

**AGREEMENT CONCERNING ENVIRONMENTAL STANDARDS, OPEN SPACE,  
VESTED RIGHTS, AND HORIZONTAL INFRASTRUCTURE DESIGN AND  
CONSTRUCTION**  
(Broadway Station)

**THIS AGREEMENT CONCERNING ENVIRONMENTAL STANDARDS, OPEN SPACE, VESTED RIGHTS, AND HORIZONTAL INFRASTRUCTURE DESIGN AND CONSTRUCTION** (this “**Agreement**”) is made and entered into as of the “Effective Date,” as defined in Section 12(V) below, by and between the **CITY AND COUNTY OF DENVER**, a Colorado municipal corporation and home rule city (the “**City**”), and **BROADWAY STATION PARTNERS LLC**, a Delaware limited liability company (“**BSP**”). City and BSP are sometimes referred to together herein as the “Parties” or singularly, as a “Party.”

**Recitals**

This Agreement is made with respect to the following facts:

A. BSP is the owner of certain real property that is depicted and legally described on **Exhibit A** attached hereto and made a part hereof (the “**Site**”). The Site is located approximately three miles south of downtown Denver and is immediately adjacent to the I-25 & Broadway light rail station. The Site is bounded by Interstate 25 on the north, West Mississippi Avenue on the south, South Broadway on the east, and Vanderbilt Park on the west.

B. As master developer, BSP seeks to develop the Site as a high quality, mixed use transit-oriented development that will be strategically located and planned as a vibrant hub of Denver’s city life (the “**Project**”). BSP also intends that the Project will be developed in a manner that will leverage the connection to adjacent Broadway Station and integrate the Site with the urban fabric of the surrounding neighborhoods, while creating important links to public amenities such as Vanderbilt Park and the South Platte River trail.

C. The City Council, by Ordinance No. 20160173, Series of 2016, has adopted the I-25 and Broadway Station Area Plan (“**Station Area Plan**”). The Station Area Plan creates a community vision for the station area, including the Site. The Station Area Plan describes a framework plan, vision elements, strategies, transformative projects, and implementation strategies for the future evolution of the station area. It will also identify needs and make recommendations for infrastructure, mobility, parking, land use, open space, economic development, housing, partnerships, and other cultural and community investments.

D. The City Council, pursuant to Council Bill No. BR16-0314, has rezoned the Site to four new zone districts, C-MX-12, C-MX-16, C-RX-8 and C-MS-12, to accommodate development of the Project (the “**Rezoning**”).

E. The City's Development Review Committee ("**DRC**") has approved an Infrastructure Master Plan ("**IMP**") for the Site, which IMP is on file with the City Clerk at City Clerk File No. 2016-0236. The IMP is the guiding document of needed infrastructure to serve development on the Site, and contains infrastructure master plan concepts and layout of all streets, sanitary sewer, storm drainage, water, pedestrian and bike facilities and open spaces needed to service and support the development. The IMP also includes a section on required open space and a phasing plan detailing required improvements located within individual sub-districts of the proposed development. Future filing or site plan level studies may identify future improvements that are needed beyond those identified in the IMP. The IMP concepts are based upon various engineering studies required by the City to support the concept. The IMP and supporting engineering studies will be utilized to evaluate site specific development as it occurs within the Site and will serve as the basis for future site plan and engineering design.

F. The IMP divides the Site into four sub-districts: the "Market Place Mixed-Use District," the "Santa Fe Residential District," the "Office & Parkland District" and the "I-25 & Broadway Station District." Each district has a unique urban design objective, with specific land uses and development intensities as described in the IMP.

G. The City Department of Community and Planning Development ("**CPD**") proposes adoption as rules and regulations, Urban Design Standards and Guidelines ("**UDSG**") that are intended to provide general design guidelines for development of the Project. The UDSG were considered by the Denver Planning Board in a public hearing on June 15, 2016, and are expected to be approved by the Director of Community Planning and Development and the Executive Director of the City Department of Parks and Recreation ("**Parks Department**") subsequent to the approval of the Rezoning.

H. The City owns and has designated as a park, an area known as Vanderbilt Park East ("**VP East**"). The Parties acknowledge that VP East is a vacant, undeveloped, designated City park that has not yet been used as a park, that the City has no funds readily available to develop it as a park and that redevelopment of the Site is intended to provide funds for improvements to VP East. BSP owns a parcel of land located adjacent to VP East referred to herein as "**Parcel A**."

I. The City owns, and has designated as a park, Vanderbilt Park ("**Vanderbilt Park**"). BSP owns a parcel of land immediately adjacent to Vanderbilt Park shown as Block 11 on the IMP. Block 11 is depicted on **Exhibit B** attached hereto and made a part hereof.

J. The Site has been or continues to be subject to environmental remediation under Voluntary Cleanup Plans approved by Colorado Department of Public Health and Environment ("**CDPHE**"). The Parties desire to set forth the approach by which development of the Project and transfer of land and public infrastructure improvements to the City will be accomplished in conjunction with implementation of remaining remediation and/or materials management requirements and consistent with standards protective of human health and the environment.

K. Development of the Project will require substantial investments in infrastructure improvements and public facilities, including, without limitation, streets, drainage facilities,

sanitary sewer facilities, water lines, parks and recreation facilities that will serve the needs both of the Site and the surrounding neighborhoods of the City. Completion of these improvements and facilities will involve substantial investments by BSP, other future owners of portions of the Site and the Broadway Station Metropolitan Districts 1 through 3 (the “**Districts**”) that have been created for the Site. Such investments can be supported only if there are assurances that the development of the Project will be allowed to proceed to ultimate completion as provided in this Agreement.

L. The legislature of the State of Colorado adopted Sections 24-68-101, et seq. of the Colorado Revised Statutes (the “**Vesting Statute**”) to provide for the establishment of vested property rights for certain site specific development plans in order to ensure reasonable certainty, stability, and fairness in the land use planning process and in order to stimulate economic growth, secure reasonable investment-backed expectations of landowners, and foster cooperation between the public and private sectors in the area of land use planning. The Vesting Statute, the City's home rule powers under Article XX of the Colorado Constitution and the City's charter (the “**Charter**”) authorize the City to enter into agreements with landowners providing for vesting of certain development rights.

M. BSP is willing to agree that BSP will pay prevailing wages and the Districts will pay prevailing wages and/or living wages, as applicable, in connection with construction of public infrastructure and maintenance and operation by the Districts of facilities owned by the City or the Districts at the Site, all as more specifically provided in this Agreement and in an intergovernmental agreement to be entered into subsequent to the date hereof between the City and Broadway Station Metropolitan District No. 1 (the “**City IGA**”).

N. The City has determined that development of the Site in accordance with this Agreement will provide for orderly growth in accordance with the policies and goals set forth in the City's Comprehensive Plan 2000 (the “**Comprehensive Plan**”), Blueprint Denver and the Station Area Plan, as well as stimulate economic growth and assists in securing the investment expectations of BSP.

O. In exchange for these benefits and the other benefits to the City contemplated by this Agreement or other related agreements and/or derived by the City from development of the Site, BSP desires to receive the assurance that it may proceed with development of the Site pursuant to the terms and conditions contained in this Agreement. The City has determined that, in light of the importance of the development of the Site to the City and the community surrounding the Site, and considering the size, phasing and duration of the Project and the unpredictability of economic cycles and market conditions over the life of the development of the Site, it is appropriate to provide certain assurances to BSP and its successors and assigns through this Agreement.

P. The Parties also desire to terminate the Framework Agreement dated February 1, 2006 (“**Framework Agreement**”) between the City and Cherokee Denver, LLC, a Delaware limited liability company, and confirm that, excluding the Affordable Housing Plan attached as Exhibit D to the Framework Agreement (“**Cherokee Affordable Housing Plan**”), which

remains in its current status, the Framework Agreement no longer applies to the Site.

### **Agreement**

NOW THEREFORE, in consideration of the foregoing, the covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Framework Agreement Terminated.** Upon the Effective Date, the Framework Agreement and all exhibits attached to the Framework Agreement, excluding the Cherokee Affordable Housing Plan, shall be terminated and be of no further force and effect. The Cherokee Affordable Housing Plan shall retain its current status until the City and BSP reach agreement on a new plan for the provision of affordable housing at the Site. At such time as the City (either through the Office of Economic Development or the City Council) and BSP reach such agreement, the City shall execute and record against the Site a release of the Cherokee Affordable Housing Plan as it applies to the Site.

#### 2. **VP East**

A. Park Improvements. The City agrees to permit BSP to design and construct certain improvements in VP East as shown on the IMP (the “**Park Improvements**”). The Park Improvements shall (i) be consistent with the IMP, UDSG and the City IGA, (ii) be prepared in cooperation with the Parks Department, (iii) comply with the City's Standards for Public Parks and Facilities, as well as the UDSG, and (iv) be approved by the Executive Director of the Parks Department and the Executive Director of Public Works (the “**Directors**”) and have obtained all appropriate permits to allow construction. Because of the importance of VP East to the overall project, the City acknowledges that lighting, furniture and other park facilities and amenities may vary from standards of the Parks Department with approval of the Executive Director of the Parks Department.

B. Environmental Requirements. The Park Improvements shall be constructed in accordance with the Environmental Standards and Protocols set forth in Section 10 below. For purposes of determining what soils may be left in place or reused as fill materials pursuant to the MMP (as defined in Section 10 below) within VP East or Parcel A, surface soils to a depth of two (2) feet below final grade shall meet the residential soil standards set forth in the table titled “CDPHE Soil Cleanup Standards (Based on the EPA Regional Screening Level (RSL) Summary Table (TR=1E-6, HQ=1) January 2015)” attached as Appendix A to the MMP (“**RSL Summary Table**”) and in Section 10 below. Below such depth, soils shall meet the industrial soil standards set forth in the RSL Summary Table and in Section 10 below. The intent of this provision is that soil meets construction worker standards that are acceptable to the City and all utility providers. The Parties acknowledge that the District shall be responsible for all costs of materials management and any associated costs of off-site disposal with respect to VP East. However, nothing in this paragraph shall be construed to require the District to remove or “chase” soils within VP East outside the limits of excavation required for construction of the Parks Improvements or to monitor or treat any groundwater encounter during construction except as required to satisfy the requirements of any applicable construction discharge permit.

C. Construction and Funding. BSP shall construct or cause to be constructed the Park Improvements as may be agreed upon between BSP and the Directors. The terms and conditions of the City IGA shall apply to construction within VP East.

D. Kentucky Bridge. The Parties acknowledge that the Project contemplates construction of a multi-modal bridge at West Kentucky Avenue to provide vehicular, pedestrian and bicycle access over the South Platte River in the location shown on the IMP (the “**Kentucky Bridge**”).

E. Cooperation. BSP and the City will cooperate in order for BSP to connect to existing infrastructure and proposed infrastructure within VP East, consistent with the IMP, subject to any required construction agreements, permits or easements required by the Parks Department or Public Works.

F. Accommodation of Site Development

(i) Cooperation. The Parties acknowledge that development of VP East will require them to cooperate with regard to certain property vacations and easement relinquishments as provided below.

(ii) Right-of-Way Vacations. The City will cooperate with BSP to process the vacation of South Elati Street, West Ohio Avenue, and South Cherokee rights of way depicted on **Exhibit C**. At such time as BSP submits applications for vacation of such rights of way, the City will cooperate with BSP by supporting the BSP request that City Council vacate these rights-of-way subject to resolution of any technical objections that may arise during the review process. The City also will cooperate with BSP to determine what happens with any utilities or easements that may need to remain in such rights of way, and BSP agrees to have any necessary easement executed and recorded.

(iii) Easement Relinquishment. City will cooperate with BSP to process relinquishment of the easements listed on **Exhibit D** at such time as the utilities, if any, in such easements are relocated or other improvements are made allowing their abandonment.

G. Ownership, Operation and Maintenance. Ownership, operation, maintenance, repair and replacement responsibilities for VP East and the Park Improvements shall be governed by the provisions of the City IGA and the matrix to be attached thereto and entitled “Permanent Infrastructure — Ownership, Operations, Maintenance, Repair and Replacement Responsibilities” (the “**Matrix**”). Maintenance standards for VP East and the Park Improvements shall be at least to the City's standards for similar parks, or as otherwise agreed between the City and the Districts.

### 3. **Vanderbilt Park and Block 11**

A. Improvements. BSP owns Block 11 located on the west side of Santa Fe Drive adjacent to Vanderbilt Park. BSP plans to improve Vanderbilt Park and such plans include integration of at least an 0.5 acre portion of Block 11 (the “**Block 11 Open Space Area**”) with Vanderbilt Park, to be accessible to the public. BSP and or the Districts will further define the Block 11 Open Space Area, and will design the improvements to the Block 11 Open Space Area

in coordination with the Parks Department in order to integrate those improvements with Vanderbilt Park. The design must include, at a minimum, (1) a gateway plaza; (2) landscape improvements within the Block 11 Open Space Area; (3) a dog park; and (4) that portion of the regional trail within the Block 11 Open Space Area and its connection to Vanderbilt Park. The final configuration and definition of the Block 11 Open Space Area will be completed together with the vertical site development plan associated with the remaining portion of Block 11, provided, however, that construction of the improvements described above in this Section 3(A) will not be required to occur until the Kentucky Avenue vehicular bridge construction. BSP acknowledges that lighting, furniture and other amenities within the Block 11 Open Space Area must be approved by the Parks Department and be consistent with the UDSG, along with obtaining any necessary permits required for construction.

B. Plans and Park Improvements, Construction and Funding. BSP and/or the District will be responsible for all costs associated with improvements to the Block 11 Open Space Area and Vanderbilt Park as identified in Section 3(A) above.

C. Pedestrian/Bike Connection. At the time the Kentucky Bridge is constructed, BSP shall provide a pedestrian – bike connection to the South Platte Regional Trail, which connection shall cross both South Platte River Drive and Santa Fe Drive at grade.

D. Environmental Requirements. Improvements to the Block 11 Open Space Area and Vanderbilt Park as identified in Section 3(A) above shall be constructed in accordance with the Environmental Standards and Protocols set forth in Section 10 below. For purposes of determining what soils may be left in place or reused as fill materials within the Block 11 Open Space Area pursuant to the MMP (defined below), surface soils to a depth of two (2) feet below final grade shall meet the residential soil standards set forth in the RSL Summary Table and in Section 10 below. Below such depth, soils shall meet the industrial soil standards set forth in the RSL Summary Table and in Section 10 below. The intent of this provision is that the soil meets construction worker standards that are acceptable to the City and all utility providers. The City acknowledges that existing conditions in Vanderbilt Park are not known and may not meet the standards set forth above for the Block 11 Open Space Area and that a design for improvements within Vanderbilt Park that avoids disturbance of soils below the existing grade shall be acceptable; provided any such design includes an identification barrier marking current surface grades. To the extent that the design of the improvements within Vanderbilt Park developed in coordination with the Parks Department will result in disturbance of soils within Vanderbilt Park below existing grade during construction, neither the District nor BSP shall be responsible for any associated costs of materials management, environmental remediation, or off-site disposal of contaminated soil or groundwater.

#### **4. Open Space Requirement**

A. Open Space. BSP agrees to provide a minimum of ten percent (10%) of the net developable area of the Site as publicly accessible open space. The location of this open space is identified in the IMP. Open space shall meet the following criteria: (1) shall be provided in one (1) or more areas; (2) shall remain publicly accessible and usable; (3) shall result in one or more of the following public benefits: (a) enhanced connections to transit facilities,

plazas, or streets; (b) enhanced pedestrian environments; and/or (c) enhances or creates public spaces.

(i) VP East Credit. Provided BSP enhances VP East in accordance with the requirements described in Section 2 above, an open space credit equal to fifty percent (50%) of the net park area will be allowed. The net park area shall be considered the total land area of VP East minus that portion of the park occupied by the water surface area of the drainage pond proposed to be constructed within VP East. As stated in the IMP, the drainage concept that includes VP East and the adjacent City owned parcel commonly referred to as the “hockey stick” parcel, is conditionally approved subject to a subsequent written agreement between BSP and the City, and approval by City Council. Further, provided that BSP improves that portion of Parcel A in accordance with the requirements outlined above in this subsection, an open space credit equal to one-hundred (100%) of the net land area of Parcel A will be allowed. The net land area of Parcel A shall be considered the total land area of Parcel A minus any portions of Parcel A occupied by the structural components of the pedestrian bridge, elevator and pedestrian bridge stairway structure. Any portion of the stairway near the base of the stairs which serves as plaza, seating or provides other public uses shall be included in the net land area of Parcel A.

B. Open Space Phasing. The phasing of construction of the open space will be as provided in the IMP and the attached Exhibit E. Each phase of open space shall be completed prior to issuance of a certificate of occupancy for the first block of associated vertical development. Pond C as shown in the IMP may be constructed to serve the development on the east side of the property before Block 7 develops, but must be designed, constructed, and functional to treat the entire tributary basin, as well as be built to final grade and designed to accommodate future open space and trail improvements as shown on Exhibit 6.4A of the IMP. As a result, Pond C may have temporary landscaping and groundcover meeting the standards of the City’s Wastewater Division. In the event the permanent landscaping in future phases of the Project impacts the volume of the detention pond basin, such loss in volume will be compensated for in Pond C by modification of the Pond C design. In addition, if an applicant seeks approval of a site development plan for Block 11 before the Kentucky Bridge TEP is submitted, such site development plan shall show the final configuration and definition of the Block 11 Open Space Area. The construction of the improvements on the Block 11 Open Space Area and Vanderbilt Park listed in Section 3(A) above will not be required to occur until the Kentucky Avenue vehicular bridge construction, provided that, until such time, the developed portion of Block 11 will meet the landscaping and other requirements contained in the UDSG and zoning standards, and the Block 11 Open Space Area may be left in a vegetative state and shall be maintained in accordance with City standards.

C. IMP Net Area. The “IMP Net Area” shall be determined by subtracting street area from the gross area according to the following parameters:

- (i) Private drives and private access fire drives are not subtracted from the gross areas;
- (ii) Streets owned by the District with public access easements are subtracted from the gross area; and

(iii) Dedicated ROW or ROW easements are subtracted from the gross area.

## 5. **Horizontal Infrastructure**

A. Design. Streets to be dedicated as public rights-of-way shall be designed in accordance with Department of Public Works standards, as such standards may be altered by approved Department of Public Works variances. All streets that will be owned by the District (“**District Streets**”) shall either be designed in accordance with Department of Public Works standards, as such standards may be altered by approved Department of Public Works variances or the UDSG and other applicable standards that apply to private streets. District Streets will be owned and maintained by District(s) and shall be submitted to the City for review through the City’s requirements for horizontal site development plans. If any conflicts exist between Department of Public Works standards and the UDSG, then the UDSG shall apply to any dedicated right-of-way only when it proposes a higher standard than the Department of Public Works standards as such standards may be altered by approved Department of Public Works variances.

B. Sanitary, Storm water and Transportation Engineering Plans. The Parties acknowledge that construction documents for horizontal infrastructure including, but not limited to, site sanitary sewer, storm water conveyance, and transportation improvements that will be designed as right-of-way (defined as the Engineering Construction Documents) for any City owned utilities or streets will be submitted on a phased basis in accordance with the phasing maps in the IMP. Notwithstanding any other City ordinance, policy or requirement to the contrary, each such Engineering Construction Document shall be valid for a period of twenty-four (24) months from the date of approval.

C. Ownership and Access Requirements for Tracts other than District Streets to be Potentially Dedicated as Right-of-Way. City ownership and access requirements for tracts to be potentially dedicated as right-of-way where horizontal infrastructure is located, other than District Streets, will depend on the environmental condition of the tract as follows:

(i) The City shall accept fee title to such tract if soils meet residential standards set forth in the RSL Summary Table and groundwater beneath the tract meets Colorado Basic Standards for Groundwater in accordance with the Environmental Standards and Protocols set forth in Section 10 below.

(ii) The City shall accept an exclusive permanent easement to such tract if soils meet residential or industrial (construction worker) standards set forth in the RSL Summary Table and other conditions in accordance with the Environmental Standards and Protocols set forth in Section 10 below, but groundwater exceeds Colorado Basic Standards for Groundwater beneath such tract. Such easement shall be limited in depth to an elevation that is no less than two feet below the deepest utility and no greater than two feet above the groundwater surface at the time of easement conveyance. The form of easement shall be substantially the form of easement granted to the City pursuant to the Purchase and Sale Agreement (South Broadway Reconstruction; Arizona Ave. to Kentucky Ave.) between the City



and BSP dated February 26, 2015, with any changes reasonably acceptable to the City and the District.

(iii) The City shall accept a non-exclusive permanent easement in a form reasonably acceptable to the City covering only a utility trench that extends at least two feet below the deepest utility and is at least eight feet on either side of such utility lines or facilities in width (“**Utility Corridor**”) solely to maintain subsurface utilities owned by the City (but not streets) within the Utility Corridor if soils meet industrial standards set forth in the RSL Summary Table in accordance with the Environmental Standards and Protocols set forth in Section 10 below within the Utility Corridor, but not outside of the Utility Corridor. If such case, the District shall otherwise own and maintain the non-dedicated right-of-way (including the streets within the tract), but the District must provide to the City a permanent easement in a form reasonably acceptable to the City for public access across these tracts.

(iv) Any tracts that do not meet the standards set forth in (i) through (iii) above and District Streets shall be owned and maintained by the District. The District shall build the tracts to meet Denver Fire and UDSG standards. All utilities located within these tracts must be owned and maintained by the District, and the District must provide to the City a permanent non-exclusive easement in a form reasonably acceptable to the City to cover public access, and maintenance of these privately owned utilities if the District fails to maintain such utilities.

D. Acceptance, Conveyance and Dedications.

(i) The City may observe and inspect improvements to any tracts that may be right-of-way during the course of construction and upon completion of construction. If BSP, the District, or its contractor encounters any suspected environmental contamination during construction, BSP or the District shall provide notice to the City’s designee within the Department of Environmental Health as soon as reasonably possible.

(ii) Tracts and associated horizontal infrastructure constructed pursuant to this Section 5 shall be accepted by the City pursuant to this subsection D. BSP or the District may seek acceptance by the City in phases and is not required to complete all improvements prior to providing a notice of completion as provided below. Upon completion of horizontal infrastructure within a tract or tracts, a notice of completion (“**Notice of Completion**”) shall be provided to the project coordinator the Department of Community Planning and Development. Such Notice of Completion shall include (a) MMP Records (as defined in Section 10), which relate to the environmental condition of such tract, (b) as-built drawings for utility and roadway improvements, (c) identification of which environmental condition City ownership scenario is contemplated under Section 5(C) above; (d) for all tracts to be conveyed to the City meeting the requirements of Section 5(C)(i) or (ii) of this Agreement, a draft special warranty deed and/or form(s) of easement, including a legal description, accompanied by a title commitment; and (e) for all tracts to be conveyed to the City meeting the requirements of Section 5(C)(iii) or (iv) of this Agreement, a draft access and utility easement, including a legal description.

(iii) Upon receipt of the Notice of Completion, the City shall arrange for review of the Notice of Completion by the appropriate City departments and provide a notice of acceptance (“**Notice of Acceptance**”) following receipt of such Notice of Completion if the (a) tract and associated infrastructure meet the standards for acceptance set forth in this Section 5, (b) that the improvements have been constructed in accordance with the approved plans and specifications approved by the City, or (c) written comments identifying the reasons the tract and associated infrastructure do not meet such standards. BSP and/or the District and the City shall work in good faith to resolve any such comments and the Notice of Completion shall be resubmitted.

(iv) Fee title and/or easements, as applicable, to such tracts and associated infrastructure shall be conveyed to the City within fifteen (15) business days following receipt of Notice of Acceptance from the City.

(v) Upon conveyance of such tracts and associated horizontal infrastructure to the City, any easements, licenses, access agreements or agreements for the use of land shall have been terminated as a condition of conveyance and the City shall process requests for the replacement of such terminated easements through applicable franchises, utility permit, license or other legal mechanisms authorizing access issued by the City in accordance with, and subject to, the standards and procedures existing at the time such legal mechanisms authorizing access are issued or made effective.

(vi) Following acceptance pursuant to subsection (i), the City will promptly process an ordinance dedicating as public rights-of-way any tracts that meet the criteria set forth in Sections 5(C)(i) and (ii) above, and the City’s franchise agreements shall apply to such tracts. The City’s franchise agreement shall not apply to any tracts not dedicated as public rights-of-way.

E. Public Works Standards. The standards and requirements of the Department of Public Works shall govern the design, construction, management and operation of any tracts that are taken by the City as exclusive permanent easements, or in fee, and dedicated as public rights-of-way.

## 6. **Vesting of Property Rights**

A. Vesting Period. In recognition of the size and nature of the development contemplated under this Agreement and the IMP, the substantial investment and time required to complete the development of the Project, the phased development of the Project, and the possible impact of economic cycles and varying market conditions during the course of development, BSP and the City agree that the term of this Agreement and the vested property rights established under this Agreement shall continue until fifteen (15) years from the Effective Date (the “**Vesting Period**”). After the expiration of the Vesting Period, the provisions of this Section 6 and **Exhibit F** shall be deemed terminated and of no further force or effect; provided, however, that such termination shall not affect (a) any common-law vested rights obtained prior to such termination, or (b) any right arising from City permits, approvals or other entitlements for the Site or the Project which were granted or approved prior to, concurrently with, or subsequent to the approval of this Agreement and the IMP. BSP and the City agree (i) that this Section 6 and

the matters described on **Exhibit F** constitute an approved “site-specific development plan” as defined in the Vesting Statute, and (ii) that the owners of the Site shall have vested property rights to undertake and complete development and use of the Site as provided in this Section 6 and **Exhibit F**. Upon approval of this Agreement, the matters set forth on **Exhibit F**, shall constitute a vested property right pursuant to the Vesting Statute.

B. **Vested Rights.** The entitlements for the Site described below (the “**Vested Rights**”) shall be vested for the Vesting Period.

(i) The components of the C-MX-12, C-MX-16, C-RX-8 and C-MS-12 zone district categories identified on **Exhibit F**. For purposes of understanding the cross references in the pages provided in **Exhibit F**, the table of contents of each section of the Denver Zoning Code is attached as **Exhibit G**. **Exhibit G** does not provide any vested rights and is for reference only.

(ii) The following components of the Infrastructure Master Plan (IMP):

(a) The following concepts outlined for storm detention as shown in the IMP:

(1) water quality storage and/or detention required for the Market Place Mixed-Use District will be allowed to be stored and treated in a pond or ponds lying west of the Consolidated Main Line upon obtaining necessary licenses or agreements from the rail right-of-way owner(s), and approved storm sewer plans prepared in accordance with the City’s technical criteria with such plans providing conveyance of the 100-year storm to the pond or ponds;

(2) the required volumetric storage required for these proposed ponds shall be the Excess Urban Runoff Volume (“**EURV**”) in watershed inches multiplied by the watershed area per the equations provided below unless other citywide action is required for compliance with Federal or State requirements that would require revision to the current standards. Each pond shall also be designed to convey the 100-year storm to the South Platte River in accordance with the City’s technical criteria.

(3) Equations 12-1, 2 and 3 from the Urban Drainage and Flood Control District’s Urban Storm Drainage Criteria Manual: Volume 2 Structures, Storage, and Recreation as updated January 2016, Chapter 12, Section 4.1.1 shall be used to find the EURV in watershed inches for specific soil types.

(4) As stated in the IMP, the drainage concept in VP East and the adjacent parcel referred to in the IMP as the “hockey stick parcel” is conditionally approved subject to a subsequent written agreement between BSP and the City and approval by City Council. As such, this drainage concept is not vested until and unless such concept is approved by the City and ratified by City Council, and in no event is such concept vested beyond the Vesting Period.

(b) Open Space Requirements as shown on the “Open Space Calculations” exhibit to the IMP, a copy of which is attached at **Exhibit H**.

C. **Provisions Related to Vested Rights**

(i) The establishment of Vested Rights herein shall not preclude the application of any other City ordinances or regulations that are consistent with such Vested Rights.

(ii) This Agreement shall constitute a “development agreement” between the City and BSP for purposes of the Vesting Statute. If BSP acquires additional portions of the Site, this Section 6 and **Exhibit F** shall apply equally to those parcels.

(iii) “Vested,” as used in this Section 6 and in **Exhibit F** means the right to develop, plan and engage in land uses within the Site in the manner and to the extent set forth in, and in accordance with the parameters set forth in this Section 6(C) and **Exhibit F**.

(iv) The City agrees that any conditions, standards, requirements and dedications imposed on the Site shall not have the effect of materially and adversely altering, impairing, preventing, diminishing, imposing a moratorium on development, delaying or otherwise adversely affecting any of the Vested Rights.

(v) Except as set forth in 6(D) below, the City shall not initiate any zoning, land use or other legal or administrative action that would have the effect of materially and adversely altering, impairing, preventing, diminishing, imposing a moratorium on development, delaying or otherwise adversely affecting any of the Vested Rights.

D. **Compliance with General Regulations**. The establishment of Vested Rights under this Agreement shall not preclude the application on a uniform and non-discriminatory basis of City regulations of general applicability (including, but not limited to, building, fire, plumbing, electrical and mechanical codes, the Code, and other City rules and regulations) or the application of state or federal regulations, as all of such regulations exist on the date of this Agreement or may be enacted or amended after the date of this Agreement, except for any such newly enacted or amended City regulations not required by state or federal law that have the effect of materially and adversely altering, impairing, preventing, diminishing, imposing a moratorium on development, delaying or otherwise adversely affecting any of the Vested Rights. BSP does not waive its right to oppose the enactment or amendment of any such regulations or to challenge the validity of such regulations through proper legal means.

E. **Subsequent Review and Approvals**. The establishment of Vested Rights under this Agreement shall not exempt the Project from subsequent reviews and approvals by the City to ensure compliance with the terms and conditions of City ordinances and regulations, provided that such subsequent reviews and approvals shall not, in their application to the Project or the Site, have the effect of altering, impairing, preventing, diminishing, imposing a moratorium on development, or delaying or otherwise adversely affecting any of the Vested Rights set forth in **Exhibit F** or the agreements of the City set forth in Sections 6(A), 6(B) and 6(C) of this Agreement.

F. Elimination of Zone District Category; Changes in Zoning

(i) Notwithstanding anything in the foregoing to the contrary, in the event that the City eliminates altogether the C-MX-12, C-MX-16, C-RX-8 and C-MS-12 zone district categories or any of such categories or the City initiates a change of the zoning of any of the Site to a different zone district, BSP shall be entitled to develop any such affected parcel in accordance with the Vested Rights in **Exhibit F** that are related to the zoning of such parcel as of the Effective Date and with Sections 6(A) through (E) above, notwithstanding such City actions, and the uses in **Exhibit F** as to each such zone district shall have the same classification (e.g. Permitted Use without Limitations; Permitted Use with Limitations; Not Permitted Use; Zoning Permit Review).

(ii) Except for the Vested Rights as set forth in **Exhibit F**, changes in and additions to the City's C-MX-12, C-MX-16, C-RX-8 and C-MS-12 zoning shall apply to the portions of the Site that are zoned within those zone districts, but, except as specified in **Exhibit F**, shall not be Vested Rights.

G. Urban Design Standards and Guidelines. In addition to the Vested Rights provided above in this Section 6, the City agrees that the UDSG will include a paragraph providing that should the City initiate any change to the UDSG, the City shall notify the property owner(s) affected by the change. In addition, the City shall obtain a letter of support from the District prior to processing the change through the Planning Board review process.

H. Site Development Plan Applications. At the time of application for either a concept Site Development Plan or a formal Site Development Plan, such applicant shall state in its application what zoning code regulations it intends to develop in accordance with: the Vested Zoning Code provisions identified in this Agreement, current zoning code provisions within the most recently adopted Denver Zoning Code in place at the time of site development application, or a combination of both. If such applicant intends to develop its site in accordance with the any of the Vested Zoning Rights, such applicant shall include a copy of Exhibits F and G of this Agreement together with its site development plan application along with language identifying which provisions they are seeking to utilize.

7. **No Obligation to Develop.** BSP shall have the right to develop the Site in the order, at the rate and at the time as market conditions dictate, subject to the terms and conditions of this Agreement and other related agreements. BSP shall have no obligation to construct private improvements on all or any portion of the Site and shall have no liability to the City for any failure to construct private improvements on all or any part of the Site. BSP and the City contemplate that the Site will be developed in phases. BSP shall have no obligation to develop all or any portion of the private improvements on any such phase, notwithstanding the development or nondevelopment of any other phase and BSP shall have no liability to the City for any failure to develop all or any portion of the private improvements on any such phase of the Project.

8. **Access Requirements for Non City-Owned Streets.** BSP and/or the District shall insure that non City-owned tracts or dedicated rights-of-way serving as public streets shall be accessible to the public for emergency, bicycle, pedestrian and vehicle access even though they

are not owned by the City. The maintenance of these tracts will be in accordance with the City IGA. The District must provide to the City a permanent non-exclusive easement in a form reasonably acceptable to the City to cover public access to these tracts and rights of way.

9. **Transportation Network Improvements.** The Parties acknowledge the following with regard to transportation network improvements.

A. Required Infrastructure. Required infrastructure for the Site shall be determined by the City in accordance with its site development planning process with the IMP serving as the governing master plan.

B. Pedestrian/Bicycle Connections.

(i) BSP and/or the District shall insure that any development on the west side of the Site, except development on the Vanderbilt Park parcel, shall have a pedestrian and bicycle connection to the existing Mississippi Avenue bicycle/pedestrian infrastructure. If the Office & Parkland District is phased before the Santa Fe Residential District, such connection may be temporary in nature if approved by the Department of Public Works.

(ii) The City acknowledges that no roadway, bicycle or pedestrian improvements will be required related to the existing Mississippi/Santa Fe intersection or existing Broadway/Mississippi intersection, except that pedestrian, bicycle and roadway improvements as provided in the IMP. These include extending the existing pedestrian/bicycle system from the west end of the existing retaining wall on the north side of Mississippi with connections to both the north-south promenade trail system and the northeast corner of the Santa Fe/Mississippi intersection. A parallel, grade separated system will also connect South Cherokee Street to the north-south promenade trail system.

(iii) As vertical development projects apply for site development plan and building permitting, there may be other improvements needed beyond those shown in the IMP, including, but not limited to, improvements to facilitate access for the specific use and/or building type being proposed.

C. Development of I-25 & Broadway District. The Parties acknowledge that the City, RTD and the developer of the I-25 & Broadway District will need to confirm the location of the touchdown of the north pedestrian bridge in the I-25 & Broadway District.

D. Northern Pedestrian Bridge. The northern pedestrian bridge on the Site must occur with the development of the Office and Parkland District, subject to C above.

E. New Access Points on Santa Fe Drive. The City will support BSP/the District in request from CDOT for two new access points on Santa Fe, assuming they do not impact dedicated park land and are acceptable to Public Works. The Parties contemplate that at least one of the access points will be a full movement intersection.

## 10. Environmental Standards and Protocols

A. Materials Management Plan. The City acknowledges that (i) the Site is subject to the Materials Management Plan, Former Gates Rubber Facility, Denver, Colorado, prepared by Apex Companies, LLC, for BSP dated October 5, 2015 (the “MMP”); (ii) the MMP has been approved by CDPHE as part of a number of Voluntary Cleanup Plans for the Site; and (iii) the MMP addresses procedures for screening, removal, reuse, and disposal of contaminated soils, groundwater, and debris from the Site; (iv) BSP has received “no action determinations” with respect to some but not all portions of the Site and will continue to conduct remediation of portions of the Site in accordance with Voluntary Cleanup Plans approved by CDPHE during the term of this Agreement; and (v) BSP may not have received a “no action determination” with respect to portions of the Site to be conveyed to the City at the time of any such conveyance.

B. Unless otherwise approved by the City:

(i) All soil disturbing activities on portions of the Site where improvements will be conveyed to the City shall be conducted in accordance with the MMP using the environmental standards for reuse of soils specified for such location in this Agreement (i.e., residential or industrial standards, as applicable). In addition to MMP procedures, BSP or the District shall take commercially reasonable measures to mitigate odor and any visible staining present in soils that otherwise meet standards for reuse under this Agreement. By way of example, such measures may include, but are not limited to, blending stained soils with soils that are not stained or tilling or turning stockpiled soils to release odors. Notwithstanding the foregoing, the City acknowledges that odor and staining are subjective, aesthetic standards and the City shall not require BSP/the District to remove soils that have been reused as fill so long as such soils otherwise met numeric standards for reuse specified in this Agreement (i.e., residential or industrial standards, as applicable).

(ii) Imported fill material used on portions of the Site where improvements will be conveyed to the City shall meet the residential soils standards set forth in the RSL Summary Table as determined pursuant to the MMP. “Imported fill material” means soil and other fill material originating outside the Site or VP East.

(iii) Water quality ponds and other water quality facilities must be lined with an impermeable material or otherwise constructed so that any water collected does not come into contact with groundwater and so that the facility does not alter groundwater quality or flow. If such facilities are not lined, BSP must provide information to the City’s Department of Environmental Health regarding soil permeability, pond depth and relation to groundwater levels, or other information demonstrating that this requirement can be met without lining such facility.

