.4.7.3 Applicability and Limitations

A. Applicability

The Board of Adjustment may approve variances to all of the following, unless expressly prohibited or limited by this Section 12.4.7.3:

1. All Zone Lot, Building Form, and Development standards found in Articles 1 through 10 of this Code, unless otherwise stated that a variance is not allowed;
2. All use limitations found in Article 11 of this Code, unless otherwise stated that a variance is not allowed and
3. The following provisions in Article 12 of this Code:
   a. The development standards applicable to development of a Carriage Lot stated in Section 12.10.4, Development on Carriage Lots, but not including the zoning permit review procedures and conditions stated in Section 12.10.4.5; and
   b. Wherever else in Article 12 the Board of Adjustment is expressly authorized to grant variances.

B. Limitations on Variances to Uses, Zone District Waivers/Conditions, and PUD District Plans

The Board of Adjustment may approve a variance only if the variance:

1. Would not authorize the operation of a Primary, Accessory, or Temporary Use other than those uses specifically enumerated as permitted Primary, Accessory, or Temporary Uses for the zone district in which the property is located.
2. Would not grant a change to either (a) a waiver or condition attached to an approved rezoning, or (b) an approved PUD District plan that would constitute an "amendment" under Section 12.3.7.2, Amendments to Approved Applications, Plans and Permits, or (c) an approved GDP that would constitute an "amendment" under Section 12.3.7.2, Amendments to Approved Applications, Plans and Permits.

C. Limitation When Administrative Adjustment is Possible

Except as allowed in Sec. 12.4.5.3.E, an application for a variance shall not be submitted to the Board of Adjustment when the subject of the variance application falls within the Zoning Administrator's authority to provide relief according to Section 12.4.5, Administrative Adjustment. In such cases, a final decision by the Zoning Administrator on the administrative adjustment is required and such decision may only be appealed to the Board of Adjustment according to Section 12.4.8, Appeal of Administrative Decision.

D. Limitations on Sign Variances

No variance from the provisions of Division 10.10, Signs, on permitted signs shall be granted or authorized by the Board of Adjustment, which would result in any of the following:

1. Any variance from the provisions of Section 10.10.21, Outdoor General Advertising Devices in the Billboard Use Overlay Zone District;
2. An existing roof sign that is higher than 32 feet above grade or a new or existing projecting sign that is higher than 32 feet above grade;
3. A new roof sign;
4. A new projecting sign that exceeds 20 square feet in sign area in a Residential Zone District or in the MX-2x, MS-2x, or O-1 zone districts; or that exceeds 50 square feet in sign area in the MX-2A, MX-2, MX-3A, MX-3, MS-2, MS-3, I-MX, I-A, or M-IMX zone districts; or that exceeds 80 square feet in sign area in all other zone districts;

5. A new or existing projecting sign where more than 1 other sign is maintained or is to be maintained for the same primary use on the same building front;

6. A new or existing ground sign that is higher than 32 feet above grade, except that a variance permitting the maintenance of an existing ground sign that is not higher than 35 feet above grade may be granted where said ground sign and all other signs for the same primary use comply with all other applicable provisions of Division 10.10, Signs;

7. A new or existing sign with a sign area larger than that which is permitted under the provisions of Division 10.10, Signs, for the primary use in the zone district in which the primary use is or will be maintained, except that a variance permitting the maintenance of an existing sign with a sign area up to 50 percent larger than the maximum sign size permitted under the provisions of Division 10.10, Signs, for the primary use in the zone district in which the use by right is maintained may be granted where no other signs are maintained for the same primary use on the same building front and where the total area of signs maintained for the same primary use does not exceed that permitted under the applicable provisions of Division 10.10, Signs; or

8. A greater total area of signs than that which is permitted under the provisions of Division 10.10, Signs, for the primary use in the zone district in which the primary use is or will be maintained.

E. Variances for Signs for Religious Assembly Uses
Notwithstanding the limitations set forth in this subsection 12.4.7.3.D, Limitations on Variances for Signs, the Board of Adjustment shall have the power to grant variances from the provisions of Division 10.10, Signs, for signs that identify Religious Assembly uses when such signs are located on the same Zone Lot as the permitted Religious Assembly use.

12.4.7.4 Review Process

A. Initiation
The owner of the subject property, the owner's authorized agent, or a public utility may initiate an application for a variance.

B. Mandatory Pre-Application Meeting
A pre-application meeting between the Applicant and CPD is mandatory before submittal of an application for a variance to the Board of Adjustment. See Section 12.3.2, Pre-Application Meeting/Concept Plan Review. The Board of Adjustment may request an Applicant to submit evidence that the pre-application meeting was conducted with CPD prior to accepting an application for a variance.

C. Application and Fees
All applications for variance shall be filed in writing according to the rules of the Board of Adjustment. The applicant shall pay all required fees at the same time the application is submitted. See Section 12.3.3, Submission of Applications.

D. Public Hearing and Decision by Board of Adjustment

1. Following notice and a public hearing according to the rules of the Board of Adjustment, the Board of Adjustment shall approve, approve with conditions, or deny the variance request based on whether the Applicant has demonstrated compliance with the review criteria in both Sections 12.4.7.5 and 12.4.7.6 below, and subject to any limitations in Section 12.4.7.3.

2. The Board may attach any condition to a variance approval necessary to protect the health, safety and welfare of the community and minimize adverse impacts on adjacent properties, including but not limited to a condition changing the location or dimensions of a proposed development directly related to the request for a variance.

12.4.7.5 Review Criteria - Justifying Circumstances

The Board of Adjustment may grant a variance only if it finds that there are justifying circumstances whereby the application satisfies the criteria of **any one of Sections 12.4.7.5.A. through F in addition to satisfying the general review criteria in Section 12.4.7.6.**

A. Unusual Physical Conditions or Circumstances

The variance is necessary to provide reasonable relief from unusual physical conditions or circumstances and the Applicant shows that all the following criteria are met:

1. There are unusual physical circumstances or conditions, including, without limitation:
    a. Irregularity, narrowness or shallowness of the lot;
    b. Exceptional topographical or other physical conditions peculiar to the affected property;
    c. Circumstances or conditions related to drainage conditions and challenges, not including location in a designated floodplain;
    d. Presence of Established Trees that would otherwise be removed with the strict application of standards; or
    e. Unusual physical circumstances or conditions arising from a Conforming, Compliant, or Nonconforming Structure existing on the affected property or on an abutting Zone Lot.
2. The circumstances or conditions do not exist throughout the neighborhood or zone district in which the property is located except for those adjustments based on any one of the following:
    a. Those based on drainage conditions, as described in subsection A.1.c above; or
    b. Those based on Conforming, Compliant, or Nonconforming Structures, as described in subsection A.1.e. above.; or
    c. Those based on the reuse of an existing structure when the variance request is to adjust minimum bicycle parking standards.
3. The unusual physical circumstances or conditions have not been created by the applicant.
4. The unusual physical condition or circumstance causes the need for the variance.

B. Neighborhood Compatibility

1. The property could be reasonably developed in conformity with the provisions of this Code, but the proposed variance will result in a building form that is more compatible with similar building forms in the Existing Neighborhood in which the subject property is located than a project that complies with this Code's Building Form Standards that address:
    a. Building Height,
    b. Siting, and
    c. Design Elements.
2. A proposed variance to Zone Lot area or Zone Lot dimensions will result in a Zone Lot that is as or more compatible with the pattern of Zone Lots in the existing neighborhood in which the subject property is located.
3. For purposes of making a determination of whether the subject property, with the proposed variance, would be more compatible with the Existing Neighborhood, the following rules shall apply:
    a. "Existing Neighborhood" shall mean any Zone Lot or similar building form on a Zone Lot that is located on the same Face Block, opposite Face Block, or adjacent

Face Block to the subject property. The Existing Neighborhood may extend beyond the aforementioned limits if the Board of Adjustment finds the expansion is reasonable and necessary to make a determination of compatibility with the most relevant existing neighborhood.

b. While a finding of "more compatible" does not have to adhere to a strict mathematical formula, such as an exact finding that 51% or more of the existing neighborhood's Zone Lots are dimensioned or contain building form elements similar to the requested variance, the Board of Adjustment shall consider the following in making a final decision based on neighborhood compatibility:

i. Whether the existing pattern of Zone Lots in the identified existing neighborhood that have Zone Lot dimensions or contain building form elements substantially similar to the subject property that supports a finding of neighborhood compatibility; and/or

ii. Whether the grant of the variance would establish a precedent in the existing neighborhood for similar future requests, which would adversely impact the existing character and built context in the identified existing neighborhood.

C. Nonconforming or Compliant Uses in Existing Structures

A variance to increase the floor area occupied by a Nonconforming or Compliant Use in an existing structure may be granted only if the Board of Adjustment finds the following conditions to exist:

1. The use is a Nonconforming or Compliant Use, as defined in this Code, and such use is in full compliance with all requirements under this Code applicable to Nonconforming or Compliant Uses and is authorized to continue in operation and to exist;

2. The structure in which an increase in floor area is sought was in existence on the date on which the Nonconforming or Compliant Use became Nonconforming or Compliant, and is in existence at the time of the hearing;

3. On the date on which the use became Nonconforming or Compliant, the use was in occupancy and in operation on a portion of the floor area of the structure in which an increase in floor area is sought;

4. The applicant does not propose or intend to enlarge the existing structure, does not propose or intend to increase the floor area of such structure, and that any authorized increase in occupancy of floor area by the nonconforming or compliant use will not involve remodeling, changing or altering any load-bearing member of such structure; and

5. That, owing to exceptional and extraordinary circumstances, literal enforcement of the provisions of this Code will result in unnecessary hardship.

D. Affordable Housing

1. The proposed development or design would result in more Income Restricted Units than would be created without the variance;

2. The variance to the subject standard cannot be accomplished through any specific incentives available in this Code or in mandates for the provision of Income Restricted Units under other City laws; and

3. The purpose of the adjusted standard will still be achieved or substantially advanced if the variance is approved.

E. Permits Issued in Error

1. A zoning permit for construction was issued wherein the Applicant or Zoning Administrator made an error in measurement, calculation, or application of one or more

Building Form Standards found in Articles 3 through 9 of this Code, excluding maximum height in stories;

2. Start of Construction has begun as that term is defined in Article 13 of this Code, and the building element at issue (allowed only because of the error in the permit approval) has been substantially constructed;

3. The permittee reasonably relied on the approved zoning permit for construction in good faith; and

4. Given the stage of completed construction, the effort or cost to comply with the zoning standard is substantially disproportionate to the type, scale, or size of the error/violation.

F. Limited Tolerance for Construction Errors

1. CPD approved and issued a zoning permit for construction of a Structure;

2. Start of Construction of the Structure has begun, as "Start of Construction" is defined in Article 13 of this Code;

3. During construction, a violation of one or more Building Form Standards found in Articles 3 through 9 of this Code, except maximum height in stories, occurred;

4. The Structure or portion of the Structure containing the violation has been substantially constructed;

5. The Applicant will face substantial and unreasonable difficulties in fully complying with or correcting the zoning violation; and

6. Given the stage of completed permanent construction, the effort or cost to comply with the zoning standard(s) is substantially disproportionate to the type, scale, or size of the error/violation.

12.4.7.6 Review Criteria - Applicable to All Variance Requests

The Board of Adjustment may grant a variance only if the Board finds that, if granted, the variance meets all of the following criteria:

A. Would not relate to either the persons, or the number of persons, who do, will, or may reside in a residential structure.

B. Except as allowed in Section 12.4.7.5, would not be justified solely on grounds of loss of a financial advantage, hardship that is solely financial, or a more profitable use of the property might be had if a variance is granted.

C. Would not substantially impair the intent and purpose of this Code.

D. Would not substantially impair the intent and purpose of the applicable zone district.

E. Would not substantially or permanently impair the reasonable use and enjoyment or development of the subject property or adjacent property.

F. Would be the minimum change that would afford relief and would be the least modification of the applicable provisions of this Code.

G. Would adequately address any concerns raised by the Zoning Administrator or other City agencies in their review of the application.

12.4.7.7 Requirements and Limitations After Variance Decision

A. Variances for Construction - Effect of Approval

1. Expiration - Effect of Approval

A variance authorizing construction shall expire unless Start of Construction has occurred within 3 years and is completed within 5 years from the date the variance was granted. Upon the completion of construction, the variance shall run with the land.

2. Requests for Extension

a. The Zoning Administrator may grant up to a 2-year extension of the 3-year or 5-year approval periods for a variance according to the process and limitations contained herein.

b. In considering a request to extend the approval period for a variance, the Zoning Administrator shall consider whether the extension, if granted, would be contrary to the purpose or intent of any text amendment to this Code or change in the zoning designation of the subject property adopted after the original approval date.

c. All requests for extensions shall be submitted to Community Planning and Development in writing before the expiration of the approval period. An extension request shall include:

i. Payment of any required fee for the extension review; and

ii. A narrative stating the reasons for the applicant's or owner's inability to comply with the specified deadlines, listing any text amendments to this Code or changes in the property's zoning designation that have occurred since the original variance approval date and which affect the subject development; and

iii. The anticipated time schedule for completing the development.

d. The Zoning Administrator will review the request for extension and shall approve, approve with conditions, or deny the extension request based on consideration of the following criteria:

i. The Applicant's showing of good cause for the extension, including but not limited to a showing that development was delayed by economic or physical problems beyond the applicant's or property owner's control; and

ii. Consistency with the intent of any text amendments to this Code or changes in the property's zoning designation that have occurred since the original variance approval date and which affect the subject development.

e. The grant of an extension shall be effective and counted as of the date of the original variance's approval period expiration date and not the date the extension request is approved.

f. If the extension is denied, the applicant may re-submit a new application for the same variance, subject to the fees, standards, and procedures in effect at the time of re-submittal.

B. Variances Unrelated to Construction - Effect of Approval and Expiration

1. Variances unrelated to construction shall expire 180 days after the approval date unless the applicant submits a complete application for a Site Development Plan, zoning permit, or zone lot amendment necessary to execute the approved variance. Failure to obtain an approved Site Development Plan, zoning permit, or zone lot amendment shall automatically extinguish the variance by operation of law.

2. For all other variances unrelated to construction, the variance shall run with the land unless the Board of Adjustment specifies otherwise as a condition of the approved variance.

C. All Variances - Effect of Denial

1. When the Board of Adjustment denies a request for a variance, no person shall apply for the same variance related to the same use or project scope on the same subject Zone Lot as contained in the denied request for a variance for 3 years from the date of the Board of Adjustment's final decision.

2. The Board of Adjustment may approve an exception to the 3-year limit upon finding the following:

   a. The Applicant has stated good cause for the exception; and

   b. The exception is consistent with the intent of any text amendments to this Code that affect the subject development or changes in the property's zoning designation that have occurred since the original variance denial.

D. Lapse of Approved Variances Upon Redevelopment

A variance shall automatically lapse and have no further effect if the Zoning Administrator finds that redevelopment of the subject property makes compliance with this Code possible without the previously approved variance.

SECTION 12.4.8 APPEAL OF ADMINISTRATIVE DECISION

12.4.8.1 Review Process

A. Initiation

1. Any person aggrieved or any officer or department of the City may appeal to the Board of Adjustment from any final order, requirement, or decision, determination, or permit issued by a Community Planning and Development administrative official in the enforcement of this Code.

2. Such appeal shall be filed with the Board of Adjustment within 30 days from the date of the final order, requirement, decision, determination, or permit.

B. Appeal and Fees

All appeals of an administrative order or decision shall be filed in writing, must specify the particular grounds upon which the appeal is taken, and otherwise comply with applicable rules of the Board of Adjustment. The appellant shall pay all required fees at the same time the application is submitted. See Section 12.3.3, Submission of Applications.

C. Stay of Proceedings Upon an Administrative Appeal

An appeal to the Board of Adjustment from any final order, requirement, decision, determination, or permit issued by Community Planning and Development shall stay all actions and proceedings in furtherance of the action being appealed, unless the Zoning Administrator certifies that, by reason of the facts stated in the certificate, a stay would cause unnecessary or undue risk of damage or disruption to life or property, or would conflict with efforts to address a public health emergency as defined in Section 11.2.13.1 of this Code. When such a certificate is filed, proceedings shall not be stayed except by a restraining order granted, after due notice to Community Planning and Development by a court of proper jurisdiction.

D. Action by Zoning Administrator

The Zoning Administrator shall transmit to the Board of Adjustment all of the original documents and materials, or true copies thereof, constituting the record upon which the order or decision appealed from was based. Transmittal shall be completed within 21 days from the date a complete application for an administrative appeal is submitted to the Board of Adjustment, including the payment of all fees.

E. Public Hearing and Decision by Board of Adjustment
Following notice and a public hearing according to the rules of the Board of Adjustment, the Board of Adjustment shall approve or deny the appeal based on the presumption and review criteria in Section 12.4.8.1.F below.

F. Presumption and Review Criteria

1. Presumption
Any order or decision of an administrative official authorized to act under this Code shall be presumed to be correct unless clear and convincing evidence introduced before the Board of Adjustment supports a contrary determination or finding.

2. Review Criteria
The Board of Adjustment shall consider whether or not the action by the administrative officer complied with the applicable portions of this Code when approving or denying an administrative appeal.

SECTION 12.4.9 ZONING PERMIT WITH SPECIAL EXCEPTION REVIEW

12.4.9.1 Applicability

Zoning permit with special exception review is required for the following:

A. Establishment, expansion or enlargement of any use listed as a "Special Exception" use ("ZPSE") in the Use Tables found in Articles 3 through 9.

B. Establishment, expansion or enlargement of any use where an applicable use limitation in Articles 3 through 9, or in Article 11, Use Limitations and Definitions, or any other provision of this Code, states that Special Exception review under this Section is required.

12.4.9.2 Review Process

A. Initiation
The owner of the subject property or the owner's authorized agent may initiate an application for a zoning permit with special exception review.

B. Pre-Application Meeting
A pre-application meeting with the Zoning Administrator is mandatory for review of a use qualifying as a zoning permit with special exception review under this Section. See Section 12.3.2, Pre-Application Meeting/ Concept Plan Review. Pre-application meetings for all other special exceptions are optional.

C. Application and Fees

1. Submittal in Writing
All applications for zoning permit with special exception review shall be filed in writing with the Zoning Administrator The applicant shall pay all required fees at the same time the application is submitted. See Section 12.3.3, Submission of Applications.

2. Concurrent Applications
The applicant may submit an application for zoning permit with special exception review concurrent with other applications according to Section 12.3.3.9, Concurrent Applications. In no case, however, shall the City issue a building permit, as applicable, until the Board of Adjustment approves the special exception use and Community Planning and Development issues a zoning permit.

D. Public Notice Requirements
Public notice shall be required and provided according to the rules of the Board of Adjustment.

E. Review, Referral, and Recommendation by Zoning Administrator

1. The Zoning Administrator shall refer the application to the Board of Adjustment. The Board of Adjustment shall schedule the application for review and final decision at a public hearing, according to the rules of the Board of Adjustment.

2. The Zoning Administrator may refer the application to other affected or interested agencies for review and comment.

3. The Zoning Administrator shall consider the comments from all interested agencies, prepare a written recommendation based on the application's compliance with the review criteria below, and submit a written recommendation to the Board of Adjustment according to the rules of the Board of Adjustment.

F. Public Hearing and Final Decision by Board of Adjustment

1. The Board of Adjustment shall provide public notice and hold a public hearing on the proposed special exception according to the rules of the Board of Adjustment. The Board shall consider the recommendation of the Zoning Administrator and any relevant public comments, in addition to the review criteria below, and approve, approve with conditions, or deny the application for a zoning permit with special exception review.

