

REQUIRED BUILD-TO ALTERNATIVES							
ZONE DISTRICT	PERMANENT OUTDOOR PATIO SEATING (MAX INCREASE IN BUILD-TO RANGE)	PRIVATE OPEN SPACE (MAX % OF BUILD-TO)	GARDEN WALL (MAX % OF BUILD-TO)	GARDEN WALL WITH COVERED SEATING FOR PEDESTRIANS (MAX % OF BUILD-TO)	PERGOLA (MAX % OF BUILD-TO)	ARCADE (MAX % OF BUILD-TO)	COURTYARD (MAX % OF BUILD-TO)
S-MU S-CC S-MS	na	na	25%**	30%**	30%**	100%	na
S-MX	10'*	na	25%**	30%**	30%**	100%	na

*Permitted increase in the maximum depth of the required build-to range.

**If used in combination with each other, the garden wall, garden wall with covered seating for pedestrians and pergola alternatives may count toward no more than 30% of required build-to.

3.3.6.2 Primary Street Upper Story Setback

A. Intent

To provide flexibility while maintaining and promoting a pedestrian-scaled primary street.

B. Applicability

S-MX-8, S-MX-8A, S-MX-12, S-MX-12A

C. Alternative

When the building is placed at the minimum Primary Street setback, then the Upper Story Setback above 5 stories or 70 feet may be reduced to 15 feet. This alternative only applies to portions of buildings placed at the minimum Primary Street setback. Therefore, any portions of the building placed beyond the minimum Primary Street setback shall meet the Primary Street Upper Story Setback stated in the building form table.

3.3.6.3 Transparency Alternatives

A. Intent

To provide visual interest on building facades, to activate the public street and sidewalk, and enhance the visual quality of the built environment along Street Level facade areas where windows do not provide sufficient transparency.

B. Allowance

The following alternatives may be used singularly or in combination as alternatives to a required transparency standard and may count toward required transparency no more than as described in the table below, provided all alternatives meet the requirements stated in Section 13.1.6.3.A.5:

TRANSPARENCY ALTERNATIVES						
ZONE DISTRICT	ZONE LOT LINE DESIGNATION	DISPLAY CASES AND AUTOMATED TELLER MACHINES (MAX)	WALL DESIGN ELEMENTS (MAX)	PERMANENT OUTDOOR EATING / SERVING AREAS (MAX)	PERMANENT ART (MAX)	COMBINATION OF ALTERNATIVES (MAX)
S-MU	Primary Street	40%	50%	60%	40%	80%
	Side Street	40%	50%	80%	40%	80%
S-CC	Primary Street	40%	50%	60%	40%	80%
	Side Street	40%	100%, provided the wall design elements are applied to the entirety (100%) of the length of the Street Level wall.	80%	40%	80%*

- a. An Arcade may contribute to the Street Level Active use requirement for a maximum of 6 feet of the required 15 foot depth.
- 6. The portion of the Street Level building frontage that meets the Street Level active use requirement shall contain at least one window or door that meets the minimum transparency requirement standards in Section 13.1.6.3.A.4.

SECTION 7.3.6 DESIGN STANDARD ALTERNATIVES

7.3.6.1 Required Build-To Alternatives

A. Intent

To help define the public realm and enhance the visual quality of the built environment where it is not possible to define the street and public sidewalk edge with building facades. Additionally, to allow relief for vehicle access when alley access is not feasible per Section 7.3.5.7 in the Town House building form.

B. Allowance

The following alternatives may be used singularly or in combination as alternatives to a required build-to standard and may count toward the required build-to no more than as described in the table below, provided all alternatives meet the requirements stated in Section 13.1.5.8.E:

REQUIRED BUILD-TO ALTERNATIVES									
ZONE DISTRICT	BUILDING FORM	PERMANENT OUTDOOR PATIO SEATING (MAX INCREASE IN BUILD-TO RANGE)	PRIVATE OPEN SPACE (MAX % OF BUILD-TO)	GARDEN WALL (MAX % OF BUILD-TO)	GARDEN WALL WITH COVERED SEATING FOR PEDESTRIANS (MAX % OF BUILD-TO)	PERGOLA (MAX % OF BUILD-TO)	ARCADE (MAX % OF BUILD-TO)	COURTYARD (MAX % OF BUILD-TO)	VEHICLE ACCESS (MAX FEET OF BUILD-TO)
C-RX C-MX C-MS	Town House	na	na	na	na	na	na	30%	12 feet
C-RX C-MX	All Others	na	na	25%***	30%***	30%***	100%	100%	na
C-MS	All Others	na	na	25%***	30%***	30%***	100%	na	na
C-CCN	All Others	5'*	100%**	25%***	30%***	30%***	100%	na	

*Permitted increase in the maximum depth of the required build-to range.