C. The City acknowledges receipt of site characterization data gathered and presented in the VCUPs documenting the environmental condition of soil and groundwater on the Site and certain supplemental information as requested by the City. Accordingly, for purposes of demonstrating that land within the Site to be conveyed to the City and locations within VP East and Vanderbilt Park meet standards for conveyance set forth herein, the City agrees that BSP shall be required to provide to the City only materials management records and

laboratory testing results from samples collected pursuant to the MMP and from any other samples collected in BSP's discretion, including but not limited to, maps identifying sample locations and depths, field notes, analytical data, and laboratory records for both soils and groundwater, if any ("**MMP Records**"). The City may observe construction and conduct additional confirmation sampling in its discretion prior to accepting conveyance; provided that BSP and the City will cooperate to assure that any such observation or sampling does not unreasonably delay or interfere with construction or property conveyance timeframes.

D. The MMP shall not be amended without approval from CDPHE and any amendment shall require no less stringent procedures or standards. BSP shall provide a copy of any request for amendment or modification to the MMP to the City Manager of Environmental Health at prior to the time of submittal to CDPHE.

E. If BSP has not obtained an NAD with respect to property to be conveyed to the City, BSP will continue to conduct such remediation in accordance with the applicable VCUP and shall not amend such VCUP to allow less stringent cleanup of any such property conveyed to the City than is specified as of the date of this agreement. BSP will provide a copy of any request for amendment or modification to any active VCUP for the Site to the City Manager of Environmental Health at prior to the time of submittal to CDPHE.

11. **Prevailing Wage.** Employees of BSP or BSP's subcontractors may be subject to the payment of prevailing wages pursuant to Denver Revised Municipal Code ("**D.R.M.C.**") § 20-76 depending upon the nature of their work. By executing this Agreement, BSP covenants and affirms that BSP is familiar with the prevailing wages provisions and is prepared to pay or cause to be paid prevailing wages, if any, required for any public work of BSP or BSP's subcontractors.

## 12. **General Provisions**

A. Time is of the Essence. It is understood and agreed between the Parties that time is of the essence hereof; and all the agreements herein contained shall be binding upon and for the benefit of each Party's successors and assigns.

B. Default by City. A "breach" or "default" by the City under this Agreement shall be defined as the City's failure to fulfill or perform any material obligation of the City contained in this Agreement that has taken effect pursuant to Section 19 below.

C. Default by BSP. A "breach" or "default" by BSP shall be defined as BSP's failure to fulfill or perform any material obligation of BSP contained in this Agreement that has taken effect pursuant to Section 19 below.

D. Notices of Default; Cure Period. In the event of a default by either Party under this Agreement, the non-defaulting Party shall deliver written notice to the defaulting Party of such default, at the address specified in Section 18 below, and the defaulting Party shall have 30 days from and after receipt of such notice to cure such default. If such default is not of a type which can be cured within such 30-day period and the defaulting Party gives written notice to the non-defaulting Party within such 30-day period that it is actively and diligently pursuing such cure, the defaulting Party shall have a reasonable period of time given the nature of the default



following the end of such 30-day period to cure such default, provided that such defaulting Party is at all times within such additional time period actively and diligently pursuing such cure.

E. Remedies. If any default under this Agreement is not cured as described above, the non-defaulting Party shall have all remedies available at law or in equity, including an action for injunction and/or specific performance, but each Party hereby waives the right to recover, to seek and to make any claim for damages for default under this Agreement, or for attorneys' fees or costs.

F. Authority to Execute. The Parties each represent that the persons who have affixed their signatures hereto have all necessary and sufficient authority to bind each Party.

G. Cooperation of the Parties. If any legal or equitable action or other proceeding is commenced by a third party challenging the validity of any provision of this Agreement, the City and BSP shall reasonably cooperate in defending such action or proceeding, each to bear its own expenses in connection therewith. Unless the City and BSP otherwise agree, each Party shall select and pay its own legal counsel to represent it in connection with such action or proceeding.

H. Assignment. The rights and obligations under this Agreement may not be assigned to any entity without the prior written consent of the other Party, except that any responsibility for the financing, acquisition, planning, design, engineering, permitting, remediation, construction, completion, operation, maintenance, repair or replacement of any park, recreation or storm drainage facility or any other public infrastructure specified in this Agreement may be assigned to and performed by any of the Districts in accordance with such District's service plan. Written notice of any such assignment shall be given to the City. If this Agreement is assigned, all the covenants and agreements herein contained shall be binding upon and inure to the benefit of the successors, assigns, heirs and personal representatives of the respective Parties. BSP shall have the right to assign or transfer all or any portion of its interests, rights and obligations under this Agreement to third parties acquiring an interest or estate in the Site, including, but not limited to, purchasers or long term ground lessees of individual lots, parcels, or of any improvements now or hereafter located within the Site, provided that to the extent BSP assigns any of its obligations under this Agreement, the assignee of such obligations shall expressly assume such obligations. The express assumption of any of BSP's obligations under this Agreement by its assignee shall thereby relieve BSP of any further obligations under this Agreement with respect to the matter so assumed.

I. Severability. The promises and covenants contained herein are several in nature. Should any one or more of the provisions of this Agreement be judicially adjudged invalid, void or unenforceable, such judgment shall not affect, impair, or invalidate the remaining provisions of this Agreement, so long as each Party receives substantially all the benefits contemplated in this Agreement and so long as enforcement of the remaining provisions would not be inequitable to the Party against whom they are being enforced under the facts and circumstances then pertaining.

J. No Discrimination in Employment. In connection with the performance of work under this Agreement, the Parties agree not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color religion, national origin, gender, age military status, sexual orientation, marital status, or physical or mental disability; and further agree to insert the foregoing provision in all subcontracts hereunder.

K. When Rights and Remedies Not Waived. In no event shall any performance hereunder constitute or be construed to be a waiver by any Party of any breach of covenant or condition or of any default which may then exist. The rendering of any such performance when any such breach or default exists shall in no way impair or prejudice any right of remedy available with respect to such breach or default. Further, no assent, expressed or implied, to any breach of any one or more covenants, provisions, or conditions of this Agreement shall be deemed or taken to be a waiver of any other default or breach.

L. Subject to Local Laws: Venue. Each and every term, provision, and condition herein is subject to the provisions of the laws of the United States, the State of Colorado, the City Charter, and the ordinances, executive orders, rules, and regulations of the City and County of Denver. Venue for any legal action relating to this Agreement shall lie in the District Court in and for the City and County of Denver, Colorado.

M. Extensions: Amendments. Except as otherwise provided for herein, no prior or contemporaneous addition, deletion or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. Except as otherwise provided for herein, no subsequent notation, renewal, addition, deletion, or other amendment to or termination of this Agreement shall have any force or effect unless embodied in a written amendatory or other agreement executed by the Parties. City Council approval shall be required for amendments only if and to the extent required by the Charter. The Parties agree that any time for performance of any term or satisfaction of any condition hereunder may be extended for up to two (2) years by a letter signed by the Directors and an authorized representative of BSP. For the purposes of any amendment to or termination of this Agreement, "BSP" shall mean only BSP Denver, LLC and those parties, if any, to whom BSP Denver, LLC may specifically grant, in writing, the power to enter into such amendment or termination.

N. Section Headings. The section headings are inserted herein only as a matter of convenience and for reference and in no way are intended to be a part of this Agreement or to define, limit or describe the scope or intent of this Agreement or the particular sections hereof to which they refer.

O. No Third-Party Beneficiary. It is the intent of the Parties that no third party beneficiary interest is created in this Agreement except for an assignment pursuant to this Agreement. The Parties are not presently aware of any actions by them or any of their authorized representatives which would form the basis for interpretation construing a different intent, and in any event expressly disclaim any such acts or actions, particularly in view of the integration of this Agreement.

P. Counterparts, Electronic Signatures, and Electronic Records. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one of the same document. Facsimile signatures shall be accepted as originals. The Parties consent to the use of electronic signatures by any Party hereto. The Agreement and any other documents requiring a signature may be signed electronically by each Party in the manner specified by that Party. The Parties agree not to deny the legal effect or enforceability of this Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of this Agreement in the form of an electronic record, a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the grounds that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

Q. Appropriation. All obligations of the City under and pursuant to this Agreement are subject to prior appropriations of monies expressly made by the City Council for the purposes of this Agreement and paid into the Treasury of the City.

R. Reasonableness of Consent or Approval. Whenever under this Agreement “reasonableness” is the standard for the granting or denial of the consent or approval of either Party hereto, such Party shall be entitled to consider public and governmental policy, moral and ethical standards, as well as business and economic considerations.

S. No Personal Liability. No elected official, director, officer, agent, manager, member or employee of the City or BSP shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Agreement or because of any breach thereof or because of its or their execution, approval or attempted execution of this Agreement.

T. Conflict of Interest by City Officers. BSP represents that to the best of its information and belief no officer or employee of the City is either directly or indirectly a party to or in any manner interested in this Agreement except as such interest may arise as a result of the lawful discharge of the responsibilities of such elected official or employee.

U. No Merger. The Parties intend that the terms of this Agreement shall survive closing of the Open Space Subarea conveyance and shall not be merged into the deed conveying such parcel.

V. Effective Date. The Effective Date of this Agreement shall be the date that this Agreement has been fully signed by the Mayor of the City.

W. Recording. This Agreement shall be recorded in the real property records of the City and County of Denver after signature by BSP and the City and the City Auditor. Upon such recording, subject to Section 19 below, this Agreement shall run with the Site and any other portion of the Site subsequently acquired by BSP.

X. Examination of Records. Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access and the right to examine any pertinent books, documents, papers and records of the Parties, involving transactions related to the Agreement until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations.

13. **Uniform Taxes.** All future taxes imposed by the City and not addressed in this Agreement shall be imposed uniformly and non-discriminately throughout the City.

14. **Municipal Services.** Notwithstanding the creation of the Districts, the City shall have the responsibility and obligation to provide to the Site municipal services equivalent to those provided to any other area of the City, on a uniform and non-discriminatory basis, including, without limitation, police and fire protection, snow removal and road maintenance (only applicable to tracts dedicated as right-of-way), building code enforcement, and other administrative services.

15. **Findings.** The City hereby finds and determines that execution of this Agreement is in the best interests of the public health, safety, and general welfare and the provisions of this Agreement are consistent with the Comprehensive Plan and development laws, regulations and policies of the City.

16. **Further Assurances.** Each Party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other Party the full and complete enjoyment of its rights and privileges under this Agreement.

17. **Police Powers.** Except as expressly provided herein, nothing in this Agreement shall impair the City's exercise of its police powers.

18. **Notices.** Any notices, demands or other communications required or permitted to be given hereunder shall be in writing and shall be delivered personally, delivered by overnight courier service, or sent by certified mail, postage prepaid, return receipt requested, addressed to the Parties at the addresses set forth below, or at such other address as either Party may hereafter or from time to time designate by written notice to the other Party given in accordance herewith. Notice shall be considered given at the time it is personally delivered, the next business day following being placed with any reputable overnight courier service for next business day delivery, or, if mailed, on the third business day after such mailing.

If to the City:

Mayor  
1437 Bannock Street, Room 350  
Denver, Colorado 80202

With copies to:

Denver City Attorney  
1437 Bannock Street, Room 353  
Denver, Colorado 80202

Executive Director of Public Works  
201 W. Colfax, Dept. 608  
Denver, CO 80202

Chief Financial Officer  
201 W. Colfax, Dept. 1010  
Denver, CO 80202

Executive Director of Economic  
Development  
201 W. Colfax, Dept. 1005  
Denver, CO 80202

Executive Director of Parks and Recreation  
201 W. Colfax, Dept. 601  
Denver, CO 80202

Executive Director of Community Planning  
and Development  
201 W. Colfax, Dept. 205  
Denver, CO 80202

Executive Director of Environmental Health  
200 W. 14<sup>th</sup> Ave  
Denver, CO 80204

Brent Eisen  
City Attorney's Office  
201 W. Colfax Avenue, Department 1207  
Denver, Colorado 80202

Brad Beck  
City Attorney's Office  
201 W. Colfax Avenue, Department 1207  
Denver, Colorado 80202

If to BSP:

BSP Denver, LLC  
1821 Blake St. Suite 3C  
Denver, CO 80202  
Attn: Dan Jacobs, Manager

With copies to:

Broadway Station Development Company  
1821 Blake St. Suite 3C  
Denver, CO 80202  
Attn: Lisa Ingle, Development Project  
Manager

And:

Kaplan Kirsch & Rockwell  
Attn: Sarah M. Rockwell and  
Stephen H. Kaplan  
1675 Broadway, Suite 2300  
Denver, CO 80202

**19. Condition to Rights and Obligations.** Except as provided in the next sentence, the rights and obligations of the City and BSP shall be effective on the Effective Date. The rights and obligations of the City and BSP under Sections 2(C), 2(E), 2(F)(i), 3(A), 3(B), 3(C), and 4(A) of this Agreement are conditioned on approval by the City Council and DURA, as applicable, of a package of agreements relating to tax increment financing for the Project acceptable to BSP and the City. Upon such approval, the Parties shall immediately thereafter, record in the real property records of the City and County of Denver a document confirming that such package has been approved and that Sections 2(C), 2(E), 2(F)(i), 3(A), 3(B), 3(C), and 4(A) of this Agreement have become effective.

**20. Additional City Required Provisions.**

A. Colorado Governmental Immunity Act. The Parties understand and agree that the City is relying upon, and has not waived, the monetary limitations and all other rights, immunities and protection provided by the Colorado Governmental Act, C.R.S. § 24-10-101, *et seq.*

B. No Authority To Bind City To Contracts. BSP lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the D.M.R.C.

C. Permits, Licenses, Taxes, Charges And Penalties. BSP agrees to pay promptly all taxes, excises, license fees, and permit fees of whatever nature applicable to its operations or activities under this Agreement, and to take out and keep current all required licenses or permits (federal, state, or local) required for the conduct of its business hereunder, and further agrees not to permit any taxes, excises, license or permit fees to become delinquent. BSP further agrees to pay promptly when due all bills, debts and obligations incurred by it in connection with its operations and the performance of this Agreement and not to permit the same to become delinquent. The City is not liable for the payment of taxes, late charges or penalties of any nature. BSP shall not allow any lien, mortgage, judgment or execution to be filed against City property.

D. No Discrimination In Employment. In connection with the performance of work under this Agreement, BSP agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and BSP further agrees to insert the foregoing provision in all subcontracts pertaining to any public work.

E. Compliance with Minority/Women Owned Business Enterprise Requirements. Any public work conducted by BSP is subject to all applicable provisions of Divisions 1 and 3 of Article III, of Chapter 28, D.R.M.C., designated as Sections 28-31 – 29-36 and 28-52 – 28-90 D.R.M.C. and referred to as the “M/WBE Ordinance”. In accordance with the requirements of the M/WBE Ordinance, BSP is committed to, at a minimum, meet the participation goals established for any public work project utilizing properly certified M/WBE subcontractors and suppliers. Without limiting the general applicability of the foregoing BSP acknowledges its continuing duty, pursuant to Sections 28-72, 28-73 and 28-75 DRMC and the M/WBE Program, to meet and maintain throughout the duration of the Project for any public work its participation and compliance commitments and to ensure that all subcontractors subject to the M/WBE Ordinance or the M/WBE Program also maintain such commitments and compliance. Failure to comply with these requirements may result, at the discretion of the Director of the Division of Small Business Opportunity (“**DSBO**”), in the imposition of sanctions against BSP in accordance with Section 28-77, DRMC. Nothing contained in this paragraph or in the referenced City ordinance shall negate the City’s right to prior approval of subcontractors, or substitutes therefore.

**Contract Control Number:**

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

**CITY AND COUNTY OF DENVER**

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_





EXECUTED as of the dates set forth below by the Parties' signatures.

**BROADWAY STATION PARTNERS, LLC,**  
a Delaware limited liability company

By: Frontier Renewal LLC,  
a Delaware limited liability company,  
its Manager

By: *m-l* Chief Executive Officer  
Daniel L. Jacobs, Chief Executive Officer

STATE OF COLORADO            )  
  ) ss  
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me on May 26, 2016,  
by Daniel L. Jacobs as Chief Executive Officer of Frontier Renewal LLC, a Delaware limited  
liability company, as Manager of Broadway Station Partners, LLC, a Delaware limited liability  
company.

Witness my hand and official seal.

My commission expires: 3/21/2020



*Ellen Hamilton*  
Notary Public

**Contract Control Number:** CPLAN-201628259-00

**Contractor Name:** Broadway Station Partners LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

**ATTEST: [if required]**

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

*Signed copy follows this page*



EXECUTED as of the dates set forth below by the Parties' signatures.

**BROADWAY STATION PARTNERS, LLC,**  
a Delaware limited liability company

By: Frontier Renewal LLC,  
a Delaware limited liability company,  
its Manager

By: *Daniel L. Jacobs* *Chief Executive Officer*  
Daniel L. Jacobs, Chief Executive Officer

STATE OF COLORADO            )  
  ) ss  
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me on May 26, 2016,  
by Daniel L. Jacobs as Chief Executive Officer of Frontier Renewal LLC, a Delaware limited  
liability company, as Manager of Broadway Station Partners, LLC, a Delaware limited liability  
company.

Witness my hand and official seal.

My commission expires: 3/21/2020



*Ellen Hamilton*  
Notary Public



## **Exhibits**

- Exhibit A: BSP Site Legal Description
- Exhibit B: Block 11
- Exhibit C: Right-of-Way Vacations
- Exhibit D: Easement Vacations
- Exhibit E: Open Space Phasing
- Exhibit F: Vested Rights
- Exhibit G: Tables of Contents related to Vested Rights
- Exhibit H: Open Space Requirements and Language from IMP

## **Exhibit A: BSP Site Legal Description**

# EXHIBIT A

## LEGAL DESCRIPTION:

### PARCEL 2A:

ALL OF EDGERTON PLACE AND FIRST ADDITION TO EDGERTON PLACE, CITY AND COUNTY OF DENVER, STATE OF COLORADO, TOGETHER WITH ALL OF THE ALLEYS AND STREETS DEDICATED THEREON AND LATER VACATED, EXCEPT THE PORTIONS DEDICATED AS BROADWAY ON SAID PLATS.

EXCEPT ANY PART OF THE ABOVE DESCRIBED PARCEL LYING WITHIN THE LAND DESCRIBED DESCRIBED IN RULE AND ORDER RECORDED OCTOBER 1, 2004 UNDER RECEPTION NO. 2004205973.

### PARCEL 2B: (INTENTIONALLY DELETED)

### PARCEL 2C:

THAT PORTION OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 15, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 15;  
THENCE EAST 50 FEET;  
THENCE SOUTH 66 FEET;  
THENCE EAST 50 FEET;  
THENCE SOUTH 594 FEET TO THE SOUTH LINE OF SAID NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4;  
THENCE WEST 30 FEET, MORE OR LESS, TO THE EASTERLY LINE OF THE RIGHT OF WAY OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, FORMERLY THE DENVER & SANTA FE RAILWAY COMPANY;  
THENCE NORTHERLY ALONG SAID RIGHT OF WAY LINE TO THE WEST LINE OF SAID NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4;  
THENCE NORTH ON SAID WEST LINE TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION CONVEYED TO REGIONAL TRANSPORTATION DISTRICT BY QUIT CLAIM DEED RECORDED JANUARY 3, 1994 UNDER RECEPTION NO. 9400000231.

EXCEPT ANY PART OF THE ABOVE DESCRIBED PARCEL LYING WITHIN THE LAND DESCRIBED DESCRIBED IN RULE AND ORDER RECORDED OCTOBER 1, 2004 UNDER RECEPTION NO. 2004205973.

### PARCEL 2D: (INTENTIONALLY DELETED)

### PARCEL 2E:

A PORTION OF THE EAST HALF OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 15, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID EAST HALF OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 15;  
THENCE NORTHERLY ALONG THE WEST LINE OF SAID EAST HALF 240 FEET;  
THENCE EASTERLY PARALLEL WITH THE SOUTH LINE OF SAID EAST HALF 260 FEET;  
THENCE SOUTHERLY PARALLEL WITH THE WEST LINE OF SAID EAST HALF 240 FEET;  
THENCE WESTERLY ALONG THE SOUTH LINE OF SAID EAST HALF 260 FEET TO THE POINT OF BEGINNING.

EXCEPT ANY PART OF THE ABOVE DESCRIBED PARCEL LYING WITHIN THE LAND DESCRIBED DESCRIBED IN RULE AND ORDER RECORDED OCTOBER 1, 2004 UNDER RECEPTION NO. 2004205973.

PARCEL 2F:

A PORTION OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 15, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID EAST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 15;

THENCE EASTERLY ALONG THE SOUTH LINE OF SAID EAST 1/2, 260 FEET TO THE TRUE POINT OF BEGINNING, WHICH IS AT THE SOUTHEAST CORNER OF A CERTAIN PARCEL OF LAND PREVIOUSLY CONVEYED BY THE E. BURKHARDT & SONS STEEL & IRON WORKS CO. TO THE GATES RUBBER CO. BY DEED DATED OCTOBER 26, 1939, RECORDED IN BOOK 5349 AT PAGE 581 OF THE RECORDS IN THE OFFICE OF THE CLERK AND RECORDER OF THE CITY AND COUNTY OF DENVER, STATE OF COLORADO;

THENCE NORTHERLY ALONG THE EAST LINE OF SAID PARCEL PREVIOUSLY CONVEYED, 212 FEET TO A POINT;

THENCE EASTERLY PARALLEL TO THE SOUTH LINE OF SAID EAST 1/2, 24 FEET TO A POINT;

THENCE SOUTHERLY PARALLEL TO THE EAST LINE OF SAID PARCEL PREVIOUSLY CONVEYED 212 FEET TO A POINT ON THE SOUTH LINE OF SAID EAST 1/2;

THENCE WESTERLY ALONG THE SOUTH LINE OF SAID EAST 1/2, 24 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 2G:

A PORTION OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 15, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF WEST KENTUCKY AVENUE AND THE WEST LINE OF SOUTH BROADWAY, SAID POINT BEING 15 FEET NORTH AND 50 FEET WEST OF THE SOUTHEAST CORNER OF SAID EAST 1/2 NORTHEAST 1/4 SOUTHWEST 1/4 OF SECTION 15; THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID EAST 1/2 A DISTANCE OF 293.34 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH PARALLEL WITH THE WEST LINE OF SAID EAST 1/2 A DISTANCE OF 150 FEET;

THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID EAST 1/2 A DISTANCE OF 30 FEET, MORE OR LESS, TO A POINT ON THE EAST LINE OF THAT PARCEL OF LAND DESCRIBED IN BOOK 5721 AT PAGE 294;

THENCE SOUTH PARALLEL WITH THE WEST LINE OF SAID EAST 1/2 A DISTANCE OF 150 FEET TO THE NORTH LINE OF WEST KENTUCKY AVENUE;

THENCE EAST ALONG THE NORTH LINE OF WEST KENTUCKY AVENUE A DISTANCE OF 30 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING,

TOGETHER WITH THAT PORTION OF WEST KENTUCKY AVENUE, AS VACATED BY ORDINANCE RECORDED SEPTEMBER 9, 1965 IN BOOK 9489 AT PAGE 237 LYING SOUTHERLY OF AND ADJACENT TO SAID LAND.

EXCEPT THAT PORTION OF SAID VACATED WEST KENTUCKY AVENUE LYING WITHIN THE PLAT OF FIRST ADDITION TO EDGERTON PLACE.

PARCEL 2H:

A PORTION OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 15, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF WEST KENTUCKY AVENUE AND THE WEST LINE OF SOUTH BROADWAY, SAID POINT BEING 15 FEET NORTH AND 50 FEET WEST OF THE SOUTHEAST CORNER OF SAID EAST 1/2 NORTHEAST 1/4 SOUTHWEST 1/4 OF SECTION 15; THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID EAST 1/2 A DISTANCE OF 293.34 FEET; THENCE NORTH PARALLEL WITH THE WEST LINE OF SAID EAST 1/2 A DISTANCE OF 170 FEET; THENCE EAST PARALLEL WITH THE SOUTH LINE OF SAID EAST 1/2 A DISTANCE OF 293.34 FEET, MORE OR LESS, TO THE WEST LINE OF SOUTH BROADWAY; THENCE SOUTH ALONG THE WEST LINE OF SOUTH BROADWAY A DISTANCE OF 170 FEET TO THE POINT OF BEGINNING, TOGETHER WITH THAT PORTION OF WEST KENTUCKY AVENUE LYING SOUTH OF AND ADJACENT TO SAID LAND, AS VACATED BY ORDINANCES RECORDED SEPTEMBER 9, 1965 IN BOOK 9489 AT PAGE 237 AND MAY 16, 1988 UNDER RECEPTION NO. R-88-0266740.

EXCEPT THAT PORTION OF SAID VACATED WEST KENTUCKY AVENUE LYING WITHIN THE PLAT OF FIRST ADDITION TO EDGERTON PLACE.

ALSO EXCEPT THAT PORTION OF SAID LAND CONVEYED TO BURKHARDT STEEL COMPANY BY DEED RECORDED JULY 24, 1961 IN BOOK 8708 AT PAGE 92.

EXCEPT ANY PART OF THE ABOVE DESCRIBED PARCEL LYING WITHIN THE LAND DESCRIBED DESCRIBED IN RULE AND ORDER RECORDED OCTOBER 1, 2004 UNDER RECEPTION NO. 2004205973.

PARCEL 2I:

LOTS 1 THROUGH 48, INCLUSIVE, BLOCK 1 AND LOTS 1 THROUGH 27, INCLUSIVE, AND TRACT OR LOT "A", BLOCK 2, ALL IN LAWRENCE'S BROADWAY ADDITION, CITY AND COUNTY OF DENVER, STATE OF COLORADO; TOGETHER WITH THOSE PORTIONS OF W. TENNESSEE AVENUE, S. TACOMA STREET (FORMERLY SO. 15TH STREET) AND THE ALLEYS IN SAID BLOCKS 1 AND 2, AS DEDICATED ON SAID PLAT OF LAWRENCE'S BROADWAY ADDITION AND VACATED BY ORDINANCES RECORDED MARCH 10, 1919 IN BOOK 2871 AT PAGE 65, DECEMBER 2, 1926 IN BOOK 3943 AT PAGE 271, OCTOBER 31, 1945 IN BOOK 5965 AT PAGE 215, AUGUST 8, 1960 IN BOOK 8549 AT PAGE 358 AND FEBRUARY 4, 1985 UNDER RECEPTION NO. 072263.

EXCEPT THOSE PORTIONS OF SAID LAND CONVEYED TO CITY AND COUNTY OF DENVER BY DEEDS RECORDED AUGUST 23, 1982 IN BOOK 2642 AT PAGE 291 AND SEPTEMBER 6, 1983 IN BOOK 2901 AT PAGE 267.

PARCEL 2J:

ALL THAT CERTAIN TRACT OR PARCEL OF LAND SITUATED IN THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION FIFTEEN (15), TOWNSHIP FOUR SOUTH (T4S), RANGE SIXTY-EIGHT WEST (68W) OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTH LINE OF WEST MISSISSIPPI AVENUE AND A LINE PARALLEL WITH AND FIFTY (50) FEET NORTHEASTERLY FROM, MEASURED AT RIGHT ANGLES TO, THE CENTERLINE OF THE MAIN TRACK OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, AS THE SAME IS NOW LOCATED AND CONSTRUCTED OVER AND ACROSS SAID SECTION FIFTEEN (15); THENCE NORTHWESTERLY AND PARALLEL WITH THE CENTERLINE OF SAID MAIN TRACK A DISTANCE OF SIXTEEN AND FIVE TENTHS (16.5) FEET, MORE OR LESS, TO THE POINT OF BEGINNING OF THE METES AND BOUNDS OF TRACT OR PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUING ON THE LAST DESCRIBED COURSE A DISTANCE OF FORTY-EIGHT (48) FEET, TO A POINT; THENCE LEFT ONE HUNDRED SEVENTY-ONE (171) DEGREES, FIFTY-FIVE (55) MINUTES FROM LAST DESCRIBED COURSE PRODUCED, A DISTANCE OF FORTY-SEVEN AND FIVE-TENTHS (47.5)



FEET, TO A POINT, SAID POINT BEING FORTY-THREE AND THIRTY-TWO HUNDREDTHS (43.32) FEET NORTHEASTERLY FROM, MEASURED AT RIGHT ANGLES TO, THE CENTERLINE OF SAID MAIN TRACK, AT RAILWAY ENGINEER'S STATION 5890 PLUS 59.7 FEET; THENCE LEFT EIGHTY-NINE (89) DEGREES, FORTY-EIGHT (48) MINUTES FROM LAST DESCRIBED COURSE PRODUCED, A DISTANCE OF SIX AND SEVENTY-FIVE HUNDREDTHS (6.75) FEET TO THE POINT OF BEGINNING.

AND FURTHER EXCEPTING ANY PART OF THE ABOVE DESCRIBED PARCELS LYING WITHIN THE LAND DESCRIBED IN RESOLUTION RECORDED NOVEMBER 14, 2007 UNDER RECEPTION NO. 2007176861.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND SITUATED WITHIN THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN MORE PARTICULARLY DESCRIBED AS:

BEARINGS ARE BASED UPON THE EAST LINE OF SAID SOUTHWEST QUARTER OF SECTION 15, AS MONUMENTED BY A 3.25-INCH BRASS CAP STAMPED "GRIENER ENG, 1/4, 15/22, LS 19611, 1986" IN A MONUMENT BOX AND STONE WITH NOTCH SET 1 FOOT DEEP IN A RANGE BOX AND IS ASSUMED TO BEAR NORTH 00°44'35" WEST.

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 15;

THENCE NORTH 51°35'20" WEST A DISTANCE OF 64.48 FEET TO THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH BROADWAY AND THE NORTHERLY RIGHT-OF-WAY LINE OF WEST MISSISSIPPI AVENUE, ALSO BEING THE POINT OF BEGINNING;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY OF WEST MISSISSIPPI AVENUE THE FOLLOWING TWELVE (12) COURSES:

- 1) NORTH 89°55'50" WEST A DISTANCE OF 57.01 FEET;
- 2) NORTH 73°36'25" WEST A DISTANCE OF 71.15 FEET;
- 3) SOUTH 80°45'16" WEST A DISTANCE OF 15.21 FEET;
- 4) NORTH 89°55'50" WEST A DISTANCE OF 91.10 FEET;
- 5) SOUTH 00°04'10" WEST A DISTANCE OF 1.10 FEET;
- 6) NORTH 89°55'50" WEST A DISTANCE OF 27.90 FEET;
- 7) NORTH 00°04'10" EAST A DISTANCE OF 1.10 FEET;
- 8) NORTH 89°55'50" WEST A DISTANCE OF 78.30 FEET;
- 9) SOUTH 00°04'10" WEST A DISTANCE OF 1.20 FEET;
- 10) NORTH 89°55'50" WEST A DISTANCE OF 2.00 FEET;
- 11) NORTH 00°04'10" EAST A DISTANCE OF 1.20 FEET;
- 12) NORTH 89°55'50" WEST A DISTANCE OF 114.18 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF THE REGIONAL TRANSPORTATION DISTRICT (RTD);

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF THE REGIONAL TRANSPORTATION DISTRICT (RTD) NORTH 01°18'44" WEST A DISTANCE OF 46.31 FEET;

THENCE CONTINUING ALONG SAID EASTERLY RIGHT-OF-WAY LINE NORTH 09°23'47" WEST A DISTANCE OF 824.16 FEET TO THE SOUTHERLY CORNER OF A PARCEL DESCRIBED AT RECEPTION NO. 0200100049, RECORDED SEPTEMBER 17, 2001, IN THE RECORDS OF THE CITY AND COUNTY OF DENVER, STATE OF COLORADO;

THENCE ALONG THE SOUTH AND EAST LINES OF SAID PARCEL DESCRIBED AT RECEPTION NO. 0200100049, THE FOLLOWING SIX (6) COURSES:

- 1) 211.97 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, AT A CENTRAL ANGLE OF 48°34'44", HAVING A RADIUS OF 250.00 FEET, WHENCE THE INITIAL RADIAL BEARS SOUTH 77°55'54" EAST;
- 2) NORTH 60°38'50" EAST A DISTANCE OF 205.31 FEET;
- 3) NORTH 22°12'01" WEST A DISTANCE OF 61.11 FEET;

- 4) NORTH 67°48'00" EAST A DISTANCE OF 74.33 FEET TO POINT "A";
- 5) 322.85 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, AT A CENTRAL ANGLE OF 82°23'42", HAVING A RADIUS OF 224.50 FEET, WHENCE THE INITIAL RADIAL BEARS NORTH 09°27'43" EAST;
- 6) NORTH 01°51'24" EAST A DISTANCE OF 66.99 FEET TO THE NORTH LINE OF A PARCEL OF LAND DESCRIBED AS "PARCEL 2E" BY DEED AT RECEPTION NO. 2009115337, RECORDED OF THE CITY AND COUNTY OF DENVER, STATE OF COLORADO;

THENCE SOUTH 89°58'27" EAST ALONG THE NORTH LINE OF SAID "PARCEL 2E" A DISTANCE OF 61.72 FEET;

THENCE SOUTH 00°41'16" EAST ALONG THE EAST LINE OF SAID "PARCEL 2E" A DISTANCE OF 28.00 FEET TO THE NORTH LINE OF A PARCEL OF LAND DESCRIBED AS "PARCEL 2F" BY SAID DEED;

THENCE SOUTH 89°58'27" EAST ALONG SAID NORTH LINE OF "PARCEL 2F" A DISTANCE OF 24.00 FEET;

THENCE SOUTH 00°41'16" EAST A DISTANCE OF 46.98 FEET TO THE NORTH LINE OF A PARCEL OF LAND DESCRIBED AS "PARCEL 2G" BY SAID DEED;

THENCE SOUTH 89°58'27" EAST ALONG SAID NORTH LINE OF "PARCEL 2G" AND ITS EXTENSION A DISTANCE OF 306.65 FEET TO SAID WESTERLY RIGHT-OF-WAY LINE OF SOUTH BROADWAY;

THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF SOUTH BROADWAY THE FOLLOWING NINE (9) COURSES:

- 1) SOUTH 00°44'37" EAST A DISTANCE OF 95.57 FEET;
- 2) SOUTH 40°55'55" WEST A DISTANCE OF 52.75 FEET;
- 3) SOUTH 87°15'10" WEST A DISTANCE OF 113.73 FEET;
- 4) SOUTH 78°31'03" WEST A DISTANCE OF 21.43 FEET;
- 5) SOUTH 43°09'22" WEST A DISTANCE OF 6.82 FEET;
- 6) SOUTH 89°58'26" EAST A DISTANCE OF 50.53 FEET;
- 7) SOUTH 00°44'35" EAST A DISTANCE OF 15.00 FEET;
- 8) SOUTH 89°58'26" EAST A DISTANCE OF 140.01 FEET;
- 9) SOUTH 00°44'35" EAST A DISTANCE OF 84.39 FEET TO THE EASTERLY LINE OF A PARCEL OF LAND DESCRIBED AS PERMANENT EASEMENT PE-615B IN RULE AND ORDER RECORDED AT RECEPTION NO. 200405973;

THENCE ALONG THE EASTERLY, NORTHERLY AND WESTERLY LINE OF SAID PARCEL OF LAND DESCRIBED AS PERMANENT EASEMENT PE-615B RECORDED AT RECEPTION NO. 2004205973, RECORDS OF THE CITY AND COUNTY OF DENVER, STATE OF COLORADO, THE FOLLOWING FIVE (5) COURSES:

- 1) NORTH 00°50'34" WEST A DISTANCE OF 4.60 FEET TO A POINT OF TANGENCY;
  - 2) 36.04 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 23.00 FEET, THROUGH A CENTRAL ANGLE OF 89°46'29", TO A POINT OF TANGENCY;
  - 3) SOUTH 89°36'28" WEST A DISTANCE OF 26.58 FEET;
  - 4) SOUTH 46°29'43" EAST A DISTANCE OF 59.24 FEET;
  - 5) SOUTH 03°12'30" EAST A DISTANCE OF 164.24 FEET TO SAID WESTERLY RIGHT-OF-WAY LINE OF SOUTH BROADWAY;
- THENCE SOUTH 00°44'35" EAST ALONG SAID WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 1021.65 FEET TO THE POINT OF BEGINNING;

EXCEPT THAT PARCEL MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT SAID POINT "A";

THENCE NORTH 82°14'05" EAST A DISTANCE OF 39.29 FEET TO THE POINT OF BEGINNING;

THENCE THE FOLLOWING FIVE (5) COURSES:

- 1) SOUTH 88°19'59" EAST A DISTANCE OF 23.02 FEET;
- 2) SOUTH 00°42'20" EAST A DISTANCE OF 28.56 FEET;
- 3) SOUTH 60°38'50" WEST A DISTANCE OF 11.75 FEET;
- 4) NORTH 89°23'56" WEST A DISTANCE OF 12.69 FEET;
- 5) NORTH 00°42'20" WEST A DISTANCE OF 34.86 FEET TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINS 667,952 SQUARE FEET OR 15.334 ACRES, MORE OR LESS.