2. The Board of Adjustment may place conditions and restrictions upon the establishment, location, construction, maintenance, and operation of a special exception use as it deems necessary to promote the public health, safety, and general welfare of the community.

G. Issuance of Zoning Permits after Board of Adjustment Final Decision

After the Board of Adjustment's final decision on an application for a zoning permit with special exception review, Community Planning and Development shall either issue or deny a zoning permit consistent with the Board of Adjustment's final decision. Community Planning and Development shall expressly note on the face of the zoning permit any conditions or restrictions approved by the Board of Adjustment.

12.4.9.3 Review Criteria

No application for a zoning permit with special exception review shall be approved by the Board of Adjustment unless the Board finds that all of the following conditions are met or can be met through conditions placed on approval of the application:

A. The special exception is consistent with the Comprehensive Plan;

B. The proposed special exception shall be consistent with the purposes and objectives of the zone district in which it is located;

C. If located within an LDF, IMP or GDP area, the special exception shall be consistent with the LDF, IMP or GDP;

D. The special exception is in compliance with all applicable regulations in this Code, including but not limited to, any specific use limitations stated in Articles 3 through 9, and in Article 11, Use Limitations and Definitions;

E. The establishment, maintenance, and operation of the special exception will not be detrimental to or endanger the public health, safety, or general welfare of the community;

F. The use and enjoyment of other existing uses on the surrounding property will not be substantially impaired by the establishment, maintenance, and operation of the special exception;

G. The establishment of the special exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

H. The aggregate impacts of similar special exceptions shall not result in harmful external effects or environmental impacts; and

I. Any potential adverse impacts from the proposed special exception can and will be adequately mitigated.

12.4.9.4 Requirements and Limitations After Zoning Permit Issuance

A. Expiration and Extensions

1. Except as otherwise allowed in subsection A.2. below, a zoning permit with special exception review shall expire 12 months from the date of the Board of Adjustment's decision unless the special exception use begins operating, or a valid building permit is issued. Upon a showing of good cause, the Zoning Administrator may extend the permit for the special exception for additional time periods not to exceed a total of 12 additional months.

2. If a zoning permit with special exception review is granted upon review and approval of a Site Development Plan according to Section 12.4.3 of this Code, then the zoning permit authorizing construction or a permitted use shall expire at the same time as the approved Site Development Plan.

B. Limit on Reapplication for Denied Special Exceptions

No application for a zoning permit with special exception review denied by the Board of Adjustment shall be considered for a period of 1 year from the date of the original denial unless the Zoning Administrator determines that the application contains substantial changes that address the reasons for denial of the application.

SECTION 12.4.10 OFFICIAL MAP AMENDMENT (REZONING)

12.4.10.1 Applicability

An official map amendment may be required to rezone an area to implement adopted plans, to provide for a community need not anticipated by adopted plans, or to change the regulations and restrictions of an area as reasonably necessary to promote the public interest.

12.4.10.2 Zone Districts Not Available for Rezoning

Except as otherwise provided in Section 9.4.2.1 and Section 12.3.3.9, no land may be rezoned into any zone district not established in this Code. In addition, the following zone districts established in this Code, while mapped on the Official Zoning Map, shall not be applied to any lands after June 25, 2010:

A. D-AS Downtown Arapahoe Square zone district

B. O-1 zone district

C. Adult Use Overlay District (UO-1)

D. Billboard Use Overlay District (UO-2)

12.4.10.3 Adjacency and Location Requirements

A. Requirements

Official Map amendments for the following zone districts shall meet the following requirements:

1. Applications proposed to be zoned to the D-C, D-TD, D-LD, D-CV, D-GT, D-AS-12+, or D-AS-20+ zone districts shall be adjacent to the same zone district sought for the subject property. For the purposes of this provision, adjacency shall not be destroyed by the existence of a dedicated public right-of-way.

2. Applications proposed to be zoned to the DIA zone district shall be adjacent to an existing DIA zone district if the application is not initiated by the Manager of Aviation. For the purposes of this provision, adjacency shall not be destroyed by the existence of a dedicated public right-of-way.

3. Applications proposed to be zoned to all Master Planned Context zone districts shall be located within a General Development Plan area where the GDP area is a minimum of 50 acres, and shall not include lands located within ¼ mile of an existing or planned Rail Transit Station Platform.

B. Exceptions to Additional Requirements

The following Official Map amendments are exempt from the requirements of this Section 12.4.10.3, Adjacency and Location Requirements:

1. An Official Map amendment determined by the City Attorney to be a legislative zone map amendment.

2. An Official Map amendment applying zoning to lands newly included within the city's corporate boundaries after City Council approval of a minor boundary adjustment.

12.4.10.4 Review Process

A. Initiation

1. Official Map Amendment Applications for PUD Districts or Zone Districts with Waivers and/or Conditions

All official map amendment applications for a PUD District, or for a zone district with waivers and/or conditions under Section 12.4.10.6, must be initiated by all the owners of the entire land area subject to the rezoning application, or their representatives authorized in writing to do so.

2. All other Official Map Amendment Applications

Except for official map amendment applications for a PUD District, or for a zone district with waivers and/or conditions under Section 12.4.10.6, the following parties may initiate an official map amendment:

a. The City Council or an individual City Council member

   i. The City Council or an individual City Council member may, but is not required to, follow the public notice or procedures in this Section 12.4.10.4. However, the City Council or any individual City Council member shall comply with the public notice and process provisions required by the Charter for an official map amendment (rezoning).

b. The Manager.

c. All of the owners of the entire land area subject to the application for an official map amendment or their representatives authorized in writing to do so.

d. One or more of the owners of the real property subject to the application for amendment, or their representatives authorized in writing to do so, accompanied by a petition requesting the amendment and which petition, at the time of submittal, contains the signatures of the owner or owners of 51 percent or more of the total area of the Zone Lots subject to the application for amendment.

B. Pre-Application Meeting

1. A pre-application meeting is mandatory for an official map amendment (Rezoning). See Section 12.3.2, Pre-Application Meeting/Concept Plan Review.

2. The Development Review Committee (DRC) shall determine at the pre-application meeting whether a Large Development Review (LDR) is required under Section 12.4.12.

C. Application and Fees - General

1. All applications for official map amendments shall be filed in writing with the Manager. The applicant shall pay all required fees at the same time the application is submitted. See Section 12.3.3, Submission of Applications. This provision does not apply to map amendments initiated by the Manager.

D. Review and Referral by Manager

All applications for official map amendments shall be subject to the following review process:

1. Referral and Examination of Application

Upon receipt of a complete application, the Manager shall transmit copies of the application to other agencies that might be affected by the proposed application. If considered necessary, any such agency may require the applicant to furnish additional information of a pertinent and reasonable nature. Any such agency may transmit comments and recommendations concerning the application to the Manager. Any agency wishing to comment shall do so within 14 days from the referral of the complete application. Non-response by a reviewing agency within the 14-day time period, or any extension agreed to by the Manager, shall be deemed a recommendation of approval by such agency.

2. Disposition of Application

a. Except as allowed in subsection D.2.b. below, when the Manager determines an application for an official map amendment, including agency comments and recommendations, is ready for Planning Board action, the Manager shall submit the application to the Planning Board together with the Manager's written recommendation to the Planning Board.

b. Where an amendment is necessary only to correct an error in the official map, the Manager may submit the application, including agency comments and recommendations, directly to the Council Committee for its consideration under Section 12.4.10.4.F, below.

E. Public Hearing and Recommendation by Planning Board

1. The Planning Board shall notice and hold a public hearing on the application for an official map amendment according to Section 12.3.4, Public Notice Requirements. The Planning Board shall consider the recommendation of the Manager and any comments, in addition to the review criteria below, in recommending approval, approval with conditions, or denial of an official map amendment.

2. The Planning Board's recommendation shall be forwarded to the City Council for consideration within 30 calendar days after the closing of the public hearing, unless the applicant consents to an extension of such time.

F. Consideration of Application by Council Committee

1. City Council shall appoint a committee of its members to examine all applications for official map amendment and the related department reports, Manager's recommendation, and the Planning Board's recommendation. The Council committee may at that time require additional information from the applicant, from anyone submitting comments, or from city agencies, including information previously waived.

2. The Council committee shall direct any further action on the application under this Section and, when deemed ready for hearing, shall forward the application to the City Council.

G. Public Hearing and Final Decision by City Council

1. The Manager shall submit the complete application with such supporting material as designated by the Council committee.

2. The City Council shall notice and hold a public hearing on the proposed official map amendment according to Section 12.3.4, Public Notice Requirements. The City Council shall consider the recommendations of the Planning Board and Manager, and any other comments received, in addition to the review criteria below, in approving, approving with conditions, or denying an official map amendment.

12.4.10.5 Protest Petition

A. Effect of Protest to Amendment

1. Pursuant to section 3.2.9 of the Charter, if a protest to an official map amendment signed by the owners of 20 percent or more either of (1) the area of the lots included in such proposed change; or (2) the total land area located within the City and County of Denver from the perimeter of the area proposed for change to a distance of 200 feet outside of the perimeter of the area proposed for change, is filed with the City Council per subsection B. below, then the amendment shall not become effective except by the favorable vote of 10 members of the City Council.

2. For the purpose of defining owners and the area of land represented by the owner, land owned by more than one owner shall be divided to the extent of each owner's percentage of ownership interest in determining whether a protest has the required percentage of signatures.

3. The Manager shall determine the adequacy of all protest petition signatures.

B. Filing of Protests; Time Limitations; Withdrawal

All protests to an official map amendment and any withdrawal of the protest or specific petition signatures shall be filed with the City Council on or before, and not later than, noon 7 days prior to the date for the public hearing before City Council on the official map amendment. No protests shall be signed until the official map amendment council bill is ordered published by City Council.

12.4.10.6 Waivers of Rights and Obligations and Approval of Reasonable Conditions

A. Whenever an application for an official map amendment, in whole or in part, is based upon a written representation by the applicant(s) that the applicant(s) wishes to waive certain rights or obligations under the proposed district classification, the City Council may adopt such waivers as a part of the ordinance amending the official map if such waivers are approved in writing by the applicant(s).

B. Whenever public necessity, convenience, general welfare or good zoning practice justify the attachment of reasonable conditions to an official map amendment, the City Council may adopt such conditions as a part of the ordinance amending the official map if such conditions are approved in writing by the applicant(s).

C. Upon adoption of an ordinance pursuant to subsections A. or B. above, no zoning permits shall be issued except in strict compliance with the approved waivers or conditions. Any person who applies for a permit to alter or erect a structure in such area shall be deemed to have assented to all of these waivers and conditions.

D. Every official map amendment based, in whole or in part, upon waivers as set forth in subsection A. or conditions as set forth in subsection B. above:

1. Shall be adopted by ordinance containing an exact description of any such waivers or conditions. Such ordinance may be amended by City Council upon application for an amendment either by the original applicant or by a successor in interest; provided, however, that prior to such amendment, public notice shall be given similar in all respects to the public notice required for an official map amendment;

2. Shall not include a requirement for a minimum amount of vehicle parking; and

3. Shall not be construed as a requirement that all applications for rezoning must contain waivers or have conditions.

E. When City Council approves a text amendment to the standards applicable in a zone district see Section 12.4.11), such text amendment applies equally to all previously approved official map amendments to that zone district, including official map amendments that were based, in whole or in part, upon waivers or conditions.

12.4.10.7 General Review Criteria Applicable to All Zone Map Amendments

The City Council may approve an official map amendment if the proposed rezoning complies with all of the following criteria:

A. Consistency with Adopted Plans

The proposed official map amendment is consistent with the City's adopted plans.

1. Community Need Exception

The City Council may approve an official map amendment that does not comply with subsection 12.4.10.7.A, Consistency with Adopted Plans, if the proposed official map amendment is necessary to provide for an extraordinary community need that was not anticipated at the time of the adoption of the city's plans.

B. Public Interest

The proposed official map amendment is in the public interest.

C. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed zone district.

12.4.10.8 Additional Review Criteria for Rezoning to PUD District

In addition to the general review criteria stated in Section 12.4.10.7, for all proposed official map amendments requesting a PUD District, the City Council shall find:

A. The PUD District is consistent with the intent and purpose of such districts stated in Article 9, Division 9.6 (Planned Unit Development) of this Code;

B. The PUD District and the PUD District Plan comply with all applicable standards and criteria stated in Division 9.6;

C. The development proposed on the subject property is not feasible under any other zone districts, and would require an unreasonable number of variances or waivers and conditions;

D. The PUD District and the PUD District Plan establish permitted uses that are compatible with existing land uses adjacent to the subject property; and

E. The PUD District and the PUD District Plan establish permitted building forms that are compatible with adjacent existing building forms, or which are made compatible through appropriate transitions at the boundaries of the PUD District Plan (e.g., through decreases in building height; through significant distance or separation by rights-of-way, landscaping or similar features; or through innovative building design).

12.4.10.9 Appeal

A decision by the City Council on a proposed official map amendment may be appealed to District Court.

12.4.10.10 Requirements and Limitations After Rezoning Approval

A. Registration and Recording of Official Map Amendments

1. Recording Required

The Manager shall record the final action of the City Council on an official map amendment in the real property records of the Denver County Clerk and Recorder, and shall cause the amendment of the official zone map to designate the subject property according to the amendment.

2. Approved PUD District Plans

The Manager shall record all approved PUD District Plans in the real property records of the Denver County Clerk and Recorder along with the ordinance approving such PUD District Plan, and the Manager shall cause the amendment of the official zone map to designate the area included in the approved PUD District Plans as follows:

a. For approved PUD Districts with General PUD District Plans: "PUD-G #_____."

b. For approved PUD Districts with Detailed PUD District Plans: "PUD-D #_____."

B. Effect and Limitations on Approval

1. Effect of Rezoning Approval - In General

Approval of an official zone map amendment does not automatically confer any right to development or construction. Development shall comply with all applicable standards and procedures in this Code and the D.R.M.C.

2. Effect of Approved Detailed PUD District Plans

The standards and provisions of an approved Detailed PUD District Plan shall constitute the zoning regulations for use and development of the subject property. Approval of a Detailed PUD District Plan shall constitute Site Development Plan review for zoning compliance purposes only under Section 12.4.3, and zoning permits may be issued and site work commenced according to the approved Detailed PUD District Plan.

3. Effect of Approved General PUD District Plans

a. Within a PUD District subject to an approved General PUD District Plan, no zoning permits may be issued and no work may commence until a site development plan has been approved according to Section 12.4.3, Site Development Plan Review, or unless a Detailed PUD District Plan for a portion or portions of the PUD District has been approved by City Council according to Section 9.6.1.3.A of this Code.

b. A site development plan within a PUD District may be for the entirety of the district, or for only one or more phases of the entire PUD District area. The approval of a site development plan for any one phase of the PUD District may be contingent on improvements that involve other or all phases. In any site development plan application for less than the entirety of the PUD District, the applicant shall submit plan exhibits that clearly show the relation of the subject site development phase(s) to the remainder of the PUD District area.

c. The standards and provisions of the approved PUD District subject to a General PUD District Plan, together with all approved site development plans for the PUD District, shall constitute the zoning regulations regulating all use and development of the subject property.

4. City Council Authority to Rezone in Case of No Progress in a PUD District with a General PUD District Plan

Areas covered by an approved PUD District with a General PUD District Plan may be considered by City Council for rezoning to a more appropriate classification under this Section if a complete site development plan for at least one phase of the PUD District has not been submitted within 30 months following approval of the PUD District with a General PUD District Plan; provided all owners of property subject to such amendment or rezoning have been first notified in writing by Community Planning and Development that the City Council is considering such rezoning.

5. Modifications or Amendments to Approved PUD Districts

a. See Section 12.3.7, Modification or Amendment of Applications, Plans and Permits, for regulations governing permitted modifications and amendments to approved PUD Districts and associated PUD District Plans.

b. All approved amendments to a recorded PUD District Plan shall be recorded.

12.4.10.11 Limits on Re-Application for Denied Official Map Amendments

No application for an official map amendment shall be made concerning any land area, or any portion thereof, that was the subject of a public hearing conducted by City Council within the immediately preceding 12 months period and which public hearing resulted in a rejection of the proposed official map amendment. However, this limitation shall not apply to those land areas or portions thereof for which a different zone district classification is proposed than that which was denied by City Council.

SECTION 12.4.11 TEXT AMENDMENT

12.4.11.1 Applicability

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the City, the text of this Code shall not be amended except to correct a manifest error in the chapter, or because of changed or changing conditions in a particular area or in the city generally, including any change to the regulations and restrictions of an area thereof, or to implement adopted plans, or as otherwise reasonably necessary to the promotion of the public health, safety or general welfare.

12.4.11.2 Text Amendments to Create New Use Overlay Zones Not Allowed

After June 25, 2010, no new Use Overlay District may be established through a text amendment to this Code.

12.4.11.3 Review Process

A. Initiation

A proposed text amendment may be initiated by:

1. City Council

a. According to its authority under the City Charter, the City Council or any individual member of the City Council may initiate a text amendment. The City Council or an individual City Council member may, but is not required to, follow the public notice or procedures in this Section 12.4.11.3. However, the City Council or any individual City Council member shall comply with the public notice and process provisions required by the Charter for a text amendment.

2. Other Parties

a. The Manager on the Manager's initiative or upon request of private parties may initiate a text amendment; or the manager of any city department or agency may initiate a text amendment.

B. Application

1. All requests for proposed text amendments shall be filed in writing with the Manager. This provision does not apply to text amendments initiated by the Manager.

C. Agency Referral and Recommendation

1. Upon receipt of a written request for a proposed text amendment, the Manager shall transmit copies of the request to any other agencies, either public or private, which might be affected by the amendment. Any such agency may transmit comments and recommendations concerning the proposed text amendment to the Manager. Any agency wishing to comment shall do so within 21 days from the referral of the written request. Non-response by a reviewing agency within the 21-day time period, or any extension agreed to by the Manager, shall be deemed a recommendation of approval by such agency.

2. No text amendment shall be forwarded for City Council consideration until the amendment has been referred to affected agencies and the recommendations of those agencies, if any, considered.

D. Disposition of Initiated Text Amendments

1. Except as allowed in subsection D.2 below, when a request for a proposed text amendment, including agency comments and recommendations, is completely assembled, the Manager shall submit it, along with the Manager's written recommendation, to the Planning Board for the Planning Board's review and recommendation.

2. Where a text amendment is necessary only to correct an error or mistake in fact in the Code language, the Manager may submit the proposal, including agency comments and recommendations, directly to the Council Committee for its consideration under Section 12.4.11.3.F, below.

E. Public Hearing and Recommendation by Planning Board

The Planning Board shall notice and hold a public hearing on the proposed text amendment according to Section 12.3.4, Public Notice Requirements. The Planning Board shall consider the recommendation of the Manager and any comments received, in addition to the review criteria below, in recommending approval, recommending approval with conditions, or recommending denial of a text amendment. The Planning Board shall forward its recommendation to City Council.

F. Consideration by Council Committee

1. City Council shall appoint a committee of its members to examine all proposed text amendments and agency reports. The Council committee may at that time require additional information from the initiator of the proposed text amendment or from city agencies, including information previously waived.

2. The Council committee shall direct any further action on the proposed text amendment under this Section and, when deemed ready for hearing, shall forward the proposal to the City Council.

G. Public Hearing and Final Decision by City Council

1. The Manager shall submit the complete proposal with such supporting material as designated by the Council committee to the City Council for Council action.

2. The City Council shall notice and hold a public hearing on the proposed text amendment according to Section 12.3.4, Public Notice Requirements. The City Council shall consider the recommendations of the Planning Board and Manager, comments received, and the review criteria below, in approving or denying a text amendment.