** If used in combination with each other, the permanent outdoor patio seating and private open space alternatives may count toward 100% of required build-to, provided the outdoor patio seating complies with the private open space rule of measurement in Article 13.

***If used in combination with each other, the garden wall, garden wall with covered seating for pedestrians and pergola alternatives may count toward no more than 30% of required build-to.

7.3.6.2 Primary Street Upper Story Setback

A. Intent

To provide flexibility while maintaining and promoting a pedestrian-scaled main street.

B. Applicability

C-MS-8, C-MS-12

C. Alternative

When the building is placed at the minimum Primary Street setback, then the Upper Story Setback above 5 stories or 70 feet may be reduced to 15 feet. This alternative only applies to portions of buildings placed at the minimum Primary Street setback. Therefore, any portions of the building placed beyond the minimum Primary Street setback shall meet the Primary Street Upper Story Setback stated in the building form table.

2. Applicability

This Section 9.4.5.12.E applies to all Primary Structures in zone districts that allow a maximum Building Height of 3 stories or more that are located on a Zone Lot with a Zone Lot Width greater than 37.5 feet.

3. Allowance

- a. Street Level nonresidential active uses shall occupy Street Level floor area for a minimum depth of 15 feet except for the depth of recessed Pedestrian Access features required by the applicable building form table.
- b. Street Level nonresidential active uses include all permitted Primary Uses except the following:
 - i. Dwelling, Single Unit;
 - ii. Dwelling, Two Unit
 - iii. Dwelling, Multi-Unit;
 - iv. Dwelling, Live / Work;
 - v. Automobile Services, Light;
 - vi. Mini-storage Facility; or
 - vii. Wholesale Trade or Storage, Light.
- c. Street Level nonresidential active uses include all permitted Accessory Uses except the following:
 - i. Accessory Uses associated with Primary Uses prohibited by Section 9.4.5.12.E.3.b;
 - ii. Outdoor Storage, General;
 - iii. Outdoor Storage, Limited;
 - iv. Car Wash Bay Accessory to Automobile Services or Hotel Uses;
 - v. Drive Through Facility Accessory to Eating/Drinking Establishments and to Retail Sales, Service, and Repair Uses; or
 - vi. Off-Street Parking Areas.
- d. The length of any Build-To alternatives shall not apply toward the required percentage of Street Level building frontage that must be occupied by Street Level nonresidential active uses.

F. Street Level Transparency Alternatives and Exceptions for the DO-8 District

The following design standard alternatives and exceptions for Street Level transparency in the DO-8 Overlay District shall apply:

1. Intent

To provide visual interest on building Facades and enhance the visual quality of the built environment along Street Level Facade areas where windows are not feasible.

2. Allowance

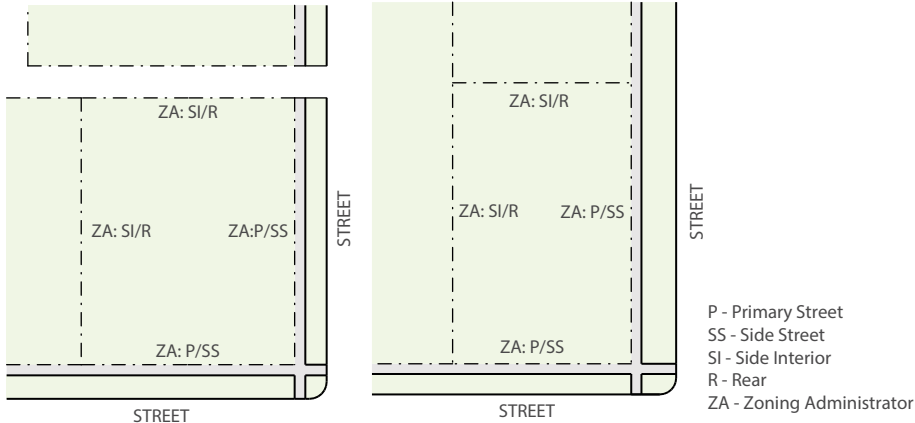
Permanent art shall be the only transparency alternative allowed in the DO-8 Overlay Zone District and may count toward no more than 30% of the required transparency on Primary Streets or Side Streets, provided the permanent art meets the requirements stated in Section 13.1.6.3.A.5, Transparency Alternative Requirements.