PARCEL 3A:

THAT PORTION OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 15, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID NORTHEAST 1/4 OF THE SOUTHWEST 1/4; THENCE SOUTH ALONG THE WEST LINE OF SAID NORTHEAST 1/4 OF THE SOUTHWEST 1/4, 1322.36 FEET TO THE SOUTHWEST CORNER OF SAID NORTHEAST 1/4 OF THE SOUTHWEST 1/4; THENCE EAST ALONG THE SOUTH LINE OF SAID NORTHEAST 1/4 OF THE SOUTHWEST 1/4, 420 FEET, MORE OR LESS, TO THE WEST LINE OF THE RIGHT OF WAY OF THE D. & R.G.W.R.R. 25 FEET WESTERLY, AT RIGHT ANGLES FROM THE CENTER OF THE MOST WESTERLY TRACK OF THE D & RGW RAILROAD; THENCE NORTHWESTERLY ALONG SAID RIGHT OF WAY LINE 25 FEET WESTERLY FROM AND PARALLEL WITH SAID TRACT, 1340 FEET MORE OR LESS TO THE NORTH LINE OF SAID NORTHEAST 1/4 OF THE SOUTHWEST 1/4; THENCE WEST ALONG SAID NORTH LINE, 202.7 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION CONVEYED TO THE DEPARTMENT OF HIGHWAYS, STATE OF COLORADO, BY INSTRUMENT RECORDED MAY 1, 1957 IN BOOK 8032 AT PAGE 222.

PARCEL 3B:

THAT PORTION OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 15, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE WEST LINE OF SAID SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4), 107 FEET SOUTH OF THE NORTHWEST (NW) CORNER OF SAID SOUTHEAST QUARTER (SE 1/4), SOUTHWEST QUARTER (SW 1/4);

THENCE SOUTH 25.72 FEET TO A POINT ON THE EASTERLY LINE OF SOUTH SANTA FE DRIVE;

THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SOUTH SANTA FE DRIVE ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 1733.49 FEET, A DISTANCE OF 1170 FEET TO THE POINT OF INTERSECTION OF SAID LINE WITH THE NORTH LINE OF WEST MISSISSIPPI AVENUE; THENCE EAST ALONG SAID NORTH LINE OF WEST MISSISSIPPI AVENUE, A DISTANCE OF 493.12 FEET TO THE INTERSECTION OF SAID LINE WITH THE WESTERLY LINE OF THE DENVER & RIO GRANDE WESTERN RAILWAY RIGHT-OF-WAY; THENCE NORTHWESTERLY ALONG THE SAID WESTERLY LINE OF THE DENVER & RIO GRANDE WESTERN RAILWAY RIGHT OF WAY, A DISTANCE OF 1192.6 FEET; THENCE WEST AND PARALLEL WITH THE NORTH LINE OF SAID SOUTHEAST QUARTER (SE 1/4), SOUTHWEST QUARTER (SW 1/4), A DISTANCE OF 246 FEET TO THE POINT OF BEGINNING;

TOGETHER WITH THAT PORTION OF SAID SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 15, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHERE THE WEST LINE OF THE DENVER & RIO GRANDE RAILWAY RIGHT OF WAY CROSSES THE NORTH LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHWEST 1/4; THENCE WEST ON SAID NORTH LINE, 408 FEET TO THE NORTHWEST CORNER OF SAID SOUTHEAST 1/4 OF THE SOUTHWEST 1/4; THENCE SOUTH ON THE WEST LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHWEST 1/4, 107 FEET TO A POINT;

THENCE EAST ON A LINE PARALLEL WITH THE NORTH LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHWEST 1/4, 410 FEET TO THE WESTERLY LINE OF SAID DENVER & RIO GRANDE RAILWAY RIGHT OF WAY;

THENCE NORTH ALONG SAID WESTERLY LINE, TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION OF SAID LAND CONVEYED TO CITY AND COUNTY OF DENVER BY DEED RECORDED SEPTEMBER 6, 1983 IN BOOK 2901 AT PAGE 267.

ALSO EXCEPT THAT PORTION OF SAID LAND CONVEYED TO STATE DEPARTMENT OF HIGHWAYS, DIVISION OF HIGHWAYS, STATE OF COLORADO, BY INSTRUMENT RECORDED MARCH 27, 1986 UNDER RECEPTION NO. 046238.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND SITUATED WITHIN THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN MORE PARTICULARLY DESCRIBED AS:

BEARINGS ARE BASED UPON THE EAST LINE OF SAID SOUTHWEST QUARTER OF SECTION 15, AS MONUMENTED BY A 3.25-INCH BRASS CAP STAMPED "GRIENER ENG, 1/4, 15/22, LS 19611, 1986" IN A MONUMENT BOX AND STONE WITH NOTCH SET 1 FOOT DEEP IN A RANGE BOX AND IS ASSUMED TO BEAR NORTH 00°44'35" WEST.

BEGINNING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD AND THE NORTHERLY RIGHT-OF-WAY LINE OF WEST MISSISSIPPI AVENUE, WHENCE THE SOUTH QUARTER CORNER OF SAID SECTION 15 BEARS SOUTH 84°44'30" EAST A DISTANCE OF 717.63 FEET;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND THE EASTERLY RIGHT-OF-WAY LINE OF SOUTH SANTA FE DRIVE THE FOLLOWING FOUR (4) COURSES:

- 1) NORTH 89°55'50" WEST A DISTANCE OF 165.78 FEET;
  - 2) NORTH 87°24'10" WEST A DISTANCE OF 201.90 FEET;
  - 3) 137.12 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 70°12'31", HAVING A RADIUS OF 111.90 FEET, WHENCE THE INITIAL RADIAL BEARS NORTH 02°28'17" EAST;
  - 4) 1067.68 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 31°28'34", HAVING A RADIUS OF 1943.49 FEET, WHENCE THE INITIAL RADIAL BEARS NORTH 82°14'10" WEST, TO THE EASTERLY RIGHT-OF-WAY LINE OF SOUTH CHEROKEE STREET;
- THENCE NORTH 00°37'45" WEST ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF SOUTH CHEROKEE STREET A DISTANCE OF 1222.28 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF INTERSTATE 25;
- THENCE SOUTH 78°08'56" EAST ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF INTERSTATE 25 A DISTANCE OF 251.18 FEET TO SAID WESTERLY RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD;
- THENCE SOUTH 09°27'07" EAST ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD A DISTANCE OF 2334.25 FEET TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINS 845,534 SQUARE FEET OR 19.411 ACRES, MORE OR LESS.

PARCEL 4A:

ALL OF LOTS 8 THROUGH 20, INCLUSIVE, BLOCK 1, SYLVESTER'S ADDITION TO VANDERBILT PARK AND ALL OF VACATED SOUTH ELATI STREET LYING ADJACENT TO AND WEST THEREOF AND PART OF LOTS 5 THROUGH 16, INCLUSIVE, BLOCK 2, VANDERBILT PARK AND A PART OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 15,

TOWNSHIP 4 SOUTH, RANGE 68 WEST, CITY AND COUNTY OF DENVER, STATE OF COLORADO,  
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO-WIT:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 20 IN SAID BLOCK 1, SYLVESTER'S  
ADDITION TO VANDERBILT PARK; THENCE NORTH ALONG THE EAST LINE OF LOTS 20 TO 8,  
INCLUSIVE, IN SAID BLOCK 1, A DISTANCE OF 320.93 FEET TO THE NORTHEAST CORNER OF  
LOT 8 IN SAID BLOCK 1; THENCE WEST, ALONG THE NORTH LINE OF SAID LOT 8 AND THE SAME  
EXTENDED WEST, A DISTANCE OF 155.0 FEET TO INTERSECT THE WEST LINE OF VACATED  
SOUTH ELATI STREET; THENCE NORTH, ALONG THE WEST LINE OF VACATED SOUTH ELATI  
STREET, A DISTANCE OF 50.0 FEET; THENCE NORTH 79 DEGREES 51 MINUTES 50 SECONDS  
WEST, A DISTANCE OF 173.7 FEET TO THE NORTHEAST CORNER OF LOT 5 IN SAID BLOCK 2,  
VANDERBILT PARK; THENCE SOUTH 72 DEGREES 15 MINUTES 10 SECONDS WEST, A DISTANCE  
OF 82.0 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 5, WHICH IS 50.0 FEET EAST OF  
THE SOUTHWEST CORNER OF SAID LOT 5; THENCE SOUTH 38 DEGREES 39 MINUTES 40  
SECONDS WEST, A DISTANCE OF 32.0 FEET TO A POINT ON THE SOUTH LINE OF LOT 6 IN SAID  
BLOCK 2, VANDERBILT PARK, WHICH IS 30.0 FEET EAST OF THE SOUTHWEST CORNER OF SAID  
LOT 6; THENCE SOUTH 07 DEGREES 35 MINUTES 40 SECONDS WEST, A DISTANCE OF 75.67  
FEET TO A POINT ON THE SOUTH LINE OF LOT 9, IN SAID BLOCK 2, VANDERBILT PARK, WHICH  
IS 20.0 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT 9; THENCE SOUTH 32 DEGREES  
28 MINUTES 05 SECONDS EAST TO THE SOUTHEAST CORNER OF LOT 16 IN SAID BLOCK 2,  
VANDERBILT PARK; THENCE SOUTH 32 DEGREES 45 MINUTES EAST TO THE NORTH LINE OF  
LOT 28 IN SAID BLOCK 2, VANDERBILT PARK; THENCE SOUTH 89 DEGREES 09 MINUTES EAST  
ALONG THE NORTH LINE OF SAID LOT 28, ALONG SAID LINE EXTENDED AND ALONG THE  
SOUTH LINE OF LOT 20, BLOCK 1, SYLVESTER ADDITION TO VANDERBILT PARK A DISTANCE OF  
259 FEET MORE OR LESS TO THE POINT OF BEGINNING, TOGETHER WITH THE WEST ONE-  
HALF OF THE VACATED ALLEY ADJACENT TO THE EAST LINE OF LOTS 8 THROUGH 20, BLOCK  
1, SYLVESTER'S ADDITION TO VANDERBILT PARK, AS VACATED BY ORDINANCE #522, SERIES  
OF 1982, RECORDED SEPTEMBER 27, 1982 IN BOOK 2661 AT PAGE 377.

PARCEL 4B:

LOTS 21 THROUGH 28, INCLUSIVE, BLOCK 1, VANDERBILT PARK, CITY AND COUNTY OF DENVER,  
STATE OF COLORADO;  
AND  
LOTS 21 THROUGH 32, INCLUSIVE, BLOCK 1, SYLVESTER'S ADDITION TO VANDERBILT PARK,  
CITY AND COUNTY OF DENVER, STATE OF COLORADO, TOGETHER WITH THE EAST ONE-HALF  
OF THE VACATED ALLEY ADJACENT TO THE WEST LINE OF SAID LOTS, AS VACATED BY  
ORDINANCE #522, SERIES OF 1982, RECORDED SEPTEMBER 27, 1982 IN BOOK 2661 AT PAGE 377.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND SITUATED WITHIN THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP  
4 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN MORE PARTICULARLY  
DESCRIBED AS:

BEARINGS ARE BASED UPON THE EAST LINE OF SAID SOUTHWEST QUARTER OF SECTION 15,  
AS MONUMENTED BY A 3.25-INCH BRASS CAP STAMPED "GRIENER ENG, 1/4, 15/22, LS 19611,  
1986" IN A MONUMENT BOX AND STONE WITH NOTCH SET 1 FOOT DEEP IN A RANGE BOX AND  
IS ASSUMED TO BEAR NORTH 00°44'35" WEST.

BEGINNING AT THE INTERSECTION OF SOUTHERLY RIGHT-OF-WAY LINE OF INTERSTATE 25 AND  
THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH CHEROKEE STREET, WHENCE THE SOUTH  
QUARTER CORNER OF SAID SECTION 15 BEARS SOUTH 29°35'44" EAST A DISTANCE OF 2779.71  
FEET;

THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE THE FOLLOWING THREE (3) COURSES:

- 1) SOUTH 00°32'55" EAST A DISTANCE OF 298.00 FEET;
- 2) NORTH 89°57'43" EAST A DISTANCE OF 1.90 FEET;
- 3) SOUTH 00°37'45" EAST A DISTANCE OF 91.90 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF WEST OHIO STREET;

THENCE SOUTH 89°23'59" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 265.00 FEET TO THE WEST LINE OF BLOCK 1 OF VANDERBILT PARK RECORDED AT ENGINEERING BOOK 19 AT PAGE 36, RECORDS OF THE CITY AND COUNTY OF DENVER, STATE OF COLORADO;

THENCE ALONG SAID WEST LINE OF BLOCK 1 OF VANDERBILT PARK NORTH 00°37'15" WEST A DISTANCE OF 94.50 FEET TO THE SOUTH LINE OF LOT 20 OF BLOCK 1 OF SYLVESTER'S ADDITION TO VANDERBILT PARK RECORDED AT ENGINEERING BOOK 19 AT PAGE 36, RECORDS OF THE CITY AND COUNTY OF DENVER, STATE OF COLORADO;

THENCE DEPARTING SAID WEST LINE OF BLOCK 1 OF VANDERBILT PARK SOUTH 89°49'48" WEST A DISTANCE OF 143.63 FEET;

THENCE NORTH 32°00'28" WEST A DISTANCE OF 118.10 FEET TO THE SOUTHEAST CORNER OF LOT 16 OF BLOCK 2 OF SAID VANDERBILT PARK;

THENCE NORTH 31°43'33" WEST A DISTANCE OF 204.53 FEET TO THE SOUTH LINE OF LOT 9 OF SAID BLOCK 2 OF VANDERBILT PARK;

THENCE NORTH 06°51'16" EAST A DISTANCE OF 75.63 FEET TO THE SOUTH LINE OF LOT 6 OF SAID BLOCK 2 OF VANDERBILT PARK;

THENCE NORTH 37°59'29" EAST A DISTANCE OF 31.96 FEET TO THE SOUTH LINE OF LOT 5 OF SAID BLOCK 2 OF VANDERBILT PARK;

THENCE NORTH 71°38'52" EAST A DISTANCE OF 81.77 FEET TO THE NORTHEAST CORNER OF SAID LOT 5 OF BLOCK 2 OF VANDERBILT PARK;

THENCE SOUTH 79°44'48" EAST A DISTANCE OF 174.83 FEET TO A POINT ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH ELATI, VACATED PER ORDINANCE 17, SERIES 1946, 50.00 FEET NORTH OF THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT 8 OF SAID BLOCK 1 OF SYLVESTER'S ADDITION TO VANDERBILT PARK;

THENCE SOUTH 00°32'55" EAST ALONG SAID WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 50.00 FEET TO SAID WESTERLY EXTENSION OF THE NORTH LINE OF LOT 8;

THENCE NORTH 89°06'52" EAST ALONG SAID WESTERLY EXTENSION OF THE NORTH LINE OF LOT 8 AND THE NORTH LINE OF SAID LOT 8 AND ITS EASTERLY EXTENSION A DISTANCE OF 161.99 FEET;

THENCE SOUTH 00°32'55" EAST A DISTANCE OF 25.00 FEET TO THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT 32 OF SAID BLOCK 1 OF SYLVESTER'S ADDITION TO VANDERBILT PARK;

THENCE NORTH 89°06'52" EAST ALONG SAID WESTERLY EXTENSION OF LOT 32 AND THE NORTH LINE OF SAID LOT 32 A DISTANCE OF 133.00 FEET TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINS 199,534 SQUARE FEET OR 4.581 ACRES, MORE OR LESS.

PARCEL 7:

THAT PART OF THE SOUTHWEST 1/4 OF SECTION 15, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTH LINE OF WEST TENNESSEE AVENUE, 700.6 FEET NORTH OF THE SOUTH LINE OF SAID SECTION 15 AND 825 FEET EAST OF THE WEST LINE OF SAID SECTION 15, SAID POINT BEING THE CENTER OF THE SOUTH LINE OF BLOCK 10, VANDERBILT PARK, NOW VACATED, AS SHOWN UPON THE RECORDED MAP THEREOF IN BOOK 9, PAGE 24 OF THE RECORDER'S OFFICE OF THE CITY AND COUNTY OF DENVER;

THENCE NORTH ALONG SAID CENTERLINE OF BLOCK 10 EXTENDED TO THE SOUTHWESTERLY LINE OF THE OFFICIAL CHANNEL OF THE SOUTH PLATTE RIVER, AS ESTABLISHED BY ORDINANCE NO. 117 OF THE SERIES OF 1910 OF THE CITY AND COUNTY OF DENVER;

THENCE SOUTHEASTERLY ALONG THE SAID SOUTHWESTERLY LINE OF SAID OFFICIAL CHANNEL TO THE NORTH LINE OF WEST TENNESSEE AVENUE;

THENCE WEST ON SAID NORTH LINE OF WEST TENNESSEE AVENUE TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION CONVEYED TO CITY AND COUNTY OF DENVER BY DEED RECORDED AUGUST 7, 1958 IN BOOK 8225 AT PAGE 152.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND SITUATED WITHIN THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN MORE PARTICULARLY DESCRIBED AS:

BEARINGS ARE BASED UPON THE EAST LINE OF SAID SOUTHWEST QUARTER OF SECTION 15, AS MONUMENTED BY A 3.25-INCH BRASS CAP STAMPED "GRIENER ENG, 1/4, 15/22, LS 19611, 1986" IN A MONUMENT BOX AND STONE WITH NOTCH SET 1 FOOT DEEP IN A RANGE BOX AND IS ASSUMED TO BEAR NORTH 00°44'35" WEST.

BEGINNING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH PLATTE RIVER DRIVE AND THE NORTHERLY RIGHT-OF-WAY LINE OF WEST TENNESSEE AVENUE, WHENCE THE SOUTH QUARTER CORNER OF SAID SECTION 15 BEARS SOUTH 65°30'49" EAST A DISTANCE OF 1694.60 FEET;

THENCE NORTH 89°55'51" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 273.50 FEET;

THENCE DEPARTING SAID NORTHERLY RIGHT-OF-WAY LINE NORTH 00°30'50" WEST A DISTANCE OF 656.35 FEET TO SAID WESTERLY RIGHT-OF-WAY LINE;

THENCE SOUTH 32°45'00" EAST ALONG SAID WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 96.12 FEET;

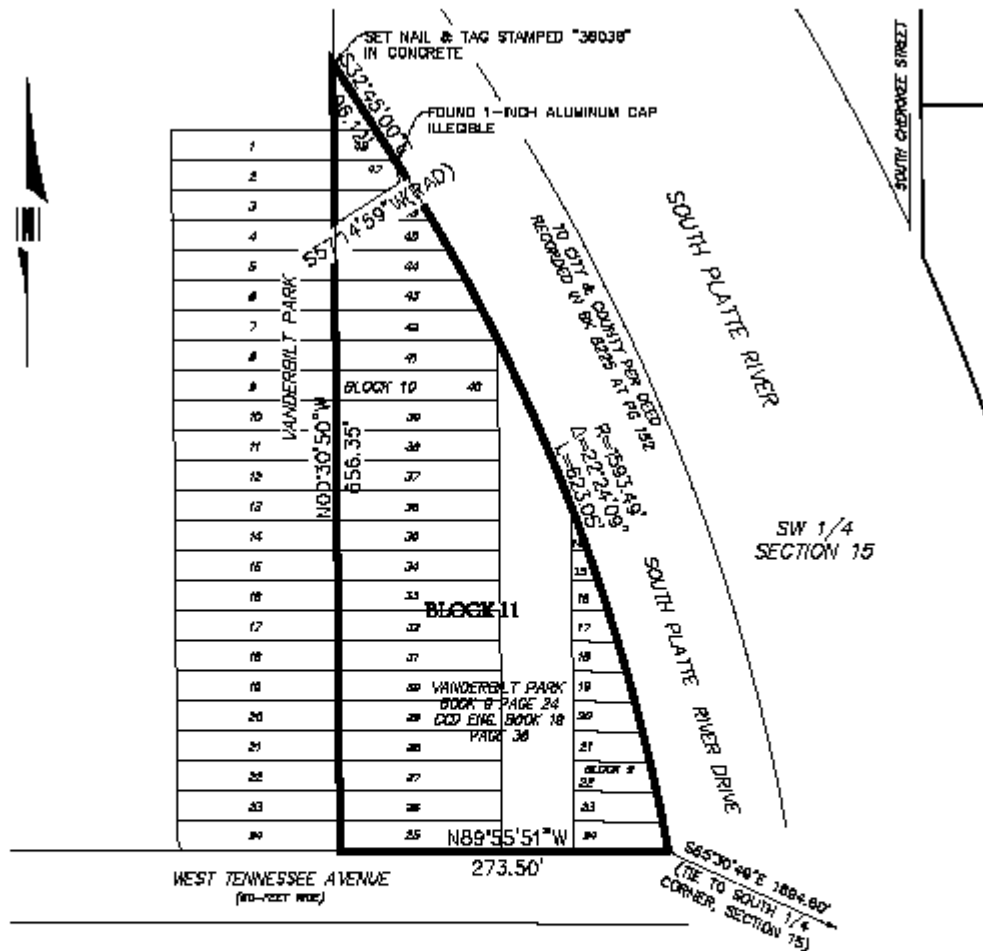
THENCE 623.05 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 22°24'09", HAVING A RADIUS OF 1593.49 FEET, WHENCE THE INITIAL RADIAL BEARS SOUTH 57°14'59" WEST, TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINS 108,083 SQUARE FEET OR 2.481 ACRES, MORE OR LESS.

## **Exhibit B: Block 11**

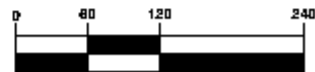


## EXHIBIT B "BLOCK 11"



This exhibit does not represent a monumented survey. It is intended only to depict the attached description.

**BASIS OF BEARINGS:** Bearings are based upon the East line of the Southwest quarter of Section 15, Township 4 South, Range 68 West of the 6th Principal Meridian, as monumented by a 3.25-inch brass cap stamped "Griener Eng, 1/4, 15/22, LS 19611, 1986" in a monument box at the South quarter corner; a recovered and accepted stone with notch set 1 foot deep in a range box at the center quarter corner; and is assumed to bear North  $00^{\circ}44'35''$  West.

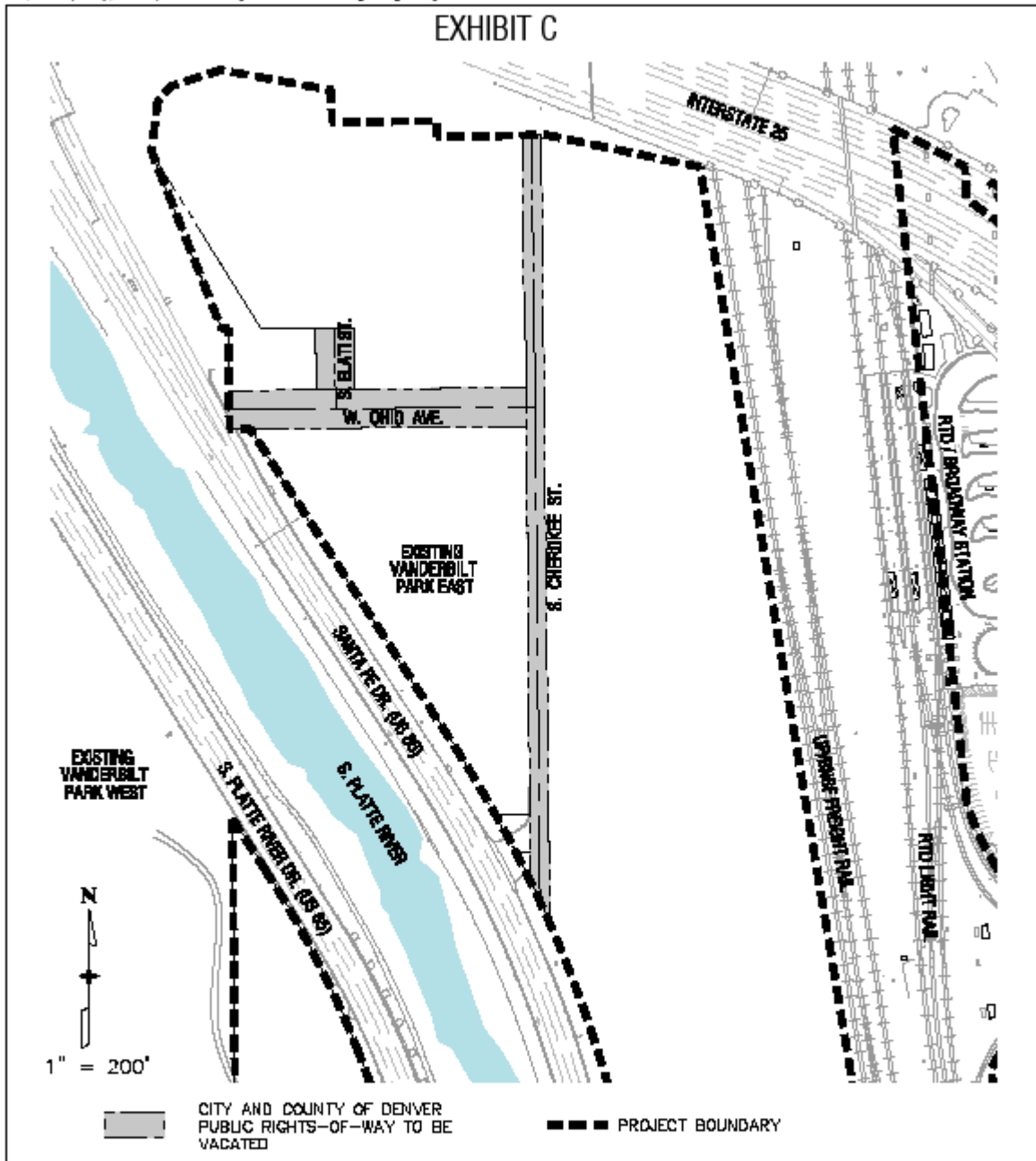


1 inch = 120 ft.

	<p>Block 11</p> <p>SW1/4 Section 15, T4S, R68W of the 6th P.M.</p>	<p>PAGE NUMBER</p> <p>1</p> <p>1 PAGES</p>
Prepared for: Broadway Station Partners	Date: Jan. 28, 2016	

## **Exhibit C: Right-of-Way Vacations**

### EXHIBIT C



## RIGHT-OF-WAY VACATIONS



BROADWAY STATION DEVELOPMENT AGREEMENT

Exhibit E

## **Exhibit D: Easement Vacations**

**Exhibit D**

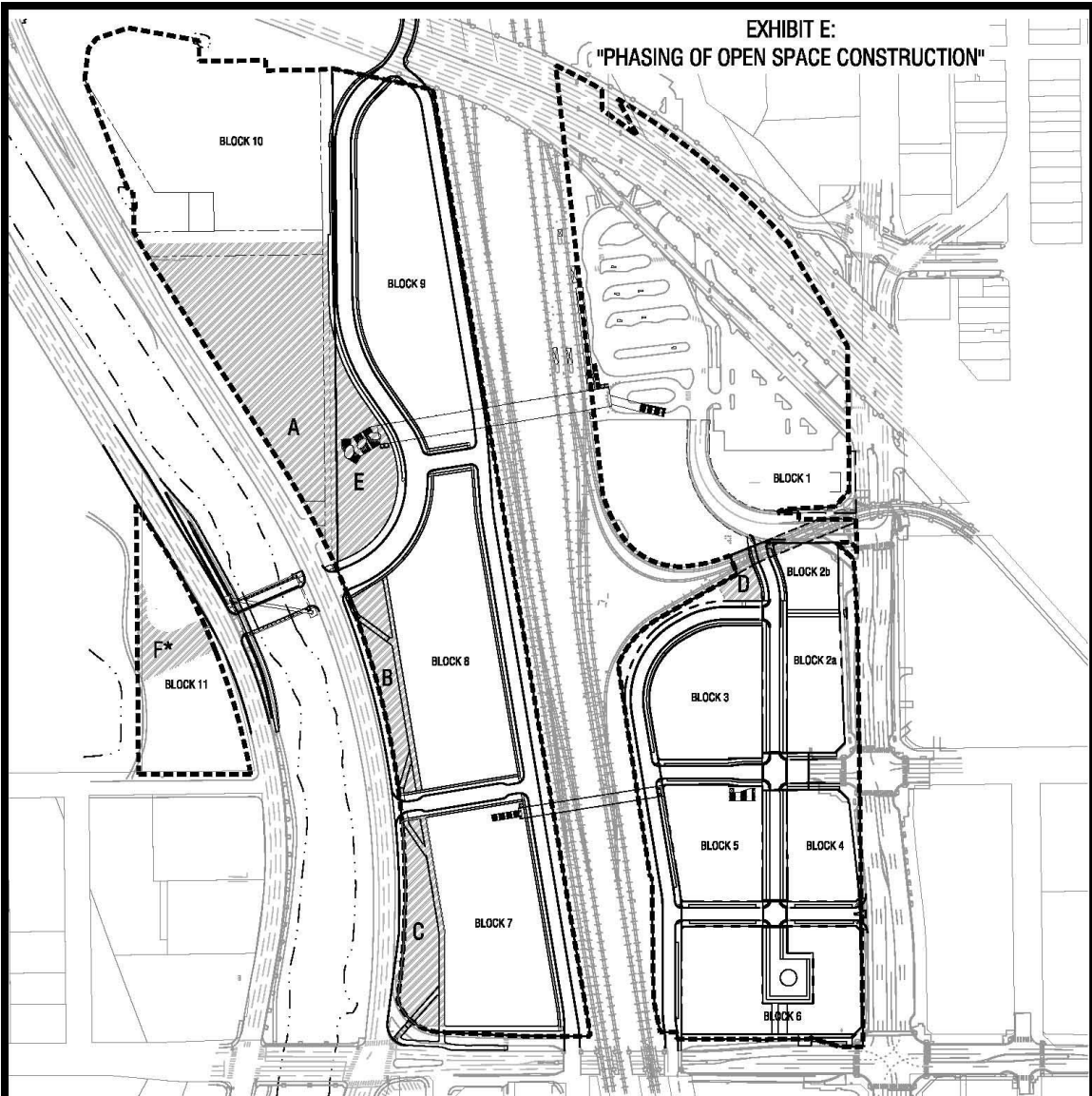
**Easements to be Vacated**

<b>Recording</b>	<b>Holder</b>	<b>Description</b>
Book 2661 at Page 377	City and County of Denver	Easements as reserved in Ordinance #522, Series of 1982, recorded September 27, 1982 in Book 2661 at Page 377
Reception No. 072263	City and County of Denver	Easements as reserved in Ordinance #23, Series of 1985, recorded February 4, 1985 under Reception No. 072263
Reception No. R-88-0266740	City and County of Denver	Easements as reserved in Ordinance #273, Series of 1988, recorded May 16, 1988, under Reception NO. R-88-0266740
Book 3943 at Page 271	City and County of Denver	The right to construct, maintain and remove sewers, water pipes and appurtenances as reserved by the City and County of Denver in Ordinance #218, Series of 1926, recorded December 2, 1926 in Book 3943 at Page 271

**Note:** Broadway Station Partners LLC applied to the City and County of Denver to vacate these easements in November, 2014. Xcel would not consent to the vacation because it claimed it had facilities in these easements.

## **Exhibit E: Open Space Phasing**

EXHIBIT E:  
"PHASING OF OPEN SPACE CONSTRUCTION"



Phasing of Open Space Construction

Open Space	Completion Prior to Issuance of Vertical Development Certificate of Occupancy
A	Earlier of Block 9 or Block 10
B	Block 8
C	Block 7
D	Earlier of Block 2a, Block 2b, or Block 3
E	Earlier of Block 9 or Block 10



N.T.S.

\*The 0.5 acre parcel of Open Space F will be legally defined with the earlier of the Kentucky Avenue Vehicular Bridge Transportation Engineering Plans or the Site Development Plan for Block 11. The construction of improvements on Open Space F will be completed together with the Kentucky Avenue Vehicular Bridge construction.

**BROADWAY STATION**  
Phasing of Open Space Construction

**Exhibit F**  
**Vested Rights**



## SECTION 7.3.3 PRIMARY BUILDING FORM STANDARDS

### 7.3.3.1 Applicability

All development, except detached accessory structures, in all the Urban Center Neighborhood Context Zone Districts

### 7.3.3.2 General Standards

Combining standards from different building forms for the same structure is prohibited, except where expressly allowed.

### 7.3.3.3 District Specific Standards Summary

The maximum number of structures per zone lot and building forms allowed by Zone District is summarized below:

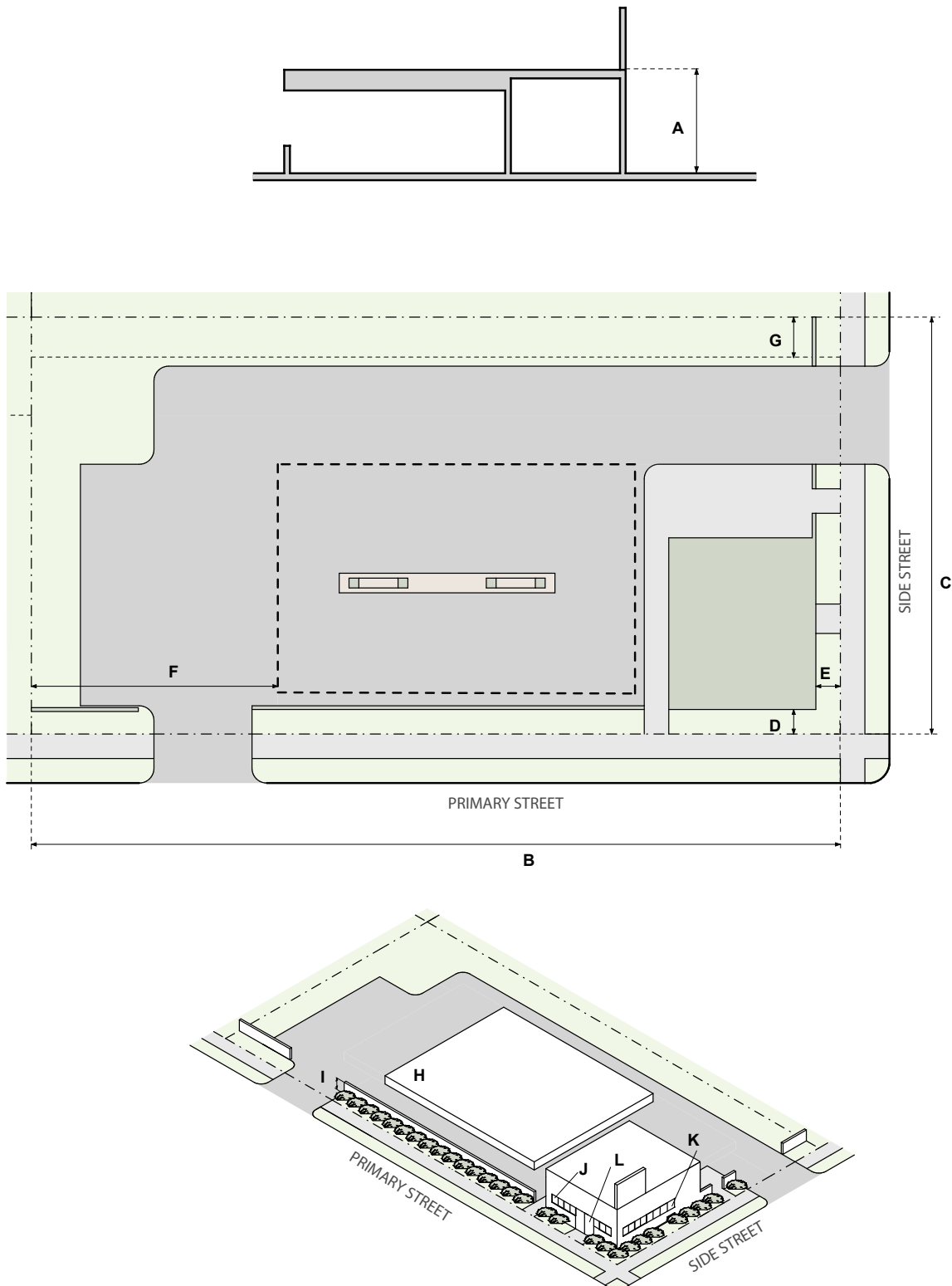
Urban Center (C-) Neighborhood Context Zone Districts		Max Number of Primary Structures per Zone Lot	Building Forms															
			Suburban House	Urban House	Detached Acc. Dwelling Unit	Duplex	Tandem House	Town House	Garden Court	Row House	Apartment	Drive Thru Services	Drive Thru Restaurant	General	Cherry Creek General	Cherry Creek General - Small Lot on South Side of 3rd Ave	Cherry Creek Open Space	Cherry Creek Open Space - Small Lot on South Side of 3rd Ave
Residential Mixed Use (RX)	C-RX-5, -8, -12	no max											■					
Mixed Use (MX)	C-MX-3, -5, -8, -12, -20	no max									■	■	■					
Main Street (MS)	C-MS-5, -8, -12	no max									■	■						■
Cherry Creek North (CCN)	C-CCN-3, -4, -5	no max											■	■	■	■		
	C-CCN-7, -8, -12	no max											■		■			

■ = Allowed □ = Allowed subject to limitations

### 7.3.3.4 District Specific Standards

#### A. Drive Thru Services

Not to Scale. Illustrative Only.