12.4.11.4 Review Criteria

A. Consistency With Adopted Plans
All text amendments shall be consistent with the City's adopted plans, or the proposed text amendment is necessary to provide for a community need that was not anticipated at the time of the adoption of the Comprehensive Plan.

B. Public Health, Safety and General Welfare
All text amendments shall further the public health, safety and general welfare of the City.

C. Uniformity of District Regulations and Restrictions
A text amendment to this Code shall result in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.

SECTION 12.4.12 LARGE DEVELOPMENT REVIEW

12.4.12.1 Intent

A. General Intent
The intent of the Large Development Review (LDR) process is to implement City Council adopted plans that provide guidance for future land use and development, and resulting public infrastructure, open space, and public parks, on sites that are large or otherwise require a more coordinated inter-agency development review process. The LDR process provides an early opportunity to identify issues and the development's relationship with significant public infrastructure improvements such as major multi-modal facilities and connections thereto, major utility facilities, and publicly accessible parks and open spaces. The LDR results in a framework for coordinating development, infrastructure improvements, and regulatory decisions before site-specific development proceeds within the subject area.

B. Intent of the LDR Review Process
The LDR process is intended to:

1. Provide for the coordinated assessment of general land development proposals by the City and other interested public agencies;
2. Ensure that development in the LDR area is consistent with City Council adopted plans;
3. Ensure that development in the LDR area will implement adopted plan policies related to infrastructure, open space, and public parks, as applicable, by establishing the appropriate timing and requirements for subsequent regulatory steps, submittals and approvals;
4. Produce a written document ("Large Development Framework") that states and describes all applicable planning and regulatory reviews and establishes a rational sequence of the required reviews to ensure that development in the LDR area is consistent with Section 12.4.12.1.A. General Intent; and
5. Provide an early opportunity for public and community information about the LDR and framework process.

12.4.12.2 Applicability

A. The Large Development Review (LDR) process and preparation of a Large Development Framework (LDF) is mandatory when the Development Review Committee (DRC) determines (1) the specific circumstances warrant a coordinated master framework process to guide future development; (2) the land use, development, open space, parks, housing, urban design, and infrastructure issues related to future development cannot be adequately resolved through

other regulatory processes, such as subdivision or site development plan review; or (3) the area at issue is subject to a previously approved regulatory plan or document that established a coordinated master framework process, including but not limited to a General Development Plan or LDF. In determining whether circumstances warrant the LDR process and preparation of a LDF, all relevant factors shall be considered, including but not limited to the following:

1. Adopted Plan Recommendation
A City Council adopted plan recommends use of the LDR process, preparation of an Infrastructure Master Plan (IMP), or General Development Plan (GDP) for all or portions of the subject area.

2. Large-Scale Development
The Manager determines that the gross land area at issue is more than 5 acres or 3 Blocks or will result in the creation of 3 or more Blocks.

3. Infrastructure Network or System Improvements
Future development in the subject area anticipates any of the following infrastructure improvements:

a. Establishing, extending, expanding, or otherwise changing the arterial or collector street grid; or

b. Establishing, extending, expanding, or otherwise changing an existing regional stormwater system; or

c. Establishing, extending, expanding, or otherwise changing publicly accessible park and open space.

4. General Development Plan Amendments
The area is subject to a previously approved GDP and the GDP needs to be amended according to Section 12.4.12.18, Amendments and Minor Deviations to an Approved General Development Plan.

B. A determination whether the LDR process is applicable according to this subsection shall be made after the pre-application meeting as described in Section 12.4.12.5 below.

C. Optional LDR
An owner may request a LDR process for the property in order to establish a coordinated regulatory and review framework for the property.

12.4.12.3 Timing of LDR Review

When LDR is mandatory, the Large Development Framework (LDF) shall be approved before final approval of the following.

A. Official Map Amendment

B. Subdivision under D.R.M.C., Chapter 50.

C. Site Development Plan under Section 12.4.3.

D. Infrastructure Master Plan under Section 12.4.14.

12.4.12.4 Initiation

A. A LDR may be initiated by any one or combination of the following parties:

1. The owner or owners of the entire subject property;

2. The owner(s)'s authorized agent(s);

3. The Manager;

4. The manager of Parks and Recreation; or

5. The manager of the Department of Transportation and Infrastructure ("DOTI").

12.4.12.5 Pre-Application Meeting for LDRs

A. A pre-application meeting is mandatory to determine the applicability of the LDR process for a specific development concept according to Section 12.4.12.2, Applicability. See 12.3.2, Pre-Application Meeting/Concept Plan Review.

B. An applicant shall request a pre-application meeting for LDR either on the applicant's own initiative, or when directed by the Manager after submittal of an application for a different regulatory process, including but not limited to an Official Map Amendment, Infrastructure Master Plan, Site Development Plan, or Subdivision under D.R.M.C. Chapter 50. For example, the Manager may refer an applicant to the LDR pre-application meeting process in lieu of a pre-application meeting/concept review for Site Development Plan under Section 12.4.3.3.

C. The DRC shall attend the pre-application meeting, at which the applicant shall present the land use and development concept for the subject property.

D. When the DRC has sufficient information to assess the future land use and development proposal for infrastructure impacts, no later than 30 days following the pre-application meeting, the DRC shall inform the applicant in writing whether the Large Development Review (LDR) process and preparation of a Large Development Framework (LDF) is mandatory.

E. Any DRC determination that LDR is not required will not automatically mean that future development in the area at issue is not subject to a future LDR process in accordance with this section. For example, if the DRC determines that a LDR process is not required prior to approval of an Official Zoning Map Amendment for the area at issue, preparation of a LDF may still be required as part of a future request for a subdivision or site development plan in the area at issue.

12.4.12.6 Preliminary Determination of LDR Scope

If the DRC has determined that the LDR process is required in accordance with Section 12.4.12.2, Applicability, and 12.4.12.5, Pre-Application Meeting for LDRs, no later than 60 days following the pre-application meeting, the Manager shall inform the applicant of the DRC's preliminary findings addressing, at a minimum, the following items:

A. The boundaries of the LDR;

B. Whether a City Council adopted plan (or plans) provides clear and sufficient guidance for changes in land use, development, and infrastructure in the subject area;

1. City Council adopted plans may include, but are not limited to, neighborhood plans, station area plans, master plans, and citywide plans (Blueprint Denver).

2. The Manager shall evaluate all applicable adopted plan policies and may determine "clear and sufficient guidance" exists considering all relevant factors, including but not limited to whether (1) the City Council adopted plans provide a level of detail for the subject LDR area sufficient to establish a framework for interconnected land uses, streets, open space, public parks, and other infrastructure, as applicable; (2) the plan was adopted within the previous 20 years from the date of the LDR preapplication meeting; and (3) the plan adequately addresses current community conditions for the subject area.

C. The type and timing of necessary regulatory processes applicable to the proposed development of the subject area, including but not limited to any Official Map Amendments, Subdivision of land under D.R.M.C Chapter 50, approval of an Infrastructure Master Plan in accordance with Section 12.4.14, amendments or repeals of previously approved General Development Plans, or approval of any urban design standards and guidelines;

D. When the Manager finds that an Official Map Amendment is necessary for the proposed large development and when the Manager has made a preliminary finding of no clear and sufficient City Council adopted plan guidance according to Section 12.4.12.6.B above, the type and timing of necessary planning processes applicable to the proposed development of the subject area;

E. Whether any land dedication will be required through a subsequent regulatory process in the LDR area for streets, trails, open space, public parks, schools and other public purposes; and

F. Whether any additional actions will be required to ensure community benefits are achieved for the large development area identified in a City Council adopted plan, including but not limited to an affordable housing plan or a schools plan, as applicable.

12.4.12.7 Community Information Meeting

A community information meeting is required for LDRs according to Section 12.3.4.6.

12.4.12.8 Application and Fees

All applications for LDR review shall be filed in writing with Community Planning and Development within 180 days of the Community Information Meeting according to Section 12.4.12.7. If an application for LDR review is not submitted within 180 days after the community information meeting, the Manager may require a new pre-application meeting, revised determination of the LDR scope, and a new community information meeting. The applicant shall pay all required fees at the same time the application is submitted. See Section 12.3.3, Submission of Applications.

12.4.12.9 Review, Referral, and Final Determination of LDR Scope by the DRC

A. Review and Referral

The Manager shall refer the LDR application to the DRC and all affected or interested agencies for review and comment.

B. Final DRC Determination of LDR Scope

The DRC shall evaluate any relevant new information received since the Preliminary Determination of LDR Scope in Section 12.4.12.6 above, and establish the final scope for preparation and submittal of the Large Development Framework in Section 12.4.12.10 below.

12.4.12.10 Preparation and Submittal of the Large Development Framework

The applicant shall prepare and submit a Large Development Framework ("LDF") that addresses, at a minimum, the following:

A. The final LDR scope established by the DRC;

B. The type and timing of necessary regulatory or planning processes applicable to development of the subject area, including but not limited to any Official Map Amendments, Subdivision of land under D.R.M.C Chapter 50, approval of an Infrastructure Master Plan in accordance with Section 12.4.14, Site Development Plans, amendments or repeals of previously approved General Development Plans, approval of any urban design standards and guidelines, or approval of any planning processes, as applicable;

C. The report summarizing the community information meeting;

D. Development phasing plans, as applicable; and

E. Additional information required by the DRC.

12.4.12.11 Final Decision on LDF by Development Review Committee

A. The DRC shall consider the review criteria stated in Section 12.4.12.12, and make a final decision to approve, approve with conditions, or deny a LDF.

B. The DRC may attach conditions to the final LDF approval reasonably necessary to protect the health, safety and welfare of the community, or to mitigate adverse impacts on surrounding properties.

12.4.12.12 Review Criteria

The DRC shall approve a Large Development Framework (LDF) only if the DRC finds:

A. The LDF implements City Council adopted plans through the type and sequencing of regulatory or planning tools, as applicable; and

B. The LDF establishes a coordinated development review process that ensures the future development of the subject area will address land use, development, infrastructure, open space, public parks, schools, and other related issues, as applicable, in accordance with City Council adopted plans.

12.4.12.13 Appeals

Section 12.4.8, Appeal of Administrative Decision, shall apply to final decisions of the DRC on a LDF in accordance with this section.

12.4.12.14 Recordation of Approved LDF

Community Planning and Development shall register a copy of the final LDF document among its records and shall record the final LDF document in the real property records of the Denver County Clerk and Recorder.

12.4.12.15 Effect of Approved LDFs and GDPs

In addition to Section 12.3.5, Effect of Approved Applications, Plans and Permits, the following applies:

A. A recorded Large Development Framework (LDF) or previously approved General Development Plan (GDP), including any subsequently recorded amendments, shall be in full force and effect until and unless such time as the LDF or GDP is either superseded or rescinded.

B. The City Council may approve an official map amendment (rezoning) application for property located within an approved LDF or GDP area, taking into consideration the approved LDF or GDP.

C. The City may issue subdivision approvals, site development plan approvals, infrastructure master plan approvals, zoning permits, and may approve the construction, location, use, and operation of all land and structures for properties located within an approved LDF or GDP area, only upon a finding that such subsequent zoning and building actions are consistent with the terms and conditions of the approved LDF or GDP.

12.4.12.16 Amendments to an Approved Large Development Framework

A. Intent

In addition to Section 12.4.12.1, Intent, the LDF amendment process is specifically intended to allow for LDFs to change over time as needed and to establish appropriate procedures for amendments to LDFs.

B. Applicability

This Section 12.4.12.16 shall apply to any change to a previously approved LDF.

C. Initiation

Amendments to an approved LDF may be initiated by any one or combination of the following parties:

1. One or more owner(s) or agent of the owner(s) of the properties to which the amendment applies;

2. The Manager;

3. The manager of Parks and Recreation; or

4. The manager of the Department of Transportation and Infrastructure ("DOTI").

D. Procedure for LDF Amendments

1. DRC shall review an amendment to an approved LDF according to the same procedures and subject to the same limitations and requirements as the original LDF approval, and according to the additional review criteria in Section 12.4.12.16.E.

2. An amendment to an approved LDF may be reviewed concurrently with other applications according to Section 12.3.3.9, Concurrent Applications.

3. The Manager shall record all amendments to a LDF approved according to this Section in the records of the Denver County Clerk and Recorder's Office.

E. Additional Review Criteria for LDF Amendments

In addition to the review criteria in Section 12.4.12.12, the DRC shall approve the LDF amendment only if the DRC finds the amendment will not result in any material adverse impacts on the remainder of the approved LDF area, where such impacts are not otherwise substantially mitigated.

12.4.12.17 Withdrawal of Recorded Large Development Frameworks

Pursuant to the same procedure and subject to the same limitations and requirements by which such LDFs were approved and recorded, all LDFs recorded under this Code may be withdrawn, either partially or completely. LDFs may be withdrawn if the DRC determines that since the date of the approval of the existing LDF, conditions in the LDF area have changed to a degree that withdrawal of the LDF is in the public interest or 10 or more years have lapsed. Upon approval of an application to withdraw by the DRC, the Manager shall record in the real property records of the Denver County Clerk and Recorder an appropriate certificate of such withdrawal.

12.4.12.18 Amendments and Minor Deviations to an Approved General Development Plan

A. Amendments to an Approved GDP

1. Intent

The GDP amendment process is intended to allow for GDPs to change over time and to establish appropriate procedures for different types of amendments to GDPs.

2. Applicability

Any of the following changes to an approved GDP, if included in the GDP, shall be considered amendments subject to this Section 12.4.12.18.A. The DRC shall decide if the proposed change falls within any of the following:

a. Significantly modifying or reallocating the permitted height, mix of uses, or density of development;

b. Significantly altering the location or amount of land area intended for publicly accessible open space or other public purposes required by this Code or by other City ordinances, rules, or regulations;

c. Substantially moving or altering the vehicle access and circulation to or within the development;

d. Changing or negating a condition of approval; or

e. Modifying any other element of the approved GDP that would substantially change its character or impacts on surrounding property, as determined by the Manager; or

f. A repeal of a GDP not eligible for the process set forth in Section 12.4.12.19, Repeal of an Approved General Development Plan

3. Procedure for Amendments

An amendment to an approved GDP may be reviewed concurrently with other applications according to Section 12.3.3.9, Concurrent Applications. An amendment to an approved GDP under this Section 12.4.12.18.A shall be reviewed for applicability to the Large Development Review (LDR) process in Section 12.4.12.2.

B. Minor Deviations to an Approved GDP

The DRC may authorize minor deviations from a previously approved General Development Plan (GDP). Minor deviations are allowed provided such deviation does not constitute an "amendment" to a GDP under Section 12.4.12.18.A, Amendments to an Approved GDP. All minor deviations to a GDP approved by the DRC shall be submitted as "redline" edits to the previously approved electronic GDP, which, after approval, shall be recorded by the Manager in the records of the Denver County Clerk and Recorder's Office.

12.4.12.19 Repeal of an Approved General Development Plan

A. Intent

The GDP repeal process set forth in this section is intended to provide a flexible process for repeal of certain types of GDPs. This section is intended for those GDPs that may be repealed without a substantial reduction of any community benefits conferred through the GDP, and with no adverse impacts on infrastructure systems or property owners in the GDP area that cannot otherwise be substantially mitigated.

B. Applicability

Any General Development Plan approved under this Code or Former Chapter 59 is eligible for the GDP repeal process in this Section 12.4.12.19, provided the request meets all of the applicable standards and notice requirements in this section. Any requests for GDP repeals not eligible for this process shall be subject to Section 12.4.12.18, Amendments and Minor Deviations to an Approved General Development Plan.

C. Procedure for Review of GDP Repeals

1. Initiation

A GDP repeal may be initiated by any one or combination of the following parties:

a. One or more property owners or their authorized agent(s) within the area subject to the repeal request;

b. The Manager;

c. The Manager of Parks and Recreation; or

d. The manager of the Department of Transportation & Infrastructure ("DOTI").

2. Pre-Application Meeting

A pre-application meeting is mandatory before submittal of an application for a GDP repeal in accordance with this section. See Section 12.3.2, Pre-Application Meeting/ Concept Plan Review

3. Public Notice Requirements

a. Written Notice of Receipt of Application

Written notice of the receipt of the GDP repeal application shall be required in accordance with Section 12.3.4.5.A, except as follows:

i. No later than 10 days after receipt of a complete application, Community Planning and Development shall cause written informational notice to be sent to the following parties:

a) Owners and tenants (if the latter is different from owners) of any real property located within 400 feet of the GDP proposed for a repeal;

b) The City Council members in whose districts the GDP proposed for a repeal is located, and the at-large City Council members;

c) Any neighborhood organizations registered according to D.R.M.C. Section 12-94, whose boundaries encompass or are within 400 feet of the GDP proposed for a repeal; and

d) Other community organizations that are not registered neighborhood organizations and are either located within 400 feet of the subject site or operate within the statistical neighborhood or neighborhoods that contain the subject site or district boundary. Applicants shall use reasonable efforts to identify such organizations, examples of which may include schools, religious assemblies, and other community-based nonprofit organizations.

v. Such written notice shall describe the proposal, give directions for submitting comments to Community Planning and Development within 30 days from the date of the written notice, and state that any final decision to approve the application shall be posted in accordance with DZC Section 12.3.4.5.C.

b. Posted Notice of Receipt of Application
Posted notice of the receipt of the GDP repeal application shall be required in accordance with Section 12.3.4.5.B.

c. Posted Notice of Final Administrative Action
Posted notice of the final decision on the GDP repeal application shall be required in accordance with Section 12.3.4.5.C.

4. Review, Referral, and Decision by Development Review Committee

a. The DRC shall refer the GDP repeal application to all affected or interested agencies for review and comment.

b. The DRC shall consider the relevant comments of all interested parties, the actions taken by other agencies on the proposed repeal of a general development plan, as applicable, and the review criteria stated below, in approving, approving with conditions, or denying repeal of a general development plan in accordance with this section. Relevant comments shall include but are not limited to comments that the GDP repeal will negatively impact community benefits conferred through the GDP or adverse impacts that will not be substantially mitigated to property within or surrounding the proposed GDP repeal area.

c. If the DRC deems any comments received during the public notice period as relevant, the GDP repeal process shall proceed according to Section 12.4.12.18, Amendments and Minor Deviations to an Approved General Development Plan.

d. The DRC may attach conditions to the General Development Plan repeal approval that are reasonably necessary to protect the health, safety and welfare of the community and to substantially mitigate adverse impacts on adjacent properties, as authorized by this Code.

5. Review Criteria

The DRC may approve the repeal of a GDP only upon finding that:

a. The repeal will not result in adverse impacts that have not been substantially mitigated; and

b. The repeal will not create a substantial reduction of any community benefits conferred through the GDP and not conferred through other regulatory tools, including but not limited to:

i. Vehicle, pedestrian, or bicycle connections; or

ii. Coordinated stormwater, wastewater, or water infrastructure systems; or

iii. Open space or parks systems serving the GDP area; or

iv. A phasing plan that sets forth the timing of and responsibility for development in the GDP area; or

v. Other community benefits that the DRC determines would be negatively impacted with the GDP repeal.

12.4.12.20 Large Development Review Rules and Regulations

The Manager has the authority to adopt rules and regulations relevant to the Large Development Review process that supplements the procedures and requirements set forth in this Section 12.4.12. In no case, however, shall rules and regulations vary the review criteria established in this Section 12.4.12 for approval of a LDF.

SECTION 12.4.13 REGULATING PLAN

12.4.13.1 Intent

A. General Intent of a Regulating Plan

A Regulating Plan is used to apply permitted building forms, building heights and land uses to specific street frontages and specific blocks and/or Zone Lots within a zone district. A Regulating Plan is also a vehicle for the designation of Primary Streets and Side Streets in advance of site development to increase the predictability and certainty of future development under this Code. A Regulating Plan is an optional step and process in all zone districts except in the M-GMX zone district. An approved Regulating Plan provides a binding plan that narrows the broad flexibility otherwise permitted in the zone district as site specific development proceeds within the subject area.