G. Determination of Primary Street and Side Street Lot Lines for Corner Zone Lots in the DO-8 District

The following rule of measurement for determination of Zone Lot Lines for Corner Zone Lots in the DO-8 Overlay District shall apply:

- 1. Intent**
To authorize the Zoning Administrator to designate Zone Lot Lines in accordance with plan guidance and existing conditions, if applicable, consistent with the overall intent of the DO-8 Overlay Zone District to promote active pedestrian-oriented building frontages.
- 2. Applicability**
This Section 9.4.5.12.G applies to all Zone Lots with the DO-8 designation.
- 3. Rule of Measurement**
For Corner Zone Lots located in all underlying Zone Districts that are designated with the DO-8 Overlay Zone District, the Zoning Administrator shall use the criteria in Section 13.1.5.3.C to designate one or more Primary Street Zone Lot Lines, and shall designate remaining Zone Lot Lines as either Side Street, Side Interior; or Rear Zone Lot Line(s). See Figure 9.4-24.

Figure 9. 4-24



E. Concrete, Asphalt, and Rock Crushing Facility

A facility in which the principal activity is performed in an open area where concrete, asphalt, rock, brick, cement, or other similar paving or building materials are crushed, ground, pulverized, bought, sold, exchanged, stored, mixed, packed, disassembled, or handled.

F. Health Care Center

A facility or institution providing health services.

G. Noncommercial Concrete Batching Plant

A facility that produces or processes concrete or asphalt only for use in a particular construction project and only for the duration of that project.

H. Outdoor Retail Sales

Retail sale of new or used goods, excluding motor vehicles and firearms, not operated in a Completely Enclosed Structure, and operated as an extension of a primary retail sales use on the same zone lot.

I. Outdoor Retail Sales - Pedestrian / Transit Mall

Outdoor retail sales, not operated in a Completely Enclosed Structure, and located within 125 feet of a pedestrian and/or transit mall (e.g. the downtown 16th Street pedestrian mall), including retail sales of articles such as books, artwork, craft work, food, flowers, clothing, newspapers and similar articles. Such retail sales are not required to be operated as an extension of a primary retail sales use on the same or different zone lot.

J. Outdoor Sales, Seasonal

The outdoor retail sales of trees, plants, fruits, vegetables, or other similar foods or prepared food products, including incidental sales of customary non-food items, not operated in a Completely Enclosed Structure, and not as an extension of a primary retail sales use on the same zone lot. Seasonal Outdoor Sales may be conducted by a single person or multiple persons on the same Zone Lot.

Seasonal outdoor sales include, but are not limited to, seasonal sales of Christmas trees, seasonal outdoor sales of plants, seasonal outdoor farmers markets, and other seasonal sales of foods, fruits, and vegetables, such as roasted chiles and corn.

1. Sales of Christmas Trees and Related Holiday Items

Retail sales of Christmas trees, wreaths, garlands, tree stands, tree care items, and other incidental and customary holiday items.

2. Sale of Plants or Plant Sales Facilities

Retail sales of horticultural items including, but not limited to bedding plants, plant containers, seeds, small trees and bushes, and accessories therefor; incidental sales of agricultural chemical and fertilizer products are permitted only if prepackaged.

3. All Other Types of Temporary Outdoor Sales, Seasonal

Retail sales of trees, plants, flowers, fruits, vegetables, or other similar foods or prepared food products, including incidental sales of customary non-food items. This use sub-type includes farmers markets, and sales of roasted chiles and corn.

K. Retail Food Establishment, Mobile

Readily movable motorized-wheeled vehicle designed and equipped to serve food or towed-wheeled vehicle designed and equipped to serve food. This definition shall not apply to uses which operate for less than 30 consecutive minutes at each separate location.

L. Temporary Tiny Home Village

Residential occupancy of multiple relocatable temporary buildings containing only sleeping units, combined with one or more separate buildings containing eating, bathing, toilet and gathering facilities for common use, all located on the same zone lot. Tenancy is typically 30 days or longer. This temporary use does not include Mobile Home Park as defined in the Zoning Code.