## DRIVE THRU SERVICES

<b>HEIGHT</b>		<b>All C-MX, C-MS</b>	
A	Stories (max)	3	
A	Feet (max)	45'	

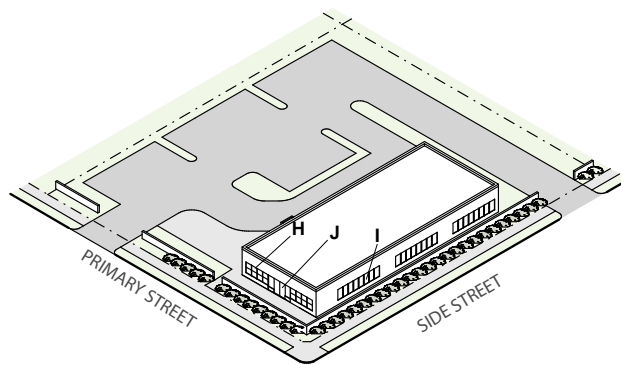
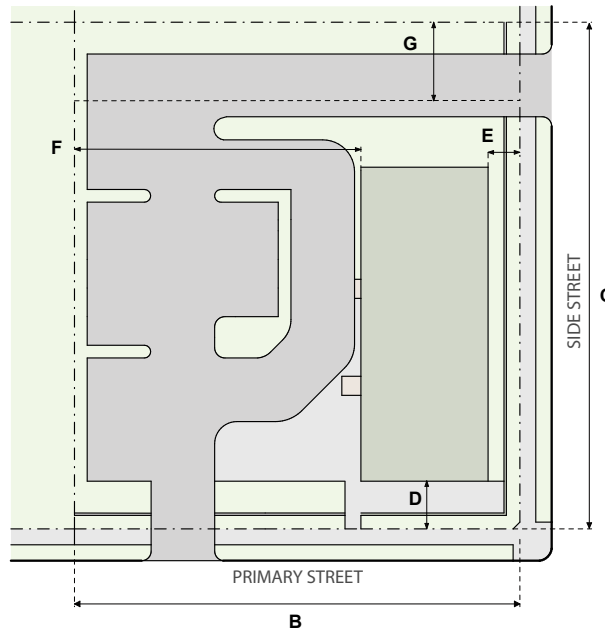
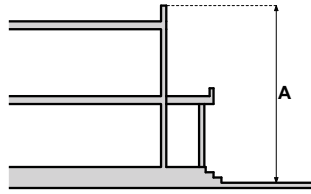
<b>SITING</b>		<b>All C-MS</b>	<b>All C-MX</b>
<b>REQUIRED BUILD-TO</b>			
B	Primary Street (min % within min/max)*	50% 0'/15'	50% 0'/15'
C	Side Street (min % within min/max)*	50% 0'/15'	50% 0'/15'
<b>SETBACKS</b>			
D	Primary Street (min)	0'	0'
E	Side Street (min)	0'	0'
F	Side Interior (min)	0'	0'
	Side Interior, adjacent to Protected District (min)	10'	10'
G	Rear, alley and no alley (min)	0'	0'
	Rear, adjacent to Protected District, alley/no alley (min)	0'/10'	0'/10'
<b>PARKING</b>			
	Surface Parking between building and Primary Street/ Side Street	Not Allowed/Not Allowed	
	Surface Parking Screening Required	See Article 10, Division 10.5	
	Vehicle Access	Shall be determined as part of Site Development Plan Review	

<b>DESIGN ELEMENTS</b>		<b>All C-MS</b>	<b>All C-MX</b>
<b>BUILDING CONFIGURATION</b>			
H	*Canopy	Building shall be used to meet a portion of the Primary and Side Street Build-To. Canopy may be used to meet a portion of the Primary and Side Street Build-To	
I	Screening Required	Garden Wall required within 0'/15' for 100% of the Primary and Side Street, excluding access points and portions of building within 0'/15', following the standards of Article 10, Section 10.5.4.4	
	Upper Story Setback Above 27', adjacent to Protected District: Rear, alley/Rear, no alley and Side, interior (min)	15'/25'	15'/25'
<b>STREET LEVEL ACTIVATION</b>			
J	Transparency, Primary Street (min)	60%	40%
K	Transparency, Side Street (min)	25%	25%
L	Pedestrian Access, Primary Street	Entrance	Entrance
<b>USES</b>		<b>All C-MS</b>	<b>All C-MX</b>
		Primary Uses shall be limited to Automobile Services, Light and/or Primary Use with Accessory Drive Thru Use, excluding Eating/Drinking Establishments See Division 7.4 Uses and Parking	

### B. Drive Thru Restaurant

*Not to Scale. Illustrative Only.*



## DRIVE THRU RESTAURANT

<b>HEIGHT</b>		<b>All C-MX</b>	<b>All C-MS</b>
<b>A</b>	Stories (max)	3	3
<b>A</b>	Feet (max)	45'	45'

<b>SITING</b>		<b>All C-MX</b>	<b>All C-MS</b>
<b>REQUIRED BUILD-TO</b>			
<b>B</b>	Primary Street (min % within min/max)	Corner Lots: 50% 0'/10' All other: 70% 0'/10'	Corner Lots: 50% 0'/5' All other: 75% 0'/5'
<b>C</b>	Side Street (min % within min/max)	50% 0'/10'	50% 0'/5'
<b>SETBACKS</b>			
<b>D</b>	Primary Street (min)	0'	0'
<b>E</b>	Side Street (min)	0'	0'
<b>F</b>	Side Interior (min)	0'	0'
	Side Interior, adjacent to Protected District (min)	10'	10'
<b>G</b>	Rear, alley and no alley (min)	0'	0'
	Rear, adjacent to Protected District, alley/no alley (min)	0'/10'	0'/10'
<b>PARKING</b>			
	Surface Parking between building and Primary Street/ Side Street	Not Allowed/Not Allowed	
	Drive Thru Lane between building and Primary Street/ Side Street	Not Allowed/Not Allowed	
	Vehicle Access	Shall be determined as part of Site Development Plan Review	

<b>DESIGN ELEMENTS</b>		<b>All C-MX</b>	<b>All C-MS</b>
<b>BUILDING CONFIGURATION</b>			
	Upper Story Setback Above 27', adjacent to Protected District: Rear, alley/Rear, no alley and Side Interior (min)	15'/25'	15'/25'
<b>STREET LEVEL ACTIVATION</b>			
<b>H</b>	Transparency, Primary Street (min)	40%	60%
<b>I</b>	Transparency, Side Street (min)	25%	25%
<b>J</b>	Pedestrian Access, Primary Street	Entrance	Entrance
<b>USES</b>		<b>All C-MX</b>	<b>All C-MS</b>
Primary Uses shall be limited to an Eating/Drinking Establishment Primary Use with Accessory Drive Thru Use Only. See Division 7.4 Uses and Parking			

**C. General**

*Not to Scale. Illustrative Only.*



## GENERAL

<b>HEIGHT</b>	C-MX-3	C-RX-5	C-RX-8	C-RX-12	C-MX-16	C-MX-20
	Stories (max)	3	5	8	12	16
Feet (max)	45'	70'	110'	150'	200'	250'
Feet, within 175' of Protected District (max)	na	na	75'	75'	75'	75'
Height Exceptions	See Section 7.3.7.1					

<b>SITING</b>	C-MX-3	C-RX-5	C-RX-8	C-RX-12	C-MX-16	C-MX-20
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### REQUIRED BUILD-TO

<b>A</b> Primary Street (min build-to % within min/max range)	70%					
	0'/10' Residential Only Buildings: 0'/15'					
Build-to Exceptions and Alternatives	See Sections 7.3.7.2 and 7.3.6.1					

### SETBACKS

Primary Street (min)	0'					
Side Street (min)	0'					
Side Interior (min)	0'					
<b>B</b> Side Interior, adjacent to Protected District (min)	10'					
Rear, alley and no alley (min)	0'					
Rear, adjacent to Protected District, alley/no alley (min)	0'/10'					
Setback Exceptions and Encroachments	See Sections 7.3.7.3 and 7.3.7.4					

### PARKING

Surface Parking between building and Primary Street/Side Street	Not Allowed/Not Allowed					
<b>C</b> Surface Parking Screening Required	See Article 10, Division 10.5					
Vehicle Access, 3 or more side-by-side dwelling units in one structure	From Alley; or Street access allowed when no Alley present (Sec. 7.3.5.3)					
Vehicle Access, all other permitted uses	Shall be determined as part of Site Development Plan Review					

<b>DESIGN ELEMENTS</b>	C-MX-3	C-RX-5	C-RX-8	C-RX-12	C-MX-16	C-MX-20
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### BUILDING CONFIGURATION

<b>D</b> Upper Story Setback Above 27', adjacent to Protected District: Rear, alley/Rear, no alley and Side Interior (min)	15'/25'	20'/25'	20'/25'	20'/25'	20'/25'	20'/25'
<b>E</b> Upper Story Setback Above 51', adjacent to Protected District: Rear, alley/Rear, no alley and Side Interior (min)	na	35'/40'	35'/40'	35'/40'	35'/40'	35'/40'

### STREET LEVEL ACTIVATION

<b>F</b> Transparency, Primary Street (min)	40%					
	Residential Only Buildings: 30%					
<b>G</b> Transparency, Side Street (min)	25%					
Transparency Alternatives	See Section 7.3.6.3					
<b>H</b> Pedestrian Access, Primary Street	Entrance					

### USES

All C-MX

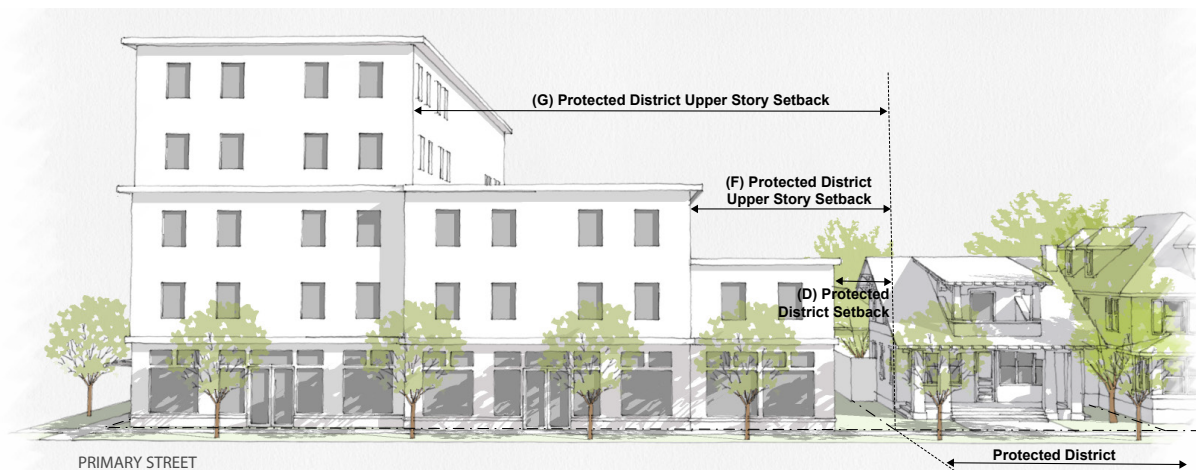
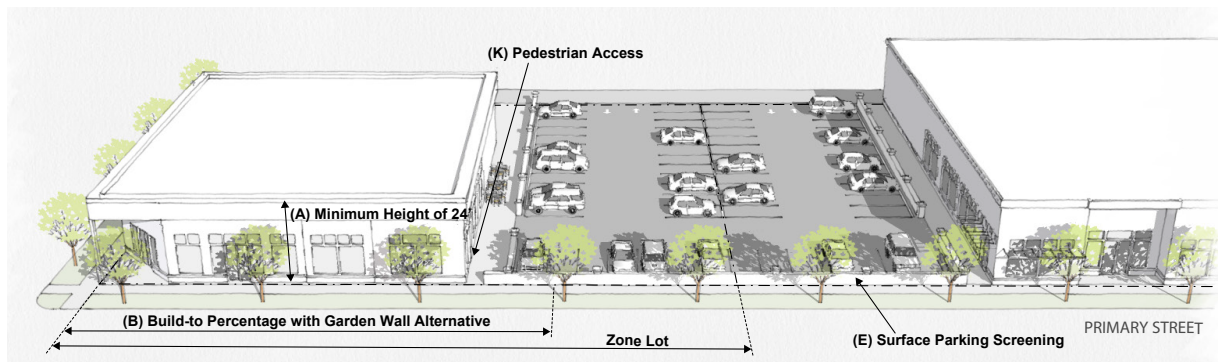
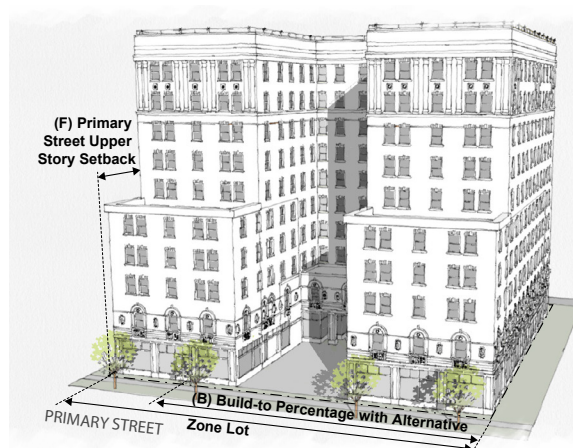
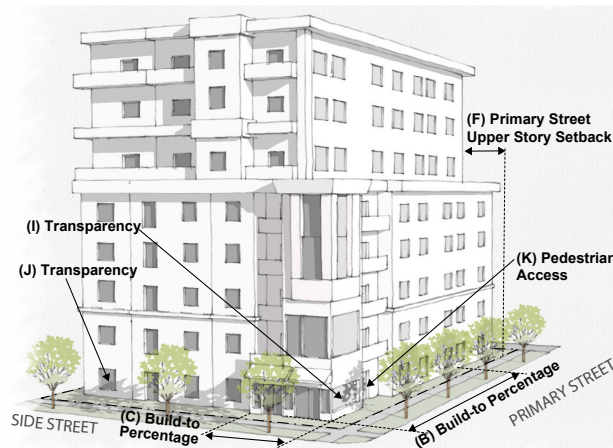
All C-RX

(1) All permitted Primary Uses shall be allowed within this building form. See Division 7.4 Uses and Parking; and (2) 100% of the portion of the Street Level building frontage that meets the minimum Primary Street build-to requirement shall be occupied by Street Level active uses as described in Section 7.3.5.4.

All permitted Primary Uses shall be allowed within this building form; however: (1) Second Story and Above: Residential or Lodging Accommodations uses only; and (2) Buildings with No Residential or Lodging Accommodation Uses: 10,000 sf GFA max

### H. Shopfront

Not to Scale. Illustrative Only.





## SHOPFRONT

<b>HEIGHT</b>		<b>C-MS-5</b>	<b>C-MS-8</b>	<b>C-MS-12</b>
	Stories (max)	5	8	12
<b>A</b>	Feet (min/max)	24'/70'	24'/110'	24'/150'
	Height Exceptions	See Section 7.3.7.1		
<b>SITING</b>		<b>C-MS-5</b>	<b>C-MS-8</b>	<b>C-MS-12</b>
<b>REQUIRED BUILD-TO</b>				
<b>B</b>	Primary Street (min build-to % within min/max range)	75% 0'/5' Residential Only Buildings: 0'/10'		
<b>C</b>	Side Street (min build-to % within min/max range)	25% 0'/5' Residential Only Buildings: 0'/10'		
	Build-to Exceptions and Alternatives	See Sections 7.3.7.2 and 7.3.6.1		
<b>SETBACKS</b>				
	Primary Street (min)	0'	0'	0'
	Side Street (min)	0'	0'	0'
	Side Interior (min)	0'	0'	0'
<b>D</b>	Side Interior, adjacent to Protected District (min)	10'	10'	10'
	Rear, alley and no alley (min)	0'	0'	0'
	Rear, adjacent to Protected District, alley/no alley (min)	0'/10'	0'/10'	0'/10'
	Setback Exceptions and Encroachments	See Sections 7.3.7.3 and 7.3.7.4		
<b>PARKING</b>				
	Surface Parking between building and Primary Street/Side Street	Not Allowed/Not Allowed		
<b>E</b>	Surface Parking Screening Required	See Article 10, Division 10.5		
	Vehicle Access, 3 or more side-by-side dwelling units in one structure	From Alley; or Street access allowed when no Alley present (Sec. 7.3.5.3)		
	Vehicle Access, all other permitted uses	Shall be determined as part of Site Development Plan Review		
<b>DESIGN ELEMENTS</b>		<b>C-MS-5</b>	<b>C-MS-8</b>	<b>C-MS-12</b>
<b>BUILDING CONFIGURATION</b>				
<b>F</b>	Primary Street Upper Story Setback above 5 stories or 70' (min) See Section 7.3.6.2 for Alternative	na	20'	20'
<b>G</b>	Upper Story Setback Above 27', adjacent to Protected District: Rear, alley/Rear, no alley and Side Interior (min)	20'/25'	20'/25'	20'/25'
<b>H</b>	Upper Story Setback Above 51', adjacent to Protected District: Rear, alley/Rear, no alley and Side Interior (min)	35'/40'	35'/40'	35'/40'
<b>STREET LEVEL ACTIVATION</b>				
<b>I</b>	Transparency, Primary Street (min)	60% Residential Only Buildings: 40%		
<b>J</b>	Transparency, Side Street (min)	25%	30%	30%
	Transparency Alternatives	See Section 7.3.6.3		
<b>K</b>	Pedestrian Access, Primary Street	Entrance		
<b>USES</b>		<b>All C-MS</b>		
(1) All permitted Primary Uses shall be allowed within this building form. See Division 7.4 Uses and Parking; and (2) 100% of the portion of the Street Level building frontage that meets the minimum Primary Street and Side Street build-to requirements shall be occupied by Street Level active uses as described in Section 7.3.5.4.				

## DIVISION 7.4 USES AND REQUIRED MINIMUM PARKING

### SECTION 7.4.1 APPLICABILITY

- 7.4.1.1 This Division 7.4 sets forth the land uses permitted, the required zoning procedure and the required minimum parking for all the Urban Center Neighborhood Context Zone Districts.
- 7.4.1.2 Uses not listed are prohibited, unless the Zoning Administrator specifically permits the unlisted use according to Section 12.4.6, Code Interpretations and Determination of Unlisted Uses.
- 7.4.1.3 For number of primary and accessory uses permitted per Zone Lot, see Section 1.2.3.5, Number of Structures and Uses allowed per Zone Lot.

### SECTION 7.4.2 ORGANIZATION

#### 7.4.2.1 Organized by Primary, Accessory and Temporary Uses

The Use and Parking Table first presents all primary uses, then all accessory uses, and finally all temporary uses. Primary uses are arranged hierarchically within the table by use classification, category of primary uses, and then by specific use type. Accessory uses are organized by whether such use is accessory to a primary residential use or to a primary nonresidential use. Temporary uses are presented alphabetically ordered in the last division of the table.

#### 7.4.2.2 Primary Use Classifications, Categories & Specific Use Types

##### A. Primary Use Classifications

All primary land uses in the Use and Parking Table are organized into one of the following five general land use classifications:

1. Residential Uses
2. Civic, Public & Institutional Uses
3. Commercial Sales, Service & Repair Uses
4. Industrial, Manufacturing & Wholesale Uses
5. Agriculture

##### B. Primary Use Categories & Specific Use Types

Primary uses are further organized into use categories and specific use types listed under each general primary land use classification. The Use and Parking Table is organized into the above five general land use classifications, use categories and specific use types.

##### C. Classifications & Categories Are Mutually Exclusive

The general land use classifications and use categories listed in the Use and Parking Table are intended to be mutually exclusive; that is, a use classified into one use category, such as “lodging accommodations,” cannot be classified in a different use category, such as “group living,” unless otherwise expressly allowed by this Code.

### SECTION 7.4.3 EXPLANATION OF TABLE ABBREVIATIONS

#### 7.4.3.1 General Explanation of Table Cell Entries

In each of the table cells, the entry will indicate first whether use limitations apply to the specific use, and then separated by a hyphen, the type of zoning review required prior to establishment of the use under this Code. For example, as described in more detail below, a cell entry “L-ZPIN” means, first, the use is subject to use limitations (the “L”), and, second, that the use is subject to zoning permit review with information notice (the “ZPIN”) prior to its establishment.

### 7.4.3.2 Permitted, Limited, Not Permitted

#### A. Permitted Use - No Use Limitations Apply (“P”)

A “P” in a table cell indicates that the use is permitted in the respective Zone District, and is not subject to use limitations.

#### B. Permitted Use - Subject to Use Limitations (“L”)

“L” in a table cell indicates the use is permitted in the Zone District subject to compliance with the use limitations referenced in the last column of the use table (“Applicable Use Limitations”).

#### C. Uses Not Permitted (“NP”)

“NP” in a table cell indicates that the use is not permitted in the specific Zone District.

### 7.4.3.3 Zoning Procedure

#### A. Use Subject to Zoning Permit Review (“ZP”)

“ZP” in a table cell indicates that the use is permitted in the respective Zone District only if reviewed and approved according to the requirements in Section 12.4.1, Zoning Permit Review.

#### B. Use Subject to Zoning Permit Review with Informational Notice (“ZPIN”)

“ZPIN” in a table cell indicates that the use is permitted in the respective Zone District only if reviewed and approved according to the public notice and procedural requirements in Section 12.4.2, Zoning Permit Review with Informational Notice. Such uses shall comply with any applicable use limitations noted in the last column of the use table (“Applicable Use Limitations”), as well as the review criteria stated in Section 12.4.2, Zoning Permit Review with Informational Notice.

#### C. Use Subject to Zoning Permit with Special Exception Review (“ZPSE”)

“ZPSE” in a table cell indicates that use is generally appropriate in the neighborhood context and zoning district, yet may have the potential for limited impacts on adjacent properties or on the established character of the neighborhood context or zoning district. “ZPSE” uses are subject to a Board of Adjustments public hearing according to Section 12.4.9, Zoning Permit with Special Exception Review, which grants the Board of Adjustment the authority to impose conditions on the specified use to mitigate any potential impacts. Such uses shall comply with any applicable use limitations noted in the last column of the use table (“Applicable Use Limitations”), as well as the review criteria stated in Section 12.4.9, Zoning Permit with Special Exception Review.

#### D. Uses Where More Than One Zoning Procedure Is Indicated

Where a table cell shows more than one zoning procedure applies to a use, for example “L-ZP/ZPIN”, the referenced use limitation (last table column) will indicate which zoning procedure applies in a specific case. For example, a table cell may indicate “L-ZPIN/ZPSE” for a use. This means that the ZPIN zoning procedure will apply, unless the applicable use limitation specifies the ZPSE zoning procedure is triggered (e.g., by proximity to a Protected District).

### 7.4.3.4 Enclosure of Uses

All primary, accessory and temporary uses must be established, operated and maintained within a completely enclosed structure, unless otherwise specifically allowed by this Code. The Use and Parking Tables in Articles 3-9 indicate when a use may be established, operated or maintained outside a completely enclosed structure by including an asterisk “\*” next to the specific use type. For example, the asterisk following the “Telecommunication Tower\*” use type in the tables indicates that a telecommunication tower land use need not be enclosed.

## SECTION 7.4.4 DISTRICT SPECIFIC STANDARDS

KEY: \* = Need Not be Enclosed P = Permitted Use without Limitations L = Permitted Use with Limitations NP = Not Permitted Use ZP = Zoning Permit Review ZPIN = Subject to Zoning Permit Review with Informational Notice ZPSE = Subject to Zoning Permit with Special Exception Review  
When no ZP, ZPIN, ZPSE listed = No Zoning Permit required

USE CATEGORY	SPECIFIC USE TYPE • Vehicle Parking Reqmt: # spaces per unit of measurement • Bicycle Parking Reqmt: # spaces per unit of measurement (% Required Spaces in Enclosed Facility /% Required Spaces in Fixed Facility)					APPLICABLE USE LIMITATIONS
		C-RX-5 C-RX-8 C-RX-12	C-MX-3 C-MX-5 C-MX-8 C-MX-12 C-MX-16 C-MX-20	C-MS-5 C-MS-8 C-MS-12	C-CCN-3 C-CCN-4 C-CCN-5 C-CCN-7 C-CCN-8 C-CCN-12	
<b>RESIDENTIAL PRIMARY USE CLASSIFICATION</b>						
Household Living	Dwelling, Single Unit • No Parking Requirements	P-ZP	P-ZP	P-ZP	L-ZP	\$11.2.5
	Dwelling, Two Unit • Vehicle - CCN districts only:1/unit • Vehicle: 0.75/unit • Bicycle: No requirement	P-ZP	P-ZP	P-ZP	L-ZP	\$11.2.5
	Dwelling, Multi-Unit • Vehicle - CCN districts only:1/unit • Vehicle: 0.75/unit • Bicycle: 1/ 2 units (80/20)	P-ZP	P-ZP	P-ZP	L-ZP	\$11.2.5
	Dwelling, Live / Work • Vehicle - CCN districts only:1/unit • Vehicle: 0.75/unit • Bicycle: 1/ 2 units (80/20)	L-ZP	L-ZP	L-ZP	L-ZP	\$11.2.4; \$11.2.5
Group Living	Assisted Living Facility • Vehicle: .75/unit • Bicycle: 1/10 units (50/50)	P-ZP	P-ZP	P-ZP	NP	
	Community Corrections Facility	NP	NP	NP	NP	
	Nursing Home, Hospice • Vehicle - CCN districts only:1/unit • Vehicle: .75/unit • Bicycle: 1/10 units (50/50)	P-ZP	P-ZP	P-ZP	P-ZP	
	Residence for Older Adults • Vehicle - CCN districts only:1/unit • Vehicle: .75/unit • Bicycle: 1/10 units (50/50)	P-ZP	P-ZP	P-ZP	P-ZP	
	Residential Care Use, Small or Large • Vehicle: No requirement • Bicycle: 1/10 units (50/50)	L-ZPIN	L-ZPIN	L-ZPIN	L-ZPIN	\$11.2.8
	Rooming and Boarding House • Vehicle - MS only: 2/ 1,000 ft <sup>2</sup> GFA • Vehicle: 2.5/ 1,000 ft <sup>2</sup> GFA • Bicycle: No requirement	P-ZP	P-ZP	P-ZP	NP	
	Shelter for the Homeless • Vehicle: No requirement • Bicycle: No requirement	L-ZPIN/L	L-ZPIN/L	L-ZPIN/L	L-ZPIN/L	\$ 11.2.9
	Student Housing • Vehicle - CCN districts only:1/unit • Vehicle: 0.75/unit • Bicycle: 1/ 2 units (80/20)	P-ZP	P-ZP	P-ZP	P-ZP	
<b>CIVIC, PUBLIC &amp; INSTITUTIONAL PRIMARY USE CLASSIFICATION</b>						
Basic Utilities	Utility, Major Impact* • Vehicle: .5 / 1,000 ft <sup>2</sup> GFA • Bicycle: No requirement	L-ZPSE	L-ZPSE	L-ZPSE	L-ZPSE	\$ 11.3.1
	Utility, Minor Impact* • Vehicle: .5 / 1,000 ft <sup>2</sup> GFA • Bicycle: No requirement	L-ZP	L-ZP	L-ZP	L-ZP	\$ 11.3.2

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 When no ZP, ZPIN, ZPSE listed = No Zoning Permit required

USE CATEGORY	SPECIFIC USE TYPE • Vehicle Parking Reqmt: # spaces per unit of measurement • Bicycle Parking Reqmt: # spaces per unit of measurement (% Required Spaces in Enclosed Facility /% Required Spaces in Fixed Facility)					APPLICABLE USE LIMITATIONS
		C-RX-5 C-RX-8 C-RX-12	C-MX-3 C-MX-5 C-MX-8 C-MX-12 C-MX-16 C-MX-20	C-MS-5 C-MS-8 C-MS-12	C-CCN-3 C-CCN-4 C-CCN-5 C-CCN-7 C-CCN-8 C-CCN-12	
Community/ Public Services	Community Center • Vehicle: No requirement • Bicycle: 1/10,000 ft <sup>2</sup> GFA (0/100)	L-ZP	L-ZP	L-ZP	L-ZP	§ 11.3.3
	Day Care Center • Vehicle: 1/ 1,000 ft <sup>2</sup> GFA • Bicycle: 1/ 10,000 ft <sup>2</sup> GFA (0/100)	P-ZP	P-ZP	P-ZP	P-ZP	
	Postal Facility, Neighborhood • Vehicle - CCN districts only: 2.5/1,000 ft <sup>2</sup> GFA • Vehicle: 1.25/ 1,000 ft <sup>2</sup> GFA • Bicycle: 1/7,500 ft <sup>2</sup> GFA (20/80)	P-ZP	P-ZP	P-ZP	P-ZP	
Community/ Public Services	Postal Processing Center • Vehicle: 1/ 1,000 ft <sup>2</sup> GFA • Bicycle: 1/7,500 ft <sup>2</sup> GFA(20/80)	NP	P-ZP	P-ZP	NP	
	Public Safety Facility • Vehicle: 1/ 1,000 ft <sup>2</sup> GFA • Bicycle: 1/ 10,000 ft <sup>2</sup> GFA (0/100)	L-ZP	P-ZP	P-ZP	P-ZP	§ 11.3.5
	Hospital Correctional Institution	NP	NP	NP	NP	
Cultural/Special Purpose/Pub- lic Parks & Open Space	Cemetery*	NP	NP	NP	NP	
	Library • Vehicle: 1/ 1,000 ft <sup>2</sup> GFA • Bicycle: 1/ 10,000 ft <sup>2</sup> GFA (0/100)	P-ZP	P-ZP	P-ZP	P-ZP	
	Museum • Vehicle: 1/ 1,000 ft <sup>2</sup> GFA • Bicycle: 1/ 10,000 ft <sup>2</sup> GFA (0/100)	NP	P-ZP	P-ZP	P-ZP	
	City Park*	NP	NP	NP	NP	
	Open Space - Recreation* • Vehicle: No requirement • Bicycle: No requirement	P-ZP	P-ZP	P-ZP	P-ZP	
Open Space - Conservation* • No Parking Requirements	P-ZP	P-ZP	P-ZP	P-ZP		
Education	Elementary or Secondary School • Vehicle: 1/1,000 ft <sup>2</sup> GFA • Bicycle: 1/10,000 ft <sup>2</sup> GFA (0/100)	L-ZP	L-ZP	L-ZP	L-ZP	§ 11.3.8
	University or College • Vehicle: 1/ 1,000 ft <sup>2</sup> GFA • Bicycle: 1/ 10,000 ft <sup>2</sup> GFA (0/100)	L-ZP	L-ZP	L-ZP	L-ZP	§ 11.3.8; §11.3.9
	Vocational or Professional School • Vehicle: 1/ 1,000 ft <sup>2</sup> GFA • Bicycle: 1/ 10,000 ft <sup>2</sup> GFA (0/100)	NP	L-ZP	L-ZP	L-ZP	§ 11.3.8
Public and Religious As- sembly	All Types • Vehicle: No requirement • Bicycle: 1/10,000 ft <sup>2</sup> GFA (0/100)	L-ZP	P-ZP	P-ZP	P-ZP	§ 11.3.10
<b>COMMERCIAL SALES, SERVICES, &amp; REPAIR PRIMARY USE CLASSIFICATION</b>						
Adult Business	All Types	NP	NP	NP	NP	See Section 9.4.4, Use Overlay Districts, for adult business use allowance in the UO-1 District.