B. Intent of Regulating Plan in the M-GMX Zone District

For properties zoned to a Master Planned General Mixed Use ("M-GMX") District, a Regulating Plan is mandatory prior to site development. The M-GMX zone district allows a broad menu of potential building forms and land uses, which are intended to allow flexibility to create places with a specific character, as described in an approved General Development Plan. The broad menu of building forms and land uses must be restricted in their geographic location in order to successfully implement the approved General Development Plan, and to provide predictability and certainty for future property owners within the M-GMX zone district. The geographic application of specific building forms, building heights and land uses is shown through a Regulating Plan, which ensures the character described in the General Development Plan is implemented throughout the M-GMX zone district.

12.4.13.2 When Required & General Allowances

A. When Required

1. Mandatory in the M-GMX Zone District

Preparation of a Regulating Plan is mandatory in the M-GMX zone district, except when the subject property is included in a General Development Plan, which includes the same level of detail and information as required by this Section 12.4.13, including but not limited to the designation of Primary Streets.

2. Mandatory for Development within Certain General Development Plan Areas

Preparation of a Regulating Plan is mandatory prior to site development subject to a General Development Plan where the GDP does not include designation of Primary Streets.

3. Optional in All Other Cases

In all zone districts other than in the M-GMX zone district, and when a Regulating Plan is not otherwise mandatory under this Section, preparation of a Regulating Plan is optional.

B. General Allowances

1. A Regulating Plan may encompass all or a portion of the area within a General Development Plan, as applicable; in addition, there may be multiple Regulating Plans within the same GDP area.

2. There is no minimum area required for submittal of a Regulating Plan.

12.4.13.3 Review Process

A. Intent of the Regulating Plan Review Process

The review process established in this Section 12.4.13 for a Regulating Plan is intended to:

1. Narrow the application of the permitted building forms, land uses, and building heights within a zone district to specific geographic sites; and

2. Ensure that the implementation of the zone district standards are consistent with the approved General Development Plan.

B. Timing of Regulating Plan Review

When preparation of a Regulating Plan is required according to this Section, the Regulating Plan shall be approved before approval of any of the following zoning applications, as applicable, unless the Manager agrees to concurrent processing of such applications according to Section 12.3.3.9, Concurrent Applications. A Regulating Plan may also be incorporated into or a part of a Site Development Plan if applicable.

1. Special Exception Review

2. Variances

3. Site Development Plan Review

4. Zoning Permit

C. Initiation

A Regulating Plan may be initiated by any one or combination of the following parties:

1. All of the owners of the entire land area subject to the application for a regulating plan, or their representatives authorized in writing to do; or

2. The Manager.

D. Pre-Application Meeting

A pre-application meeting is mandatory. See 12.3.2, Pre-Application Meeting/ Concept Plan Review.

E. Application and Fees

1. Submittal in Writing

All applications for Regulating Plan review shall be filed in writing with Community Planning and Development. The applicant shall pay all required fees at the same time the application is submitted. See Section 12.3.3, Submission of Applications.

F. Regulating Plan Contents

1. Regulating Plan

a. The regulating plan shall be provided in a digital format acceptable to the Manager.

b. A regulating plan shall be produced at a scale appropriate for review, but at no less than 1"=200' scale.

c. The regulating plan shall show:

i. The land area that is the subject of the Regulating Plan, including 250 additional feet beyond the plan area to establish context, and shall also show the immediately adjoining land uses, roads, water bodies, and other rights-of-way or easements.

ii. The boundaries of the area within the M-GMX zone district, as applicable.

iii. Proposed size and layout of blocks.

iv. The location of all streets, alleys and drives with the street type specification and width of each.

v. Designation of Primary Streets and Side Streets.

vi. The location of all publicly accessible open spaces, including public parks or open space, common open space, and schools.

vii. The assignment of one or more permitted building form standards (e.g., urban house building form, general building form), including the maximum or range of heights permitted for such building forms, to each face block or Zone Lot. Building forms to apply within the Regulating Plan may be chosen from any of the building forms permitted in the applicable zone district.

viii. The land use or land uses permitted on each face block or Zone Lot.

ix. Where applicable, the location of dwelling units meeting the developer's affordable housing obligations under the Denver Revised Municipal Code.

x. The applicant may also assign supplemental building form standards to specific face blocks or Zone Lots to achieve urban design objectives for the proposed development, provided such supplemental standards shall be no less restrictive than otherwise applicable building form standards.

For example, while the applicable building form standards may limit a building's height to a *maximum* of 5 stories, a Regulating Plan may require a building located at a critical focal point within the development to have a *minimum* height of 2 stories. On the other hand, a Regulating Plan in the same instance cannot allow a maximum building height of 8 stories.

2. Project Report

a. The project report shall not be part of the recorded approval, but shall serve as background for the Manager in making a final decision on the Regulating Plan.

b. The project report shall include the following components.

i. Description of how the Regulating Plan is consistent with and implements any precedent approved plan for the area, such as a Neighborhood or Small Area Plan approved by the city, and the approved General Development Plan.

ii. Development program for the proposed Plan area, including:

a) Description of land use concepts and general geographic distribution for each land use concept;

b) Tabulation of acreages, as applicable, of each building form; and

c) Estimated sequence and timing (where known) of project construction

iii. Description of proposed transitions at the edge of the Regulating Plan area to promote compatibility between the Regulating Plan area and adjacent land uses, where applicable. For example, a Regulating Plan might illustrate the use of building height, the location of open space, landscaping and buffers, or

streets and streetscape as transition tools along Regulating Plan area edges adjacent to more or less intensive building forms and land uses.

G. Review, Referral and Final Decision by Manager

1. Review and Referral

The Manager may refer the Regulating Plan application to other affected or interested agencies and parties for review and comment, as deemed necessary to make a decision on the application.

2. Final Decision

a. The Manager shall make a final decision to approve, approve with conditions, or deny the Regulating Plan application, taking into consideration relevant agency or other party comments.

b. The Manager may attach conditions to the Regulating Plan approval reasonably necessary to protect the health, safety and welfare of the community and to minimize adverse impacts on adjacent properties, as authorized by this Code.

12.4.13.4 Review Criteria

The Manager shall approve a Regulating Plan application only if the Manager finds:

A. That the proposed allocation and geographic location of building forms, building heights, and land uses are consistent with applicable City plans, including but not limited to any approved General Development Plan, the Comprehensive Plan, Blueprint Denver, the Strategic Transportation Plan, small area plans, and all amendments and supplements to such plans;

B. The Regulating Plan provides a plan that will enable the predictable development of building forms and heights, and the predictable establishment of land uses within the plan's area; and

C. Design of the mix of building forms, heights, and land uses will respect existing adjacent neighborhood context, where applicable, and creates an appropriate transition at the edges of the Regulating Plan.

12.4.13.5 Appeals

The final decision of the Manager may be appealed to the Board of Adjustment according to Section 12.4.8, Appeal of Administrative Decision.

12.4.13.6 Requirements and Limitations After Regulating Plan Approval

A. Execution and Recording

1. The applicant shall submit an electronic file of the final approved Regulating Plan for recording, which shall include an electronic copy of the original Regulating Plan cover sheet signed by all owners of the subject property and by the Zoning Administrator.

2. Following execution of the final regulating plan, the Zoning Administrator shall record the electronic Regulating Plan in the records of the Denver County Clerk and Recorder's Office.

B. Effect of Approved Regulating Plans

1. All approved Regulating Plans and any Regulating Plan amendments shall be binding upon the applicants and their successors and assigns, shall control the issuance of all subdivision approvals, site development plan approvals, zoning permits, and the construction, location, use, and operation of all land and structures included within the Regulating Plan area.

2. A recorded Regulating Plan shall be in full force and effect until and unless such time as the Regulating Plan is amended or replaced by a new Regulating Plan for the same location according to this Section's procedures.

C. Modifications and Amendments to an Approved Regulating Plan

1. Modifications and amendments to an approved Regulating Plan are allowed according to Section 12.3.7 of this Code.

2. Except in cases where Section 12.4.13.2 mandates the use of a Regulating Plan, withdrawal of an approved and recorded Regulating Plan is allowed provided all land and structures remaining under such Regulating Plan can be made to comply with all regulations established by the applicable zone district and this Code. Upon approval of an application to withdraw, the Manager shall record in the real property records of the Denver County Clerk and Recorder an appropriate certificate of such withdrawal.

SECTION 12.4.14 INFRASTRUCTURE MASTER PLAN

12.4.14.1 Intent

The intent of the Infrastructure Master Plan (IMP) process is to:

A. Implement City Council adopted plans by establishing conceptual, horizontal land use, development, and infrastructure systems for large development areas prior to final, site-specific planning and engineering design;

B. Implement regulatory processes and actions established through a Large Development Framework (LDF), as applicable, including but not limited to official map amendments (rezonings) and subdivisions; and

C. Use existing development review processes established in DZC Article 12 to coordinate infrastructure, open space, and public parks systems, both in and surrounding an LDR area, as applicable.

12.4.14.2 Applicability

The Manager of Community Planning and Development shall determine if Infrastructure Master Plan (IMP) review is required based on consideration of the following factors, as applicable to the proposed development:

A. An approved LDF in accordance with Denver Zoning Code (DZC) Section 12.4.12 requires an IMP for the proposed development area;

B. A City Council adopted plan recommends preparation of an IMP for the proposed development area;

C. The proposed development is in a previously approved General Development Plan area;

D. The Manager of Community Planning and Development determines that the gross area of the proposed development is more than 5 acres, or 3 Blocks, or will result in 3 or more Blocks; or

E. The Manager of Community Planning and Development determines that the proposed development is of a scale and complexity where a coordinated process addressing horizontal development systems is necessary to implement City Council adopted plans or a General Development Plan, as applicable.

12.4.14.3 Review Process

A. Initiation

An IMP may be initiated by any one or combination of the following parties:

1. The owner or owners of the entire subject property;

2. The owner(s)'s authorized agent(s);

3. The Manager of Community Planning and Development;

4. The Manager of Parks and Recreation; or

5. The manager of the Department of Transportation and Infrastructure ("DOTI").

B. Development Review Committee – Final Approval Authority

The Development Review Committee ("DRC") shall have the authority to approve, approve with conditions, or deny an Infrastructure Master Plan.

C. Pre-Application Concept IMP Review

A pre-application Concept IMP review is mandatory before submittal of a formal IMP application. During the Concept IMP review, the DRC will confirm the applicability of IMP review to the proposed development activity and the specific procedural steps and submittal requirements the applicant will follow. See also Denver Zoning Code (DZC) Section 12.3.2, Pre-Application Meeting/Concept Plan Review.

D. Final IMP Submittal and Review

After completion of the pre-application Concept IMP review, submission of applications shall comply with DZC Section 12.3.3, Submission of Applications, DZC Section 12.3.3.4, Application Fees, and with additional requirements set forth below and in the IMP Rules and Regulations:

1. Submittal and Timing After Concept IMP

The applicant shall submit a Final IMP for review within 180 days after completion of the Concept IMP review. The Manager may approve up to one 180-day extension of this filing deadline upon a showing of good cause by the applicant. If the 180-day filing period expires, and is not otherwise extended, the applicant shall be required to submit a new application for Concept IMP review and pay all required fees.

2. Concurrent Applications

a. Concurrent applications with IMPs may be allowed according to Denver Zoning Code (DZC) Section 12.3.3.9, Concurrent Applications, and shall be in accordance with any approved Large Development Framework (LDF), as applicable.

b. No Site Development Plan shall be approved in the proposed development area until the IMP is approved, unless the DRC finds that no IMP is necessary for the proposed development in accordance with DZC Section 12.4.14.2, or allows an exception in writing.

c. No IMP shall be approved before a LDF is approved, unless the DRC finds that no LDF is necessary for the proposed development in accordance with DZC Section 12.4.12.2.B, or allows an exception in writing.

3. Submittal Requirements

At a minimum, the final IMP application shall include the items set forth in the IMP Rules and Regulations.

E. Final IMP Review, Referral, and Decision by Development Review Committee

1. The DRC shall refer the IMP application to all affected or interested agencies for review and comment related to the IMP's consistency with adopted plans and rules and regulations.

2. The DRC shall consider the relevant comments of all interested parties, as applicable, and the review criteria stated below, in approving, approving with conditions, or denying an IMP application.

3. The DRC may attach conditions to the IMP approval reasonably necessary to protect the health, safety and welfare of the community and to minimize adverse impacts on adjacent properties.

12.4.14.4 IMP Review Criteria

The DRC shall approve an IMP only upon finding that the following review criteria have been met, as applicable:

A. The IMP is consistent with City Council adopted plans;

B. The IMP meets the standards set forth in the IMP Rules and Regulations;

C. The IMP is consistent with all prior approvals that are regulatory and controlling for the subject property. For example, the IMP shall be consistent with a previously approved Large Development Framework, General Development Plan, Regulating Plan, and any applicable Urban Design Standards and Guidelines;

D. The pedestrian, transit, and street pattern is appropriate and adequate to serve the IMP area and provide connectivity to surrounding properties, and promotes and accommodates multi-modal transportation;

E. The IMP contains an adequate master plan for provision of drainage, wastewater, and water systems through the IMP or a separate regulatory process;

F. Unique natural resource features and sensitive areas, including but not limited to the regulatory floodplain, can be adequately protected and accommodated through the IMP or a separate regulatory process;

G. The IMP contains an adequate master plan for the provision of publicly accessible and usable open space and/or public parks; and

H. The IMP provides an adequate master plan to ensure all phases of development will occur in an orderly fashion, and that infrastructure improvements necessary to serve future development have been identified and will be provided concurrent with such development, as may be further ensured through subsequent or separate regulatory processes.

12.4.14.5 IMP Appeals

Denver Zoning Code Section 12.4.8, Appeal of Administrative Decision, shall apply.

12.4.14.6 Requirements and Limitations After IMP Approval

A. Recordation of Approved Infrastructure Master Plans

Community Planning and Development shall register a copy of the approved IMP among its records and shall record the approved IMP in the real property records of the Denver County Clerk and Recorder.

B. Effect of Approval

Denver Zoning Code Section 12.3.5, Effect of Approved Applications, Plans, and Permits, applies with the addition of the following.

1. An IMP approved according to these rules and regulations shall regulate the future use and development of the subject property.

2. After approval of an IMP, the City may issue site development plans, zoning permits, and building permits to an applicant, provided such approvals are consistent with the approved IMP and comply with all other City standards and regulations, including those set forth in an approved Large Development Framework.

3. After approval of the IMP and all requisite zoning permits, if the Development Review Committee (DRC) finds that development is not proceeding in accordance with the

approved IMP, the Manager, through all enforcement authority available, may immediately issue an order stopping any or all work on the property that does not comply with the approved IMP, until such time as the noncompliance is remedied.

12.4.14.7 IMP Expiration

An approved IMP shall expire if no site development plans, zoning permits, or building permits have been approved or issued within any 10 year time period after approval of the IMP, or as otherwise specified by the DRC in writing.

12.4.14.8 Vested Rights in Infrastructure Master Plans

A. Certain Infrastructure Master Plans Eligible for Vested Rights

1. An IMP initiated by an owner or owners of the subject property, or their authorized agents, and which by its express terms will not require one or more official map amendments (rezoning) to implement the IMP, may result in vested rights concurrently with the approved IMP.

2. An IMP approved prior to or concurrent with the City Council's approval of one or more official map amendment (rezonings) to implement the IMP may be amended after approval of the official map amendment(s) to obtain vested rights. All IMP amendments seeking the addition of vested rights shall be processed according to the same procedure and criteria stated in Section 12.4.14.9, IMP Amendments, below.

3. An IMP eligible for vested rights according to this subsection may be afforded vested rights only for the following items. In no case may the DRC confer vested rights that conflict with any standards set forth in the Denver Zoning Code or the Denver Revised Municipal Code at the time of approval of the IMP.
   a. The location and general specifications for a network of internal pedestrian walkways and connections to primary uses within the IMP area and to adjacent development or public amenities/facilities such as schools, parks, and open space;
   b. The location and functional classification of the future street network within the IMP area, as applicable;
   c. The designation of Primary Streets to guide future development in compliance with the Denver Zoning Code;
   d. The location of future publicly accessible open space and parks; and
   e. The location of future public facilities, as applicable.

4. The vested rights in an approved IMP are directly proportional to the level of detail and specificity approved in the plan.

B. Vesting Period in IMPs

Rights vested through approval of an IMP shall remain vested for three years or until such time as the IMP is either superseded or rescinded, whichever occurs first, unless otherwise approved by City Council. Amendments to IMPs shall not affect vested rights unless expressly stated otherwise in the amendment.

12.4.14.9 IMP Amendments

A. Intent

In addition to Section 12.4.14.1, Intent, the amendment process is intended to allow for IMPs to change over time as needed and to establish appropriate procedures for different types of amendments to IMPs.

B. Applicability

This Section 12.4.14.9 shall apply to any change to a previously approved IMP.

C. Initiation

Amendments to an approved IMP may be initiated by any one or combination of the following parties:

1. One or more property owners or their authorized agent(s) within the area being amended;
2. The Manager of Community Planning and Development;
3. The Manager of Parks and Recreation; or
4. The Manager of the Department of Transportation and Infrastructure ("DOTI").

D. Procedure for IMP Amendments

1. DRC shall review an amendment to an approved IMP according to the same procedures and subject to the same limitations and requirements as the original IMP approval, and according to the additional review criteria in Section 12.4.14.9.E.
2. An amendment to an approved LDF may be reviewed concurrently with other applications according to Section 12.3.3.9, Concurrent Applications.
3. The Manager shall record all amendments to a LDF approved according to this Section in the real property records of the Denver County Clerk and Recorder's Office.

E. Additional Review Criteria for LDF Amendments

In addition to the review criteria in Section 12.4.14.4, the DRC shall approve the IMP amendment only if the DRC finds the amendment will not result in any material adverse impacts on the remainder of the approved IMP area, where such impacts are not otherwise substantially mitigated.

12.4.14.10 Infrastructure Master Plan Rules and Regulations

The Manager has the authority to adopt rules and regulations relevant to the Infrastructure Master Plan (IMP) process that supplements the processes set forth for IMP review and generally this Article 12, including common decision making authority and requirements common to all zoning procedures.

SECTION 12.4.15 COMPREHENSIVE SIGN PLAN REVIEW PROCEDURE

12.4.15.1 Intent and Applicability

The comprehensive sign plan (CSP) procedure is intended to allow flexibility in the size, type, and location of signs identifying the use and location of large facilities, or other purposes as established in Division 10.10, Signs, Section 10.10.3.3, Signs Subject to a Comprehensive Sign Plan.

12.4.15.2 Review Process

A. Initiation

The following parties may initiate an application to create, amend, or repeal a comprehensive sign plan:

1. The Manager.
2. All of the owners of the entire land area subject to the application for a comprehensive sign plan or their representatives authorized in writing to do so.
3. One or more of the owners of the real property subject to the proposed comprehensive sign plan, or their authorized representatives, accompanied by a petition requesting the plan. Such petition shall, at the time of submittal, contain the signatures of the owner(s) of 51 percent or more of the total area of the Zone Lots subject to the plan.

B. Application and Fees

All applications related to comprehensive sign plans shall be filed in writing with the Zoning Administrator. The applicant shall pay all required fees at the time the application is submitted. See Section 12.3.3, Submission of Applications.

C. Review, Referral, and Final Decision

1. Zoning Administrator Review and Referral

The Zoning Administrator shall evaluate the proposed plan according to Sec. 12.4.15.3, Review Criteria, and shall send the proposed plan and a preliminary recommendation for approval, denial, or approval with conditions to the Planning Board or the Downtown Design Advisory Board, as applicable, for review and recommendation.