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. This Section 12.7.3.1 shall not apply to a Nonconforming Mobile Home Park. See Section 12.7.3.2.
- B. 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.
- C. 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.
- D. 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 that results in a decrease in the amount of parking required).

12.7.3.2 Continuance of a Nonconforming Mobile Home Park Use

- A. **Intent**
The intent of Section 12.7.3.2 is to allow for limited replacement of an individual Mobile Home located in a nonconforming Mobile Home Park.
- B. **Applicability**
Section 12.7.3.2 applies to nonconforming Mobile Home Parks.
- C. **General Allowance and Limitation on Expansion**
Provided it continues to comply with all provisions of this Section 12.7.3.2, a nonconforming Mobile Home Park may continue to operate on the same zone lot that was occupied by the Nonconforming Use on the date the use first became a Nonconforming Use.

D. Prohibited Expansion

A nonconforming Mobile Home Park may continue subject to the provisions of this Section 12.7.3.2, except that any one of the following actions shall be considered a prohibited expansion of the Nonconforming Use and shall subject the use to the termination provisions in Section 12.7.7 below:

1. An increase in the Area of the Zone Lot devoted to the operation and maintenance of a nonconforming Mobile Home Park.
2. An increase in the total number of individual Mobile Homes sited within the nonconforming Mobile Home Park.

E. Zoning Permit Required for Mobile Home Replacement

Replacement of an individual Mobile Home may be allowed only if the Zoning Administrator first approves a zoning permit for the replacement structure subject to the following standards:

1. The replacement structure may be a Mobile Home constructed prior to the creation of the Manufactured Home Construction and Safety Standards or a manufactured home constructed under the Manufactured Home Construction and Safety Standards.
2. The replacement structure shall not exceed 1 story in height.

12.7.3.3 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 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. Allowance Personal to Owner

Every allowance authorized by this Section 12.7.3.2 shall be personal to the applicant and shall not be transferable, and shall run with the land only after construction of any authorized structure or structures and only for the life of such structure or structures.

Mixed Use Commercial Zone District: All of the following zone districts:

1. All CC Zone Districts
2. All MX Zone Districts
3. All MS Zone Districts
4. All C-CCN Zone Districts
5. All Downtown Neighborhood Context Zone Districts
6. I-MX
7. All Campus Context Zone Districts
8. DIA
9. M-CC
10. M-MX
11. M-IMX
12. M-GMX

Mobile Home:

- a. A single-family dwelling that is built on a permanent chassis; is designed for long-term residential occupancy; contains complete electrical, plumbing, and sanitary facilities; is designed to be installed in a permanent or semipermanent manner with or without a permanent foundation; and is capable of being drawn over public highways as a unit or in sections by special permit.
- b. A manufactured home, as defined in C.R.S. Sec. 38-29-102(6), if the manufactured home is situated in a mobile home park.

Mobile Home Park: A parcel of land used for the continuous accommodation of five or more occupied mobile homes and operated for the pecuniary benefit of the owner of the parcel of land or the owner's agents, lessees, or assignees. "Mobile home park" does not include mobile home subdivisions or property zoned for manufactured home subdivisions. For purposes of this definition, the parcel of land comprising the mobile home park does not need to be contiguous, but must be in the same neighborhood as determined by the Division of Housing in the Colorado Department of Local Affairs. Formerly referred to as a Trailer Camp or Court in the Zoning Code.

Mode (Of Transportation): A particular form or method of travel, for example, walking, automobile, bicycling, public transit, bus or train.

Motor Vehicle: Any vehicle that is self-propelled and can be legally operated upon streets and highways. For purposes of this definition, the term motor vehicle shall also include vehicles or implements used in farming or construction.

Motor Vehicle, Inoperable: Any motor vehicle that meets at least one of the following criteria:

1. Vehicle is partially dismantled or wrecked; or
2. Vehicle cannot be self-propelled or move in the manner in which it originally was intended to move.

Travel Demand Management (TDM): A broad range of strategies intended to reduce peak period vehicle trips.

Truck Tractor: A vehicle equipped with a chassis or flat-bed mounted ball or fifth wheel for attaching a trailer; designed to be used for the highway towing trailers and not designed primarily for hauling cargo.