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When no ZP, ZPIN, ZPSE listed = No Zoning Permit required

USE CATEGORY	SPECIFIC USE TYPE • Vehicle Parking Reqmt: # spaces per unit of measurement • Bicycle Parking Reqmt: # spaces per unit of measurement (% Required Spaces in Enclosed Facility /% Required Spaces in Fixed Facility)					APPLICABLE USE LIMITATIONS
		C-RX-5 C-RX-8 C-RX-12	C-MX-3 C-MX-5 C-MX-8 C-MX-12 C-MX-16 C-MX-20	C-MS-5 C-MS-8 C-MS-12	C-CCN-3 C-CCN-4 C-CCN-5 C-CCN-7 C-CCN-8 C-CCN-12	
Arts, Recreation & Entertainment	Arts, Recreation and Entertainment Services, Indoor • Vehicle - Artist Studio: 0.3/1000 ft <sup>2</sup> GFA • Vehicle - CCN districts only: 2.5/1,000 ft <sup>2</sup> GFA • Vehicle - All Others: 1.25/ 1,000 ft <sup>2</sup> GFA • Bicycle: 1/7,500 ft <sup>2</sup> GFA (20/80)	P-ZP	P-ZP	P-ZP	P-ZP	
	Arts, Recreation and Entertainment Services, Outdoor* • Vehicle - CCN districts only: 2.5/1,000 ft <sup>2</sup> GFA • Vehicle: 1.25/ 1,000 ft <sup>2</sup> GFA • Bicycle: 1/7,500 ft <sup>2</sup> GFA(20/80)	L-ZPIN	L-ZPSE	L-ZPSE	L-ZPIN	§ 11.4.3
	Sports and/or Entertainment Arena or Stadium*	NP	NP	NP	NP	
Nonresidential Uses in Existing Business Structures In Residential Zones (All Uses Shall Be Parked According to the Parking Requirement Stated in this Use Table for the Specific Nonresidential Use)		L-ZPIN	Not Applicable	Not Applicable	Not Applicable	§11.4.5
Parking of Vehicles	Parking, Garage • No Parking Requirements	P-ZP	P-ZP	P-ZP	L-ZP	§7.3.5.1
	Parking, Surface*	NP	NP	NP	NP	
Eating & Drinking Establishments	All Types • Vehicle - MS only: 2/ 1,000 ft <sup>2</sup> GFA • Vehicle: 2.5/ 1,000 ft <sup>2</sup> GFA • Bicycle: 1/1,500 ft <sup>2</sup> GFA (0/100)	P-ZP	P-ZP	P-ZP	P-ZP	
Lodging Accommodations	Bed and Breakfast Lodging • Vehicle: 0.875/guest room or unit • Bicycle: 1/ 7,500 ft <sup>2</sup> GFA (60/40)	P-ZP	P-ZP	P-ZP	P-ZP	
	Lodging Accommodations, All Others • Vehicle: 0.5/ guest room or unit • Bicycle: 1/ 7,500 ft <sup>2</sup> GFA (60/40)	P-ZP	P-ZP	P-ZP	P-ZP	
Office	Dental / Medical Office or Clinic • Vehicle - CCN districts only: 2/1,000 ft <sup>2</sup> GFA • Vehicle: 1.25/ 1,000 ft <sup>2</sup> GFA • Bicycle: 1/7,500 ft <sup>2</sup> GFA (60/40)	L-ZP	L-ZP	L-ZP	L-ZP	§11.4.9
	Office, All Others • Vehicle - CCN districts only: 2/1,000 ft <sup>2</sup> GFA • Vehicle: 1.25/ 1,000 ft <sup>2</sup> GFA • Bicycle: 1/7,500 ft <sup>2</sup> GFA (60/40)	P-ZP	P-ZP	P-ZP	P-ZP	

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USE CATEGORY	SPECIFIC USE TYPE • Vehicle Parking Reqmt: # spaces per unit of measurement • Bicycle Parking Reqmt: # spaces per unit of measurement (% Required Spaces in Enclosed Facility /% Required Spaces in Fixed Facility)	C-MX-3 C-MX-5 C-MX-8 C-RX-5 C-RX-8 C-RX-12				C-MS-5 C-MS-8 C-MS-12		C-CCN-3 C-CCN-4 C-CCN-5 C-CCN-7 C-CCN-8 C-CCN-12		APPLICABLE USE LIMITATIONS
Retail Sales, Service & Repair (Not Including Vehicle or Equipment Sales, Service & Repair)	Animal Sales and Services, Household Pets Only • Vehicle - CCN districts only: 2.5/1,000 ft <sup>2</sup> GFA • Vehicle: 1.25/ 1,000 ft <sup>2</sup> GFA • Bicycle: 1/7,500 ft <sup>2</sup> GFA(20/80)	L-ZP	L-ZP	L-ZP	L-ZP					§11.4.11
	Animal Sales and Services, All Others	NP	NP	NP	NP					
	Body Art Establishment • Vehicle - CCN districts only: 2.5/1,000 ft <sup>2</sup> GFA • Vehicle: 1.25/ 1,000 ft <sup>2</sup> GFA • Bicycle: 1/7,500 ft <sup>2</sup> GFA (20/80)	NP	L-ZP	L-ZP	L-ZP					§11.4.13
	Food Sales or Market • Vehicle - CCN districts only: 2.5/1,000 ft <sup>2</sup> GFA • Vehicle: 1.25/ 1,000 ft <sup>2</sup> GFA • Bicycle: 1/7,500 ft <sup>2</sup> GFA (20/80)	L-ZP	P-ZP	P-ZP	P-ZP					§11.4.14
Retail Sales, Service & Repair (Not Including Vehicle or Equipment Sales, Service & Repair)	Liquor Store, Including Drugstores Licensed to Sell Liquor • Vehicle - CCN districts only: 2.5/1,000 ft <sup>2</sup> GFA • Vehicle: 1.25/ 1,000 ft <sup>2</sup> GFA • Bicycle: 1/7,500 ft <sup>2</sup> GFA (20/80)	L-ZP	L-ZP	L-ZP	L-ZP					§11.4.15
	Pawn Shop	NP	NP	NP	NP					
	Retail Sales, Service & Repair -- Outdoor*	NP	NP	NP	NP					
	Retail Sales, Service & Repair - Firearms Sales • Vehicle: 1.25/ 1,000 ft <sup>2</sup> GFA • Bicycle: 1/7,500 ft <sup>2</sup> GFA(20/80)	NP	NP	P-ZP	NP					
Retail Sales, Service & Repair, All Others • Vehicle - CCN districts only: 2.5/1,000 ft <sup>2</sup> GFA • Vehicle: 1.25/ 1,000 ft <sup>2</sup> GFA • Bicycle: 1/7,500 ft <sup>2</sup> GFA (20/80)	P-ZP	P-ZP	P-ZP	P-ZP						

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When no ZP, ZPIN, ZPSE listed = No Zoning Permit required

USE CATEGORY	SPECIFIC USE TYPE • Vehicle Parking Reqmt: # spaces per unit of measurement • Bicycle Parking Reqmt: # spaces per unit of measurement (% Required Spaces in Enclosed Facility / % Required Spaces in Fixed Facility)					APPLICABLE USE LIMITATIONS
		C-RX-5 C-RX-8 C-RX-12	C-MX-3 C-MX-5 C-MX-8 C-MX-12 C-MX-16 C-MX-20	C-MS-5 C-MS-8 C-MS-12	C-CCN-3 C-CCN-4 C-CCN-5 C-CCN-7 C-CCN-8 C-CCN-12	
Vehicle / Equipment Sales, Rentals, Service & Repair	Automobile Emissions Inspection Facility	NP	NP	NP	NP	
	Automobile Services, Light • Vehicle: .5/ 1,000 ft <sup>2</sup> GFA • Bicycle: No requirement	NP	L-ZP	L-ZP	L-ZP	§11.4.19 §11.4.20
	Automobile Services, Heavy • Vehicle: .5/ 1,000 ft <sup>2</sup> GFA • Bicycle: No requirement	NP	NP	L-ZP/ZPSE	NP	§11.4.19 §11.4.21
	Automobile / Motorcycle / Light Truck Sales, Rentals, Leasing; Pawn Lot or Vehicle Auctioneer* • Vehicle: .5/ 1,000 ft <sup>2</sup> GFA • Bicycle: No requirement	L-ZP	L-ZP	L-ZP	L-ZP	§11.4.22
	Heavy Vehicle/ Equipment Sales, Rentals & Service*	NP	NP	NP	NP	
<b>INDUSTRIAL, MANUFACTURING &amp; WHOLESALE PRIMARY USE CLASSIFICATION</b>						
Communications and Information	Antennas Not Attached to a Tower* • No Parking Requirements	L-ZP	L-ZP	L-ZP	L-ZP	§11.5.2
	Communication Services • Vehicle: .5/ 1,000 ft <sup>2</sup> GFA • Bicycle: No requirement	P-ZP	C-MX-3: L-ZP/ZPSE All Others: P-ZP	P-ZP	P-ZP	§11.5.1
	Telecommunications Towers* • No Parking Requirements	L-ZP/ZPIN/ ZPSE	L-ZP/ZPIN/ ZPSE	L-ZP/ ZPIN/ ZPSE	L-ZP/ ZPIN/ ZPSE	§11.5.2
	Telecommunications Tower - Alternative Structure* • No Parking Requirements	L-ZP/ZPIN	L-ZP/ZPIN	L-ZP/ZPIN	L-ZP/ZPIN	§11.5.2
	Telecommunication Facilities -- All Others* • No Parking Requirements	L-ZPIN	L-ZPIN	L-ZPIN	L-ZPIN	§11.5.2
Industrial Services	Contractors, Special Trade - General • Vehicle: .5/ 1,000 ft <sup>2</sup> GFA • Bicycle: No requirement	NP	L-ZP	L-ZP	NP	§11.5.3
	Contractors, Special Trade - Heavy/ Contractor Yard*	NP	NP	NP	NP	
	Food Preparation and Sales, Commercial • Vehicle: .5 / 1,000 ft <sup>2</sup> GFA • Bicycle: No requirement	NP	L-ZP	L-ZP	L-ZP	§ 11.5.5
	Laboratory, Research, Development and Technological Services • Vehicle: .5 / 1,000 ft <sup>2</sup> GFA • Bicycle: No requirement	NP	L-ZP	L-ZP	NP	§11.5.6
	Service/Repair, Commercial • Vehicle: .5 / 1,000 ft <sup>2</sup> GFA • Bicycle: No requirement	NP	L-ZP	L-ZP	NP	§11.5.7



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USE CATEGORY	SPECIFIC USE TYPE • Vehicle Parking Reqmt: # spaces per unit of measurement • Bicycle Parking Reqmt: # spaces per unit of measurement (% Required Spaces in Enclosed Facility / % Required Spaces in Fixed Facility)					APPLICABLE USE LIMITATIONS
		C-RX-5 C-RX-8 C-RX-12	C-MX-3 C-MX-5 C-MX-8 C-MX-12 C-MX-16 C-MX-20	C-MS-5 C-MS-8 C-MS-12	C-CCN-3 C-CCN-4 C-CCN-5 C-CCN-7 C-CCN-8 C-CCN-12	
Manufacturing and Production	Manufacturing, Fabrication & Assembly -- Custom • Vehicle: .5 / 1,000 ft <sup>2</sup> GFA • Bicycle: No requirement	L-ZPIN	L-ZP	L-ZP	L-ZP	§11.5.8
	Manufacturing, Fabrication & Assembly -- General	NP	NP	NP	NP	
	Manufacturing, Fabrication & Assembly -- Heavy	NP	NP	NP	NP	
Mining & Extraction and Energy Producing Systems	Oil, Gas -- Production, Drilling*	NP	NP	NP	NP	
	Sand or Gravel Quarry*	NP	NP	NP	NP	
	Wind Energy Conversion Systems* • No Parking Requirements	L-ZPIN/ ZPSE	L-ZPIN/ ZPSE	L-ZPIN/ ZPSE	L-ZPIN/ ZPSE	§11.5.13
Transportation Facilities	Airport*	NP	NP	NP	NP	
	Helipad, Helistop, Heliport* • No Parking Requirements	L-ZPIN	L-ZP	L-ZP	NP	§11.5.14
	Railroad Facilities*	NP	NP	NP	NP	
	Railway Right-of-Way* • No Parking Requirements	P-ZP	P-ZP	P-ZP	P-ZP	
	Terminal, Station or Service Facility for Passenger Transit System • Vehicle: .5/ 1,000 ft <sup>2</sup> GFA • Bicycle: No requirement	P-ZP	P-ZP	P-ZP	P-ZP	
Waste Related Services	Terminal, Freight, Air Courier Services	NP	NP	NP	NP	
	Automobile Parts Recycling Business*	NP	NP	NP	NP	
	Junkyard*	NP	NP	NP	NP	
	Recycling Center	NP	NP	NP	NP	
	Recycling Collection Station	NP	NP	NP	NP	
	Recycling Plant, Scrap Processor	NP	NP	NP	NP	
Wholesale, Storage, Warehouse & Distribution	Solid Waste Facility	NP	NP	NP	NP	
	Automobile Towing Service Storage Yard*	NP	NP	NP	NP	
	Mini-storage Facility • Vehicle: 0.1/ 1,000 ft <sup>2</sup> GFA • Bicycle: No requirement	NP	L-ZP	NP	NP	§11.5.23
	Vehicle Storage, Commercial*	NP	NP	NP	NP	
	Wholesale Trade or Storage, General	NP	NP	NP	NP	
Wholesale Trade or Storage, Light • Vehicle: .5 / 1,000 ft <sup>2</sup> GFA • Bicycle: No requirement	NP	L-ZP/ZPIN/ ZPSE	L-ZP/ ZPIN/ ZPSE	NP	§11.5.26	
<b>AGRICULTURE PRIMARY USE CLASSIFICATION</b>						
Agriculture	Aquaculture*	NP	NP	NP	NP	
	Garden, Urban* • Vehicle: .5/ 1,000 ft <sup>2</sup> GFA • Bicycle: No requirement	L-ZP	L-ZP	L-ZP	L-ZP	§ 11.6.2
	Husbandry, Animal*	NP	NP	NP	NP	
	Husbandry, Plant*	NP	NP	NP	NP	
	Plant Nursery • Vehicle: .5/ 1,000 ft <sup>2</sup> GFA • Bicycle: No requirement	L-ZP	L-ZP	L-ZP	L-ZP	§ 11.6.5

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 When no ZP, ZPIN, ZPSE listed = No Zoning Permit required

USE CATEGORY	SPECIFIC USE TYPE					APPLICABLE USE LIMITATIONS
	• Vehicle Parking Reqmt: # spaces per unit of measurement	C-MX-3			C-CCN-3	
	• Bicycle Parking Reqmt : # spaces per unit of measurement	C-MX-5			C-CCN-4	
	(% Required Spaces in Enclosed Facility /% Required Spaces in Fixed Facility)	C-MX-8			C-CCN-5	
		C-RX-5	C-MX-12	C-MS-5	C-CCN-7	
		C-RX-8	C-MX-16	C-MS-8	C-CCN-8	
		C-RX-12	C-MX-20	C-MS-12	C-CCN-12	
ACCESSORY TO PRIMARY RESIDENTIAL USES USE CLASSIFICATION						
Accessory to Primary Residential Uses  (Parking is Not Required for Accessory Uses Unless Specifically Stated in this Table or in an Applicable Use Limitation)	Unlisted Accessory Uses	L - Applicable to all Zone Districts				§11.7
	Accessory Dwelling Unit	L-ZP	L-ZP	L-ZP	L-ZP	§11.7; §11.8.2
	Domestic Employee	L	L	L	L	§11.7; §11.8.3
	Garden*	L	L	L	L	§11.7; §11.8.4
	Keeping of Household Animals*	L/L-ZPIN	L/L-ZPIN	L/L-ZPIN	L/L-ZPIN	§11.7; §11.8.5
	Keeping and Off-Street Parking of Vehicles, Motorcycles, Trailers & Recreational Vehicles*	L	L	L	L	§11.7; §10.9
	Kennel or Exercise Run*	L	L	L	L	§11.7; §11.8.6
	Limited Commercial Sales, Services Accessory to Multi-Unit Dwelling Use	L-ZP	Not Applicable - See Permitted Primary Uses			§11.7; §11.8.7
	Second Kitchen Accessory to Single Unit Dwelling Use	NP	NP	NP	NP	
	Vehicle Storage, Repair and Maintenance*	L	L	L	L	§11.7; §10.9
Wind Energy Conversion Systems*	L-ZPIN/ ZPSE	Not Applicable - See Permitted Primary Uses			§11.7; §11.5.13	
Yard and/or Garage Sales*	L	L	L	L	§11.7; §11.8.9	
HOME OCCUPATIONS ACCESSORY TO PRIMARY RESIDENTIAL USES USE CLASSIFICATION						
Home Occupations  (Parking is Not Required for Home Occupations Unless Specifically Stated in this Table or in an Applicable Use Limitations)	Child Care Home, Large	L-ZPIN	L-ZPIN	L-ZPIN	L-ZPIN	§11.9; §11.9.3
	All Other Types	L-ZP	L-ZP	L-ZP	L-ZP	§11.9; §11.9.4
	Unlisted Home Occupations	L-ZPIN	L-ZPIN	L-ZPIN	L-ZPIN	§11.9; §11.9.5

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USE CATEGORY	SPECIFIC USE TYPE • Vehicle Parking Reqmt: # spaces per unit of measurement • Bicycle Parking Reqmt: # spaces per unit of measurement (% Required Spaces in Enclosed Facility /% Required Spaces in Fixed Facility)	APPLICABLE USE LIMITATIONS				
		C-RX-5 C-RX-8 C-RX-12	C-MX-3 C-MX-5 C-MX-8 C-MX-12 C-MX-16 C-MX-20	C-MS-5 C-MS-8 C-MS-12	C-CCN-3 C-CCN-4 C-CCN-5 C-CCN-7 C-CCN-8 C-CCN-12	
<b>ACCESSORY TO PRIMARY NONRESIDENTIAL USES USE CLASSIFICATION</b>						
Accessory to Primary Non-residential Uses  (Parking is Not Required for Accessory Uses Unless Specifically Stated in this Table or in an Applicable Use Limitation)	Unlisted Accessory Uses	L - Applicable to all Zone Districts				§11.7; 11.10.1
	Amusement Devices Accessory to Eating/Drinking Establishments, College/University and Theater Uses	NP	L-ZP	L-ZP	L-ZP	§11.7; §11.10.2
	Automobile Rental Services Accessory to Certain Retail Uses*	Not Applicable - See Permitted Primary Uses	Not Applicable - See Permitted Primary Uses	Not Applicable - See Permitted Primary Uses	NP	§11.7; §11.10.3
	Book or gift store; media recording and production facilities accessory to public libraries, museums, places of religious assembly, colleges or universities	Not Applicable - See Permitted Primary Uses				§11.7; §11.10.4
	Car Wash Bay Accessory to Automobile Services or Hotel Uses	NP	NP	NP	NP	
	College accessory to a Place for Religious Assembly	Not Applicable - See Permitted Primary Uses				§11.7; §11.10.6
	Conference Facilities Accessory to Hotel Use	NP	L	L	NP	§11.7; §11.10.7
	Drive Through Facility Accessory to Eating/Drinking Establishments and to Retail Sales, Service, and Repair Uses*	NP	L-ZP	L-ZP	NP	§11.7; §11.10.8
	Garden*	L	L	L	L	§11.7; §11.10.9
	Keeping of Animals	L/L-ZPIN	L/L-ZP/ L-ZPIN	L/L-ZP/ L-ZPIN	L/L-ZP/ L-ZPIN	§11.7; § 11.10.10
	Nonresidential Uses in Existing Business Structures In Residential Zones - Accessory Uses	Not Applicable - See Permitted Primary Uses	Not Applicable			§11.4.5
	Occasional Sales, Services Accessory to Places of Religious Assembly*	L	L	L	L	§11.7; §11.10.11
	Outdoor Eating and Serving Area Accessory to Eating/Drinking Establishment Use*	L-ZP/ZPSE	L-ZP/ZPSE	L-ZP/ZPSE	L-ZP/ZPSE	§11.7; §11.10.12
	Outdoor Entertainment Accessory to an Eating/Drinking Establishment Use*	L-ZPIN/ ZPSE	L-ZPIN/ ZPSE	L-ZPIN/ ZPSE	L-ZPIN/ ZPSE	§11.7; §11.10.13
	Outdoor Retail Sale and Display*	NP	L-ZP	L-ZP	L-ZP	§11.7; §11.10.14
	Outdoor Storage, General*	NP	NP	NP	NP	
Outdoor Storage, Limited*	NP	L	L	L	§11.7; §11.10.16	
Rental or Sales of Adult Material Accessory to a Permitted Bookstore Retail Sales Use	L	L	L	L	§11.7; §11.10.17	

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USE CATEGORY	SPECIFIC USE TYPE • Vehicle Parking Reqmt: # spaces per unit of measurement • Bicycle Parking Reqmt: # spaces per unit of measurement (% Required Spaces in Enclosed Facility /% Required Spaces in Fixed Facility)					APPLICABLE USE LIMITATIONS
		C-RX-5 C-RX-8 C-RX-12	C-MX-3 C-MX-5 C-MX-8 C-MX-12 C-MX-16 C-MX-20	C-MS-5 C-MS-8 C-MS-12	C-CCN-3 C-CCN-4 C-CCN-5 C-CCN-7 C-CCN-8 C-CCN-12	
<b>TEMPORARY USE CLASSIFICATION</b>						
Temporary Uses  (Parking is Not Required for Temporary Uses Unless Specifically Stated in this Table or in an Applicable Use Limitations)	Unlisted Temporary Uses	L - Applicable to all Zone Districts				§11.11.1
	Ambulance Service - Temporary	L-ZP	Not Applicable - See Permitted Primary Uses			§11.11.2
	Amusement / Entertainment - Tempo- rary*	NP	NP	NP	NP	§11.11.3
	Bazaar, Carnival, Circus or Special Event*	L-ZP	L-ZP	L-ZP	L-ZP	§11.11.4
	Building or yard for construction materials*	L-ZP	L-ZP	L-ZP	L-ZP	§11.11.5
	Concrete, Asphalt, and Rock Crushing Facility*	L-ZP	L-ZP	L-ZP	L-ZP	§11.11.6
	Fence for Demolition or Construction Work	L-ZP	L-ZP	L-ZP	L-ZP	§11.11.7
	Health Care Center	L-ZP	P-ZP	P-ZP	P-ZP	§11.11.8
	Noncommercial Concrete Batching Plant*	L-ZP	L-ZP	L-ZP	L-ZP	§11.11.9
	Outdoor Retail Sales - Pedestrian / Transit Mall*	NP	NP	NP	NP	
	Outdoor Retail Sales*	L-ZP	L-ZP	NP	L-ZP	§11.11.11
	Outdoor Sales, Seasonal*	L-ZPIN	L-ZP	L-ZP	L-ZP	§11.11.12
	Parking Lot Designated for a Special Event*	L-ZP	L-ZP	L-ZP	L-ZP	§11.11.13
	Retail Food Establishment, Mobile*	NP	L-ZP	NP	L-ZP	§11.11.14
	Temporary Construction Office	L-ZP	L-ZP	L-ZP	NP	§11.11.15
	Temporary Office - Real Estate Sales	L-ZP	L-ZP	L-ZP	NP	§11.11.16
Tent for Religious Services	NP	NP	NP	NP		

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## **ARTICLE 11. USE LIMITATIONS AND DEFINITIONS**

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## **DIVISION 11.1 GENERAL PROVISIONS**

### **SECTION 11.1.1 INTENT**

- 11.1.1.1 Article 11 sets forth the limitations specific to primary, accessory and temporary uses permitted under this Code. Limitations in this Article 11 are generally intended to:
- A. Promote continued economic development while mitigating the potential for adverse impacts on surrounding properties, surrounding residential uses and neighborhoods, and the physical environment;
  - B. Implement Comprehensive Plan and Blueprint Denver objectives to promote walkable, pedestrian environments in appropriate neighborhood contexts and Zone Districts;
  - C. Encourage and facilitate the reuse of existing structures;
  - D. Accommodate the special housing needs of segments of the resident population, while balancing those needs with a neighborhood's interest in notification and public input; and
  - E. Encourage and facilitate implementation of sustainable activities or uses that promote long-term energy efficiency and reduce vehicle trips, such as urban agriculture, wind and solar energy facilities, and live-work and Home Occupation opportunities.
- 11.1.1.2 The hierarchy and structure of the use classifications, categories, and definitions in this Article 11 are intended to aid the City and code users in the interpretation of this Code over time.

### **SECTION 11.1.2 APPLICABILITY**

All primary, accessory, and temporary uses subject to this Article's limitations shall be established, operated, and maintained only in compliance with such limitations.

### **SECTION 11.1.3 ORGANIZATION**

Article 11 is organized into divisions and sections that track the organization of the Use and Parking Tables found in Articles 3 through 9, as follows:

- 11.1.3.1 Divisions** in Article 11 correspond to the same order of the use classifications (e.g., residential primary uses) found in the Use and Parking Tables.
- 11.1.3.2 Sections** in Article 11 correspond to the specific use types (e.g., multi-unit dwelling) found within each use classification (e.g., residential primary uses), organized within the sections first by use category (e.g., household living uses) and then by listing in alphabetical order.

### **SECTION 11.1.4 ENCLOSURE OF USES**

All primary, accessory and temporary uses must be established, operated and maintained within a completely enclosed structure, unless otherwise specifically allowed by this Code. The Use and Parking Tables in Articles 3-9 indicate when a use may be established, operated or maintained outside a completely enclosed structure by including an asterisk "\*" next to the specific use type. For example, the asterisk following the "Telecommunication Tower\*" use type in the tables indicates that a telecommunication tower land use need not be enclosed.

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## **DIVISION 11.2 RESIDENTIAL PRIMARY USE LIMITATIONS**

The Use and Parking Tables in Articles 3 through 9 reference limitations applicable to permitted primary, accessory, or temporary uses. This Division contains limitations applicable to primary residential uses permitted across multiple Zone Districts and neighborhood contexts.

### **HOUSEHOLD LIVING USE CATEGORY**

#### **SECTION 11.2.1 DWELLING, SINGLE UNIT**

##### **11.2.1.1 I-A, -B Zone Districts**

In the I-A, -B Zone Districts, where permitted with limitations, single unit dwellings uses are permitted subject to compliance with the following limitations:

- A. There is an existing structure that was erected for single unit dwelling use prior to July 1, 2004, has not had its nonconforming use terminated, and is not a neglected or derelict building under the provisions of Article IX (neglected and derelict buildings), Chapter 10 (buildings and building regulations) of the Denver Revised Municipal Code.
- B. Future rebuilds, physical modifications, alterations, and/or additions to the structure containing the single unit dwelling shall comply with the provisions of the Denver Zoning Code as it applies to the urban house form in the U-SU-C Zone District.
- C. Accessory uses, accessory structures, home occupations, parking of vehicles and permitted signs shall be regulated by the Denver Zoning Code as it applies to a single unit dwelling use in the U-SU-C Zone District.
- D. The external effects of such uses shall be regulated by Division 10.10, Limitations on External Effects of Uses and shall not be exempt from these provisions due to the industrial zoning.
- E. The zone lot containing a single unit dwelling use shall be used and operated in its entirety as a residential use. Such zone lots shall not be amended.

#### **SECTION 11.2.2 DWELLING, TWO UNIT**

##### **11.2.2.1 All SU Zone Districts**

In all SU Zone Districts, where permitted with limitations:

- A. Two Unit Dwelling uses that were legally established and maintained on a zone lot shall be considered conforming uses in these districts.
- B. A structure containing such a Two Unit Dwelling use may be modified or demolished and rebuilt in conformity with the building form standards allowed in the subject SU Zone District without regard to the building form's use restrictions, or alternately in conformity with the duplex building form standards applicable in the U-TU-C Zone District, provided:
  1. The zone lot shall not be reduced, expanded or enlarged, and
  2. The number of dwelling units on the zone lot shall not be increased above the number of dwelling units that existed when the use was legally established.
- C. Variances may be granted according to Section 12.4.7, Variance.

##### **11.2.2.2 U-SU-A2, -B2, -C2 Zone Districts**

In U-SU-A2, -B2, -C2 Zone Districts, where permitted with limitations, new Two Unit Dwelling uses may be established only on corner zone lots where at least one of the intersecting streets is a collector or arterial street, according to the functional street classifications adopted by the Public Works Department.

### **11.2.2.3 I-A, -B Zone Districts**

In the I-A, -B Zone Districts, where permitted with limitations, Two Unit Dwelling uses are permitted subject to compliance with the following limitations:

- A. There is an existing structure that was erected for two unit dwelling prior to July 1, 2004, has not had its nonconforming use terminated, and is not a neglected or derelict building under the provisions of Article IX (neglected and derelict buildings), Chapter 10 (buildings and building regulations) of the Denver Revised Municipal Code.
- B. Future rebuilds, physical modifications, alterations, and/or additions to the structure containing the two unit dwelling use shall comply with the provisions of this Code as it applies to the duplex or tandem house building forms in the U-TU-C Zone District.
- C. Accessory uses, accessory structures, home occupations, parking of vehicles and permitted signs shall be regulated by this Code as it applies to a two unit dwelling use in the U-TU-C Zone District.
- D. A two unit dwelling use in an I-A or I-B Zone District shall be subject to the same limitations as a two unit dwelling use located in any Residential Zone District.
- E. The external effects of such uses shall be regulated by Division 10.11, Limitations on External Effects of Uses and shall not be exempt from these provisions due to the industrial zoning.
- F. The zone lot containing a two unit dwelling use shall be used and operated in its entirety as a residential use. Such zone lots shall not be amended.

## **SECTION 11.2.3 DWELLING, MULTI-UNIT**

### **11.2.3.1 All SU and TU Zone Districts**

In all SU and TU Zone Districts, where permitted with limitations:

- A. Multi-Unit Dwelling uses that were legally established and maintained on a zone lot shall be considered conforming uses in these districts.
- B. A structure containing such a Multi-Unit Dwelling use may be modified or demolished and rebuilt according to the following limitations:
  1. In a SU Zone District, the rebuilt structure shall comply with either the building form standards in the subject SU Zone District without regard to the building form's use restrictions, or with the duplex building form standards in the U-TU-C Zone District without regard to the building form's use restrictions.
  2. In a TU Zone District, the rebuilt structure shall comply with the building form standards allowed in the subject TU Zone District without regard to the building form's use restrictions.
  3. The zone lot shall not be reduced, expanded or enlarged.
  4. The number of dwelling units on the zone lot shall not be increased above the number of dwelling units that existed when the use was legally established.
- C. Variances may be granted according to Section 12.4.7, Variances, except the number of dwelling units on the zone lot shall not be increased above the number of dwelling units that existed when the use was legally established.

### **11.2.3.2 I-A, -B Zone Districts**

In the I-A, -B Zone Districts, where permitted with limitations, Multi-Unit Dwelling uses are permitted subject to compliance with the following limitations:

- A. There is an existing structure that was erected as a multiple unit dwelling prior to July 1, 2004, has not had its nonconforming use terminated, and is not a neglected or derelict building under the provisions of Article IX (neglected and derelict buildings), Chapter 10 (buildings and building regulations) of the Denver Revised Municipal Code.
- B. Future rebuilds, physical modifications, alterations, and/or additions to the structure containing the multiple unit dwelling use shall comply with the provisions of this Code as it applies to a building form allowed in the G-MU-3 Zone District.
- C. Accessory uses, accessory structures, home occupations, parking of vehicles and permitted signs shall be regulated by this Code as it applies to a multi-unit dwelling use in the G-MU-3 Zone District.
- D. A multi-unit dwelling use in an I-A or I-B Zone District shall be subject to the same limitations as a multi-unit dwelling use located in any Residential Zone District.
- E. The external effects of such uses shall be regulated by Division 10.11, Limitations on External Effects of Uses and shall not be exempt from these provisions due to the industrial zoning.
- F. The zone lot containing a multi-unit dwelling use shall be used and operated in its entirety as a residential use. Such zone lots shall not be amended.

### **11.2.3.3 U-TU-B2 Zone District**

In the U-TU-B2 Zone District, where permitted with limitations, new Multi-Unit Dwelling uses may be established only on corner zone lots where at least one of the intersecting streets is a collector or arterial street, according to the functional street classifications adopted by the Public Works Department.

## **SECTION 11.2.4 DWELLING, LIVE/WORK**

### **11.2.4.1 All Zone Districts (Except I-A, -B Zone Districts)**

In all Zone Districts, except in the I-A, -B Zone Districts, where permitted with limitations, a Live/Work Dwelling's commercial activity may be any nonresidential primary use permitted in the same Zone District that the Live/Work Dwelling is established, subject to compliance with this subsection's limitations. In addition, the following commercial activities, when not otherwise specifically listed as permitted in the applicable Zone District, are permitted in a Live/Work Dwelling use:

- A. Art gallery;
- B. Artist studio;
- C. Professional studio;
- D. Office, not including dental/medical office and clinic; and
- E. Other similar activities as determined by the Zoning Administrator according to Section 12.4.6, Code Interpretations and Determination of Unlisted Uses.

### **11.2.4.2 I-A, -B Zone Districts**

In the I-A, -B Zone Districts, where permitted with limitations:

- A. A Live/Work Dwelling's commercial activity shall be limited to an Artist Studio use only.
- B. The dwelling portion of a Live/Work Dwelling use shall be occupied by no more than 4 unrelated persons, or by any number of persons related by blood, marriage, or adoption.
- C. A Live/Work Dwelling use shall not be considered a "Residential Use" or "Residential Zone District" or "Protected District," nor in any other way be accorded residential protection (e.g., separation) against the effects of surrounding industrial uses as may otherwise be required by this Code.



#### **11.2.4.3 All Zone Districts (Except I-MX, -A, -B; M-IMX Zone Districts)**

In all Zone Districts where permitted with limitations, except in the I-MX, -A, -B; M-IMX Zone Districts, any repair, assembly, or fabrication of goods is limited to the use of hand tools or domestic mechanical equipment.

#### **11.2.4.4 G-RO Zone District; All RX Zone Districts**

In the G-RO Zone District and in all RX Zone Districts, where permitted with limitations:

- A. The commercial or nonresidential activity shall not exceed 50 percent of the gross floor area of the use.
- B. The commercial activity shall not have more than 2 employees or regular assistants on the premises at one time (such employees or regular assistants may be in addition to residents of the Live/Work Dwelling employed or working in the commercial activity portion of the use).
- C. Signs are limited to not more than 2 non-animated, non-illuminated wall or window signs not exceeding 20 square feet in total area.
- D. Outside storage of any flammable and combustible liquids and flammable gases is prohibited.
- E. Nonresidential storage in the Live/Work Dwelling shall be limited to no more than 10% of the space dedicated to the commercial or nonresidential activity.

### **SECTION 11.2.5 ALL HOUSEHOLD LIVING USES IN C-CCN ZONE DISTRICTS**

In all C-CCN Zone Districts, where permitted with limitations, Household Living uses shall comply with the following limitations:

#### **11.2.5.1 Intent**

Improve the pedestrian experience along the Street Level in the Cherry Creek North mixed use shopping district by requiring ground-story, pedestrian-friendly uses in all development. Retain ground stories for nonresidential uses permitted in the C-CCN Zone Districts that are more likely to invite high-intensity customer, visitor, and resident interactions and that contribute substantially to the activation, economic vitality, and safety of this important mixed-use neighborhood. Street Level area set aside in buildings for uses other than household living according to this limitation is intended to be adequately configured and dimensioned to support the feasible use of such space for pedestrian-friendly active uses.

#### **11.2.5.2 Limitation on Location of Household Living Uses**

- A. In a building that does not abut a named or numbered public street, household living uses may be located on any story of such building.
- B. In a building that abuts one or more named or numbered public streets, household living uses may be located:
  1. On any building story above or below the Street Level; and/or
  2. On the Street Level, but not along the building's street frontage. All of the building's street frontage(s) shall be occupied by one or more primary uses other than a household living use. However, residential lobbies or other similar internal access to the household living use are permitted along street frontages.

*See also* C-CCN Zone District supplemental design standards in Section 7.3.5.1 related to permitted ground-story uses in structures or buildings containing parking spaces.

## GROUP LIVING USE CATEGORY

### SECTION 11.2.6 COMMUNITY CORRECTIONS FACILITY

#### 11.2.6.1 I-MX, -A, -B Zone Districts

In the I-MX, -A, -B Zone Districts, where permitted with limitations, community corrections facilities shall comply with the following limitations:

##### A. Community Corrections Subject to Large Residential Care Use Limitations

Community corrections facilities are classified as Large Residential Care uses and are therefore subject to all of the requirements applicable to Large Residential Care uses in Section 11.2.8 below, in addition to the following use-specific limitations. In case of conflict with the requirements of Section 11.2.8, the more specific limitations in this subsection shall apply.

##### B. Moratorium on New Community Corrections Facilities

After April 30, 2008, no new community corrections facility shall begin operation until May 1, 2018.

##### C. Permitted Location

Community corrections facilities (for purposes of this subsection, hereinafter “facilities” or “facility”) shall be located more than:

1. 1,500 feet from a school meeting all requirements of the compulsory education laws of the state;
2. 1,500 feet from a Residential Zone District; and
3. 1,000 feet from any liquor store, any drugstore licensed to sell package liquors, or any retail package liquor business.

##### D. Limits on Number of Residents

1. The proposed number of residents in a facility shall not exceed the following limits:
  - a. In the I-MX zone district, not to exceed 1 person per 50 square feet of gross floor area in sleeping areas with a maximum of 40 residents.
  - b. In the I-A and I-B zone districts, a maximum of 60 residents, provided, however, that if such facility is operated by the Denver Manager of Safety, or under contract to the Manager of Safety, such facility may have up to 120 residents, except that the existing facility located at 570 West 44th Avenue may have up to 90 residents.
2. The expansion of any existing community corrections facility to more than 60 residents shall be reviewed according to Section 12.4.2, Zoning Permit Review with Informational Notice.

##### E. Government Supervision Required for Transition Programs in a Community Corrections Facility

Any program to facilitate transition to a less-structured or independent residential arrangement in a community corrections facility shall be supervised directly or indirectly by an agency of the city, the state or the federal government.

### SECTION 11.2.7 RESIDENCE FOR OLDER ADULTS

#### 11.2.7.1 All SU Zone Districts

In all SU Zone Districts, where permitted with limitations, a Residence for Older Adults use shall include no more than 1 dwelling unit per zone lot.

### **11.2.7.2 All TU Zone Districts**

In all TU Zone Districts, where permitted with limitations, a Residence for Older Adults use shall include no more than 2 dwelling units per zone lot.

## **SECTION 11.2.8 RESIDENTIAL CARE USE, SMALL OR LARGE**

### **11.2.8.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

#### **A. Intent**

The intent of these limitations for Residential Care uses is:

1. To develop zoning regulations that apply to housing for special populations and which are humane, equitable and enforceable through the regulation of institutions and facilities only, and not individuals;
2. To support and reinforce the viability and continuation of neighborhoods and communities that provide healthy environments for all their residents;
3. To prevent the “institutionalization” of residential neighborhoods by concentrating Residential Care uses so as to allow all residents, including the special populations, to reap the benefits of residential surroundings;
4. To increase location opportunities for critically needed Residential Care facilities, thereby helping to integrate special populations into the mainstream of society;
5. To comply with the principles, policies and regulations of federal and state fair housing legislation;
6. To establish an ongoing, effective process of communication between local neighborhood residents, the operators of Residential Care facilities and city agencies that regulate such facilities;
7. To encourage and coordinate the use by the regulatory city agencies, as well as by all involved licensing agencies, of common categories and definitions of Residential Care facilities for special populations; and
8. To promote the dispersing of facilities and beds for special populations thereby preventing individuals from being forced into neighborhoods with concentrations of treatment facilities and beds and thus perpetuating isolation resulting from institutionalization.

#### **B. Designation of Contact Person**

The applicant or operator of a Residential Care use shall designate a staff member who shall be available on a continuous basis to receive questions and concerns from interested neighbors. Any issues not satisfactorily resolved through the applicant and facility staff shall be reported to the Zoning Administrator.

#### **C. Continuation of Certain Existing Uses**

1. An institution or any other use operating as a Residential Care use and existing as of April 1, 1993, shall be classified as a legal, nonconforming use and may continue its operation providing it has a valid zoning permit.
2. Any exterior additions or exterior structural modifications that increase the gross floor area of an existing structure shall require the approval of a zoning permit according to Section 12.4.2, Zoning Permit Review with Informational Notice.
3. Any increase in the number of permitted residents shall require the approval of a zoning permit according to Section 12.4.2, Zoning Permit Review with Informational Notice.

4. Any change in the type of resident of a Residential Care use permitted under the provisions of this section shall meet all applicable requirements except the requirements set forth in Section 11.2.8.1.D.3.

**D. Limitations for Large Residential Care Use**

All Large Residential Care uses shall comply with the following limitations:

**1. Owner and operational limitations**

- a. The applicant is the owner or has written approval of the owner of the property.
- b. The applicant and the owner have obtained or will obtain upon granting of the permit any licenses or certification required by the state and/or the city.
- c. The program and operational plan has been or will be approved by a licensing agency appropriate to the special population being served in the facility.
- d. The applicant and the operator will provide adequate measures for safeguarding the public and the facility residents. Such measures shall be appropriate to the special population including intake screening, supervision and security.
- e. The proposed use will not substantially or permanently injure the appropriate use of nearby conforming property.
- f. The number of beds in the proposed facility, in combination with the number of existing correctional institution and Residential Care use beds within the affected neighborhood, regardless of compliance with the spacing and density requirements set forth in this subsection, shall not substantially or permanently injure the neighborhood or shall not cause or add to the institutionalization of residential neighborhoods which would prevent all residents, including the special populations, from being able to reap the benefits of residential surroundings.