2. Review by Landmark Approving Authority

If the facility site falls within a district designated for preservation or the area of a structure designated for preservation according to the provisions of D.R.M.C., Chapter 30 (Landmark Preservation), the Zoning Administrator shall refer the proposed comprehensive sign plan to the landmark approving authority. The landmark approving authority shall review and determine compliance of the comprehensive sign plan with adopted standards, policies, and guidelines as set forth in D.R.M.C., Chapter 30 (Landmark Preservation). The landmark approving authority shall provide their final decision in writing to the Zoning Administrator.

3. Review by the Downtown Design Advisory Board

a. The Downtown Design Advisory Board shall review comprehensive sign plans proposed on Zone Lots within the following zone districts or areas:

   i. D-GT, D-AS-12+, D-AS-20+, D-CPV-T, D-CPV-R, and D-CPV-C Zone Districts;

   ii. D-C, D-TD, D-LD, D-CV, and D-AS Zone Districts; and

   iii. The Civic Center Area as defined in Section 10.10.20 of this Code;

b. The Downtown Design Advisory Board shall review comprehensive sign plans according to the review criteria in Section 12.4.15.3, Review Criteria and the Downtown Urban Design Standards and Guidelines.

c. The Downtown Design Advisory Board shall provide a recommendation for approval, approval with conditions, or denial to the Zoning Administrator.

4. Review by Planning Board

a. The Planning Board shall review all comprehensive sign plans not located in a Downtown zone district stated in Section 12.4.15.2.C.3.a and make a recommendation to the Zoning Administrator.

b. The applicant shall provide written and posted public notice of such public meeting according to the public notice requirements for Planning Board public hearings stated in Section 12.3.4, Public Notice Requirements.

c. The Planning Board shall review public testimony and comments, the applicable review criteria, and shall provide a recommendation for approval, approval with conditions, or denial to the Zoning Administrator.

5. Zoning Administrator Final Decision

a. The Zoning Administrator shall make a final decision to approve, approve with conditions, or deny the comprehensive sign plan application, taking into consideration relevant agency or other party comments and recommendations forwarded by the landmark approving authority, Planning Board, or Downtown Design Advisory Board. Wherever higher or more restrictive standards are established by the provisions of any other applicable statute or ordinance than are established by the provisions of this Code, the Zoning Administrator may take

the provisions of such other governing statute or ordinance into consideration in making a final decision.

b. The Zoning Administrator may attach conditions to an approval reasonably necessary to protect the health, safety, and welfare of the community and to minimize adverse impacts on adjacent properties, as authorized by this Code.

12.4.15.3 Review Criteria

The criteria for reviewing proposed comprehensive sign plans are as follows:

A. The comprehensive sign plan complies with all applicable sign standards stated in Division 10.10, Signs, including where applicable, the special provisions applicable in the Downtown (D-) zone districts and the Civic Center Area stated in Sections 10.10.16, 10.10.17, and 10.10.20.

B. The sign plan allows flexibility in the size, type and location of signs identifying the use(s) and location of a large facility, structure, or building group.

C. The sign plan shall exhibit design excellence, inventiveness, and sensitivity to the context.

D. Signs shall not be oriented or illuminated so that they adversely affect the surrounding area, particularly existing nearby residential uses or structures. Examples of adverse effects are glare from intense illumination, and large signs or structures which visually dominate an area.

E. Roof signs shall not be allowed unless such signs are designed to appear as an integral part of the building to which they are attached. Such roof signs shall not extend above any building height limit or zoning bulk plane. Portable roof signs, flashing signs, and animated signs are prohibited.

F. The comprehensive sign plan shall include design guidelines to ensure that all features of the proposed signage, including the illumination, support structure, color, lettering, height, and location, shall be designed so that it will be an attractive and complimentary feature of the building which it serves.

G. Sign design should reflect the existing or desired character of the area. As an example, in a district in which night-time entertainment is concentrated, the intent of this Comprehensive Sign Plan provision is to encourage exciting, iconographic, and inventively illuminated signage.

H. Signs shall be professionally designed and fabricated from quality, durable materials.

12.4.15.4 Effect of Approval

Once a comprehensive sign plan is approved, all signs for that facility shall be reviewed to ensure compliance with the sign plan before a permit is issued.

12.4.15.5 Changes to an Approved Comprehensive Sign Plan

A. Minor Adjustments to an Approved Comprehensive Sign Plan

The Zoning Administrator may authorize minor adjustments to a previously approved comprehensive sign plan. Any proposed minor adjustments to an approved comprehensive sign plan must be reviewed for compliance with the review criteria in Section 12.4.15.3 and any applicable standards and criteria stated in any special provisions under Division 10.10, Signs. Minor adjustments may include, but are not limited to:

1. Changes to, or addition of, allowed sign locations;

2. Reductions in allowed size of signs or number of allowed sign locations; and

3. Clarifications of standards or corrections of errors that do not constitute a significant change to the provisions and requirements of the approved comprehensive sign plan.

B. Other Changes to an Approved Comprehensive Sign Plan

Any sign changes or additions requested for the facility after the approval of the comprehensive sign plan which are not considered "minor" per Section 12.4.15.5.A must be reviewed as a new application, according to the provisions of Section 12.4.15.

12.4.15.6 Repeal of an Approved Comprehensive Sign Plan

The comprehensive sign plan repeal process set forth in this section is intended to provide a flexible process for repeal of approved comprehensive sign plans, upon which signs in the affected area would be regulated according to the appropriate section of Division 10.10 of the Denver Zoning Code.

A. Initiation

A comprehensive sign plan repeal may be initiated by any one or combination of the parties listed in Section 12.4.15.2.A, Initiation, by filing an application in writing with the Zoning Administrator.

B. Notice

Informational notice of receipt of the request to repeal the approved comprehensive sign plan shall be provided according to Sections 12.3.4.5.A, Written Notice of Receipt of Application, and 12.3.4.5.B, Posted Notice of Receipt of Application.

C. Review Process and Decision

The Zoning Administrator shall consider the relevant comments of all interested parties, and may approve the repeal of a comprehensive sign plan only upon finding that the repeal will not result in adverse impacts to the community or property owners and tenants in the affected area that have not been substantially mitigated. Upon repeal of the comprehensive sign plan, the regulation of signs in the affected area shall return to the provisions of the appropriate section(s) of Division 10.10 of the Denver Zoning Code.

SECTION 12.4.16 DELAY OF ENFORCEMENT

12.4.16.1 Intent

This section authorizes a temporary delay in enforcement of provisions of this Code to provide appellants with reasonable time extensions to comply or seek an alternative resolution to violations of this Code.

12.4.16.2 Applicability

A. The Board of Adjustment may approve a delay of enforcement for any violation listed in Section 12.11.2 of this Code.

B. This procedure for requesting a delay of enforcement is separate and independent of the variance, Section 12.4.7, or appeal of administrative decision, Section 12.4.8, procedures stated in Article 12. Concurrent applications to request one or more of these reviews may be permitted under Section 12.3.3.9, Concurrent Applications, of this Code.

12.4.16.3 Review Process

A. Initiation

The owner of the subject property, an owner or operator of a business or other land use subject to enforcement, or the authorized agent of an owner or operator, may request a delay of enforcement by making a request in writing to the Board of Adjustment within 30 days after one or more of the following has occurred:

1. Community Planning and Development has issued any order requiring compliance with the Code, or a notice of violation related to the operation of dwelling units in excess of the number authorized by this Code; or

2. Community Planning and Development has issued any order requiring compliance with the Code, or a notice of violation related to any violation listed in Section 12.11.2 of this Code.

B. Application and Fees

All applications for a request to delay enforcement shall be filed in writing according to the rules of the Board of Adjustment. The applicant shall pay all required fees at the same time the application is submitted.

C. Public Hearing and Decision by Board of Adjustment

1. Following notice and a public hearing according to the rules of the Board of Adjustment, the Board of Adjustment shall approve, approve with conditions, or deny the request for delay of enforcement based on whether the Applicant has demonstrated compliance with the applicable review criteria in Section 12.4.16.4, Review Criteria.

2. The Board of Adjustment may attach any condition to a delay of enforcement approval necessary to protect the health, safety, and welfare of the community and minimize adverse impacts on adjacent properties, including but not limited to a condition modifying operating characteristics of a nonconforming use.

12.4.16.4 Review Criteria

When the Board of Adjustment finds that the literal enforcement of the provisions of this Code will result in unnecessary hardship by reason of unique and exceptional circumstances, including the owner's physical condition, age, and/or other factors as deemed by the Board to be unique or exceptional, then the Board of Adjustment may order a delay of enforcement for no more than:

A. 5 years for operation of an excess number of dwelling units; or

B. 6 months for all other violations of this Code.

12.4.16.5 Effect of Approval

A. A delay of enforcement shall stay all enforcement activities, including accumulation of fees and penalties, on the specific violations subject to the approved delay.

B. All delays of enforcement approved by the Board of Adjustment shall be recorded in the real property records of the Denver County Clerk and Recorder.

C. A delay of enforcement shall not be a variance on the use of a premises, shall be personal to the applicant, and shall not be transferable.

D. A delay of enforcement for operation of excess dwelling units shall only allow continued operation of the excess dwelling units for use by the persons occupying such unit at the time of the Board of Adjustment's original order.

12.4.16.6 Expiration and Extensions

Upon expiration of any delay of enforcement the Board of Adjustment may review, at a public hearing, an applicant's request for an extension and may grant an extension if the Board of Adjustment finds that original condition(s) found according to Section 12.4.16.4, Review Criteria, still exists. Extensions are allowed subject to the following limitations:

A. Multiple extensions for operation of an excess number of dwelling units, not to exceed a cumulative total of 5 years from the date of the original enforcement action; or

B. One extension only for a maximum of 6 months for all other violations of this Code.

DIVISION 12.5 COMPLIANT USES

SECTION 12.5.1 INTENT

The creation in this Division of the legal status of "compliant use" is intended to provide greater flexibility than the category of "nonconforming uses" in the continuation, expansion or enlargement of existing land uses still permitted in the subject zone district, but which no longer comply with this Code's use limitations.

SECTION 12.5.2 DEFINITION

See Article 13 for definition of "Use, Compliant," and "Use, Conforming."

SECTION 12.5.3 EFFECT

12.5.3.1 Right to Continue

Compliant uses are legal uses for all purposes under this Code, and may continue to operate indefinitely.

12.5.3.2 General Allowance and Limitation on Expansion

A. Provided it continues to comply with all provisions of this Division, any compliant use may continue in operation on the same Zone Lot and on the same floor area in a structure that was occupied by the compliant use on the date the use first became a compliant use.

B. Except as authorized in this Division 12.5, the Zone Lot or the floor area in a structure devoted to the operation and maintenance of a compliant use shall not be increased if the extent or degree of noncompliance with this Code is increased.

C. Continuance authorized in this Division shall not be construed to permit an increase in the number of dwelling units, a reduction of the ratio of land area to the number of dwelling units, or a change in any aspect of or the character of the compliant use that increases the amount, extent, or degree of noncompliance. This subsection shall not be construed to prohibit changes in the compliant use that result in a decrease in the amount, extent, or degree of noncompliance (e.g., a reduction in the floor area of the compliant use).

D. A compliant Automobile Services, Light, use containing an Automobile Fueling Station may be modified or relocated on the same Zone Lot or within the floor area of a structure occupied by the compliant use to allow reasonable siting of Electric Vehicle Supply Equipment, provided the change to the compliant use does not result in an increase in the amount, extent or degree of noncompliance and continues to comply with all provisions of this Division. This subsection shall not be construed to permit an increase in the number of automotive fuel pumps.

12.5.3.3 Zoning Administrator Authority to Allow Limited Expansions

A. Zoning Administrator Authority in Special Cases Only

1. The Zoning Administrator may authorize, upon application in specific cases, an exception permitting an increase in either or both the Zone Lot area or the floor area in a structure or structures occupied by a compliant use as are necessary and essential to enable the owner of the use to comply with lawful requirements of the federal, state, or municipal governments; or

2. As a result of an act of government through vacation of right-of-way that creates private land area abutting an existing Zone Lot, for that newly created private land, the Zoning Administrator may authorize, upon application in specific cases, an exception permitting the existing compliant use on the existing Zone Lot to expand in Zone Lot area, but not floor area in a structure or structures, onto the newly created private land.

B. Procedure and Required Findings

All applications for an allowance under this Section 12.5.3.3 shall be reviewed according to the procedures stated in Section 12.4.1, Zoning Permit Review. In addition to the review criteria stated in Section 12.4.1, the Zoning Administrator shall grant an allowance only upon finding the following conditions exist:

1. That the use is a compliant use as defined in this Code, and is in full compliance with all requirements of this Code applicable to compliant uses, and

2. The Zoning Administrator has found that the application complies with Section 12.5.3.3.A.

C. Effect of Approval

Every allowance authorized by this Section 12.5.3.3 shall run with the land only after construction of any authorized structure or structures and only for the life of such structure or structures.

12.5.3.4 Board of Adjustment Authority to Grant Variances for Expansion

The Board of Adjustment is authorized under its power to grant variances to permit an increase in the floor area occupied by a compliant use in an existing structure, subject to the procedures and applicable criteria stated in Section 12.4.7, Variance.

SECTION 12.5.4 TERMINATION OF COMPLIANT USES

12.5.4.1 By Changes in Use

A. To a Conforming Use

Changing a compliant use to a conforming use shall terminate the rights of the compliant use, and any re-establishment of the compliant use shall comply with all applicable use limitations in this Code.

B. To a Temporary Use

Changing a compliant use to a temporary use properly permitted under the provisions of this Code shall not terminate the rights of the compliant use.

12.5.4.2 By Abandonment

Abandonment of a compliant use shall terminate immediately the right to operate such compliant use.

12.5.4.3 By Violation of this Code

A. Unless remedied according to Subsection 12.5.4.3.B below, any one of the following violations of this Code shall terminate the right to operate a compliant use:

1. Failure to make a compliant use comply with the limitations on external effects of uses as established by this Code;

2. Increasing the floor area occupied by a compliant use without the approval of the Board of Adjustment or the Zoning Administrator for such increase, as applicable; or

3. Changing a compliant use to an unlawful use.

B. Any of the following actions shall allow continuance of a compliant use in the event of a violation of this Code:

1. Approval of a zoning variance that grants specific relief from compliance with the provision of the Code at issue in the use termination case. The Board of Adjustment shall act on such variance application within 120 days from the date the Zoning Administrator determines such use is in violation of this Code. For good cause, the Zoning Administrator may grant an extension of the 120-day period for up to one additional 90-day period. Grant of a variance according to this subsection shall not change the legal status of the use as "compliant."

2. The Zoning Administrator finds that the violation is completely remedied within 90 days from the date the Zoning Administrator determines such use is in violation of this Code.

3. The subject property owner submits a mitigation plan to the Zoning Administrator that proposes specific steps and time frames the owner will take to remedy the violation by a date certain, but in no case longer than 180 days from the date the Zoning Administrator of the City determines such use is in violation of this Code. The Zoning Administrator shall take final action to either approve, approve with conditions, or deny the mitigation plan. For good cause, the Zoning Administrator may grant an extension of the mitigation period for up to one additional 180-day period.

4. This Section 12.5.4.3.B, which allows continuance of a compliant use if a violation of a type listed in Section 12.5.4.3.A is remedied, may be invoked and applied only one time to the same compliant use. After remedying a violation of the Code according to this Section 12.5.4.3.B, any future Code violation of a type prohibited in Section 12.5.4.3.A shall result in the automatic termination by law of the compliant use.

12.5.4.4 By Vacancy

Vacancy for a period of 12 or more successive calendar months of the structure or that part of a structure occupied by the compliant use shall terminate immediately the right to operate such compliant use.

12.5.4.5 By Destruction, Damage or Obsolescence of Structure Housing Compliant Use

A. Involuntary Destruction or Damage

The right to operate and maintain any compliant use shall terminate and shall cease to exist whenever the structure in which the compliant use is operated and maintained is damaged or destroyed, from any cause whatsoever, and the cost of repairing such damage or destruction exceeds 50 percent of the replacement cost of such structure on the date of such damage or destruction; provided, however, that the right to operate and maintain a compliant residential use located in a Residential Zone District or a compliant use located in a C-CCN zone district shall not be terminated regardless of the amount of damage or destruction suffered by the structure in which the use is operated.

B. Obsolete or Substandard Structure

The right to operate and maintain any compliant use shall terminate and shall cease to exist whenever the structure in which the compliant use is operated and maintained becomes obsolete or substandard under any applicable ordinance of the city and the cost of placing such structure in lawful compliance with the applicable ordinance exceeds 50 percent of the replacement cost of such structure on the date that the Zoning Administrator determines such structure is obsolete or substandard; provided, however, that in determining the replacement cost of any structure, there shall not be included therein the cost of land or any factors other than the structure itself.

C. Voluntary Demolition

Nothing in this subsection shall be deemed to permit the reconstruction or reestablishment of all or any part of a compliant use whenever the structure in which the compliant use is operated and maintained has been voluntarily demolished.

SECTION 12.5.5 DETERMINATION OF COMPLIANT STATUS

Compliant status shall be determined by the Zoning Administrator.

DIVISION 12.6 COMPLIANT STRUCTURES

SECTION 12.6.1 INTENT

The creation in this Division of the legal status of "compliant structures" is intended to provide greater flexibility than the more restrictive category of "nonconforming structures" in the continuation, expansion or enlargement of existing structures that no longer comply with certain requirements of this Code's building form standards.

SECTION 12.6.2 DEFINITION

See Article 13 for definitions of "Structure, Compliant," "Structure, Conforming," and "Structure, Nonconforming."

SECTION 12.6.3 EFFECT

12.6.3.1 Right to Continue

Compliant structures are legal structures for all purposes under this Code, and may continue to be occupied, operated, and maintained as is, subject to any limitations in this Division 12.6 or unless terminated as provided in this Division 12.6.

12.6.3.2 Expansions, Alterations, Enlargements to Compliant Structures

A. Applicability

1. This Section 12.6.3.2 applies to any compliant structure in all zone districts.
2. This Section 12.6.3.2 applies to any compliant structure that was rebuilt under Section 12.6.3.3, Voluntary Demolition and Reconstruction.

B. General Allowance

1. Subject to all limitations of this Division 12.6, any compliant structure may be occupied, operated, and maintained in a good state of repair.
2. Subject to all limitations of this Code, compliant structure may be altered or enlarged if either of the following conditions exist:
   a. No existing compliant element of the structure is increased and no new compliant element or nonconformity is created; or
   b. An allowance under Sections 12.6.3.2.D through F. applies.

C. Documentation Required

In addition to the general submittal requirements under this Code and pursuant to the Denver Building and Fire Code, an application to permit expansions, alterations, or enlargements to a compliant structure according to Section 12.6.3.2.D-E below shall include the documentation described in Section 12.6.3.3.D.3.b below.

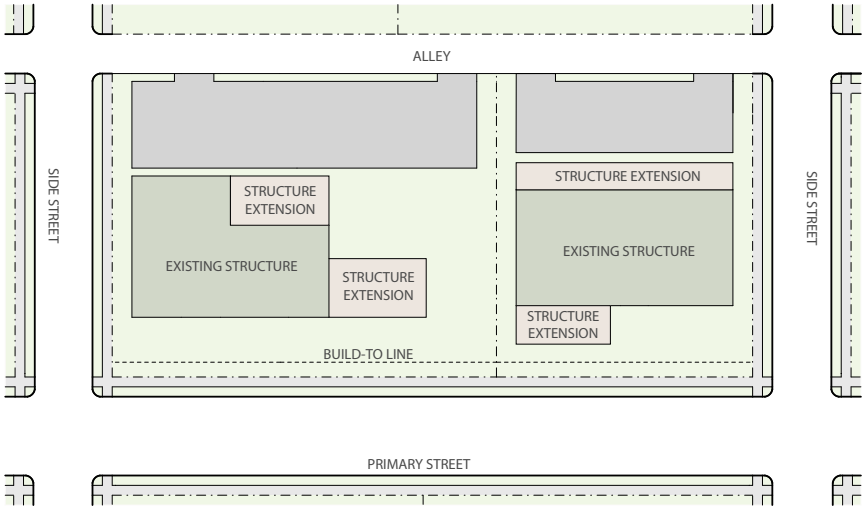
D. Required Build-to Standards - Expansions, Enlargements and Alterations Allowed without Full Compliance

1. Compliant structures that do not meet the requirements of the Primary or Side Street build-to standards may be altered without fully complying with the Primary or Side Street build-to standards provided that, if some portion of the compliant structure meets the build-to requirement, no alteration (including demolition) is permitted that would reduce the amount of that existing facade meeting the build-to requirement.
2. For any expansion or enlargement that does not fully comply with the Primary or Side Street build-to standards, and that expands the building's gross floor area by more than 25% cumulatively after June 25, 2010, shall comply with perimeter parking lot

landscaping standards for surface parking located between the building and the Primary Street set forth in Division 10.5, Landscaping, Fences, Walls and Screening. See Figures 12.6-1 and 12.6-2 illustrating permitted alterations to compliant structures that do not meet Primary or Side Street build-to standards.

Figure 12.6-1

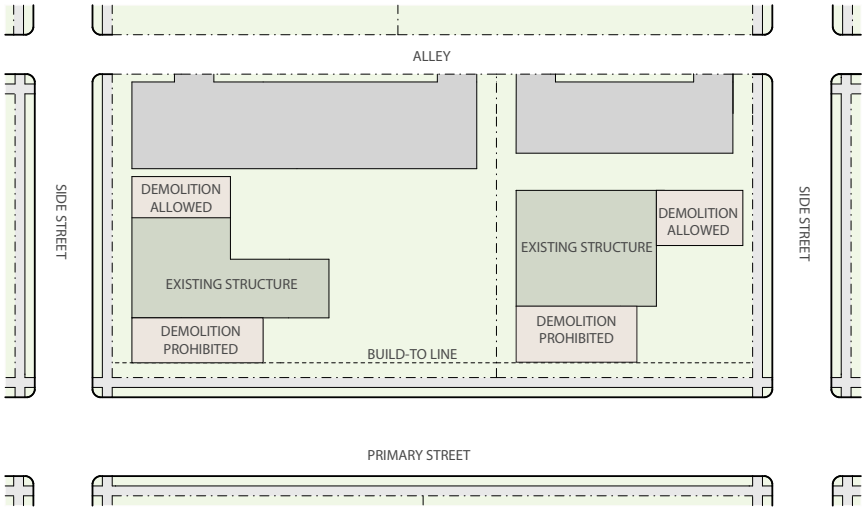
Not to Scale. Illustrative Only.



ENLARGEMENT OR EXTENSION OF A COMPLIANT STRUCTURE - ALLOWED

Figure 12.6-2

Not to Scale. Illustrative Only.

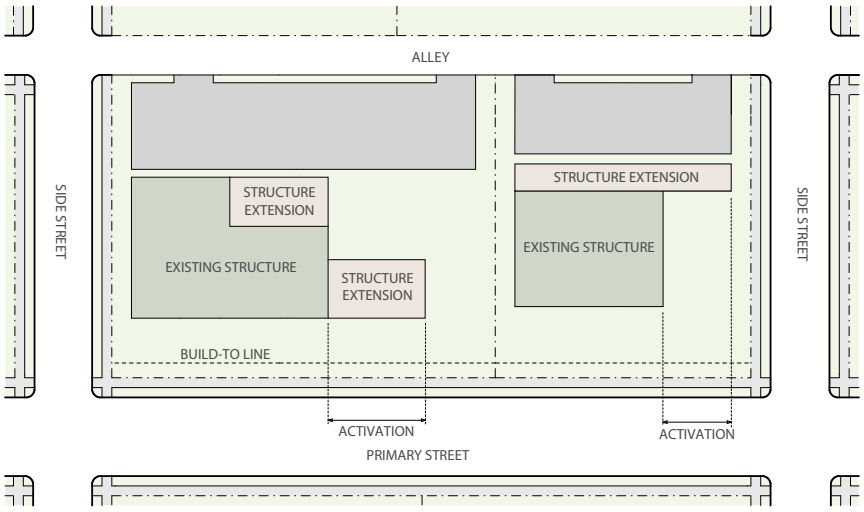


DEMOLITION OF COMPLIANT STRUCTURE ALLOWED/PROHIBITED

E. Required Street Level Activation Standards - Expansions, Enlargements and Alterations Allowed without Full Compliance

Compliant structures that do not meet the Street Level activation standards of this Code may be expanded without fully complying with the Street Level activation standards; however, any addition to the structure located within 80 feet of the Primary Street or Side Street where a Street Level activation standard applies must meet the Street Level activation standard and no alteration may be made that further reduces the structure's compliance with the transparency requirement. See Figure 12.6-3.

Figure 12.6-3 *Not to Scale. Illustrative Only.*



STREET LEVEL ACTIVATION STANDARDS APPLY TO COMPLIANT STRUCTURES

F. Required Side Setback - Expansions, Enlargements and Alterations Allowed without Full Compliance

An addition to a Compliant Structure may encroach into the required Side Street Setback or required Side Interior Setback, if all of the following conditions are met:

1. The Compliant Structure is located in a Residential Zone District and contains a residential Primary Use or a use accessory to a residential Primary Use;
2. A minimum of one-half of the Side Wall Length of the existing Compliant Structure encroaches into the applicable required Side Street Setback or Side Interior Setback;
3. The Side Wall Length of the proposed addition shall not exceed the length of the portion of the Compliant Structure that encroaches into the applicable required Side Street Setback or Side Interior Setback;
4. No wall or roof of the proposed addition to be built within the required side setback shall be higher than the existing wall or roof to which it is attached, except that an existing roof structure may be removed and replaced to provide alignment with the wall or roof of the proposed addition; and
5. No Exterior Wall or Roof of the proposed addition to be built within the required Side Street Setback or Side Interior Setback shall extend closer to the Side Street Zone Lot Line or Side Interior Zone Lot Line than the existing Exterior Wall or Roof to which it is attached.

G. Surface Parking Between Primary Street and Side Street - Expansions, Enlargements and Alterations Allowed without Full Compliance

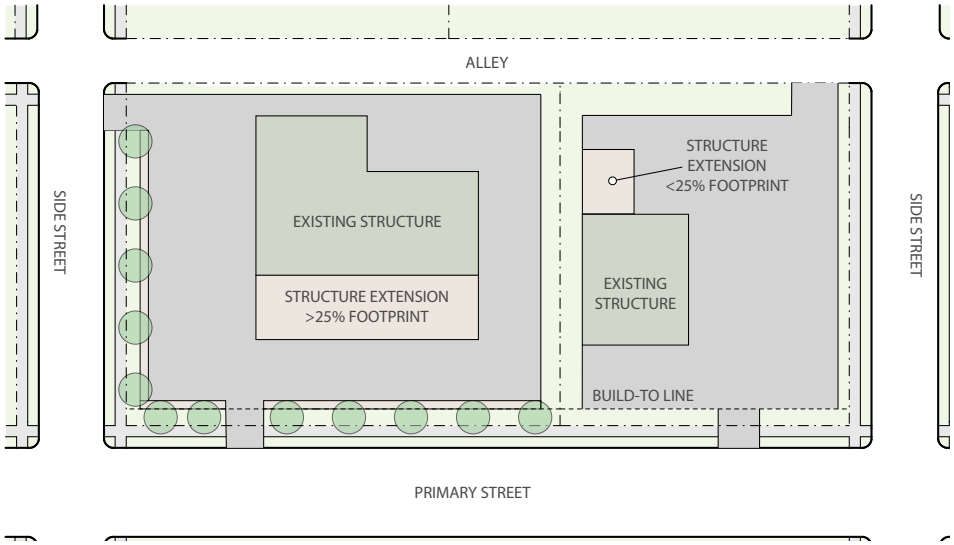
Compliant Structures that do not meet the Surface Parking between the Primary Street and Side Street standards of this Code may be altered without fully complying with the Surface Parking between Primary Street and Side Street standards. Such Compliant Structures may be expanded, enlarged, and altered resulting in parking located between a building and a primary or side street provided that:

1. Off-Street Parking may be established or expanded only if it meets the Surface Parking between the Primary Street and Side Street standards; and

2. Any expansion or enlargement that expands the building's Gross Floor Area by more than 25% cumulatively after June 25, 2010 shall comply with perimeter parking lot landscaping standards for Surface Parking located between the building and any street set forth in Division 10.5. See Figure 12.6.4:

Figure 12.6-4

Not to Scale. Illustrative



12.6.3.3 Voluntary Demolition and Reconstruction

A. Intent

This Section 12.6.3.3 intends to accommodate reasonable upgrades and improvements to Compliant Structures, including repairs and upgrades that change a structure's Exterior Walls, without triggering compliance for the structure with all applicable zone district standards. Accordingly, this Section clarifies the general rule and exceptions for when "Voluntary Demolition" requires the Compliant Structure or its reconstruction to comply with all applicable zone district standards.

B. Applicability

This Section 12.6.3.3 shall apply to:

1. The Voluntary Demolition of a Compliant Structure, and

2. Any proposed alteration to a Compliant Structure, where the alteration retains portions of existing, legally-established construction causing the Structure to be a Compliant Structure.

The term "Voluntary Demolition or Voluntarily Demolished" is defined in Article 13 of this Code.

C. General Rule: Compliance Required Upon Voluntary Demolition

A Compliant Structure that is Voluntarily Demolished shall be reconstructed only in full compliance with all applicable zone district standards, unless eligible for a limited exceptions in Sections 12.6.3.3.D-E. below.

D. Exception in the CC, MX, MS and I-MX Zone Districts

1. Applicability

a. This Section 12.6.3.3.D applies only in the CC, MX, MS, and I-MX zone districts.

b. This Section 12.6.3.3.D applies only to structures that were conforming on June 24, 2010 and shall not apply to structures that were nonconforming on June 24, 2010.

c. This Section 12.6.3.3.D shall not apply to any additions or expansions built under Section 12.6.3.3.

d. A compliant structure that has been rebuilt per this Section 12.6.3.3.D may thereafter be voluntarily demolished and rebuilt per this Section 12.6.3.3.D, or in full compliance with all applicable zone district standards.

2. General Rules for Reconstruction After Voluntary Demolition

A compliant structure that is voluntarily demolished may be reconstructed either:

a. In full conformance with all applicable zone district standards; or

b. According to Section 12.6.3.3.D.3, "As Was" Reconstruction of Compliant Structures, below.

3. "As Was" Reconstruction of Compliant Structures

After voluntary demolition, a compliant structure may be reconstructed as it existed on June 24 2010, in compliance with the following conditions:

a. The area and dimensions of the Zone Lot on which the replacement structure will be constructed are the same that existed on June 24, 2010.

b. The applicant provides an improvement location survey prepared by a Qualified Professional describing the area and dimensions of the Zone Lot and the Compliant Structure's dimensions and location relative to zone lot lines. Documentation shall also include the dimensions and location of surface parking serving the compliant structure, dimensions and location of other structures and landscape features, and existing exterior elevation drawings of the compliant structure that describe dimensions of building height and all exterior features and fenestration.

c. All provisions of this Code shall apply except where compliance is not possible because of the location or dimensions of the replacement structure, required vehicle access to the Zone Lot, accessory parking spaces, or due to existing gas tank location and the impracticality of moving such tanks. For any reconstruction that does not fully comply with the Primary or Side Street Build-To standards, a garden wall shall be provided within 0 feet to 15 feet from the Zone Lot Line for 100% of the Primary and Side Street frontage, excluding required vehicle access points and any portions of building located within the 0 feet to 15 feet range. The Zoning Administrator may approve an alternative to the required garden wall when on-site circulation constraints prevent installation of a garden wall, provided the alternative results in separating pedestrian activity from on-site vehicle circulation areas.

d. The applicant shall obtain a zoning permit within one year of receiving a demolition permit for the compliant structure.

E. Other Exceptions - Zoning Administrator Authority to Determine

Based on the intent stated above, the Zoning Administrator may find that proposed exterior changes or modifications do not constitute “Voluntary Demolition” when the Zoning Administrator finds such action may be considered maintaining the structure “in a good state of repair” per Section 12.6.3.2.B.1, General Allowance.

12.6.3.4 Involuntary Destruction or Damage to Structure - Reconstruction Allowed

A compliant structure that is involuntarily damaged or demolished in any manner and from any cause may be reconstructed as it previously existed. Any expansion or extension of such structure shall be subject to the standards governing expansions, alterations and enlargements in Section 12.6.3.2 above.

SECTION 12.6.4 DETERMINATION OF COMPLIANT STATUS

Compliant status shall be determined by the Zoning Administrator.

DIVISION 12.7 NONCONFORMING USES

SECTION 12.7.1 INTENT

The creation in this Division of the legal status of "nonconforming use" assures that land uses no longer permitted in a zone district are strictly limited in their right to continue, expand, or enlarge. Such nonconforming land uses are presumed to be incompatible with permitted uses in the zone district, typically because the nature or scale of the nonconforming use's operation create adverse impacts on surrounding properties or the character of the surrounding neighborhood context. Accordingly, the provisions in this Division 12.7 encourage nonconforming uses, over time, to terminate or relocate to a zone district where they are permitted.

SECTION 12.7.2 APPLICABILITY

12.7.2.1 Division 12.7 applies to all nonconforming uses. For purposes of this Code, "nonconforming use" means any use which, at the time the use was first permitted or initiated, was lawfully operated, and has since that time been continuously lawfully operated, but which use is not a "conforming use" as defined in this Code and is not a "compliant use" as defined in this Code.

12.7.2.2 Nonconforming outdoor general advertising devices (billboards) and other nonconforming signs shall be subject to the nonconforming sign provisions in Division 12.9 of this Article instead of the nonconforming use standards stated in this Division 12.7.

SECTION 12.7.3 LIMITED CONTINUANCE OF NONCONFORMING USES ALLOWED

12.7.3.1 General Allowance and Limitation on Expansion

A. Provided it continues to comply with all provisions of this Section, any Nonconforming Use may be continued in operation on the same Zone Lot and on the same floor area in a Structure that was occupied by the Nonconforming Use on the date the use first became a Nonconforming Use.

B. Except as authorized in Section 12.7.3.3, the Zone Lot or the floor area in a Structure devoted to the operation and maintenance of a Nonconforming Use shall not be increased.

C. The continuance authorized hereunder shall not be construed to permit an increase in the number of dwelling units, a reduction of the ratio of Zone Lot area to the number of Dwelling Units, or a change in any aspect or the character of the Nonconforming Use that increases the amount, extent, or degree of nonconformity. This subsection shall not be construed to prohibit changes in the Nonconforming Use that result in a decrease in the amount, extent or degree of nonconformity (e.g., a reduction in the floor area of the Nonconforming Use).

12.7.3.2 Zoning Administrator Authority to Allow Limited Expansions

A. Zoning Administrator Authority in Special Cases Only

1. The Zoning Administrator may authorize, upon application in specific cases, an exception permitting an increase in either or both the Zone Lot area or the floor area in a structure or structures occupied by a nonconforming use as are necessary and essential to enable the owner of the use to comply with lawful requirements of the federal, state, or municipal governments; or

2. As a result of an act of government through vacation of right-of-way that creates private land area abutting an existing Zone Lot, for that newly created private land, the Zoning Administrator may authorize, upon application in specific cases, an exception permitting the existing nonconforming use on the existing Zone Lot to expand in Zone Lot area, but not floor area in a structure or structures, onto the newly created private land.

B. Procedure and Required Findings

All applications for an allowance under this Section 12.7.3.2 shall be reviewed according to the procedures stated in Section 12.4.1, Zoning Permit Review. In addition to the review criteria stated in Section 12.4.1, the Zoning Administrator shall grant an allowance only upon finding the following conditions exist:

1. That the use is a nonconforming use as defined in this Code, is in full compliance with all requirements of this Code applicable to nonconforming uses, and is not a nonconforming use which, by the provisions of this Code, is to be terminated by operation of law; and

2. The Zoning Administrator has found that the application complies with Section 12.7.3.2.A.

C. Effect of Approval

Every allowance authorized by this Section 12.7.3.2 shall run with the land only after construction of any authorized structure or structures and only for the life of such structure or structures.

12.7.3.3 Board of Adjustment Authority to Grant Variances for Expansion

The Board of Adjustment is authorized under its power to grant variances to permit an increase in the floor area occupied by a nonconforming use in an existing structure, subject to the procedures and applicable criteria stated in Section 12.4.7, Variance.

SECTION 12.7.4 COMPLIANCE WITH LIMITATIONS ON EXTERNAL EFFECTS OF USES

Every nonconforming use shall comply with the limitations on external effects of uses established for the zone district in which such use is located.

SECTION 12.7.5 ZONE LOT FOR STRUCTURES CONTAINING NONCONFORMING USES

Whenever a nonconforming use or uses is operated in a structure, a separate Zone Lot shall be designated, provided, and Continuously Maintained for the structure containing the nonconforming use or uses. Each Zone Lot shall have at least one Primary Street Zone Lot Line. Upon application to and approval by the Zoning Administrator, the boundaries and area of a designated Zone Lot may be amended if full compliance with all requirements of this Code can be maintained.

SECTION 12.7.6 MAINTENANCE OF OFF-STREET PARKING AND LOADING SPACES

All off-street parking and loading space operated by, in connection with, or accessory to a nonconforming use shall be maintained in accordance with all specifications for maintenance of off-street parking space as established by this Code.

SECTION 12.7.7 TERMINATION OF NONCONFORMING USES

12.7.7.1 By Change in Use

A. To a Conforming Use

Changing any nonconforming use to a conforming use shall terminate the nonconforming use and the nonconforming use shall not be reestablished.

B. To a Temporary Use

Changing a nonconforming use to a temporary use properly permitted under the provisions of this Code shall not terminate the nonconforming use.

12.7.7.2 By Abandonment

Abandonment of a nonconforming use shall terminate immediately the right to operate such use.

12.7.7.3 By Violation of this Code

A. Unless remedied according to Subsection 12.7.7.3.B below, any one of the following violations of this Code shall terminate the right to operate a nonconforming use:

1. Failure to make a nonconforming use comply with the limitations on external effects of uses as established by this Code;

2. Increasing the floor area occupied by a nonconforming use without the approval of the Board of Adjustment or the Zoning Administrator for such increase, as applicable;

3. Increasing the number of dwelling units in the nonconforming use; or

4. Changing a nonconforming use to an unlawful use.

B. Any of the following actions shall allow continuance of a nonconforming use in the event of a violation of this Code:

1. Approval of a zoning variance that grants specific relief from compliance with the provision of the Code at issue in the use termination case. The Board of Adjustment shall act on such variance application within 120 days from the date the Zoning Administrator determines such use is in violation of this Code. For good cause, the Zoning Administrator may grant an extension of the 120-day period for up to one additional 90-day period. Grant of a variance according to this subsection shall not change the legal status of the use as "nonconforming."

2. The Zoning Administrator finds that the violation is completely remedied within 90 days from the date the Zoning Administrator determines such use is in violation of this Code.