**2. Property and building limitations**

- a. The size and architectural style of new structures or additions to existing structures located in a residential zone shall not be substantially dissimilar from other structures in the surrounding residential neighborhood and shall comply with all other requirements of the Zone District in which they are located.
- b. The applicant and the operator will adequately maintain the building and grounds.

**3. Spacing and density limitations**

- a. All proposed Large Residential Care uses shall satisfy the following minimum requirements unless specifically exempt by other provisions herein. Provided, however, that the Zoning Administrator may approve the permit for a Large Residential Care use in a location in violation of the spacing and density regulations of Section 11.2.8.1.D.3.d below upon a determination that the spacing violation is less than 10 percent of the required spacing and that locating the proposed use will not substantially or permanently injure the neighborhood. Provided, further, that the Zoning Administrator may require up to 200 feet of additional spacing between Large Residential Care uses in impacted neighborhoods.
- b. "Impacted neighborhoods" for the purpose of this subsection shall be those neighborhoods that have more Residential Care uses within their boundaries than the city-wide average number per neighborhood. Community Planning and Development shall keep records of such "impacted neighborhoods".
- c. All existing Large Residential Care uses and any religious assembly use (as a "religious assembly" use is defined in Article 11) containing a shelter that exceeds the limits of Section 11.2.9.3 shall be counted when the spacing and density requirements in Section 11.2.8.1.D.3.d below are applied.

- d. Spacing and density regulations: (a) A Large Residential Care use shall be a minimum of 2,000 feet from another such use; and (b) No more than two other such uses shall exist within a 4,000 foot radius measured from the proposed use.

**4. Minimum lot dimensions**

The proposed use shall have a minimum lot size of 6,000 square feet and a minimum lot width of 50 feet.

**5. Limitations on external effects**

Such use shall comply with the limitations on external effects as established for permitted uses in the district in which it is located.

**6. Special Requirements for Large Residential Care Uses**

Certain Large Residential Care uses shall be subject to the following special requirements. In case of conflict with the general requirements of this section, the provisions of this subsection shall apply:

- a. Large Residential Care use in all SU, TU, TH, or RH Zone Districts, other than a Community Corrections Facility or a Shelter for the Homeless, shall be located only in a structure existing on May 24, 1993, and shall be limited to a maximum number of 20 residents. Such structure shall not be enlarged as long as it is used for a Large Residential Care use. In a RO or MU Zone District, Large Residential Care uses, other than a Community Corrections Facility or a Shelter for the Homeless, shall be limited to a maximum of 40 residents.
- b. **Community Corrections Facility** – See Sections 8.9.5.1., Community Corrections Facility, and 11.2.6.1, Community Corrections Facility, for additional limitations applicable to Community Correction Facility uses, which are a specific type of Large Residential Care Use.
- c. **Shelter for the Homeless** -- See Section 11.2.9, Shelter for the Homeless, for additional limitations applicable to Shelter for the Homeless uses, which are a specific type of Large Residential Care Use.

**E. Limitations for Small Residential Care Use**

All Small Residential Care uses shall comply with the following limitations:

**1. Owner and operational limitations**

- a. The applicant is the owner or has the written approval of the owner of the property.
- b. The applicant and the operator have obtained or will obtain upon granting of the permit any licenses or certifications required by the state and/or the city.

**2. Building and site limitations**

Locating the proposed use in the neighborhood shall not substantially or permanently injure the appropriate use of nearby conforming property, and shall not cause or add to the institutionalization of residential neighborhoods that would prevent all residents, including the special populations, from being able to reap the benefits of residential surroundings.

- 3. Upon issuance of a permit for a Small Residential Care use, the applicant and the operator shall only be required to comply with:

- a. Division 10.4, Parking and Loading;
- b. Section 11.2.8.1.C.2, Continuation of Certain Existing Uses - Requirement for ZPIN Review for Floor Area Increases in Existing Structures;
- c. Section 11.2.8.1.C.3, Continuation of Certain Existing Uses - Requirement for ZPIN Review for Increases in Number of Permitted Residents;
- d. Section 11.2.8.1.D.4, Minimum lot dimensions; and

- e. Section 11.2.8.1.D.5, Limitations on external effects.
- 4. No conditions on the number of staff may be placed on the permit for transitional housing except for a condition requiring at least one staff person on-site.

**F. Compliance with Denver Building and Fire Code**

All Residential Care uses shall comply with applicable provisions of the Denver Building and Fire Code.

**G. Approvals Personal to Applicant/Operator**

The permit for an approved Residential Care use shall automatically expire at such time as the operator specified in the permit no longer operates the Residential Care use at the subject property.

**SECTION 11.2.9 SHELTER FOR THE HOMELESS**

**11.2.9.1 Types of Shelters for the Homeless, Permitted Location, and Applicable Limitations**

**A. Types of Shelters for the Homeless**

This Section 11.2.9 establishes the following 3 types of shelters for the homeless:

- 1. Shelter for the Homeless as a permanent, primary use.
- 2. Shelter for the Homeless as a primary or accessory use when operated by a place of religious assembly (as “religious assembly” use is defined in Article 11).
- 3. Shelter for the Homeless when operated in a building owned by a nonprofit corporation or by a governmental entity.

**B. Permitted Locations and Applicable Use Limitations**

The 3 types of shelters for the homeless identified in subsection 11.2.9.1.A above are permitted in the following zone districts, subject to compliance with the applicable use limitations:

Type of Shelter	Permitted/Prohibited Locations	Applicable Use Limitations
Shelter for the homeless as a permanent, primary use	Permitted in all zone districts, except the SU, TU, TH, RH, E-MU-2.5, MS/MX-2x, MS/MX-2, MX-2A, CMP-H, CMP-H2, CMP-ENT, OS-B, and OS-C zone districts.	Section 11.2.9.1 Section 11.2.9.2 Section 11.2.9.5
Shelter for the homeless when operated by a religious assembly use	Permitted in all zone districts.	Section 11.2.9.1 Section 11.2.9.3 Section 11.2.9.5
Shelter for the homeless when operated in a building owned by a nonprofit corporation or by a governmental entity	Permitted in all zone districts.	Section 11.2.9.1 Section 11.2.9.4 Section 11.2.9.5

**11.2.9.2 Shelters for the Homeless as a Permanent, Primary Use**

Shelters for the homeless that are permanent, primary uses, where permitted according to Section 11.2.9.1, Types of Shelters for the Homeless, Permitted Location, and Applicable Limitations, shall comply with all of the following limitations:

**A. Limitations for Large Residential Care Use Apply**

A homeless shelter that is a permanent, primary use is a specific type of Large Residential Care use, and is therefore subject to all of the requirements of Section 11.2.8.1.D, Limitations for Large Residential Care Use. In addition, such homeless shelters shall comply with the special requirements in this Section 11.2.9.2. In case of conflict with the requirements of Section 11.2.8.1.D., Limitations for Large Residential Care Use, the provisions of this Section 11.2.9.2 shall apply.

**B. Number of Beds**

The number of beds in the shelter shall not exceed 200. Notwithstanding the preceding sentence, for permanent homeless shelters having a zoning permit as of January 1, 2005, allowing 200 beds or more, the maximum number of beds in the shelter shall not exceed 350. In any one city council district, there shall be no more than 950 beds in homeless shelters that are permanent, primary uses and subject to this Section 11.2.9.2.

**C. Increase in Shelter Resident Population**

Except for an increase in the number of beds up to 350, pursuant to Section 11.2.9.2.B, Number of Beds, and notwithstanding the restriction of Section 11.2.8.1.C.2, Continuation of Certain Existing Uses - Requirement for ZPIN Review for Floor Area Increases in Existing Structures, and Section 11.2.8.1.C.3, Continuation of Certain Existing Uses - Requirement for ZPIN Review for Increases in Number of Permitted Residents, the permanent increase in the number of homeless shelter residents or in the amount of floor area of such shelter exceeding 10 percent shall require the approval of a zoning permit according to Section 12.4.2, Zoning Permit with Informational Notice.

**D. Operations**

1. Overnight sleeping accommodations shall be in undivided sleeping space, offered for little or no financial compensation, and shall be operated in a manner that encourages short-term occupancy by residents.
2. Such facility may include accessory support services but shall not be operated in such a manner that changes its primary function to a use classified as follows: community corrections facility, hospital, assisted living facility, nursing home, rehabilitation center for the handicapped, or residence for older adults.
3. Waiting areas shall be placed and supervised so that the operation of the shelter will not normally create obstructions or problems in the use of adjacent public rights-of-way.
4. Restroom facilities shall be made available to shelter residents while the shelter is closed. Such facilities may include restroom facilities provided by the city.

**E. Spacing Required From a School**

Proposed shelters for the homeless shall be located more than 500 feet from a school meeting all the requirements of the compulsory education laws of the state.

**11.2.9.3 Shelters for the Homeless Operated by a Religious Assembly Use**

In all zone districts, homeless shelters operated by a religious assembly use (as a “religious assembly” use is defined in Article 11) need not comply with the provisions of Section 11.2.8, Residential Care Use, Small or Large or Section 11.2.9.2, Shelters for the Homeless as a Permanent, Primary Use, , including the requirement for a zoning permit, provided the following limitations are satisfied instead:

- A. Such shelter may be operated for up to 120 days in either consecutive or nonconsecutive order per calendar year with any number of residents, or it may be operated throughout the entire year with one of the following: a maximum of 8 residents or any number of persons bearing to

each other a relationship as stated in the definition of “household” in Division 11.12, Use Definitions.

- B. If the 120-day limitation or the number of residents limitation in Section 11.2.9.2.A.1 are exceeded, the shelter must comply only with the requirements of Section 11.2.8.1.D.3.d, Spacing and density limitations, but need not comply with any other requirements of either Section 11.2.8, Residential Care, Large or Small, or Section 11.2.9.2, Shelter for the Homeless as a Permanent, Primary Use.

#### **11.2.9.4 Shelters for the Homeless Allowed in Buildings Owned by Nonprofit Corporations or Governmental Entities**

In all zone districts, homeless shelters operated in buildings owned by nonprofit corporations or by governmental entities need not comply with Section 11.2.8, Residential Care Use, Small or Large, or Section 11.2.9.2, Shelter for the Homeless as a Permanent, Primary Use, including the requirement for a zoning permit, provided the following limitations are satisfied instead:

- A. Such shelter may be operated for up to 120 days in either consecutive or nonconsecutive order per calendar year with a maximum of 100 residents. If the 120-day limitation or the 100-resident cap is exceeded, the shelter must comply only with the requirements of Section 11.2.8.1.D.3.d, Spacing and density limitations, but need not comply with any other requirements of Section 11.2.8, Residential Care Use, Small or Large, or Section 11.2.9.2, Shelter for the Homeless as a Permanent, Primary Use.
- B. Prior to opening the shelter, the operator of the shelter shall submit to the Zoning Administrator evidence:
  - 1. That the Denver Department of Human Services is involved in the proposed shelter;
  - 2. That a public meeting relating to opening the shelter was held;
  - 3. That at least 7 days prior to the public meeting, notice of such public meeting was given to those neighborhood organizations registered according to D.R.M.C., Section 12-94, whose boundaries encompass or are within 700 feet of the proposed use and to the City Council member in whose district the proposed shelter will be located, and flyers announcing the public meeting were distributed at least 3 days prior to such public meeting to all properties within 3 blocks of the proposed shelter; and
  - 4. That a community oversight committee has been created, consisting of the City Council member in whose district the proposed shelter is located and at least 4 persons who reside within 1,500 feet of the proposed shelter, to address neighborhood issues relating to the ongoing operations of the shelter. The community oversight committee may encourage appropriate parties to enter into a community agreement to address such issues.

#### **11.2.9.5 Suspension of Limitations in Emergency**

The Zoning Administrator has the authority to suspend the terms of this Section 11.2.9’s limitations for Shelters for the Homeless in emergency, life threatening situations as determined by the Zoning Administrator in consultation with the Manager.



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## **DIVISION 11.3 CIVIC, PUBLIC AND INSTITUTIONAL PRIMARY USE LIMITATIONS**

The Use and Parking Tables in Articles 3 through 9 reference any limitations applicable to permitted primary, accessory, or temporary uses. This Division contains limitations applicable to specific uses within the primary Civic, Public and Institutional Primary Use Classification across multiple Zone Districts and neighborhood contexts.

### **BASIC UTILITIES USE CATEGORY**

#### **SECTION 11.3.1 UTILITY, MAJOR IMPACT**

##### **11.3.1.1 All Residential Zone Districts; All Mixed Use Commercial Zone Districts**

In all Residential Zone Districts and in all Mixed Use Commercial Zone Districts, except CMP-NWC Zone District, where permitted with limitations, Major Impact Utility uses are limited to water reservoir, which need not be enclosed.

##### **11.3.1.2 All Open Space Context Zone Districts and O-1 Zone District**

In all Open Space Context Zone Districts and the O-1 Zone District, where permitted with limitations, Major Impact Utility uses are limited to water reservoir or, in the OS-B and O-1 Zone District only, water filtration plant is also permitted.

##### **11.3.1.3 I-A, -B Zone Districts; All Downtown Neighborhood Context Zone Districts; CMP-NWC Zone District**

In the I-A, -B Zone Districts, all Downtown Neighborhood Context Zone Districts, and the CMP-NWC Zone District where permitted with limitations:

###### **A. Sanitary Service**

All sanitary service utilities shall be located a minimum 500 feet from any Residential Zone District. This requirement may be reduced by the Zoning Administrator if the applicant can prove by a preponderance of evidence that a smaller separation will have no significant effect on the nearby Residential Zone District.

###### **B. Solid Waste Facility**

All solid waste facilities must be located in a completely enclosed structure and must be located a minimum of 500 feet from any Residential Zone District.

###### **C. Above-Ground Power, Gas, and Other Facilities**

The expansion of transmission line capacity shall not require a zoning permit provided such expansion may be accomplished within an existing right-of-way or with existing structures or poles.

##### **11.3.1.4 I-A, -B Zone Districts; CMP-NWC Zone District**

In the I-A, -B, and CMP-NWC Zone Districts, where permitted with limitations

###### **A. Spacing Required**

The following major impact utilities shall be located a minimum of 500 feet from any Residential Zone District:

1. Sewage disposal plant.
2. Incinerator, publicly operated.
3. Electric generation plant, excluding nuclear powered plants.

## **SECTION 11.3.2 UTILITY, MINOR IMPACT**

### **11.3.2.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. Electric substations are prohibited in a Residential Zone District; All MS Zone Districts; All Open Space Context Zone Districts; and all Downtown Neighborhood Context Zone Districts.
- B. In all Zone Districts except a Residential Zone District; MS Zone District; Open Space Context Zone District; or Downtown Neighborhood Context Zone District, if electric substation transformers are exposed, there shall be provided an enclosing fence or wall at least 6 feet high and adequate to obstruct view, noise, and passage of persons or materials.

### **11.3.2.2 All Residential Zone Districts**

In all Residential Zone Districts, where permitted with limitations:

- A. A minor impact utility use shall be located not less than 50 feet from the nearest boundary of any zone lot containing a single- or two-unit dwelling use existing at the time of application for the utility use unless such utility has been sited and designed to assure its compatibility with adjacent dwelling units.
- B. The adequacy of the siting and design for the purpose of achieving compatibility shall be determined by the Zoning Administrator as part of the zoning permit review.

### **11.3.2.3 C-CCN Zone Districts**

In the C-CCN Zone Districts, where permitted with limitations, utility pumping stations are prohibited.

## **COMMUNITY/PUBLIC SERVICES USE CATEGORY**

## **SECTION 11.3.3 COMMUNITY CENTER**

### **11.3.3.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. A Community Center shall have no outdoor public address system or any type of amplified music or sound device.
- B. Overnight accommodations are prohibited.
- C. A Community Center use may include accessory outdoor recreation or entertainment services facilities, subject to the following limitations:
  1. If in a Residential Zone District, the accessory outdoor facility shall comply with the limitations in Section 11.3.3.3;
  2. If in a Residential Zone District or on a zone lot that abuts a Residential Zone District, the accessory outdoor facility shall comply with the outdoor lighting limitations in Section 11.3.3.4; and
  3. In all zone districts other than a SU or TU Zone District, no portion of the accessory outdoor facility shall be located nearer than 50 feet from the boundary of a SU or TU Zone District.

### **11.3.3.2 All SU and TU Zone Districts**

In all SU and TU Zone Districts, where permitted with limitations, a Community Center use shall be established and/or operated only in an existing, nonresidential structure originally designed for a nonresidential use and not for residential occupancy.

### **11.3.3.3 All Residential Zone Districts**

In all Residential Zone Districts, where permitted with limitations, a Community Center use may include accessory outdoor recreation or entertainment services facilities subject to compliance with the following conditions:

- A. Establishment of proposed facility, and any expansion of such facility, shall be reviewed according to Section 12.4.2, Zoning Permit Review with Informational Notice.
- B. The proposed facility shall be located on the same zone lot and operated by the same owner and/or operator of the Community Center and the applicant must be either the owner of record or has the permission of the owner of record to operate the proposed outdoor recreational or entertainment services facility.
- C. The facility occupies no more than 10 percent of the zone lot on which it is located.
- D. Adequate off-street parking is provided by the Community Center to support the needs of the outdoor recreational or entertainment services facility.
- E. No other such outdoor recreational or entertainment services facility on a different zone lot is located within 500 feet of the proposed use.
- F. The hours of operation shall be 8:00 a.m. to one-half hour after sunset.
- G. The facility shall be operated and controlled in such a manner to prevent unauthorized use of the facility outside of the permitted hours of operation.
- H. Signs visible from the public rights-of-way are limited to no more than 3 signs providing directional or cautionary information not exceeding 4 square feet per sign in area and not more than 6 feet in height above grade.

### **11.3.3.4 All Residential Zone Districts and on Zone Lots Abutting Residential Zone Districts**

In all Residential Zone Districts, where a Community Center is permitted with limitations, and where the subject zone lot abuts a Residential Zone District, all outdoor lighting shall be extinguished when outdoor facilities are not in use, or by 10:00 p.m. on Sundays through Thursdays, and by 11 p.m. on Fridays and Saturdays, whichever is earlier.

## **SECTION 11.3.4 DAY CARE CENTER**

### **11.3.4.1 All SU and TU Zone Districts**

In all SU and TU Zone Districts, where permitted with limitations:

- A. The Day Care Center shall be located either:
  1. In an existing structure originally designed for a nonresidential use and not for residential occupancy and operated by and used as a place for religious assembly; or
  2. Within an existing nonresidential structure originally designed for a nonresidential use and not for residential occupancy; or
  3. Within a structure used or formerly used as an elementary and/or secondary school meeting all the requirements of the compulsory education laws of the state.
- B. Daily operations of the center shall terminate by no later than 10:00 p.m.

## **SECTION 11.3.5 PUBLIC SAFETY FACILITY**

### **11.3.5.1 All Residential Zone Districts**

In all Residential Zone Districts, where permitted with limitations, an ambulance service use may be established only if located in the same building with a police or fire station.

## **CULTURAL/SPECIAL PURPOSE/PUBLIC PARK & OPEN SPACE USE CATEGORY**

### **SECTION 11.3.6 CEMETERY**

#### **11.3.6.1 I-MX, -A, -B Zone Districts**

In the I-MX, -A, -B Zone Districts, where permitted with limitations, cemeteries are allowed subject to compliance with the following limitations:

- A. A cemetery may include a crematorium. Any such crematorium shall be a minimum of 500 feet from a Residential Zone District.
- B. Cemetery use shall be limited to columbariums only.

#### **11.3.6.2 OS Zone Districts**

In the OS-B Zone District, where permitted with limitations, a cemetery may include a crematorium. Any such crematorium shall be a minimum of 500 feet from a Residential Zone District.

### **SECTION 11.3.7 CULTURAL/SPECIAL PURPOSE/PUBLIC PARKS & OPEN SPACE USES**

#### **11.3.7.1 OS-B Zone District**

In the OS-B Zone District, where permitted with limitations, all permitted cultural/special purpose/public parks and open space uses shall comply with the following limitations:

- A. Permitted accessory uses and structures are limited to:
  1. Swimming pools and customary associated buildings;
  2. Tennis, basketball, or other similar playing courts;
  3. Buildings or structures intended to house management or maintenance offices, or maintenance or other equipment and supplies related to permitted open space and recreational use;
  4. Playground or picnic shelters/areas; and
  5. Water features and public art.
- B. All outdoor lighting shall be extinguished when outdoor facilities are not in use or by 10:00 p.m. on Sundays through Thursdays or 11 p.m. on Fridays and Saturdays, whichever is earlier.
- C. No portion of any recreation facility that is not in a completely enclosed structure (e.g., basketball or racquet sport courts) shall be located nearer than 50 feet from the boundary of a Single Unit (SU) or Two Unit (TU) Zone District.
- D. Any other type of accessory structure or use may be allowed only if the Zoning Administrator finds the proposed structure or use meets the general criteria for Accessory Uses stated in Section 11.7, Accessory Use Limitations and finds that the proposed structure or use will not adversely affect properties adjoining the OS-B Zone District. See Section 12.4.6, Code Interpretations and Determination of Uses, for the applicable procedure to determine unlisted uses.

## EDUCATION USE CATEGORY

### **SECTION 11.3.8 ELEMENTARY OR SECONDARY SCHOOL, UNIVERSITY OR COLLEGE, VOCATIONAL OR PROFESSIONAL SCHOOL**

#### **11.3.8.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. An Elementary or Secondary School, University or College, or Vocational or Professional School shall comply with the following limitations:
  1. Permanent outdoor storage is prohibited.
  2. Residential accommodations or student housing as an accessory use is prohibited in all Zone Districts except in a MU Zone District or a Mixed Use Commercial Zone District.

#### **11.3.8.2 All MX-2x, -2A, -2; MS-2x, -2 Zone Districts**

In all MX-2x, -2A, -2; MS-2x, -2 Zone Districts, where permitted with limitations:

- A. Classes or other school activities in a Vocational or Professional School shall terminate by no later than 11:00 p.m.
- B. Repair as a commercial service or the commercial sale of repaired machinery or appliances is prohibited as part of a Vocational or Professional School use.

### **SECTION 11.3.9 UNIVERSITY OR COLLEGE**

#### **11.3.9.1 All Residential Zone Districts**

In all Residential Zone Districts, where permitted with limitations, a University or College use shall be limited to those that include residential accommodations for at least 20 percent of its student body or 50 students, whichever is less.

## PUBLIC AND RELIGIOUS ASSEMBLY USE CATEGORY

### **SECTION 11.3.10 PUBLIC OR RELIGIOUS ASSEMBLY, ALL TYPES**

#### **11.3.10.1 All Residential Zone Districts; All MX-2x, MS-2x Zone Districts**

In all Residential Zone Districts and in all MX-2x, MS-2x Zone Districts, where Public or Religious Assembly uses are permitted with limitations, the following operations shall be terminated by 11:00 p.m.:

- A. Daily operations of uses and activities accessory to a primary Public or Religious Assembly use, including but not limited to accessory recreation uses or activities; and
- B. Daily operations of other primary uses located on the same zone lot as the Public or Religious Assembly use, including but not limited to Day Care Centers or Elementary or Secondary Schools, but not including a primary household living use located on the same zone lot.

#### **11.3.10.2 All SU, TU, TH, RH Zone Districts**

In all SU, TU, TH, RH Zone Districts, where permitted with limitations, Club or Lodge use is prohibited.

#### **11.3.10.3 All SU, TU, TH, RH, MU, RO Zone Districts**

In all SU, TU, TH, RH, MU, RO Zone Districts, where permitted with limitations, Conference Center use is prohibited.

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## **DIVISION 11.4 COMMERCIAL SALES, SERVICE AND REPAIR PRIMARY USE LIMITATIONS**

The Use and Parking Tables in Articles 3 through 9 reference any limitations applicable to permitted primary, accessory, or temporary uses. This Division contains limitations applicable to specific uses within the Commercial Sales, Service, and Repair Primary Use Classification across multiple Zone Districts and neighborhood contexts.

### **ARTS, ENTERTAINMENT AND RECREATION USE CATEGORY**

#### **SECTION 11.4.1 ARTS, ENTERTAINMENT AND RECREATION USES**

##### **11.4.1.1 OS-B Zone District**

In the OS-B Zone District, where permitted with limitations, all permitted arts, entertainment and recreation uses shall comply with the following limitations:

- A. Permitted accessory uses and structures are limited to:
  1. Swimming pools and customary associated buildings;
  2. Tennis, basketball, or other similar playing court;
  3. Buildings or structures intended to house management or maintenance offices, or maintenance or other equipment and supplies related to permitted open space and recreational use;
  4. Playground or picnic shelters/areas; and
  5. Water features and public art.
- B. All outdoor lighting shall be extinguished when outdoor facilities are not in use or by 10 p.m. on Sundays through Thursdays or 11 p.m. on Fridays and Saturdays, whichever is earlier.
- C. No portion of any recreation facility that is not in a completely enclosed structure (e.g., basketball or racquet sport courts) shall be located nearer than 50 feet from the boundary of a Single Unit (SU) or Two Unit (TU) Zone District. All distance and spacing requirements shall be measured according to the rule of measurement found in Section 13.1.9.

#### **SECTION 11.4.2 ARTS, RECREATION AND ENTERTAINMENT SERVICES, IN-DOOR**

##### **11.4.2.1 All MX-2x, -2A, -2; MS-2x, -2 Zone Districts**

In all MX-2x, -2A, -2; MS-2x, -2 Zone Districts, where permitted with limitations, seating capacity in a permitted Arts, Entertainment and Recreation, Indoor, use shall be limited to no more than 100 persons.

##### **11.4.2.2 G-RO Zone District**

In the G-RO Zone District, where permitted with limitations, Arts, Recreation and Entertainment Services, Indoor, uses are limited to the following specific use types (as defined in Section 11.12.4.2.B, Specific Arts, Entertainment & Recreation Use Types and Definitions):

- A. Art Gallery;
- B. Artist Studio;
- C. Professional Studio; and
- D. Personal Instruction Studios.



## **SECTION 11.4.3 ARTS, RECREATION AND ENTERTAINMENT SERVICES, OUTDOOR**

### **11.4.3.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. If the Arts, Recreation and Entertainment Services, Outdoor use is located within 200 feet of a Residential Zone District, outdoor public address systems and all types of amplified music or sound devices are prohibited.
- B. A racquet/swim club type of outdoor recreation service use shall comply with the following additional standards:
  1. All outdoor lighting shall be extinguished when outdoor facilities are not in use, or by 10:00 p.m. on Sundays through Thursdays, and by 11 p.m. on Fridays and Saturdays, whichever is earlier; and
  2. No portion of any court or swimming pool that is not in a completely enclosed structure shall be located nearer than 50 feet from the boundary of a SU or TU Zone District.
  3. All distance and spacing requirements shall be measured according to the rule of measurement found in Section 13.1.9, Measurement of Separation or Distance.

## **SECTION 11.4.4 SPORTS AND/OR ENTERTAINMENT ARENA OR STADIUM**

### **11.4.4.1 I-MX, -A, -B, and All OS Zone Districts**

In the I-MX, -A, -B, and all OS Zone Districts, where permitted with limitations, sports and/or Entertainment Arena or Stadium uses shall comply with the following limitations:

- A. All sports and/or entertainment arena or stadium uses shall be a minimum of 500 feet from a Residential Zone District. All distance and spacing requirements shall be measured according to the rule of measurement found in Section 13.1.9.
- B. The minimum spacing requirement may be reduced by the Zoning Administrator if the applicant proves by a preponderance of the evidence that an analysis of the proposed use, its traffic generation, and other external effects indicates a smaller separation will have no significant effect on the nearby residential district.

## **NONRESIDENTIAL USES IN EXISTING BUSINESS STRUCTURES IN RESIDENTIAL ZONE DISTRICTS USE CATEGORY**

## **SECTION 11.4.5 NONRESIDENTIAL USES IN EXISTING BUSINESS STRUCTURES IN RESIDENTIAL ZONES**

### **11.4.5.1 Limited Nonresidential Uses Permitted**

In all Residential Zone Districts, where permitted with limitations:

- A. Primary nonresidential and accessory uses permitted in the MS-2x Zone District in the same neighborhood context as the subject property (e.g., U-MS-2x) may be operated in an existing business structure. If there is no MS-2x Zone District in the same neighborhood context, the primary and accessory uses established by the U-MS-2x Zone District shall apply.
- B. Any use established according to this Section 11.4.3 shall comply with the limitations and use review procedure applicable to such use indicated in the Use and Parking Table for the subject MS-2x Zone District.

#### **11.4.5.2 Existing Business Structures Only**

The primary nonresidential uses permitted under this Section shall be permitted only within an existing structure meeting all of the following conditions:

- A. The applicant is the owner of the subject structure.
- B. The subject structure was legally erected.
- C. The applicant proves by a preponderance of evidence that the subject structure is a “business structure.” For purposes of this Section, “business structure” shall mean the subject structure was originally designed and constructed for a primary business use and occupancy, and not for residential occupancy. “Primary business use and occupancy” means any use permitted in the U-MS-2x Zone District that falls within one of the following primary use classifications as defined in this Code:
  1. Commercial sales, service and repair primary use classification;
  2. Industrial, manufacturing and wholesale primary use classification; or
  3. Agricultural primary use classification.

#### **11.4.5.3 Limitations**

A nonresidential use proposed under this Section shall comply with the following limitations:

- A. All uses in the structure involved shall comply with the limitations on external effects applicable to uses in the Zone District in which the structure is located.
- B. All uses operated in the structure involved shall comply with Division 10.4, Parking and Loading, for each such use in the MS-2x Zone District; provided, however, that upon proof that full compliance could not be achieved, the Zoning Administrator may waive so much of those requirements as are impossible of fulfillment according Section 12.4.5, Administrative Adjustment.
- C. All uses permitted in the structure shall comply with limitations on permitted signs applicable to uses in the MS-2x district.

#### **11.4.5.4 Modifications to the Business Structure**

The business structure in which a nonresidential use is permitted under this Section shall be occupied, operated, and maintained in a state of good repair. Modifications, alterations, and expansions of the subject business structure shall comply with the following limitations:

- A. Modifications and alterations are permitted that do not change, alter, move, or remove an exterior load-bearing portion of the structure, except for minor alterations of exterior walls to replace or add new windows or doors. Modifications, alterations, or expansions that increase the gross floor area of the existing business structure are prohibited.

For example: (1) Permitted Modifications: Replacement of windows, repairs to an existing roof, or non-structural facade improvements. (2) Prohibited Modifications: Removal of an exterior, load-bearing wall, partial or complete demolition of the structure’s roof framing, adding a new floor or adding additional ground-story floor area, or raising or modifying the existing roof line.

- B. For any modifications to the structure that require landmark approval, the modification shall be reviewed and approved by the Landmark Preservation Commission before submittal for zoning approval.

#### **11.4.5.5 Effect of Approval**

- A. The permit for a nonresidential use approved according to this Section 11.4.3 shall automatically expire at such time as the applicant specified in the permit no longer owns or operates the nonresidential use at the subject property.
- B. A zoning permit allowing a nonresidential use under this Section 11.4.3 may be rescinded according to Section 12.11.6, Enforcement Powers, Penalties and Remedies, upon a finding that the structure involved is obsolete or substandard under any applicable ordinance of the City to the extent that 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 of such finding.

### **PARKING OF VEHICLES USE CATEGORY**

## **SECTION 11.4.6 PARKING, GARAGE**

### **11.4.6.1 D-C and D-TD Zone Districts**

In the D-C and D-TD Zone Districts, where permitted with limitations, Garage Parking use is permitted provided it meets at least one of the following conditions:

- A. The use was operated in a structure before October 10, 1994; or
- B. The use is operated in a structure constructed or converted from other uses after October 10, 1994, that:
  - 1. Was constructed or converted by or on behalf of a public entity to serve the general public; or
  - 2. Serves only buildings that do not contain office uses; or
  - 3. Serves 1 or more buildings that contain office uses and does not contain more than 2 parking space per 1,000 gross square feet of office space in the building or buildings served by the structure. Parking spaces restricted for use by non-office uses within the building or buildings served by the parking structure shall be exempt from such parking ratio restriction.

### **11.4.6.2 D-GT and D-AS Zone Districts**

In the D-GT and D-AS Zone Districts, where permitted with limitations:

- A. Garage Parking is limited to enclosed structures, or structures that are enclosed except for portions of the parking structure over 45 feet above grade, provided that any unenclosed parking deck must have screening walls at least 4 feet in height, and further provided that all lighting on the unenclosed parking deck shall be provided with fully shielded fixtures, none of which exceed 6,500 lumens per fixture and which are designed and installed so that they do not project glare off of the zone lot.
- B. Zoning permit review is required according to Section 12.4.2, Zoning Permit Review with Informational Notice, if the parking use is unenclosed and does not meet the criteria of Paragraph A above.

## **SECTION 11.4.7 PARKING, SURFACE**

### **11.4.7.1 All TU, TH, RH, MU, RO Residential Zone Districts**

In all TU, TH, RH, MU, RO Residential Zone Districts, where permitted with limitations, Surface Parking of vehicles as a primary use of land is permitted only to serve a permitted Civic, Public and Institutional Use in the Zone District. Commercial Surface Parking lots are prohibited.

#### **11.4.7.2 D-C and D-TD Zone Districts**

In the D-C and D-TD Zone Districts, where permitted with limitations:

- A. Surface Parking lots are permitted only if such use was in existence before May 25, 1990, and has been in continuous use as a parking lot since that date, provided, however, that a temporary use properly permitted under the provisions of this Article 11 shall not destroy the continuity of use; or
- B. The Surface Parking lot received a use permit between May 25, 1990, and October 10, 1994, and has been in continuous use as a parking lot since the date of such permit, provided, however, that a temporary use properly permitted under the provisions of Article 11 shall not destroy the continuity of use, and complies with all specifications for use and maintenance contained in Ordinance 140, series of 1986 and Ordinance 270, series of 1990; or
- C. Began operation after October 10, 1994, and meets the following conditions:
  1. Such use shall not be located within the area bounded by 14th Street, Colfax Avenue, Broadway Street, 18th Street, and the Larimer Street-Market Street alley; and
  2. Such use shall not be located where necessary curb cuts will interfere with pedestrian activity on Larimer Street, Curtis Street, Cleveland Place, or on any street frontage facing a light rail line.

#### **11.4.7.3 D-GT Zone District**

In the D-GT Zone District, where permitted with limitations, Surface Parking lots constructed after July 1, 1994, and not required to meet the requirements of this Subsection's requirements shall be permitted according to Section 12.4.2, Zoning Permit Review with Informational Notice, and shall only be approved provided that the following limitations are met:

- A. Such parking lot shall serve a specific, identified business or residential facility that is a permitted use then permitted and operating in the D-GT district.
- B. Any parking lot that is not located on the same zone lot as the use it serves, and that provides amounts of parking beyond those required to meet the minimum parking requirements for such use according to this Article 11 and Division 10.4, Parking and Loading:
  1. Shall have some portion of such parking lot located within 200 feet of the zone lot containing the use it serves; and
  2. Shall not offer parking to the public in return for a fee; and
  3. Shall include signage stating that parking is available only for the specific, identified business or residential facility that it serves and that public parking is not permitted.

#### **11.4.7.4 CMP-H and CMP-EI Zone Districts**

In the Campus Hospital CMP-H and CMP-EI Zone Districts, where permitted with limitations:

- A. Surface parking of vehicles is permitted only to serve a use permitted in the district.
- B. Commercial Surface Parking lots are prohibited.

### **EATING AND DRINKING ESTABLISHMENTS USE CATEGORY**

## **SECTION 11.4.8 EATING AND DRINKING ESTABLISHMENTS, ALL TYPES**

### **11.4.8.1 All MX-2x, -2A, -2; MS-2x, -2 Districts**

In all MX-2x, -2A, -2; MS-2x, -2 Zone Districts abutting a SU or TU Zone District, where permitted with limitations:

- A. Lighted signage for an Eating and Drinking Establishment shall be turned off during non-operating hours.
- B. All outdoor lighting for an Eating and Drinking Establishment shall be provided with full cut-off fixtures.

#### **11.4.8.2 All MX-2x, MS-2x Zone Districts**

In all MX-2x, MS-2x Zone Districts, where permitted with limitations, in addition to compliance with the use limitations in this Section 11.4.6, if the eating and drinking establishment is less than 100 feet from the boundary of any Protected District, all business activities open to the public shall cease by 10:00 p.m., except on Friday and Saturday nights when all business activities open to the public shall cease by 11:00 p.m.

### **OFFICE USE CATEGORY**

#### **SECTION 11.4.9 DENTAL/MEDICAL OFFICE OR CLINIC**

##### **11.4.9.1 G-RO Zone District**

In the G-RO Zone District, where permitted with limitations, Dental/Medical Office or Clinic use is permitted provided, however, that such use that expands to create a gross floor area exceeding 10,000 square feet shall be reviewed according to Section 12.4.2, Zoning Permit Review with Informational Notice. Any such use that contains a gross floor area in excess of 10,000 square feet and which was legally established on or before September 16, 1994, shall be considered a legal, conforming use and does not need to comply with Section 12.4.2, Zoning Permit Review with Informational Notice. This limitation shall not apply to rehabilitation centers for handicapped persons.

##### **11.4.9.2 All Zone Districts (Except RO, RX, MX-2x, MS-2x, I-B Zone Districts)**

In all Zone Districts, where permitted with limitations:

- A. In all Zone Districts, except the RO, RX, MX-2x, MS-2x, and I-B Zone Districts, up to 20 patients or clients may stay overnight at any one time in a Dental/Medical Office or Clinic use.
- B. In the RO, RX, MX-2x, MS-2x and I-B Zone Districts, overnight patient or client stays are prohibited.

### **RETAIL SALES, SERVICE AND REPAIR USE CATEGORY**

#### **SECTION 11.4.10 RETAIL SALES, SERVICE AND REPAIR, ALL SPECIFIC USE TYPES**

##### **11.4.10.1 All MX-2x, -2A, -2; MS-2x, -2 Zone Districts**

In all MX-2x, -2A, -2; and MS-2x, -2 Zone Districts, where permitted with limitations:

- A. Lighted signage shall be turned off during non-operating hours.
- B. All outdoor lighting shall be provided with full cut-off fixtures.

##### **11.4.10.2 I-B Industrial Zone District**

In the I-B Industrial Zone District, where permitted with limitations

- A. Retail Sales are permitted only if:
  - 1. The commodity sold is manufactured, processed, or fabricated on the site; or
  - 2. The commodity sold is not manufactured, processed, or fabricated on the site, but is warehoused on the site. Such retail sales use is limited to a maximum of 20 percent of the gross floor area of the warehouse; or

3. The Retail Sales use or uses is a minimum of 20,000 square feet GFA in any single primary structure on a zone lot and complies with the following limitations:
    - a. The primary structure(s) containing the proposed Retail Sales use shall be located a minimum of 500 feet from any Residential Zone District, and vehicle traffic generated by the proposed Retail Sales use shall not create adverse impacts on nearby residential access streets.
    - b. The Retail Sales use shall comply with the following parking standard instead of the minimum parking required in the Use and Parking Table in Article 9:
      - i. The use shall provide a minimum of 1 parking space for each 600 square feet of Gross Floor Area.
      - ii. The Zoning Administrator may reduce the required parking to 1 space per 1,200 square feet upon finding that characteristics of the proposed Retail Sales use justify a reduction in the parking requirement.
    - c. No Liquor Store, including drugstores licensed to sell liquor, not existing or operating on August 31, 1997, shall be established, operated, or maintained within 1,000 feet of another Liquor Store or drugstore licensed to sell package liquors.
    - d. No Liquor Store or drugstore licensed to sell package liquors, not existing or operating on July 31, 2000, shall be established, operated, or maintained within 1,000 feet of a Community Corrections Facility.
- B. Retail Repair Services are limited to the following:
1. Repair of any commodity manufactured, processed, fabricated, stored or sold in the I-B Zone District;
  2. Vehicle body shop;
  3. Upholstery or top shop;
  4. Paint shop;
  5. Refrigeration and air conditioning service and repair; or
  6. Disinfecting and pest control service.

## **SECTION 11.4.11 ANIMAL SERVICES AND SALES, HOUSEHOLD PETS ONLY**

### **11.4.11.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. All sales and services shall be for household pets only. Wild or dangerous animal services and sales are prohibited.
- B. Overnight boarding is permitted within a completely enclosed building; however, animal services or sales uses over 20,000 square feet in gross floor area that use a majority of their gross floor area for retail sales, shall have no more than 15 percent of their gross floor area devoted to overnight boarding.
- C. The use must be completely enclosed except that outdoor animal runs or other areas in which dogs will be allowed outside of an enclosed structure off leash (hereinafter "outdoor run") are permitted subject to compliance with the following conditions:
  1. Outdoor runs, including the addition, expansion, or relocation of an existing outdoor run, shall be reviewed according to Section 12.4.2, Zoning Permit Review with Informational Notice.

2. Outdoor runs shall not be permitted within 20 feet of a habitable residential structure on a zone lot in a SU, TU, TH, or RH Zone District.
  3. The outdoor run may operate only between the hours of 6:30 a.m. and 9:00 p.m.
  4. No more than 25 non-neutered or non-spayed dogs over the age of 6 months may be kept on the premises at any time.
- D. The facilities shall be constructed, maintained and operated so that neither the sound nor smell of any animals boarded or kept on the premises during the time that full enclosure is required can be discerned on other zone lots provided, however, that existing facilities may continue to be maintained and operated as previously permitted.

## **SECTION 11.4.12 ANIMAL SERVICES AND SALES, ALL OTHERS**

### **11.4.12.1 I-MX, -A, -B Zone Districts**

In the I-MX, -A, -B Zone Districts, where permitted with limitations:

- A. Wild or dangerous animal boarding and breeding services are prohibited.
- B. No more than 25 non-neutered or non-spayed dogs over the age of 6 months may be kept on the premises at any time.
- C. Overnight accommodations are allowed.
- D. Where located abutting a Residential Zone District, a minimum 50 foot wide landscaped buffer shall be provided, as approved by the Zoning Administrator. Such buffer is intended to substantially mitigate potential adverse effects from the animal service use, including but not limited to noise and odor.

## **SECTION 11.4.13 BODY ART ESTABLISHMENT**

### **11.4.13.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. No more than 2 Body Art Establishments shall be established, operated, or maintained within 1,000 feet of each other.
- B. Body art establishments shall not be established, operated, or maintained within 1,000 feet of any of the following uses:
  1. Adult Amusement or Entertainment on payment of a fee or admission charge;
  2. Adult Bookstore;
  3. Adult Photo Studio;
  4. Adult theater.
  5. Amusement Center; or
  6. Eating & Drinking Establishment with adult amusement or entertainment.

## **SECTION 11.4.14 FOOD SALES OR MARKET**

### **11.4.14.1 All RX Zone Districts**

In all RX Zone Districts, where permitted with limitations:

- A. Accessory outdoor sales and displays, including outdoor sales of fruits or vegetables, shall occupy no greater than  $\frac{1}{4}$  the gross floor area of the structure containing the Food Sales or Market primary use.

- B. Outdoor storage is prohibited, unless enclosed by a fence or wall adequate to conceal such storage from adjacent residential property or public right-of-way.

## **SECTION 11.4.15 LIQUOR STORE, INCLUDING DRUGSTORES LICENSED TO SELL LIQUOR**

### **11.4.15.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. No Liquor Store or drugstore licensed to sell package liquors, not existing or operating on August 31, 1997, shall be established, operated, or maintained within 1,000 feet of another Liquor Store or drugstore licensed to sell package liquors.
- B. No Liquor Store or drugstore licensed to sell package liquors, not existing or operating on July 31, 2000, shall be established, operated, or maintained within 1,000 feet of a community corrections facility.
- C. All distance and spacing requirements shall be measured according to the rule of measurement found in Section 13.1.9, Measurement of Separation or Distance.

## **SECTION 11.4.16 PAWN SHOP**

### **11.4.16.1 All Zone Districts**

In all Zone Districts where permitted with limitations:

- A. No Pawn Shop establishment shall be established, operated, or maintained within 1,000 feet of another Pawn Shop establishment.
- B. All distance and spacing requirements shall be measured according to the rule of measurement found in Section 13.1.9, Measurement of Separation or Distance.

## **SECTION 11.4.17 RETAIL SALES, SERVICES AND REPAIR, OUTDOOR**

### **11.4.17.1 All Mixed Use Commercial Zone Districts**

In all Mixed Use Commercial Zone Districts where permitted with limitations:, Outdoor Retail Sales only are permitted, and Outdoor Retail Repair or Service uses are prohibited.

### **11.4.17.2 Industrial Zone Districts**

In the Industrial Zone Districts, where permitted with limitations:

- A. All Outdoor Retail Repair and Service uses located within 500 feet of a Residential Zone District or Mixed Use Commercial Zone District shall be reviewed according to Section 12.4.9, Zoning Permit with Special Exception Review.
- B. All distance and spacing requirements shall be measured according to the rule of measurement found in Section 13.1.9 , Measurement of Separation or Distance.

## **VEHICLE / EQUIPMENT SALES, RENTALS, SERVICE AND REPAIR USE CATEGORY**

## **SECTION 11.4.18 AUTOMOBILE EMISSIONS INSPECTION FACILITY**

### **11.4.18.1 All MX-2A, -2; MS-2; Downtown Neighborhood Context Zone Districts**

In all MX-2A, -2; MS-2; and Downtown Neighborhood Context Zone Districts, where permitted with limitations, all Automobile Emissions Inspection Facility uses shall be totally enclosed with no outdoor displays, sales, or storage.



## **SECTION 11.4.19 AUTOMOBILE SERVICES, LIGHT OR HEAVY**

### **11.4.19.1 All RX Zone Districts**

In all RX Zone Districts, where permitted with limitations,

- A. All Automobile Services uses, including the sale of automotive fuel and associated fuel pumps, shall be completely enclosed.

### **11.4.19.2 All MX-2A, -2; MS-2 Zone Districts**

In all MX-2, -2A; MS-2 Zone Districts, where permitted with limitations, automobile wash, laundry, detail or polishing shops (a specific type of Automobile Services, Light use) are prohibited.

### **11.4.19.3 All C-CCN Zone Districts**

In all C-CCN Zone Districts, where permitted with limitations, the following limitations shall apply and control in case of any conflict with the more general limitations in Section 11.4.16.4:

#### **A. Intent**

Improve the pedestrian experience along the Street Level in the Cherry Creek North mixed-use shopping district by requiring ground-story, pedestrian-friendly uses in all new development or redevelopment. While Automobile Services uses provide a desirable neighborhood service, such uses do not invite the high-intensity customer, visitor, and resident interactions throughout the day and night that contribute substantially to the activation, economic vitality, and safety of this important mixed-use neighborhood. Street Level area set aside in buildings for non-Automobile Services uses according to this limitation is intended to be adequately configured and dimensioned to support the feasible use of such space for pedestrian-friendly active uses.

#### **B. Limitations**

1. Permitted Automobile Services uses are limited to routine maintenance and minor repair of automobiles, which may include greasing, tire repair, wheel alignment, brake repair, muffler replacement, engine tune-up, flushing of radiators, servicing of air conditioners, and other similar minor repair and servicing activities.
2. All Automobile Services uses shall be operated in a completely enclosed structure with no outdoor displays, sales, or storage.
3. When located in a building that abuts one or more named or numbered public streets, Automobile Services uses may be located:
  - a. On any story above or below the Street Level, and/or
  - b. On the Street Level, but only if 100% of the building's street frontage(s) is occupied by one or more primary uses other than the Automobile Services use. Internal pedestrian-only access to the Automobile Services use from the primary street side(s) of the building is permitted (e.g., a pedestrian lobby or waiting area), and such area may be credited toward compliance with the 100% Street Level use frontage requirement.

*See also* C-CCN Zone District use limitations related to ground-story Household Living uses in Section 11.2.5, and C-CCN Zone District supplemental design standards in Section 7.3.5.1 related to permitted ground-story uses in structures or buildings containing parking spaces.

4. Accessory fuel sales, including the sale of compressed natural gas or liquefied petroleum, are prohibited, except accessory electric charging of vehicles shall be permitted.
5. Accessory trailer rental is prohibited.

6. Washing, cleaning, and/or waxing of automobiles by hand or with manually or automatically operated equipment is permitted only as accessory to the primary Automobile Services use, and shall be located in the same building as the primary Automobile Services use.

#### **11.4.19.4 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. Outdoor public address or loudspeaker systems are prohibited.
- B. Rental or sale of motor vehicles is prohibited, unless otherwise permitted as a primary use in the subject Zone District.
- C. Fuel pumps and permitted accessory trailer storage need not be enclosed, except in a RX Zone District.
- D. All discarded parts and materials shall be deposited into a completely enclosed container concealed from adjacent properties.
- E. Vehicles being serviced or stored for customers shall not be parked on streets, alleys, public sidewalks or public park strips.
- F. The use shall be provided with barriers of such dimensions that occupants of adjacent structures are not unreasonably disturbed, either by day or night, by the movement of vehicles; outdoor lighting shall be arranged so it neither unreasonably disturbs occupants of adjacent residential properties nor interferes with traffic.
- G. All outdoor lighting shall be provided with full cut-off fixtures. The use shall extinguish all outdoor lighting that is not fully shielded at close of business or 11:00 p.m., whichever is earlier.
- H. Trailer rentals are permitted as an accessory use subject to the following limitations:
  1. One trailer is permitted on the zone lot for each 4,000 square feet of land area in the zone lot, not, however, exceeding 5 trailers at any one time; and
  2. Each trailer shall not exceed 8 feet in height, length and width.
- I. A single bay car wash containing either manual or automatic equipment is permitted as an accessory use subject to compliance with the accessory use standards in Division 11.7, Accessory Use Limitations, and in Division 11.10, Uses Accessory to Nonresidential Uses - Limitations.
- J. An automobile services use may include the sale of compressed natural gas, liquefied petroleum, or other types of fuel for vehicles as regulated by the Denver Fire Code. Any above-ground fuel tanks shall be located a minimum of 1,000 feet from a protected use, as "protected use" is defined by the Denver Fire Code.

### **SECTION 11.4.20 AUTOMOBILE SERVICES, LIGHT**

#### **11.4.20.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. Automobile wash, laundry, detail or polishing shops are permitted as a type of Automobile Service, Light, use, subject to compliance with the following standards:
  1. An automobile wash, laundry, detail or polishing shop shall be sited on a zone lot and constructed, operated, and maintained in compliance with the building form standards stated in the applicable Zone District.
  2. The structure housing the primary use shall be setback a minimum 8 feet from any abutting Residential Zone District.

3. Adequate landscaping and solid fencing shall be installed to control the effects of noise where such bay is located adjacent to a residential use or a Residential Zone District.
4. If the zone lot containing the use abuts a SU or TU Zone District, the hours of operation shall be limited to the time period between 7:00 a.m. and 10:00 p.m.
5. The use shall provide, in addition to any other required off-street parking, sufficient hard-surfaced and dust-free space on the same zone lot to accommodate at least 3 vehicles waiting to be washed for each washing stall.

## **SECTION 11.4.21 AUTOMOBILE SERVICES, HEAVY**

### **11.4.21.1 All Zone Districts**

In all Zone Districts, where permitted with limitations, review is required according to Section 12.4.9, Zoning Permit with Special Exception Review, for facilities that involve an environmental hazard as determined by the Denver Fire Code, including but not limited to the following:

- A. Vehicle body shop,
- B. Upholstery or top shop, and
- C. Paint shop.

### **11.4.21.2 All CC, MS; I-MX, -A; M-IMX Zone Districts**

In all CC, MS; I-MX, -A; and M-IMX Zone Districts, where permitted with limitations:

- A. The zone lot for all automobile services, heavy, uses shall be enclosed with a solid fence or wall except for the following excluded areas:
  1. The Primary Street frontage of the zone lot directly in front of the Primary Street facing building wall or a Primary Street facing entrance of the primary structure, and in no case shall such fence or wall be required along more than 40 percent of the length of the Primary Street frontage of the zone lot described in this Section 11.4.21.2;
  2. The Primary Street frontage of the zone lot directly in front of an automobile retail display area; or
  3. Any portion of a zone lot line containing a building wall.
- B. Such fence or wall shall be constructed to a height adequate to conceal any vehicles, equipment, or parts located on the zone lot; provided, the height and location of such wall or fence shall not interfere with clear sight at the intersection with a right-of-way and complies with the Denver Building and Fire Code.
- C. Permitted fence or wall materials shall consist of wood, brick, masonry or other similar durable materials as approved by the Zoning Administrator
- D. Prohibited fence or wall materials include salvaged doors and corrugated or sheet metal.

## **SECTION 11.4.22 AUTOMOBILE / MOTORCYCLE, LIGHT TRUCK SALES, RENTAL AND/OR LEASING; PAWN LOT OR VEHICLE AUCTIONEER**

### **11.4.22.1 All Downtown Neighborhood Context Zone Districts and All C-CCN Zone Districts**

In all Downtown Neighborhood Context Zone Districts and in all C-CCN Zone Districts, where permitted with limitations:

- A. The use shall be operated in a Completely Enclosed Structure with no outdoor displays, sales, or storage.

- B. Automobile pawn lots are prohibited.

#### **11.4.22.2 All RX and MS Zone Districts**

In all RX and MS Zone Districts, where permitted by limitations, all Automobile / Motorcycle, Light Truck Sales, Rental and/or Leasing uses and all Pawn Lot or Vehicle Auctioneer uses shall be operated in a Completely Enclosed Structure, with no outdoor displays, sales, or storage.

#### **11.4.22.3 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. Outdoor public address or loudspeaker systems are prohibited.
- B. Accessory uses and activities may include the retail sale of vehicle accessories, oil, grease, antifreeze, tires and batteries, and other similar products; and provision of services to the extent of installing the foregoing items, making minor mechanical adjustment, washing and polishing vehicles.
- C. The facility shall not include Heavy Automobile Service uses, either as an accessory or primary use, unless otherwise permitted as a primary use in the subject Zone District.
- D. Adjoining Residential Zone Districts shall be protected from the external effects of permitted outdoor vehicle or equipment display or storage areas by the establishment of landscaped buffers or an opaque fence or wall at least 5 feet high, by the location of landscaped employee or public parking areas, or by other means to achieve the same protection purpose.
- E. Vehicles being displayed, serviced or stored shall not be parked on streets, alleys, public sidewalks or public park strips.
- F. As permitted, vehicles displayed outside a Completely Enclosed Structure may have individual signs and, when provided, such signs shall be located only inside such vehicles.
- G. For facilities engaged only in the rental of automobiles, the land area assigned for storage of rental automobiles shall not be included for computation of any required off-street parking space.

### **SECTION 11.4.23 HEAVY VEHICLE / EQUIPMENT SALES, RENTALS, AND SERVICES**

#### **11.4.23.1 All I-MX, -A; M-IMX Zone Districts**

In all I-MX, -A; and M-IMX, Zone Districts, where permitted with limitations:

- A. Heavy Vehicle / Equipment Sales, Rentals and Services uses shall be located 500 feet or more from the nearest boundary of any Residential Zone District existing at the time of application for the use.
- B. This 500 foot spacing requirement may be reduced or eliminated by the Zoning Administrator if the applicant proves by a preponderance of the evidence that an analysis of the proposed use, its traffic generation, and other external effects indicates a smaller separation will have no significant effect on the nearby Residential Zone District.

#### **11.4.23.2 I-B Zone District**

In the I-B Zone District, aircraft maintenance and repair shall be located 500 feet or more from the nearest boundary of a Residential Zone District existing at the time of application. This 500-foot spacing requirement may be reduced or eliminated by the Zoning Administrator, if the applicant proves by a preponderance of the evidence that the proposed use, its siting, design, traffic generation, and other external effects indicate a reduced or eliminated separation will have no significant adverse impact on the nearby Residential Zone District.

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## **DIVISION 11.5 INDUSTRIAL, MANUFACTURING AND WHOLESALE PRIMARY USE LIMITATIONS**

The Use and Parking Tables in Articles 3 through 9 reference any limitations applicable to permitted primary, accessory, or temporary uses. This Division contains limitations applicable to specific uses within the Industrial, Manufacturing and Whole Primary Use Classification across multiple Zone Districts and neighborhood contexts.

### **COMMUNICATIONS AND INFORMATION USE CATEGORY**

#### **SECTION 11.5.1 COMMUNICATION SERVICES**

##### **11.5.1.1 All RX, CC, MX, MS Zone Districts**

In all RX, CC, MX, MS Zone Districts, where permitted with limitations, where the permitted maximum building height in the Zone District is 3 stories or less, a transmitter shall be reviewed according to Section 12.4.9, Zoning Permit with Special Exception Review.

##### **11.5.1.2 All Downtown Neighborhood Context Zone Districts**

In all Downtown Neighborhood Context Zone Districts, where permitted with limitations, this use is limited to radio and television broadcasting, including transmitter.

#### **SECTION 11.5.2 TELECOMMUNICATIONS TOWERS; TELECOMMUNICATIONS TOWER - ALTERNATIVE STRUCTURE; TELECOMMUNICATION FACILITIES - ALL OTHERS**

##### **11.5.2.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

###### **A. Intent**

The intent of this Section 11.5.2 is to establish regulations for telecommunications facilities to achieve the following goals:

1. To protect residential areas and lands by minimizing adverse impacts of towers;
2. To encourage the location of towers in nonresidential Zone Districts;
3. To minimize the total number of towers in the community;
4. To encourage the joint use of new and existing tower locations;
5. To ensure that towers are located in areas that minimize adverse impacts;
6. To ensure towers and antennas are configured in a way that minimizes adverse visual impacts by careful design, appropriate siting, landscape screening, and innovative camouflaging techniques;
7. To enhance the ability to provide telecommunications services to the community quickly, effectively and efficiently;
8. To consider public health and safety of telecommunications facilities;
9. To avoid damage to adjacent properties from tower failure through careful engineering and locating of tower structures;
10. To encourage the attachment of antennas to existing structures; and
11. To facilitate the provision of telecommunications services throughout the city.

## **B. Applicability and Exceptions**

These regulations shall apply to all towers and antennas as defined, except:

1. Any tower, or antenna, not more than 70 feet in height, owned and operated by a federally licensed amateur radio station operator or used exclusively as a receive only facility.
2. High tension electric transmission or distribution line support towers used as mounts for antennas not more than 12 feet in height above the highest point of the said tower shall be permitted in all Zone Districts and are exempt from the separation requirements contained in this section. However, the requirements in Section 11.5.2.1.G, Specific Requirements -- Telecommunications Support Facilities, shall apply.
3. **Alternative Tower Structure Exception**  
Alternative tower structures not more than 50 feet in height shall be permitted in all Zone Districts subject to:
  - a. Section 11.5.2.1.A, Intent;
  - b. Section 11.5.2.1.C.7, Design Review;
  - c. The setback requirements for like structures in the Zone District; and
  - d. Section 11.5.2.1.G, Specific Requirements -- Telecommunications Support Facilities.
  - e. If such an alternative tower structure is in, or, as measured from the base of the tower to the nearest part of the Zone District, within 200 feet of a Residential Zone District, MX-2x, -2A, -2; or MS-2x, -2 Zone District, the provisions of Section 12.4.2, Zoning Permit Review with Informational Notice, shall apply.
4. The provisions of this Section 11.5.2.1 shall be of no force and effect in the Open Space Context Zone Districts.

## **C. General Requirements**

### **1. Not Utilities**

Towers, antennas and telecommunications support facilities shall be regulated and permitted pursuant to this Section and shall not be considered utilities.

### **2. Permitted Uses**

Towers, antennas and telecommunication support facilities shall be considered permitted uses and the existence of another structure or use on the same zone lot shall not preclude the installation of towers, antennas and telecommunications support facilities.

### **3. Towers in Nonresidential Zone Districts**

Towers are permitted in nonresidential Zone Districts and shall:

- a. Comply with the regulations contained herein and the Zone District regulations for permitted structures in the Zone District in which it is located. The dimensions of the entire zone lot shall apply and not the dimensions of the leased parcel; and
- b. Have a diameter of not more than 48 inches measured at the base of the tower.

### **4. Antennas**

Antennas not attached to a tower and their associated telecommunications support facilities may be located in any Zone District on:

- a. Any nonresidential structure; or
- b. A multi-unit dwelling structure containing 8 or more dwelling units that is at least 35 feet in height; or
- c. A residential structure other than as provided in 4.b. above, provided any antenna is camouflaged or obscured so as to resemble architectural or natural features commonly associated with the site and district where located.

**5. Telecommunications Support Facilities**

Telecommunications support facilities shall comply with Section 11.5.2.1.G, Specific Requirements -- Telecommunications Support Facilities.

**6. Abandonment**

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or towers shall remove the same and the accompanying telecommunications support facilities within 90 days of the issue date of the notice to remove the tower or antenna.

**7. Design Review**

- a. Antennas, towers, and alternative tower structures, their associated antennas and arrays and telecommunications support facilities shall be subject to design review and approval. Applicants may submit their designs for pre-approval subject to the same procedures outlined herein.
- b. Designs for antennas, towers, alternative tower structures, their associated antennas and arrays and telecommunications support facilities shall be submitted to the Zoning Administrator for design review.
- c. Upon submission of a complete application for design review, the Zoning Administrator shall establish a schedule for processing the application. Design review shall be completed within 30 days of the date designated in the schedule, except that the review period may be extended by an amount of time equal to any delay caused by the applicant or agreed to by the applicant.
- d. In reviewing the design of towers, the goals and requirements set forth in this Section 11.5.2.1 shall be considered. Within 7 days after completion of the design review, the Zoning Administrator shall approve, approve with conditions or deny the application.
- e. A reasonable design review fee shall be assessed at the time of submittal.

**D. Specific Requirements -- All Towers, Antennas and Telecommunications Support Facilities**

The following standards shall apply to all towers, antennas, and telecommunications support facilities, excluding alternative tower structures not more than 50 feet in height:

1. The design of towers, antennas, and telecommunications support facilities shall use materials, colors, textures, screening, and landscaping that create compatibility with the natural setting and surrounding structures;
2. Signs shall be limited to those signs required for cautionary or advisory purposes only;
3. The mass of antennas or an antenna on a tower shall not exceed 450 cubic feet per user, with no one dimension exceeding 14 feet per user. The mass shall be determined by the appropriate volumetric calculations using the smallest regular rectilinear, cuboidal, conical, cylindrical or pyramidal geometric shapes encompassing the entire perimeters of the array.

**E. Specific Requirements -- Towers**

The following standards shall apply to all towers, excluding alternative tower structures not more than 50 feet in height (see Section 11.5.2.1.B.3, Applicability).

**1. Setbacks**

The minimum Zone District setback requirements shall apply to all towers.

**2. Height**

The height and bulk of the tower shall be controlled by the district regulations of the Zone District in which the tower is located but in no case shall it exceed the following maxi-



mum heights, measured from the lowest grade within 10 feet of the base of the tower to the highest point of the tower or any antenna attached thereto:

- a. Single users: Not more than 75 feet in height;
- b. Two or more users: Not more than 90 feet in height.

**3. Color**

Towers shall be finished in a neutral color to reduce visual obtrusiveness, subject to any applicable standards of the FAA.

**4. Screening and Landscaping**

If the tower is within 200 feet of a Residential Zone District or Mixed Use Commercial Zone District, the installation shall provide screening and landscaping in accordance with the following:

- a. Unless the Zoning Administrator finds that alternative screening is appropriate to the character of the Zone District and/or landscaping, including existing vegetation, topography or structures, screening shall be provided in one of the following two ways:
  - i. Solid view-obscuring landscaping not less than 6 feet in height and landscaped in accordance with the landscaping requirement of Section 11.5.2.1.E.4.b, Screening and Landscaping; or
  - ii. A finished masonry wall of similar material and/or finish to the primary structures on the site or adjacent properties, in which case landscaping shall not be required.
- b. Except as provided in Section 11.5.2.1.E.4.a. above, landscaping shall be provided in accordance with the following requirements:
  - i. The area around the tower shall be landscaped with a buffer of plant materials that effectively screens the view of the tower base from property used for residences. The standard buffer shall consist of a landscaped strip at least 5 feet wide outside the perimeter of the fence described in Section 11.5.2.1.E.4.a.ii, Screening and Landscaping, and shall be composed of at least 50 percent coniferous or broadleaf evergreens that will reach at least 5 feet in height at maturity, and shall provide for and maintain minimal landscaping on the remainder of the zone lot.
  - ii. In locations where the visual impact of the tower would be minimal, or where landscaping would not reduce or alleviate the visual impact of the tower, the landscaping requirement may be reduced or waived.
  - iii. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. For towers located on large, wooded lots, natural growth around the property perimeter may be considered a sufficient buffer.

**5. Lighting**

Towers shall not be artificially illuminated unless required by the FAA, other governmental regulation, or as specified in the next two sentences. Towers that are used as flagpoles may be lit at night if they are flying the national flag. Ground level security lighting not more than 20 feet in height may be permitted if it does not project glare onto other properties and is designed to minimize impacts on adjacent properties.

**6. Separation Requirements**

The following separation requirements shall apply to all towers:

- a. Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1. If the requested separation distance is greater than or equal

to the distance in Table 1, the Zoning Administrator can proceed to process the application hereunder. If the requested separation distance is less than the separation distances provided in Table 1, but more than or equal to 100 feet, the provisions of Section 11.5.2.5, Separation Allowances, shall apply.

TABLE 1. TOWER SEPARATION FROM CERTAIN USES AND ZONES.	
Off-Site Use/Designated Area	Separation Distance
Single-unit or two-unit dwellings	500 feet or 3 times the height whichever is greater
Vacant platted or unplatted residentially zoned land	500 feet or 3 times the height whichever is greater
Existing multi-unit residential units	500 feet or the height of tower whichever is greater
City park and open space uses	1,000 feet
Nonresidentially zoned lands with nonresidential uses	None; only setbacks apply

- b. Separation distances between towers shall be maintained and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the base of the proposed tower, pursuant to a site development plan of the proposed tower. If the requested tower separation distance is greater than or equal to the distance in Table 2, the Zoning Administrator can proceed to process the application hereunder. If the requested tower separation is less than the separation distance as provided in Table 2, but more than or equal to 500 feet, the provisions of Section 11.5.2.5, Separation Allowances, shall apply.

TABLE 2. MINIMUM SEPARATION BETWEEN TOWERS (IN FEET)				
Existing Towers--Types	Lattice	Guyed	Monopole 75 feet in height or greater	Monopole not more than 75 feet in height
Lattice	2,500	2,500	1,500	1,000
Guyed	2,500	2,500	1,500	1,000
Monopole 75 feet in height or greater	1,500	1,500	1,500	1,000
Monopole not more than 75 feet in height	1,000	1,000	1,000	1,000

**F. Specific Requirements - Antennas Installed On Structures Other than Towers**

The following height and bulk plane standards shall apply to antennas installed on a structure other than a tower:

- The height and bulk plane of the antenna shall be controlled by the district regulations of the Zone District in which it is located, provided that antennas, together with any support structure built to hold, camouflage or conceal them, may extend up to 14 feet beyond the highest point of the building or structure to which attached, provided further that antennas for emergency telecommunication services may extend up to 20 feet beyond the highest point of the building or structure to which attached.

**G. Specific Requirements - Telecommunications Support Facilities**

- Telecommunications support facilities may be located on the roof of a building.
- If located on a building, telecommunications support facilities shall be a neutral color that is identical to, or closely compatible with, the color of the supporting structure.

3. Telecommunications support facilities shall not contain more than 350 square feet of gross floor area per user or be more than 12 feet in height, measured from the roof upon which the facility is placed to the highest part of the facility, or if on the ground, measured according to Division 13.1, Rules of Measurement.
4. If the telecommunications support facilities are located at grade, they shall comply with all the same requirements as those for towers in Section 11.5.2.1.E.4, Specific Requirements - Towers - Screening and Landscaping.

#### **11.5.2.2 Application for Towers and Antennas**

Every applicant for a tower, but not alternative tower structures 50 feet or less in height according to Section 11.5.2.1.B.3, Applicability, shall provide the Zoning Administrator with:

- A. The first application for a permit by a provider or an applicant for a provider shall include an inventory of all of that provider's existing towers, antennas, or sites approved for towers or antennas, that are either within the city or within 1,000 feet of the border thereof and the provider shall also comply with the inventory and tracking requirement of this section;
- B. The identification of its backhaul providers, updated on at least an annual basis, and the method of providing backhaul, wired or wireless;
- C. A vicinity map drawn to scale showing adjacent land uses that require separation and zoning within 1,000 feet; including those in adjacent municipalities;
- D. Upon the request of the Zoning Administrator, the director of the office of telecommunications or a member of city council, or their designees, the telecommunications provider shall meet with the requesting official and provide them with information concerning the proposed system design, which information shall not be reduced to writing and shall be treated as a confidential trade secret;
- E. A scaled set of plans containing the following information:
  1. Location and legal description of the proposed site;
  2. Type and height of the proposed tower
  3. On-site land uses and zoning;
  4. Adjacent roadways;
  5. Proposed means of access;
  6. Setbacks from property lines;
  7. Architectural elevation drawings of the proposed tower and any other telecommunications support facilities;
  8. Site topography;
  9. Parking;
  10. A landscape plan showing specific landscape materials;
  11. The method of fencing, finished color and, if applicable, the method of camouflage and illumination.
- F. An affidavit from the owner of the property acknowledging that the owner of the property is responsible for the removal of a tower, and the associated telecommunications support facilities, that are abandoned or unused for a period of 12 months.
- G. Every applicant for an antenna shall provide the Zoning Administrator with the information required in Section 11.5.2.2.E, where applicable.

- H. The Zoning Administrator may share information, except for the confidential proposed system design, with other applicants applying for administrative approvals or use exceptions under this section or other organizations seeking to locate towers/antennas in the city, except that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

### 11.5.2.3 Inventory and Tracking

The Zoning Administrator shall compile a list of towers and maintain and update the same from information furnished by all service providers. The Zoning Administrator shall issue a registration number to be affixed to and displayed on each tower. Reasonable fee as determined by the Zoning Administrator shall be assessed for an initial registration and annual inspections.

### 11.5.2.4 Collocation

- A. Antennas may be attached to an existing tower that is in compliance with all requirements of Section 11.5.2.1, [Limitations Applicable in] All Zone Districts, and the requirements of Section 11.5.2.1.E.6.b, Separation Requirements, and Table 2 therein shall not apply as long as the height of the tower is not increased. The new antenna and any telecommunications support facilities must comply with all applicable regulations in Section 11.5.2.1.D., Specific Requirements - All Towers, Antennas and Telecommunication Support Facilities, and Section 11.5.2.1.E., Specific Requirements - Towers. A tower may be modified or reconstructed to accommodate the collocation of additional antennas under the following conditions:
1. The tower shall be the same type as the existing tower, unless the tower is replaced by a monopole not more than 48 inches in diameter, provided, however that an existing alternative tower structure not over 50 feet in height may only be replaced by another alternative tower structure not over 50 feet in height;
  2. An existing tower, to accommodate the collocation of an additional antenna, may be modified or rebuilt only once to a taller height, not to exceed 30 feet more than the tower's existing height, provided, however that this Section 11.5.2.4.A.2. shall not apply to alternative tower structures not over 50 feet in height;
  3. The additional height referred to in this Section 11.5.2.4. shall not require an additional distance separation as set forth in Table 2 of Section 11.5.2.1.E.6.b, Separation Requirements. The tower's pre-modification height shall be used to calculate distance separations;
  4. The existing tower shall comply with the separations from certain uses and zones in Table 1 of Section 11.5.2.1.E.6.a, Separation Requirements.
  5. If a tower is replaced to accommodate collocation, only 1 tower may remain on the zone lot; and
  6. If a tower is relocated on-site in compliance with all setback requirements, and within a 25 foot radius of its existing location, under the terms and conditions of this section, it shall not be deemed a violation of the separation requirements of Section 11.5.2.1.E.6, Separation Requirements.
- B. Antennas may be attached to an existing tower that is not in compliance with all the requirements of Section 11.5.2.1, [Limitations Applicable in] All Zone Districts, and said tower may be rebuilt, reconstructed or modified, provided:
1. The tower as rebuilt, reconstructed or modified is no taller than the existing tower;
  2. The tower is of the same type as the existing tower, unless the tower is replaced by a monopole tower not more than 48 inches in diameter or a tower that meets the definition of an alternative tower structure;

3. The tower with the attached additional antenna as modified must meet the requirements of Section 11.5.2.1.D., Specific Requirements - All Towers, Antennas and Telecommunication Support Facilities, and Section 11.5.2.1.G, Specific Requirements - Telecommunication Support Facilities.
- C. Antennas may be attached to an existing tower that is accessory to a police station, fire station or hospital, and said tower may be rebuilt, reconstructed or modified to a height not to exceed 135 feet. No part of any collocated antenna shall be more than 90 feet above grade.

### **11.5.2.5 Alternative Procedure for Separation Allowances**

#### **A. Applicability**

1. The following provisions shall govern applications where the requested separations are less than the minimum requirements in Tables 1 and 2 of Sections 11.5.2.1.E.6, Separation Requirements, but greater than or equal to 100 feet for Section 11.5.2.1.E.6.a. (Table 1) and greater than or equal to 500 feet for Section 11.5.2.1.E.6.b. (Table 2).
2. This Section 11.5.2.5 shall not apply to alternative tower structures not over 50 feet in height. See Section 11.5.2.1.B.3, Alternative Tower Structure Exception, for applicable procedures.
3. This Section 11.5.2.5 shall not apply to towers and antennas where the requested separations are less than 100 feet from a City Park.

#### **B. Applicable Review Procedure**

In addition to meeting the minimum requirements of Section 12.4.2, Zoning Permit Review with Informational Notice, applications for telecommunication towers and antennas subject to this Section 11.5.2.5 shall comply with the following submittal, notification and certification, public meeting, and review criteria standards. In case of any conflict with the informational notice provisions in Section 12.4.2, this Section's requirements shall apply.