3. The subject property owner submits a mitigation plan to the Zoning Administrator that proposes specific steps and time frames the owner will take to remedy the violation by a date certain, but in no case longer than 180 days from the date the Zoning Administrator of the City determines such use is in violation of this Code. The Zoning Administrator shall take final action to either approve, approve with conditions, or deny the mitigation plan. For good cause, the Zoning Administrator may grant an extension of the mitigation period for up to one additional 180-day period.

4. This Section 12.7.7.3.B, which allows continuance of a nonconforming use if a violation of a type listed in Section 12.7.7.3.A is remedied, may be invoked and applied only one time to the same nonconforming use. After remedying a violation of the Code according to this Section 12.7.7.3.B, any future Code violation of a type prohibited in Section 12.7.7.3.A shall result in the automatic termination by law of the nonconforming use.

12.7.7.4 By Vacancy

Vacancy for a period of 12 or more successive calendar months of the structure or that part of a structure occupied by the nonconforming use shall terminate immediately the right to operate a nonconforming use.

12.7.7.5 By Destruction, Damage or Obsolescence of Structure Housing Nonconforming Use

A. Involuntary Destruction or Damage

The right to operate and maintain any nonconforming use shall terminate and shall cease to exist whenever the structure in which the nonconforming use is operated and maintained is damaged or destroyed, from any cause whatsoever, and the cost of repairing such damage or destruction exceeds 50 percent of the replacement cost of such structure on the date of such damage or destruction; provided, however, that the right to operate and maintain a nonconforming residential use located in a Residential Zone District or a nonconforming use located in a C-CCN zone district shall not be terminated regardless of the amount of damage or destruction suffered by the structure in which the use is operated.

B. Obsolete or Substandard Structure

The right to operate and maintain any nonconforming use shall terminate and shall cease to exist whenever the structure in which the nonconforming use is operated and maintained becomes obsolete or substandard under any applicable ordinance of the city and the cost of placing such structure in lawful compliance with the applicable ordinance exceeds 50 percent of the replacement cost of such structure on the date that the Zoning Administrator determines such structure is obsolete or substandard; provided, however, that in determining the replacement cost of any structure, there shall not be included therein the cost of land or any factors other than the structure itself.

C. Voluntary Demolition

Nothing is this subsection shall be deemed to permit the reconstruction or reestablishment of all or any part of a nonconforming use whenever the structure in which the nonconforming use is operated and maintained has been voluntarily demolished.

SECTION 12.7.8 SIGNS FOR NONCONFORMING USES

12.7.8.1 As accessory to a nonconforming use, no sign shall be erected except in compliance with the following regulations:

A. Accessory to a nonconforming use which is a use by right for the MU districts, but which is located in a SU, TU, TH, or RH zone district, signs shall comply with the regulations herein established for permitted signs in the lowest-height multi-unit (MU) zone district allowed in the applicable neighborhood context.

B. Accessory to a nonconforming use which is a use by right in any Mixed Use Commercial Zone District, but which is located in any Residential Zone District, signs shall comply with the regulations herein established for permitted signs in the MS-2x zone district.

C. Accessory to a nonconforming use which is a use by right in a Mixed Use Commercial Zone District having less restrictive sign standards than the Mixed Use Commercial Zone District in which the use is located, signs shall comply with the regulations herein established for permitted signs in the MS-3 zone district.

D. Accessory to a nonconforming use which is a use by right in an Industrial Mixed Use Zone District (I-MX), but which is located in any Industrial Zone District, signs shall comply with the regulations herein established for permitted signs in the MX-3 zone district.

SECTION 12.7.9 REGULATIONS FOR SPECIFIC NONCONFORMING HEAVY AUTOMOBILE SERVICE USES

Notwithstanding fence and wall height limitations stated in this Code, no nonconforming heavy automobile service use shall be operated unless the Zone Lot is enclosed with a solid fence or wall that is constructed to a height adequate to conceal any vehicles, equipment, or parts stored on the site. Such solid fence or wall shall comply with the following standards:

12.7.9.1 The front line of the Zone Lot shall not be required to have a fence or wall directly in front of the main building wall or main entrance to the principal structure;

12.7.9.2 The front line of the Zone Lot shall not be required to have a fence or wall along more than 40 percent of it's length;

12.7.9.3 Any portion of the Zone Lot Line that contains a building wall need not have a separate fence or wall;

12.7.9.4 If the owner or operator demonstrates to the Zoning Administrator that an alternate method of screening (for example, vegetation) would be adequate to screen some or all of the Zone Lot, the Zoning Administrator may approve such alternate screening method; and

12.7.9.5 The fence or wall shall be constructed of wood, brick, masonry or other similar quality and durable materials as approved by the Zoning Administrator.

SECTION 12.7.10 DETERMINATION OF NONCONFORMING STATUS

Nonconforming status shall be determined by the Zoning Administrator.

This page intentionally left blank.

DIVISION 12.8 NONCONFORMING STRUCTURES

SECTION 12.8.1 INTENT

The creation in this Division of the legal status of "nonconforming structure" assures that structures that no longer comply with the building form standards of the applicable zone district are strictly limited in their right to physically alter, expand, enlarge, or rebuild. Such nonconforming structures are presumed to be incompatible with the neighborhood context and built character sought in the zone district, typically because of the nonconforming structure's mass or scale, site placement, or building design. Accordingly, the provisions in this Division 12.8 encourage redevelopment of or alterations to such nonconforming structures to ultimately achieve full compliance with the zone district's building form standards.

SECTION 12.8.2 APPLICABILITY

12.8.2.1 General Applicability

Division 12.8 shall apply to all Nonconforming Structures. See Article 13, Division 13.3, for definition of "Structure, Nonconforming."

12.8.2.2 Applicability to Nonconforming Structures with Compliant Elements

A Structure that meets the definition of a Nonconforming Structure but includes a building element(s) that fails to comply with one or more of the Building Form Standards listed in the definition of Compliant Structure ("compliant element(s)") may apply any provision specific to such compliant element stated in Section 12.6.3.2, Expansions, Alterations, Enlargements to Compliant Structures.

> **Example:** A Residential Structure that fails to meet both the current minimum side interior setback and bulk plane envelope for the applicable Urban House building form is a Nonconforming Structure with a compliant element as to side interior setback, and may take advantage of the provisions that allow limited expansion or alteration of such compliant element stated in Section 12.6.3.2.

SECTION 12.8.3 CONTINUANCE AND ENLARGEMENT

12.8.3.1 General Allowance to Continue and Enlarge Nonconforming Structures

A. Subject to all limitations of this Division 12.8, any nonconforming structure may be occupied, operated, and maintained in a good state of repair.

B. Subject to all limitations of this Code, any nonconforming structure may be altered or enlarged so long as no existing nonconformity is increased and no new nonconformity is created.

SECTION 12.8.4 TERMINATION OF NONCONFORMING STRUCTURES

12.8.4.1 Involuntary Destruction or Damage to Structure

The right to operate and maintain any nonconforming structure shall terminate and shall cease to exist whenever the nonconforming structure is damaged or demolished in any manner and from any cause whatsoever and the cost of repairing such damage or demolition exceeds 75 percent of the replacement cost of such structure on the date of such damage or demolition.

12.8.4.2 Obsolescence of Structure

The right to operate and maintain any nonconforming structure shall terminate and shall cease to exist whenever the nonconforming structure becomes obsolete or substandard under any applicable ordinance of the city and the cost of placing such structure in lawful compliance with the applicable ordinance exceeds 50 percent of the replacement cost of such structure on the date that the Zoning Administrator determines that such structure is obsolete or substandard.

12.8.4.3 Determination of Replacement Cost

In determining the replacement cost of any nonconforming structure there shall not be included therein the cost of land or any factors other than the nonconforming structure itself.

12.8.4.4 The Right to Reconstruct Certain Structures

Notwithstanding the provisions of subsections 12.8.4.1, 12.8.4.2, and 12.8.4.3, the right to operate and maintain any of the nonconforming structures listed below shall not be terminated regardless of the amount of damage, destruction or obsolescence; provided, however, that any such reconstructed nonconforming structures shall not be enlarged and/or extended beyond that which existed previously unless the enlargement and/or extension complies with all the provisions of this Code.

A. A nonconforming structure containing a residential use, congregate living use, or a residential care use located in a Residential Zone District, or

B. A nonconforming structure located in a C-CCN zone district; or

C. A structure located in the D-C or D-TD zone district that became a nonconforming structure on October 14, 1994, as a result of (a) changes to the prior B-5 zone district changing the floor area premiums and maximum gross floor area of structures; or (b) the creation of the OD-2, OD-3 and OD-4 overlay districts regarding maximum building height or sunlight preservation requirements; or

D. A nonconforming structure located in the D-GT zone district; or

E. A structure located in a Residential Zone District that became a nonconforming structure on June 26, 1998, as a result of the creation the OD-6, OD-7 and OD-8 overlay districts, or

F. A residential structure located in a SU zone district that became a nonconforming structure July 21, 2008, as a result of the creation of the OD-10 overlay district.

12.8.4.5 Voluntary Demolition

A. Intent

This Section 12.8.4.5 intends to accommodate reasonable upgrades and improvements to Nonconforming Structures, including repairs and upgrades that change a structure's Exterior Walls, without triggering full compliance for the structure with the applicable zone district standards. Accordingly, this Section clarifies the general rule and exceptions for when "Voluntary Demolition" requires the Nonconforming Structure to fully comply with all applicable zone district standards.

B. Applicability

This Section 12.8.4.5 shall apply to:

1. The Voluntary Demolition of a Nonconforming Structure, and

2. Any proposed alteration to a Nonconforming Structure, where the alteration retains portions of existing, legally-established construction causing the structure to be nonconforming.

The term "Voluntary Demolition or Voluntarily Demolished" is defined in Article 13 of this Code.

C. General Rule: Compliance Required Upon Voluntary Demolition

A Nonconforming Structure that is Voluntarily Demolished shall be reconstructed only in compliance with all applicable zone district standards, unless eligible for a limited exception in Sections 12.8.4.5.D. below.

D. Exceptions - Zoning Administrator Authority to Determine

Based on the intent stated above, the Zoning Administrator may find that proposed exterior changes or modifications do not constitute "Voluntary Demolition" when the Zoning Administrator finds such action may be considered maintaining the structure "in a good state of repair" per Section 12.8.3.1.A, General Allowance to Continue and Enlarge Nonconforming Structures.

SECTION 12.8.5 DETERMINATION OF NONCONFORMING STATUS

Nonconforming status shall be determined by the Zoning Administrator.

This page intentionally left blank.

DIVISION 12.9 NONCONFORMING SIGNS

SECTION 12.9.1 NONCONFORMING ON-PREMISE SIGNS

12.9.1.1 Intent and Declaration of Public Policy

It is reasonable that a time limit be placed upon the continuance of existing nonconforming signs. An amortization program permits the owner to plan during a period when the owner is permitted to continue the nonconforming signs while at the same time assuring that the district in which the nonconforming signs exist will eventually benefit from a substantial uniformity of permanent signs.

12.9.1.2 Definition of Nonconforming On-Premise Signs

A nonconforming sign shall be any sign other than an outdoor general advertise device, which:

A. On June 25, 2010, was lawfully maintained and had been lawfully erected in accordance with the provisions of any prior zoning ordinance but which sign does not conform to the limitations established by this Code on June 25, 2010, in the zone district in which the sign is located; or

B. On or after June 25, 2010, was lawfully maintained and erected in accordance with the provisions of this Code effective June 25, 2010, but which sign, by reason of amendment to this chapter effective June 25, 2010, after the effective date, does not conform to the limitations established by the amendment to this chapter effective June 25, 2010, in the zone district in which the sign is located.

12.9.1.3 Continuance of Nonconforming Signs

Subject to the termination hereinafter provided, any nonconforming sign may be continued in operation and maintained after June 25, 2010; provided, however, that no such nonconforming sign shall be changed in any manner that increases the noncompliance of such nonconforming sign with the limitations established by the this Code effective June 25, 2010, or any amendment to this Code in the zone district in which the sign is located; and provided further, that the right to continue in operation and maintain any nonconforming sign shall be conditioned on the use by right not having more signs than permitted for the particular zone district in which the use by right is located, and that no such nonconforming sign shall flash, blink, fluctuate, be animated or portable.

12.9.1.4 Determination of Nonconforming Status

Nonconforming status shall be determined by the Zoning Administrator.

12.9.1.5 Termination of Nonconforming Signs

The following actions shall result in the termination immediately of the right to maintain a nonconforming sign:

A. By Abandonment

Abandonment of a nonconforming sign shall terminate immediately the right to maintain such sign.

B. By Violation of this Code

1. Unless remedied according to Section 12.9.1.5.B.2. below, any violation of this Code's sign regulations shall terminate immediately the right to maintain a nonconforming sign.

2. The following actions shall allow continuance of a nonconforming sign otherwise terminated pursuant to this Section 12.9.1.5.B., provided the nonconforming sign was not finally terminated prior to July 20, 2012:

a. The violation is completely remedied within 15 days from the date the Zoning Administrator gives notice that there is a violation of this Code's sign regulations, and the violation does not thereafter reoccur.

b. Within 15 days from the date the Zoning Administrator gives notice that there is a violation of this Code's sign regulations, the subject property owner may submit to the Zoning Administrator a mitigation plan that proposes specific steps and time frames the owner will take to remedy the violation by a date certain, but in no case longer than 90 days from the date of the notice of violation. If the Zoning Administrator determines the violation cannot be corrected within 15 days from the notice of violation, the Zoning Administrator shall approve, approve with conditions or deny the property owner's plan, and may, for good cause, grant an extension of the mitigation period for up to one additional 90 day period. If the Zoning Administrator denies the plan, the property owner shall completely remedy the violation within 15 days of such denial.

3. Any reoccurrence of the same violation of this Code's sign regulations, or any violation of the approved mitigation plan, shall immediately terminate the right to maintain the nonconforming sign and no exceptions or variances shall be granted.

C. By Destruction, Damage or Obsolescence

The right to maintain any nonconforming sign shall terminate and shall cease to exist whenever the sign is damaged or destroyed, from any cause whatsoever, or becomes obsolete or substandard under any applicable ordinance of the city to the extent that the sign becomes a hazard or a danger.

SECTION 12.9.2 NONCONFORMING OUTDOOR GENERAL ADVERTISING DEVICES

12.9.2.1 Intent

This section's regulations assure that outdoor general advertising devices that no longer comply with this Code's standards are strictly limited in their right to continue or be substantially altered. Such nonconforming outdoor general advertising device is presumed incompatible with the character of the surrounding neighborhood context and zone district, typically because of adverse aesthetic and/or public safety impacts. Accordingly, the provisions in this section encourage nonconforming outdoor general advertising devices, over time, to terminate.

12.9.2.2 Definition

A nonconforming outdoor general advertising device shall be any such device which:

A. On June 25, 2010, was lawfully maintained and had been lawfully erected in accordance with the provisions of any prior zoning ordinance, but which sign does not conform to the limitations established by this Code; or

B. On or after June 25, 2010, was lawfully maintained and erected in accordance with the provisions of this Code, but which device by reason of amendment to this Code after June 25, 2010, does not conform to the limitations resulting from such amendment.

12.9.2.3 Continuance

Subject to the termination hereinafter provided, any nonconforming outdoor general advertising device may be continued in operation and maintained after January 1, 2010; provided, however, that, after January 1, 2010, no such device shall be modified as defined in Section 10.10.21.2.A.5., Permit to Modify an Existing Device.

12.9.2.4 Termination

The following actions shall result in the termination immediately of the right to maintain a nonconforming outdoor general advertising device:

A. By Abandonment

Abandonment of a nonconforming outdoor general advertising device shall terminate immediately the right to maintain such device. If a message surface is vacant or contains obsolete advertising for any six consecutive month period, it shall be deemed to be abandoned. A "vacant" message surface shall mean a message surface that is void of any message content and shall not include a message surface displaying the name of the permit holder's business, a public service announcement or "for rent", "available for lease", or any similar message. "Obsolete advertising copy" shall mean advertising copy which pertains to an event or activity which has already occurred.

B. By Violation of this Code

Any violation of this Code, except for the failure to continuously display a city registration number on a device as required by Section 10.10.21.2.A.3, City Registration Number, shall terminate immediately the right to maintain a nonconforming outdoor general advertising device. In the event a city registration number which was displayed on a nonconforming outdoor general advertising device in conformance with Section 10.10.21.2.A.3, City Registration Number, becomes detached or unreadable, the permit holder shall have 90 days from receipt of notice of such violation to cure the violation.

C. By Destruction, Damage or Obsolescence.

The right to maintain any nonconforming outdoor general advertising device shall terminate and shall cease to exist whenever the device is damaged or destroyed, from any cause whatsoever and the cost of repairing such damage or destruction exceeds 50 percent of the replacement cost of such device on the date of such damage or destruction; or whenever the device becomes obsolete or substandard under any applicable ordinance of the city to the extent that the device becomes a hazard or a danger.

12.9.2.5 Removal of Terminated Device

The termination of a nonconforming outdoor general advertising device shall require its immediate removal. Furthermore, no terminated device shall receive credit pursuant to Section 10.10.21.2.A.7, Additional Requirements, to be used for a new device.

12.9.2.6 Determination of Nonconforming Status

The burden of establishing such a device to be nonconforming under this Section rests entirely upon the person claiming a nonconforming status for an outdoor general advertising device.

This page intentionally left blank.

DIVISION 12.10 NONCONFORMING ZONE LOTS

SECTION 12.10.1 INTENT

This Division 12.10 is intended to promote the use, development, and redevelopment of pre-existing Zone Lots throughout the City of Denver, while recognizing that such Zone Lots do not generally fit the predominant lot patterns of their surrounding neighborhood context. Accordingly, this Division makes clear that nonconforming Zone Lots can be used and developed in compliance with existing zoning rules, but the range of permitted building forms is limited to mitigate possible adverse impacts on surrounding properties.

SECTION 12.10.2 DEFINITION

See Article 13 for definition of "Zone Lot, Nonconforming."

SECTION 12.10.3 USE & DEVELOPMENT ALLOWED

12.10.3.1 Applicability

This Section 12.10.3 applies to all Nonconforming Zone Lots, other than a Zone Lot located on a Carriage Lot. All Zone Lots located on a Carriage Lot shall comply with the standards in Section 12.10.4 below.

12.10.3.2 Use of Nonconforming Zone Lots

A nonconforming Zone Lot may be used only for uses permitted in the zone district in which the Zone Lot is located. Establishment of a permitted use on a nonconforming Zone Lot shall comply with all applicable standards for that zone district and for the specific use.

12.10.3.3 Determination of Zone Lot Lines

The Zoning Administrator shall determine the Zone Lot Lines of a Nonconforming Zone Lot as either Primary, Side Street, Side Interior, or Rear Zone Lot Lines according to the criteria applicable in the subject zone district, as found in Section 13.1.5, Siting Form Standards.

12.10.3.4 Development of Nonconforming Zone Lots in a Residential Zone District

Development of a structure, including alterations to an existing structure, located on a nonconforming Zone Lot in a Residential Zone District shall comply with the following standards:

A. Applicable Primary Building Form(s) for Development on Nonconforming Zone Lots

In all Residential Zone Districts, an Applicant shall choose one of the following primary buildings forms to govern new development on a Nonconforming Zone Lot, provided the building form is permitted in the applicable zone district, and as further limited below:

1. Suburban House

a. The Suburban House building form is the only building form allowed when the nonconforming Zone Lot's area and/or width is less than the minimum required for all primary building forms allowed in the subject zone district.

b. In a Residential Zone District where the Suburban House and Urban House building forms would both be allowed on the subject nonconforming Zone Lot, the Applicant may choose either building form to apply to the development.

2. Urban House

a. The Urban House building form is the only building form allowed when the nonconforming Zone Lot's area and/or width is less than the minimum required for all building forms allowed in the subject zone district.

b. In a Residential Zone District where the Suburban House and Urban House building forms would both be allowed on the subject nonconforming Zone Lot, the Applicant may choose either building form to apply to the development.

3. Duplex

The Duplex building form may not be used when another building form, such as the Suburban House or Urban House building form, is allowed in the same zone district and the nonconforming Zone Lot's size and/or width is less than what is allowed for the Duplex building form.

4. Tandem House

a. The Tandem House building form is allowed when the Nonconforming Zone Lot's area and/or width is less than the minimum required for any other primary building form allowed in the subject zone district, except as further limited herein.

b. The Tandem House building form is not allowed for new development on a nonconforming Zone Lot located in a S-SU-FA zone district.

c. The Tandem House building form may not be used when another building form, such as the Suburban House or Urban House building form, is allowed in the same zone district and the nonconforming Zone Lot's size or width is less than what is allowed for the Tandem House building form.

B. Applicable Detached Accessory Building Form(s) for Development on Nonconforming Zone Lots

Development of a detached accessory structure, including alterations to an existing detached accessory structure, on a nonconforming Zone Lot shall comply with the standards for a detached accessory building form permitted in the zone district.

C. Application of Building Form Standards

1. Development on a Nonconforming Zone Lot under the selected building form shall comply with all applicable building form standards, except that compliance with a building form's minimum Zone Lot area or width standards is not required for new development.

2. Development under the selected building form shall comply with the Setback and Building Coverage by Zone Lot Width form standards that align with the Nonconforming Zone Lot's width.

12.10.3.5 Examples

A. For example, in the U-SU-C zone district, a Zone Lot of 4,500 square feet in total area and with a lot width of 40 feet, is nonconforming. The owner may develop an Urban House building form on the Nonconforming Zone Lot, despite the lot's noncompliance with the 5,500 square foot area and 50 foot width standards otherwise required for an Urban House form in that zone district. Development of the urban house on the existing 4,500 square foot Zone Lot must still comply with all other building height, siting, and design element form standards. Certain siting form standards, such as primary street and rear building setbacks or building coverage for an Urban House, are keyed to the lot width of the subject Zone Lot, including a nonconforming Zone Lot. In this example, the Urban House would be subject to setback and building coverage standards for a 40-foot wide Zone Lot, as shown in the Urban House Building Form Table in Article 5 of this Code.

B. For example, in the U-SU-C zone district, a Zone Lot of 4,500 square feet in total area and with a lot width of 40 feet, is nonconforming. The building form standards for a Detached Accessory Dwelling Unit building does not require a minimum Zone Lot area as a prerequisite for development of such form. In this case, the owner could develop a Detached Accessory Dwelling Unit building on their lot.

C. For example, in the U-TU-C zone district, a Zone Lot of 4,000 square feet in total area and a lot width of 37.5 feet, is nonconforming. The building form standards for a Duplex building requires a minimum of 4,500 square feet of Zone Lot area as a prerequisite for development of such form. In this case, the owner can only develop using the Urban House building form (allowing only a single dwelling unit use)because the Nonconforming Zone Lot is smaller (4,000 sf) than allowed for the Duplex building form (4,500 sf).

SECTION 12.10.4 DEVELOPMENT ON CARRIAGE LOTS

12.10.4.1 Intent & Applicability

A. Intent

This Section 12.10.4 is intended to address a unique configuration of land in Denver defined by this Code as a "Carriage Lot," and to allow only a strictly limited range of permitted structures, uses, and activity to control for potential adverse impacts on surrounding uses.

B. Carriage Lot and Zone Lot(s)

A Carriage Lot describes a unique piece of land that is surrounded on all sides by Alleys and located in the center of a Block, and which has no frontage on a named or numbered Street. A single Carriage Lot may contain one or more Zone Lots. The entirety of the Carriage Lot may be a single Zone Lot (typically when no development exists on the Carriage Lot), or the Zoning Administrator may determine the Carriage Lot contains more than one Zone Lot because of existing development occurring before February 11, 1955. A Zone Lot on a Carriage Lot is a Nonconforming Zone Lot because of its lack of frontage on a named or numbered Street.

C. Applicability

This Section 12.10.4 applies to a nonconforming Zone Lot located on a Carriage Lot. This Section 12.10.4's standards for use and development on a Carriage Lot shall apply to each Zone Lot determined to be a part of or the entirety of a Carriage Lot.

12.10.4.2 Primary Uses and Building Forms Allowed

A. Primary Uses Allowed

The uses allowed on a Carriage Lot are limited to the following Primary Uses only:

1. Single-Unit Dwelling; or
2. Urban Garden, Unenclosed only.

B. Maximum Number of Primary Uses per Carriage Lot

1. No more than 1 primary Single-Unit Dwelling Use is allowed on a single Carriage Lot, regardless of the number of Zone Lots existing on the Carriage Lot.
2. No more than 1 Urban Garden primary use is allowed on each Zone Lot located on a Carriage Lot.

C. Use Limitations Applicable to All Primary Uses

Primary uses permitted on a Carriage Lot shall be subject to all use limitations specific to the primary use as stated in the Use Table for the applicable zone district.

D. Building Forms for Allowed Primary Uses

1. DADU Building Form for Allowed Primary Single-Unit Dwelling Use

The Detached Accessory Dwelling Unit ("DADU") building form shall be used to establish an allowed Single-Unit Dwelling primary use on a Carriage Lot, subject to the exceptions allowed under Section 12.10.4.4.

2. Building Forms for Allowed Primary Urban Garden Use
The Urban Garden primary use is allowed as an unenclosed use only. No primary building forms are allowed on a Carriage Lot with a permitted Urban Garden use. Any structure that serves the primary Urban Garden use shall be secondary and incidental, and shall comply with either the General Detached Structure or Minor Detached Accessory Structure building forms, subject to the exceptions allowed under Section 12.10.4.4.

12.10.4.3 Accessory Uses and Building Forms Allowed

A. Accessory Uses Allowed
The accessory uses allowed on a Carriage Lot are limited to only the following Accessory Uses:

1. Noncommercial Keeping or Off-Street Parking of Motor Vehicles inside a Completely Enclosed Structure (residential Private Garage) accessory to a Primary residential use located in the Block surrounding the Carriage Lot or portion thereof; or

2. An Accessory Dwelling Unit use accessory to a primary Single Unit Dwelling Use located in the Block surrounding the Carriage Lot or portion thereof; or

3. Unenclosed accessory Garden use accessory to a primary residential use located in the block surrounding the Carriage Lot or portion thereof; or

4. Accessory uses permitted in the applicable zone district for a primary Single-Unit Dwelling use established on a Carriage Lot, including accessory parking uses, but not including the following accessory uses:
   a. Accessory Dwelling Unit; or
   b. Child Care Home, Large or Small.

5. Accessory uses permitted in the applicable zone district for a primary Urban Garden use established on a Carriage Lot, including accessory parking uses.

B. Accessory Dwelling Unit Use of Detached Structure - Applicable Use Limitations

1. Except as otherwise required or allowed by the specific standards in this Section 12.10.4.4, the detached accessory structure may be used for an Accessory Dwelling Unit use provided such Accessory Dwelling Unit use is permitted in the applicable zone district, and provided the proposed Accessory Dwelling Unit use complies with the use limitations for Accessory Dwelling Units stated in Section 11.8.2 of this Code.

2. An Accessory Dwelling Unit Use is not allowed on a Carriage Lot if a Primary Single-Unit Dwelling use has been previously permitted on the same Carriage Lot and there has not been an Abandonment of such Single-Unit Dwelling use.

C. Accessory Parking Use of Detached Structure - Applicable Use Limitations
Detached accessory structures permitted for accessory Keeping or Off-Street Parking of Motor Vehicles use shall only be utilized by other conforming Primary Uses located on the block surrounding the Carriage Lot, or as specifically allowed by Section 10.9.3.7, Non-Resident Off-Street Garage Parking for Dwelling Units.

D. Building Forms for Allowed Accessory Uses
The following Detached Accessory Building Forms are allowed on a Carriage Lot:

1. General Detached Structure; or

2. Detached Accessory Dwelling Unit; or

3. Minor Detached Structure.

E. Maximum Number of Detached Accessory Structures per Zone Lot
There is no limit on the number of detached accessory structures on each Zone Lot located on a Carriage Lot, except that only 1 detached accessory structure with vehicle access doors is allowed per zone lot.

12.10.4.4 Standards for Development on Carriage Lots

All structures and uses on a Carriage Lot shall comply with the following standards, as applicable:

A. Compliance with Building Form and General Design Standards
Except as otherwise required or allowed by the specific standards in this Section 12.10.4.4, all structures on a Carriage Lot shall comply with the applicable zone district building form standards, and with all other general design standards in this Code (see Article 10).

1. Minimum Zone Lot Area and Width

a. General Detached Structure Building Form
A General Detached Structure building form intended for the parking of vehicles shall be developed on a Zone Lot located on a Carriage Lot or portion thereof that is at least 25 feet wide at the alley line and that contain not less than 1,000 square feet in area.

b. All Other Building Forms
Development of all other Building Forms allowed in this Section 12.10.4 is exempt from minimum Zone Lot Area and width standards.

2. Minimum Setbacks
All structures on a Carriage Lot or portion thereof shall be setback from the alley line the minimum distance necessary to provide a total alley or aisle width of 20 feet for structures that take vehicle access directly from the alley, and shall set back not less than 5 feet from every other boundary line of the Carriage Lot or portion thereof.

3. Maximum Building Coverage by Neighborhood Context
The following maximum building coverage standard shall apply to a Zone Lot located on a Carriage Lot or portion thereof separately from any other Zone Lot located on the same Carriage Lot:

a. Suburban (S-), Urban Edge (E-), and Urban (U-) Zone Districts
Maximum building coverage for all structures per Zone Lot: 37.5%.

b. General (G-), Urban Center (C-), Downtown (D-), and Industrial (I-) Zone Districts
Maximum building coverage for all structures per Zone Lot: 50%.

c. Exceptions Not Allowed
Exceptions from maximum building coverage (e.g., for an Unenclosed Porch) shall not apply to development on a Carriage Lot.

4. DADU Building Form Standards Not Applicable to Carriage Lot Development
The following Detached Accessory Dwelling Unit building form standards shall not apply to development on a Carriage Lot:

a. Requirement for location of the structure in rear percentage of Zone Lot.

b. When developed for the establishment of a Single-Unit Dwelling primary use, the following:

i. "Limitation on Gross Floor Area of the Accessory Dwelling Unit Use;" and

ii. Limitation on uses of the DADU building form to accessory uses only.

5. General Detached Structure Building Form Standards Not Applicable to Carriage Lot Development

The following General Detached Structure building form standards shall not apply to development on a Carriage Lot:

a. Location of Structure in relation to Primary Street-facing facade(s) of Primary Structure;

b. Allowed number of primary street facing vehicular access doors in the front 50% of the lot depth: and

c. Cumulative width of all primary street facing vehicular access doors in the front 50% of the lot depth.

12.10.4.5 Zoning Permit Review Procedure and Conditions

A. The permit application under this subsection shall be subject to Zoning Permit Review with Informational Notice ("ZPIN"), according to Section 12.4.2 of this Code.

B. In deciding to approve, approve with conditions, or deny the application, the Zoning Administrator shall consider written comments of all interested parties and the impact of the proposed structure and proposed use on adjoining properties.

SECTION 12.10.5 AMENDMENTS TO NONCONFORMING ZONE LOTS LIMITED

A nonconforming Zone Lot, including one or more Zone Lots located on a Carriage Lot, shall not be further amended or have its boundaries altered in any manner that would compound, increase, or extend the nonconforming characteristics of the Zone Lot.

SECTION 12.10.6 DETERMINATION OF NONCONFORMING STATUS

Nonconforming status shall be determined by the Zoning Administrator.

DIVISION 12.11 ENFORCEMENT, VIOLATIONS AND PENALTIES

SECTION 12.11.1 GENERAL PURPOSE

This Code shall be enforced in accordance with the provisions of Colorado law and as provided in this Division 12.11. Each enforcement remedy can be invoked independently or in conjunction with any or all of the other enforcement remedies available under the law.

SECTION 12.11.2 VIOLATIONS

It shall be unlawful and shall be deemed a strict liability offense for any owner, lessee, occupant, or agent of an owner, lessee, or occupant to allow or permit to exist, or to otherwise let happen a violation of this Code on the land or in the structure to which the owner, lessee, occupant, or agent has legal or equitable title or right of possession. Any one of the following actions or activities shall constitute a violation of this Code:

12.11.2.1 Use, Structure or Sign Without Permit or Approval

To place any use, structure, or sign upon land that is subject to this Code without all of the approvals required by this Code.

12.11.2.2 Activities Inconsistent with This Code

Erect, construct, reconstruct, remodel, alter, maintain, expand, move, or use any land, building, structure, or sign; or engage in development of any land contrary to the regulations and procedures of this Code.

12.11.2.3 Land Disturbing Activities Inconsistent with This Code

Excavate, grade, cut, clear, or undertake any other land disturbance activity contrary to the provisions of this Code or without first obtaining all requisite approvals or permits required by this Code.

12.11.2.4 Nonconformities and Compliance Inconsistent with This Code

Create, expand, replace, or change a nonconforming or compliant use, structure, lot, or sign except in compliance with this Code.

12.11.2.5 Making Zone Lots or Setbacks Nonconforming

Reduce or diminish the Zone Lot area, setbacks, or unenclosed open space below the minimums required by this Code.

12.11.2.6 Increasing Intensity of Use

Increase the intensity of use of any land or structure, except according to the standards and procedures of this Code.

12.11.2.7 Activities Inconsistent with Approval or Permit

Engage in any development, use, construction, alteration, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, agreement, or other form of authorization required to engage in such activity under this Code.

12.11.2.8 Failure to Remove Signs or Other Improvements

Failure to remove any sign or other improvement installed, created, erected, or maintained in violation of this Code, or for which the permit has lapsed.

12.11.2.9 Removing or Defacing Required Notice

To remove, deface, obscure or otherwise interfere with any public notice required by this Code.

12.11.2.10 Other Actions or Activities Specified by Code

Engage in any other action or activity specified by one or more provisions of this Code to be a violation.

SECTION 12.11.3 OFFENSES AND LIABILITIES PRESERVED

All offenses committed and all liabilities incurred prior to June 25, 2010 shall be treated as though all prior applicable zoning ordinances and amendments thereto were in full force and effect for the purpose of sustaining any proper suit, action or prosecution with respect to such offenses and liabilities.

SECTION 12.11.4 CONTINUING VIOLATIONS

Every day on which a violation exists shall constitute a separate violation of this Code, and a separate offense.

SECTION 12.11.5 STATUTE OF LIMITATIONS FOR CITY ONLY

All actions by the City to restrain, correct or abate the unlawful location, bulk, or gross floor area of or in a structure and alleged to result from the unlawful issuance of a permit to erect or alter such structure shall be brought within 3 years after the issuance of the particular permit alleged to have been unlawfully issued and not after that period.

SECTION 12.11.6 ENFORCEMENT POWERS, PENALTIES AND REMEDIES

12.11.6.1 Enforcement Powers

The Manager shall have the duty of enforcing this Code and the power necessary for such enforcement, incidental to which duty and power the Manager may exercise the following authority:

A. Conduct investigations and surveys to determine compliance or noncompliance with the provisions of this Code, including reinvestigations of any land or structure to determine if a violation under an earlier notice or order has been corrected. Incidental to such investigations and surveys, an authorized representative of the department may enter into and upon and cause any land or structure to be inspected and examined. The right to entry and inspection may be enforced by application to and proper orders from a court of proper jurisdiction;

B. Issue written orders requiring compliance with the provisions of this Code. Such orders shall be served personally or by mail upon the person deemed by the department to be violating the provisions of this Code; provided, however, that if such person is not the owner of the land on or the structure in which the violation is deemed to exist or have occurred, a copy of the order shall be sent by mail to the owner of such land or structure, the owner to be determined from the tax roll for the preceding tax year in the office of the deputy county treasurer. In the case of a structure containing individual units owned by different owners, a copy of the order shall be sent by mail to the individual unit owner deemed by the department to be violating the provisions of this Code; and a copy of the order shall be sent to the corporation, organization, or association that either owns or controls the common areas. In case a violation occurs in the common areas of such a development, the order shall be sent by mail to the officers of the corporation, organization or association which either owns the common areas or is responsible under the condominium declaration for the maintenance and control of such common areas. The date of mailing shall be deemed the date of service of any order served by mail;

C. Issue notices of violation for noncompliance with the provisions of this Code; and

D. Institute, in courts of proper jurisdiction, proceedings to enforce the provisions of this Code, administrative orders and determinations made hereunder, and settlement agreements made hereunder.

12.11.6.2 General Penalties Apply

Any person violating any provision of this Code shall be subject to the general penalties provided by D.R.M.C., Section 1-13, by action brought in a court of appropriate jurisdiction.

12.11.6.3 Remedies Are Cumulative

The penalties, remedies, and enforcement powers established in this Division 12.11 shall be cumulative, and the City may exercise them in any order.

12.11.6.4 Additional Remedies

A. In General

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this Code, in addition to, or in lieu of, any administrative remedy allowed by the D.R.M.C., the Manager or any person with standing under applicable law may institute any appropriate action or proceedings to prevent or enjoin such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of the building, structure or land or to prevent or enjoin any illegal act, conduct, business or use in or about such premises. The imposition of any penalty hereunder, including any inspection for compliance fee, shall not preclude the City or any person with standing under applicable law from instituting any appropriate action or proceeding to require compliance with the provisions of this Code, and with administrative orders and determinations made hereunder.

B. Suspend or Rescind Permits or Final Authorization

1. Grounds for Suspension or Revocation

Any permit issued or other form of final decision, determination, or authorization under this Code may be suspended or rescinded when the Manager determines:

a. That there is a material departure from the plans, specifications, or conditions required under the terms of the approved permit or plan;

b. That the approved permit or plan was procured by false representation or was issued by mistake;

c. That any of the provisions of this Code are being violated; or

d. In the case of a zoning permit for a temporary use only, that substantial complaints that one or more conditions of the permit are being violated are reported to the Zoning Administrator.

2. Revocation During Appeal Period

a. Applicability

This subsection 12.11.6.4.2 shall apply to:

i. Zoning permits authorizing construction of a structure or other type of development, but not to zoning permits authorizing a use; and

ii. Any other form of final zoning decision, determination, or authorization.

b. Procedure

i. As authorized, the Manager may revoke a zoning permit or other form of final zoning decision, determination, or authorization under this Code if the decision to revoke is made within 30 days from the approval date of such permit or action.

ii. The Manager shall provide written notice to the permittee of the decision to revoke. The notice shall include the grounds for the revocation and shall advise the permittee of any right to appeal, any right to resurrect the revoked zoning permit or authorization, and any right to apply for a new zoning permit or authorization.

iii. No work, construction, or other development activity shall proceed after transmittal of the revocation notice.

3. Suspension or Revocation After Appeal Period

a. Applicability

This subsection 12.11.6.4.3 shall apply to any other form of final zoning decision, determination, authorization, or permit.

b. Procedure

After the expiration of the Administrative Appeal period, unless the Manager determines there is imminent peril to life or property, the Manager shall provide the permittee with notice and an opportunity to be heard prior to any final decision to suspend or revoke a permit.

c. Effect of Notice of Suspension or Revocation

No work, construction, or other development activity shall proceed after service of the suspension or revocation notice.

12.11.6.5 Continuation of Previous Enforcement Actions

Nothing in this Code shall prohibit the continuation of previous enforcement actions, undertaken by the City pursuant to previous and valid ordinances and laws.