#### **C. Submittal Requirements**

In addition to the application requirements of Section 11.5.2.2, Applications for Towers and Antennas, and a reasonable review fee, the Zoning Administrator may require that the applicant submit for review the following information or items if applicable:

1. Legal description of the zone lot and leased parcel (if applicable);
2. The setback distance between the base of the proposed tower and the nearest residential dwelling unit, platted residentially zoned properties, and unplatted residentially zoned properties;
3. The separation distance from other towers located within 1,000 feet of the base of the proposed tower shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known;
4. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users;
5. A description of the suitability of the use of existing towers, other structures, locations or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower;
6. Such other information as is deemed by the Zoning Administrator to be necessary to render a determination.

## **D. Notification and Certification Requirements**

### **1. Written Notice Required**

- a. Using a notice form supplied by the Zoning Administrator, the applicant shall promptly notify all property owners within 500 feet of the proposed tower and registered neighborhood organizations whose boundaries contain or are within 200 feet of the proposed tower as required in D.R.M.C., Section 12-96.
- b. Such notice shall indicate the boundaries of the property included in the application, shall explain the character and dimensions of the proposed telecommunication tower, the nature and applicable separation distances and shall give directions for submitting written comments. The said notice shall also include notice of a date not less than 30 days after the delivery of the notice which has been set by the Zoning Administrator for consideration of the application and any written comments related thereto and that a public meeting may be requested.
- c. The applicant shall also file a statement with the Zoning Administrator stating how and on what date the applicant has so notified said adjoining property owners and registered neighborhood organizations. The Zoning Administrator may solicit comments from appropriate city agencies.

### **2. Posting Requirements**

- a. In addition to the written notice required above, the applicant shall post the property in a conspicuous location or locations determined by the Zoning Administrator with a sign provided by the Zoning Administrator.
- b. The posted notices shall contain the same information as the written notices and shall be in number, size and location as required by the Zoning Administrator. The property shall remain posted for 20 days.
- c. Such posted notices shall be removed by the applicant within 45 days after their posting, failure to remove such notices in a timely manner shall constitute a violation of this Code.
- d. If the tower is approved by the Zoning Administrator the property shall be posted for a period of 15 days after approval, indicating that the tower has been approved.

## **E. If No Public Meeting is Requested**

If no timely request for a public meeting in accordance with this Section 11.5.2.5 is received, the Zoning Administrator shall consider the written comments of all interested parties and the factors contained in this subsection.

### **1. Findings Required**

The Zoning Administrator may approve or approve with conditions the application providing findings are made that the proposed telecommunication towers will:

- a. Not substantially or permanently injure the appropriate use of adjacent property;
- b. Maintain the separation distances between towers and certain uses contained in Table 1 of Section 11.5.2.1.E.6, Separation Requirements, of at least 100 feet and a distance of at least 500 feet from any other tower if the tower has a diameter or width of less than 48 inches;
- c. Maintain a setback distance of 500 feet from a Residential Zone District or residential structure if the tower has a diameter or width of more than 48 inches; and
- d. Meet all Zone District regulations.

### **2. Considerations**

The Zoning Administrator shall consider the following factors in determining whether the application meets the goals contained in Section 11.5.2.1.A, Intent.

- a. Height of the proposed tower;
- b. Proximity of the tower to residential structures and residential district boundaries;
- c. Nature of uses on adjacent and nearby properties;
- d. Surrounding topography;
- e. Surrounding tree coverage and foliage;
- f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- g. Proposed ingress and egress; and
- h. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures.

**3. Conditions**

In approving with conditions, the Zoning Administrator may place such conditions on the approval as deemed necessary to advance the goals contained in Section 11.5.2.1.A, Intent. Such conditions may include but are not limited to:

- a. Moving the location of the tower to a more appropriate site;
- b. Using a different technology that will lessen the impact of the tower;
- c. Requiring an appropriate alternative tower structure; or
- d. Other actions that will disguise or otherwise lessen the impact of the tower.

**F. If a Public Meeting is Requested**

If a request for a public meeting is received from 3 property owners within 500 feet of the proposed tower or from a registered neighborhood association whose boundaries contain or are within 200 feet of the proposed tower, the Zoning Administrator shall refer the application to the director of the Office of Telecommunications to arrange for a public meeting to be held within 30 days from the date of request.

**1. Committee**

A committee composed of the director of the Office of Telecommunications, the Manager, and the chairman of the Planning Board, or their designees, shall hold the public meeting.

**2. Notification and Posting**

All persons submitting comments or requests for a public meeting and all registered neighborhood organizations whose boundaries contain or are within 200 feet of the location of the proposed tower shall be notified of the date, time and location of the public meeting. The applicant shall post the property in a conspicuous location or locations determined by the Zoning Administrator with a sign provided by the Zoning Administrator. Such sign shall describe the proposed construction and the date, time and location of the public meeting. The property shall be posted for 15 days prior to the meeting date. Such posted notices shall be removed by the applicant within 45 days after their posting; failure to remove such notices in a timely manner shall constitute a violation of this Code. If the tower is approved by the Zoning Administrator, the property shall be posted for a period of 15 days after approval, indicating that the tower has been approved.

**3. Recommendation**

Within 15 days of the public meeting the committee shall make a recommendation to the Zoning Administrator to approve, approve with conditions or deny the application. In making its recommendation the committee shall consider the comments at the public meeting and the goals of Section 11.5.2.1.A, Intent, and the provisions of Section 11.5.2.5.C.1, Findings Required, Section 11.5.2.5.C.2., Considerations, and Section 11.5.2.5.C.3, Conditions.

**4. Zoning Administrator’s Decision**

Within a reasonable time of receiving the recommendation of the committee, the Zoning Administrator shall make a decision according to Section 11.5.2.5.C, If No Public Meeting is Requested, above.

**11.5.2.6 Telecommunications Towers In and Adjacent to Residential Zone Districts or within 500 Feet of Another Tower**

Subject to Section 12.4.9, Zoning Permit with Special Exception Review, telecommunication towers that are either in or within 100 feet of Residential Zone District or within 500 feet of another tower, but not including alternative tower structures not more than 50 feet in height, may be permitted subject to compliance with the following standards:

- A. The placement of towers and their associated telecommunications support facilities in Residential Zone Districts, within 100 feet of a Residential Zone District, or within 500 feet of another tower, shall be permitted only if the Board of Adjustment finds that the proposed tower is necessary and essential to providing the applicant’s telecommunication service.
- B. The Board of Adjustment may place such conditions on the use as will advance the goals contained in Section 11.5.2.1.A, Intent, including but not limited to:
  - 1. Moving the location of the tower or antenna to a more appropriate available site;
  - 2. Using a different technology that will lessen the impact of the tower or antenna;
  - 3. Requiring an appropriate alternative tower structure; or
  - 4. Other actions that will disguise or otherwise lessen the impact of the tower or antenna.

**INDUSTRIAL SERVICES USE CATEGORY**

**SECTION 11.5.3 CONTRACTORS, SPECIAL TRADE, GENERAL**

**11.5.3.1 All Mixed Use Commercial Zone Districts**

In all Mixed Use Commercial Zone Districts, where permitted with limitations:

- A. Trucks having a manufacturer’s capacity of more than 2 tons shall not remain on the premises except as necessary to load and discharge contents.
- B. Any unenclosed areas permitted shall be provided with:
  - 1. A fence or wall constructed to a height adequate to conceal any vehicles, equipment or supplies located on the zone lot;
  - 2. Proper grading for drainage; and
  - 3. Asphalt, oil or any other dust-free surfacing. These areas shall be maintained in good condition, free of weeds, dust, trash and debris.

**11.5.3.2 All Downtown Neighborhood Context Zone Districts**

In all Downtown Neighborhood Context Zone Districts, where permitted with limitations, this use shall be operated within a completely enclosed structure.

**11.5.3.3 All Industrial Context Zone Districts**

In all Industrial Context Zone Districts, where permitted with limitations:

- A. The use shall be located at least 500 feet from any Residential Zone District.
- B. This requirement may be reduced by the Zoning Administrator if the applicant proves by a preponderance of the evidence that an analysis of the proposed use, its traffic generation, and



other external effects indicates a smaller separation will have no significant effect on the nearby residential district.

## **SECTION 11.5.4 CONTRACTOR, SPECIAL TRADE-HEAVY/CONTRACTOR YARD**

### **11.5.4.1 I-MX, -A, -B Zone Districts**

In the I-MX, -A, -B Zone Districts, where permitted with limitations, a contractor, special trade/heavy use shall be located at least 500 feet from a Residential Zone District. This requirement may be reduced or eliminated by the Zoning Administrator if the applicant proves by a preponderance of the evidence that the proposed use, site design, its traffic generation, and other external effects indicates a smaller separation will have no significant effect on the nearby Residential Zone District.

## **SECTION 11.5.5 FOOD PREPARATION AND SALES, COMMERCIAL**

### **A. All Zone Districts**

In all zone districts, where permitted with limitations, a Food Preparation and Sales, Commercial use engaged in the production of marijuana-infused products shall be allowed to produce marijuana concentrate through the use of the following extraction processes, provided all of the marijuana concentrate produced shall be incorporated into food products made on site:

1. Water-based extraction;
2. Food-based extraction; or
3. Alcohol- or ethanol-based extraction, but only if the production of marijuana concentrate is done without the application of any heat from a fuel-fired or electrified source and uses no more than 16 ounces of alcohol or ethanol during each extraction process.

## **SECTION 11.5.6 LABORATORY, RESEARCH, DEVELOPMENT, TECHNOLOGICAL SERVICE**

### **A. All Zone Districts**

In all Zone Districts, where permitted with limitations, a Laboratory, Research, Development, Technological Service use may include sales facilities limited to non-retail sales and sales activities, which shall occupy no more than 20 percent of the gross floor area of the structure. Such use may include indoor storage space for parts and supplies.

## **SECTION 11.5.7 SERVICE/REPAIR, COMMERCIAL**

### **11.5.7.1 All CC, MX, MS Zone Districts**

In all CC, MX, MS Zone Districts, except in the M-IMX Zone Districts, where permitted with limitations, Commercial Service/Repair uses are limited to building maintenance service uses only. All other Commercial Service/Repair uses are prohibited.

### **11.5.7.2 All Downtown Context Zone Districts**

In all Downtown Context Zone Districts, where permitted with limitations, Service/Repair, Commercial uses are limited to: diaper service, linen supply, laundry, metal sharpening, and mirror silvering.

### **11.5.7.3 All I-A, -B; M-IMX Zone Districts**

In all I-A, -B and M-IMX Zone Districts, where permitted with limitations:

- A. Commercial Service/Repair uses are limited only to the following specific types:

1. Repair, rental and servicing of any commodity that is manufactured, processed, fabricated, stored or sold in the zone, and which may involve an environmental hazard as determined by the Denver Fire Code, including but not limited to the following:
    - a. Vehicle body shop,
    - b. Upholstery or top shop,
    - c. Paint shop,
    - d. Refrigeration and air conditioning service and repair,
    - e. Disinfecting and pest control service.
  2. Autoclave;
  3. Laundry, dry cleaning, commercial, industrial.
- B. All Commercial Service/Repair uses shall be located at least 500 feet from any Residential Zone District. This requirement may be reduced by the Zoning Administrator if the applicant proves by a preponderance of the evidence that an analysis of the proposed use, its traffic generation, and other external effects indicates a smaller separation will have no significant effect on the nearby residential district.

## **MANUFACTURING AND PRODUCTION USE CATEGORY**

### **SECTION 11.5.8 MANUFACTURING, FABRICATION, AND ASSEMBLY - CUSTOM**

#### **11.5.8.1 All Zone Districts**

In all Zone Districts, where permitted with limitations, Manufacturing, Fabrication, and Assembly - Custom uses involving the manufacture of malted beverages, wine, brandy or brandy spirits, or distilled and blended liquors shall comply with the following limitations:

- A. On-site manufacturing of malted barley is prohibited.
- B. Unenclosed outdoor storage is prohibited.
- C. Outdoor tasting, serving, and seating areas are permitted as common and customary accessory uses, provided in all zone districts, except in the I-A Zone District, such areas shall comply with the limitations stated in Section 11.10.12, for Outdoor Eating and Serving Areas Accessory to Eating/Drinking Establishment Use.

#### **11.5.8.2 All RX and All MX -2x, -2A, -2; MS -2x, -2 Districts**

In all RX, and MX-2x, -2A, -2, and MS-2x, -2 Zone Districts abutting a SU or TU Zone District, where permitted with limitations, Manufacturing, Fabrication, and Assembly - Custom uses involving the manufacture of malted beverages, wine, brandy or brandy spirits, or distilled and blended liquors shall comply with the following limitations:

- A. Lighted signage shall be turned off during non-operating hours; and
- B. All outdoor lighting shall be provided with full cut-off fixtures.

#### **11.5.8.3 All RX and MX -2x, MS -2x Zone Districts**

In all RX, MX-2x, and MS-2x Zone Districts, where permitted with limitations, Manufacturing, Fabrication, and Assembly - Custom uses involving the manufacture of malted beverages, wine, brandy or brandy spirits, or distilled and blended liquors shall comply with the following limitations:

- A. If the use is less than 100 feet from the boundary of any Protected District, all business activities open to the public shall cease by 10:00 p.m., except on Friday and Saturday nights when all business activities open to the public shall cease by 11:00 p.m.

## **SECTION 11.5.9 MANUFACTURING, FABRICATION, AND ASSEMBLY - GENERAL**

### **11.5.9.1 All Zone Districts**

In all Zone Districts, where permitted with limitations, Manufacturing, Fabrication, and Assembly - General uses shall be located 500 feet or more from the nearest boundary of a Residential Zone District existing at the time of application. This 500-foot spacing requirement may be reduced or eliminated by the Zoning Administrator, if the applicant proves by a preponderance of the evidence that the proposed use, its siting, design, traffic generation, and other external effects indicate a reduced or eliminated separation will have no significant adverse impact on the nearby Residential Zone District.

### **11.5.9.2 All Mixed Use Commercial Zone Districts**

In all Mixed Use Commercial Zone Districts, where permitted with limitations:

1. A Manufacturing, Fabrication and Assembly - General use on a zone lot greater than 60,000 square feet or operating between 10:00 p.m. and 5:00 a.m. shall be reviewed according to Section 12.4.9, Zoning Permit with Special Exception Review.
2. A Manufacturing, Fabrication and Assembly - General use proposed on zone lots fronting 56th Avenue, Tower Road, or Pena Boulevard shall be reviewed according to Section 12.4.9, Zoning Permit with Special Exception Review.
3. A Manufacturing, Fabrication, and Assembly - General use involving the manufacture of malted beverages, wine, brandy or brandy spirits, or distilled and blended liquors shall comply with the following additional limitations:
  - a. On-site manufacturing of malted barley is prohibited.
  - b. Unenclosed outdoor storage is prohibited.
  - c. Outdoor tasting, serving, and seating areas are permitted as common and customary accessory uses, provided such areas shall comply with the limitations stated in Section 11.10.12 for Outdoor Eating and Serving Areas Accessory to Eating/Drinking Establishment Use.

## **SECTION 11.5.10 MANUFACTURING, FABRICATION, AND ASSEMBLY - HEAVY**

### **11.5.10.1 All Zone Districts**

- A. In all Zone Districts, where permitted with limitations, Manufacturing, Fabrication, and Assembly - Heavy uses shall be located 500 feet or more from the nearest boundary of a Residential Zone District existing at the time of application. This 500-foot spacing requirement may be reduced or eliminated by the Zoning Administrator, if the applicant proves by a preponderance of the evidence that the proposed use, its siting, design, traffic generation, and other external effects indicate a reduced or eliminated separation will have no significant adverse impact on the nearby Residential Zone District.
- B. Special Exception review is required for the manufacturing, fabrication, and assembly of:
  1. (SIC 3631) Household cooking equipment;
  2. (SIC 3632) Household refrigerators and freezers;
  3. (SIC 3633) Household laundry equipment; or
  4. (SIC 3639) Household appliances.

- C. Petroleum refining is prohibited except for the following activities, which are permitted only in the I-B Zone District:
  - 1. (SIC 295) Asphalt paving and roofing materials; or
  - 2. (SIC 299) Miscellaneous products of petroleum and coal.
- D. Outdoor tasting, serving, and seating areas are permitted as common and customary accessory uses to a Manufacturing, Fabrication, and Assembly - Heavy use involving the manufacture of malted beverages, wine, brandy or brandy spirits, or distilled and blended liquors.

## **MINING & EXTRACTION AND ENERGY PRODUCTION SYSTEMS USE CATEGORY**

### **SECTION 11.5.11 OIL, GAS, PRODUCTION, DRILLING**

#### **11.5.11.1 I-MX, -A, -B Zone Districts**

In the I-MX, -A, -B Zone Districts, where permitted with limitations, oil gas, production, drilling uses area limited to geophysical services only. As part of the Site Development Plan review process, the Zoning Administrator shall determine the separation between the proposed use and any adjacent Residential Zone District based on the external effects of the proposed use.

#### **11.5.11.2 O-1 and DIA Zone Districts**

In the O-1 and DIA Zone Districts, where permitted with limitations:

- A. All site plan applications for oil and gas uses shall be reviewed according to Section 12.4.3, Site Development Plan Review, with the addition of a representative from the building inspection division of Community Planning and Development, designated by the Manager, and a representative from the Department of Aviation, designated by the Manager of Aviation.
- B. As part of the Site Development Plan Review, the Manager may recommend conditions on the approval of any oil and gas permit application to ensure the following public health, safety, and welfare objectives:
  - 1. There shall be adequate financial assurances to insure the city against any claims which may arise due to the applicant's operation under any and all permits issued by the city;
  - 2. The applicant shall provide appropriate protection of the natural environment and adjacent land uses; and
  - 3. The applicant shall assure avoidance of any adverse impact on other permitted uses in the subject Zone District.

### **SECTION 11.5.12 SAND OR GRAVEL QUARRY**

#### **11.5.12.1 I-MX, -A, -B Zone Districts**

In the I-MX, -A, -B Zone Districts, where permitted with limitations, a sand or gravel quarry use shall be located at least 500 feet from a Residential Zone District. This requirement may be reduced or eliminated by the Zoning Administrator if the applicant proves by a preponderance of the evidence that an analysis of the proposed use, its traffic generation, and other external effects indicates a smaller separation will have no significant effect on the nearby residential district.

### **SECTION 11.5.13 WIND ENERGY CONVERSION SYSTEM (“WECS”)**

#### **11.5.13.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. **Zone Lots Containing or Adjacent to Single-Unit or Two-Unit Dwelling Uses or Town**

### **House or Row House Building Forms**

Establishment of a wind conversion energy system use on a zone lot, or adjacent to a zone lot, that contains a single unit dwelling use or two-unit dwelling use, or that contains a Townhouse or Row House Building Form, is permitted according to Section 12.4.9, Zoning Permit with Special Exception Review. The Board of Adjustment may approve such use only upon findings that the proposed wind energy conversion system complies with the following standards:

1. The applicant is the owner of the property and has submitted a site plan of the property that shows the location of the proposed system;
2. The proposed system, including guy wires, will not encroach into any setback space and will be no closer than 10 feet to any property line; provided, however, that for any zone lot not containing a single unit or two-unit dwelling use, or a Townhouse or Row House Building Form, the 10 foot setback only applies to zone lot lines abutting such residential zone lots; other setbacks shall be as per the applicable Zone District and building form regulations.
3. The proposed system will extend no further than 30 feet above the highest point of existing buildings on the zone lot, unless the zone lot does not have a single unit or two unit dwelling use or townhouse or row House building form, in which case the proposed system will extend no further than 35 feet above the highest point of existing buildings on the zone lot, or 60 feet above the ground, whichever is higher;
4. All power transmission lines shall be located underground or inside a structure and that the proposed system, will consist of a tubular pole tower if the proposed system is to be a horizontal axis system;
5. Climbing access to the structure shall be limited by means of a fence 6 feet high around the tower base with a locking gate or by limiting tower climbing apparatus to no lower than 13 feet from the ground, and that at least one sign shall be posted at the base of the tower with the following warning: "WARNING: Wind Energy Electrical Generating System";
6. Any system with a capacity in excess of 100 kilowatts shall not be installed in a Residential Zone District and shall not be located along the major axis of an existing microwave communications link where the operation of the system is likely to produce an unacceptable level of electromagnetic interference;
7. The proposed system will not create a detrimental effect on nearby properties through electromagnetic interference, physical appearances or noise, either by loudness or frequency; and
8. The proposed system will not substantially or permanently injure the appropriate use of adjacent conforming property.

**B. All Other Zone Lots - Systems Not Subject to Special Exception Review**

A wind energy conversion system may operate on any zone lot that is not adjacent to and does not have a single-unit dwelling or two-unit dwelling use. A wind energy conversion system may be permitted according to Section 12.4.2, Zoning Permit Review with Informational Notice, and subject to compliance with the following conditions:

1. The applicant is the owner of the property and has submitted a site plan of the property which shows the location of the proposed system.
2. The proposed system, including guy wires and blades, shall not encroach into any setback space, and in no event shall be within 10 feet of the front zone lot line.
3. The proposed system, including blades, shall extend no further than 35 feet above the highest point of existing buildings on the zone lot or any building within 100 feet of the zone lot or 60 feet above the ground, whichever is higher, provided, however that in no event may the system extend more than 75 feet above the building on which it is mounted.
4. All power transmission lines shall be located underground or inside a structure.
5. Climbing access to the structure shall be limited by means of a fence six feet high around the tower base with a locking gate or by limiting tower climbing apparatus to no lower than 13 feet from the ground, and that at least one sign shall be posted at the base of the tower with the following warning: "WARNING Wind Energy Electrical Generating System".
6. Any system with a capacity in excess of 100 kilowatts shall not be located along the major axis of an existing microwave communications link where the operation of the system is likely to produce an unacceptable level of electromagnetic interference.
7. The proposed system shall not create a detrimental effect on nearby properties through electromagnetic interference, physical appearances or noise, either by loudness or frequency.
8. The proposed system shall not substantially or permanently injure the appropriate use of adjacent conforming property.

**TRANSPORTATION FACILITIES USE CATEGORY**

**SECTION 11.5.14 HELIPAD, HELISTOP, HELIPORT**

**11.5.14.1 All Residential Zone Districts**

In all Residential Zone Districts, where permitted with limitations, the use shall be limited to landing and take-off area for police and/or emergency rotor craft, not including maintenance, repair, fueling, or hangar facilities.

**11.5.14.2 All Mixed Use Commercial Zone Districts**

In all Mixed Use Commercial Zone Districts, where permitted with limitations:

- A. The use shall be limited to landing and take-off area for police and/or emergency rotor craft, not including maintenance, repair, fueling, or hangar facilities.
- B. The Helipad or Helistop shall be a minimum of 1,000 feet from a Residential Zone District or a PUD District that allows residential uses; except that helipads or helistops in the CMP-H and CMP-H2 Zone Districts and in the D-GT Zone District located south of 8th Avenue shall not be subject to this 1,000 feet distance requirement.

### **11.5.14.3 I-A, -B Zone Districts**

In the I-A, -B Zone Districts, where permitted with limitations, the Helipad or Helistop shall be a minimum of 1,000 feet from a Residential Zone District or a PUD District that allows residential uses.

## **SECTION 11.5.15 RAILROAD FACILITIES**

### **11.5.15.1 I-MX, -A, -B Zone Districts**

In the I-MX, -A, -B Zone Districts, where permitted with limitations:

- A. A railway facility proposed after January 11, 1991, shall be a minimum of 500 feet from a Residential Zone District; provided, however, this 500-foot spacing requirement may be reduced by the Zoning Administrator for an expansion of an existing facility if the applicant proves by a preponderance of the evidence that an analysis of the proposed use, its traffic generation, and other external effects indicates a smaller separation will have no significant effect on the nearby residential district.
- B. All mass transit railroad facilities located within 200 feet of a conforming residential structure shall be reviewed according to Section 12.4.3, Site Development Plan Review.

## **SECTION 11.5.16 TERMINAL, STATION OR SERVICE FACILITY FOR PASSENGER TRANSIT SYSTEM**

### **11.5.16.1 All Residential Zone Districts**

In all Residential Zone District, where permitted with limitations, the use shall be limited to a stop or station for the mass passenger transit system only; and parking provided for the use of passengers or employees of the passenger transit provider.

## **SECTION 11.5.17 TERMINAL FREIGHT, AIR COURIER SERVICE**

### **11.5.17.1 I-MX, -A, -B Zone Districts**

In the I-MX, -A, -B Zone Districts, where permitted with limitations:

- A. Any terminal proposed after January 11, 1991, shall be a minimum of 500 feet from a Residential Zone District; provided, however, this 500-foot spacing requirement does not apply to an increase of an existing use of less than 15 percent gross floor area or gross site area.
- B. The 500-foot spacing requirement may be reduced by the Zoning Administrator for an expansion greater than 15 percent gross floor area or gross site area of an existing facility if the applicant proves by a preponderance of the evidence that an analysis of the proposed use, its traffic generation, and other external effects indicates a smaller separation will have no significant effect on the nearby residential district.

## **WASTE RELATED SERVICES**

## **SECTION 11.5.18 AUTOMOBILE PARTS RECYCLING BUSINESS**

### **11.5.18.1 I-MX, -A, -B Zone Districts**

In the I-MX, -A, -B Zone Districts, where permitted with limitations:

- A. The use shall be located no less than 500 feet from a Residential Zone District. This requirement may be reduced by the Zoning Administrator if the applicant proves by a preponderance of the evidence that the proposed use, its traffic generation and other external effects indicates a smaller separation will have no significant effect on the nearby Residential Zone District.

- B. The use shall comply with the screening and enclosure requirements of Section 9.1.3.7, Required Screening and Enclosure.
- C. Vehicle parts and bodies shall be arranged and/or stacked in an orderly manner. Outdoor aisles shall be graveled or covered with a dust-free surface material, and the site along with abutting street right-of-way areas shall be kept free of weeds and litter. The dismantling area shall not be visible from the street or from abutting residential or business zoned properties. Outdoor storage areas shall be enclosed by a solid wall or fence, except where such business adjoins a similar use along a side or rear lot line. Provision shall be made to control, contain and collect for proper disposal oil, antifreeze and other liquids generated by the dismantling or storage of motor vehicles or parts. Disposal of CFC's (chlorofluorocarbons) from vehicle air conditioners shall be done in accordance with chapter 4 of the Revised Municipal Code and applicable rules and regulations.

## **SECTION 11.5.19 JUNKYARD**

### **11.5.19.1 I-MX, -A, -B Zone Districts**

In the I-MX, -A, -B Zone Districts, where permitted with limitations:

#### **A. Separation**

The use shall be a minimum of 1,000 feet from any Residential Zone District, Mixed Use Commercial Zone District, or Downtown Neighborhood Context Zone District.

#### **B. Screening**

The use shall comply with the screening and enclosure requirements of Section 9.1.3.7, Required Screening and Enclosure. The height of such fence or wall shall screen the view from an abutting Primary Street of the stored material and shall not exceed a height of 10 feet. Existing solid walls or fences consisting of prohibited materials shall be replaced with approved materials no later than June 15, 1993.

## **SECTION 11.5.20 RECYCLING CENTER**

### **11.5.20.1 I-MX, -A, -B Zone Districts**

In the I-MX, -A, -B Zone Districts, where permitted with limitations:

#### **A. Separation**

The recycling center facility shall be located at least 500 feet from a Residential Zone District. This requirement may be reduced or eliminated by the Zoning Administrator if the applicant proves by a preponderance of the evidence that the proposed use, site design, its traffic generation, and other external effects indicates a smaller separation will have no significant effect on the nearby Residential Zone District.

#### **B. Screening**

The use shall comply with the screening and enclosure requirements of Section 9.1.3.7, Required Screening and Enclosure.

## **SECTION 11.5.21 RECYCLING PLANT, SCRAP PROCESSOR**

### **11.5.21.1 I-MX, -A, -B Zone Districts**

In the I-MX, -A, -B Zone Districts, where permitted with limitations:

#### **A. Separation**

The recycling plant shall be located at least 500 feet from a Residential Zone District. This requirement may be reduced or eliminated by the Zoning Administrator if the applicant proves by a preponderance of the evidence that an analysis of the proposed use, its traffic generation,



and other external effects indicates a smaller separation will have no significant effect on the nearby residential district.

**B. Screening**

The use shall comply with the screening and enclosure requirements of Section 9.1.3.7, Required Screening and Enclosure.

**WHOLESALE, STORAGE, WAREHOUSE AND DISTRIBUTION USE CATEGORY**

**SECTION 11.5.22 AUTOMOBILE TOWING SERVICE STORAGE YARD**

**11.5.22.1 I-MX, -A, -B Zone Districts**

In the I-MX, -A, -B Zone Districts, where permitted with limitations, an automobile towing service storage yard plant shall be located at least 500 feet from a Residential Zone District. This requirement may be reduced or eliminated by the Zoning Administrator if the applicant proves by a preponderance of the evidence that the proposed use, site design, its traffic generation, and other external effects indicates a smaller separation will have no significant effect on the nearby Residential Zone District.

**SECTION 11.5.23 MINI-STORAGE FACILITY**

**11.5.23.1 All MX, MS Zone Districts**

In all MX and MS Zone Districts, where permitted with limitations, a Mini-Storage Facility use shall not have individual entrances to storage units from the exterior of the structure.

**SECTION 11.5.24 VEHICLE STORAGE, COMMERCIAL**

**11.5.24.1 All Downtown Neighborhood Context Districts**

In all Downtown Neighborhood Context Zone Districts, where permitted with limitations:

- A. Vehicle Storage is limited to enclosed garage storage for commercial and public utility vehicles only.
- B. Commercial storage of automobiles and light trucks, vans and sport utility vehicles limited to a capacity of not more than one-and-one-half tons shall be reviewed according to Section 12.4.9, Zoning Permit with Special Exception Review.

**11.5.24.2 I-A, -B Zone Districts**

In I-A, -B Zone Districts, where permitted with limitations:

- A. The Vehicle Storage use shall be located at least 500 feet from a Residential Zone District.
- B. This requirement may be reduced or eliminated by the Zoning Administrator if the applicant proves by a preponderance of the evidence that the proposed use, site design, its traffic generation, and other external effects indicates a smaller separation will have no significant effect on the nearby Residential Zone District.

**11.5.24.3 All CC Zone Districts**

In all CC Zone Districts, where permitted with limitations, Vehicle Storage, Commercial shall be limited to the assembling or standing of operable vehicles having a capacity of not more than one and one-half tons.

**SECTION 11.5.25 WHOLESALE TRADE OR STORAGE, GENERAL**

**11.5.25.1 I-MX, -A, -B Zone Districts**

In the I-MX, -A, -B Zone Districts, where permitted with limitations, all Wholesale Trade or Storage, General uses shall be located a minimum of 500 feet from a Residential Zone District.

## **SECTION 11.5.26 WHOLESALE TRADE OR STORAGE, LIGHT**

### **11.5.26.1 All CC, MX, MS, CMP Zone Districts**

In all CC, MX, MS, CMP Zone Districts, where permitted with limitations:

- A. A Wholesale Trade or Storage, Light use proposed on a zone lot greater than 25,000 square feet or is proposed to operate between 10:00 p.m. and 5:00 a.m. shall be reviewed according to Section 12.4.9, Zoning Permit with Special Exception Review.
  
- B. A Wholesale Trade or Storage, Light use proposed on zone lots fronting 56th Avenue, Tower Road, or Pena Boulevard, or within 300 feet of any boundary with any portion of Adams County other than the Rocky Mountain Arsenal, shall be reviewed according to Section 12.4.2, Zoning Permit Review with Informational Notice, in order to permit review and comment by adjacent jurisdictions.

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## **DIVISION 11.6 AGRICULTURAL PRIMARY USE LIMITATIONS**

The Use and Parking Tables in Articles 3 through 9 reference any limitations and standards applicable to permitted primary, accessory, or temporary uses. This Division contains limitations and standards applicable to specific uses within the Agricultural Primary Use Classification across multiple Zone Districts and neighborhood contexts.

### **SECTION 11.6.1 AQUACULTURE**

In all Zone Districts, where permitted with limitations, the outdoor storage of waste material from fish processing is prohibited.

### **SECTION 11.6.2 GARDEN, URBAN**

#### **11.6.2.1 All Zone Districts**

In all Zone Districts, where permitted with limitations, bee keeping is permitted as accessory to the Urban Garden use, subject to compliance with the standards for accessory bee-keeping stated in Section 11.8.5, Keeping of Household Animals, except that the bee keeping use need not be sited within the rear 50% of the zone lot, and except that in an Industrial Context Zone District, Open Space Context Zone District, or CMP-NWC Zone District, the number of permitted bee hives may be increased to a maximum of 2 hives per 6,000 square feet of gross zone lot area.

### **SECTION 11.6.3 HUSBANDRY, ANIMAL**

#### **11.6.3.1 I-MX, -A, -B Zone Districts**

In the I-MX, -A, -B Zone Districts, where permitted with limitations, a Husbandry, Animal use shall be located at least 500 feet from a Residential Zone District.

#### **11.6.3.2 OS-B Zone Districts**

In the OS-B Zone District, where permitted with limitations, a Husbandry, Animal use is limited to the raising and/or grazing of livestock animals and any confinements for such animals, provided such use is located at least 500 feet from a Residential Zone District.

### **SECTION 11.6.4 HUSBANDRY, PLANT**

#### **11.6.4.1 All Zone Districts**

In all Zone Districts, where permitted with limitations, growing of marijuana is permitted only as a "husbandry, plant" use, and shall occur only within a completely enclosed structure.

#### **11.6.4.2 I-A Zone District**

In the I-A Zone District, where permitted with limitations, when not operated inside a completely enclosed structure, the Plant Husbandry use shall be located at least 500 feet from a Residential Zone District.

### **SECTION 11.6.5 PLANT NURSERY**

#### **11.6.5.1 In All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. The outdoor storage of waste material from accessory fish processing (Aquaculture) is prohibited.
- B. Bee keeping is permitted as accessory to a Plant Nursery use, subject to compliance with the standards for accessory bee-keeping stated in Section 11.8.5, Keeping of Household Animals, except that the bee keeping use need not be sited within the rear 50% of the zone lot, and except that in an Industrial Context Zone District, Open Space Context Zone District, or CMP-NWC

Zone District, the number of permitted bee hives may be increased to a maximum of 2 hives per 6,000 square feet of gross zone lot area.

- C. When not operated inside a completely enclosed structure, the Plant Nursery use shall be located at least 500 feet from a Residential Zone District.

#### **11.6.5.2 I-MX Zone Districts**

In the I-MX Zone District, where permitted with limitations, a Plant Nursery use shall be operated within a completely enclosed structure.

#### **11.6.5.3 I-A, -B, OS-B, O-1, and DIA Zone Districts**

In the I-A, -B, OS-B, O-1, and DIA Zone Districts, where permitted with limitations, an unenclosed Plant Nursery use shall be located at least 500 feet from a Residential Zone District.

## DIVISION 11.7 ACCESSORY USE LIMITATIONS

The Use and Parking Tables in Articles 3 through 9 reference any limitations applicable to permitted primary, accessory, or temporary uses. This Division contains general standards applicable to all accessory uses across multiple Zone Districts and neighborhood contexts.

### SECTION 11.7.1 GENERAL PROVISIONS APPLICABLE TO ALL ACCESSORY USES

#### 11.7.1.1 General Allowance for Accessory Uses

- A. Accessory uses shall be clearly incidental, subordinate, customary to, and commonly associated with operation of a primary use. Accessory uses may be incidental to a primary use permitted without limitations, or a permitted use with limitations.
- B. The Use and Parking Tables in Articles 3 through 9 list specific accessory uses permitted in each zone district; applicable limitations may further restrict the type or operations of an accessory use.

#### 11.7.1.2 Limitations Applicable to All Accessory Uses

##### A. General Limitations

All accessory uses, except accessory dwelling unit uses, shall comply with all of the following general limitations. Accessory dwelling units, where permitted, shall comply with the specific conditions stated in Section 11.8.2, Accessory Dwelling Units, instead of these general limitations.

1. Such use shall be clearly incidental and customary to and commonly associated with the operation of the primary use.
2. Such accessory use shall be operated and maintained under the same ownership and on the same zone lot as the primary use; provided, however, that in all Mixed Use Commercial Zone Districts, lessees or concessionaires may operate the accessory use; and provided further that in nonresidential structures owned and operated by a place for religious assembly in a Residential Zone District, non-profit lessees or concessionaires may operate the accessory use.
3. Such use shall not include residential occupancy in a detached accessory structure offered for rent or for other commercial gain. Residential occupancy in a detached accessory structure is permitted by members of a household occupying the primary structure, or domestic employees and the immediate families of such employees.
4. The area of specific accessory uses shall be calculated as follows:
  - a. **Pool tables.** The area occupied shall be calculated by adding 3 feet to each dimension of such pool table to include the area of play.
  - b. **Pinball, video games and other similar Amusement Devices.** The area occupied shall be calculated by adding three feet to the area directly in front of the device.
  - c. **Dance floors.** The area shall be the sum total of all of the areas of the dance floor and any stage or area used for the playing or performance of recorded or live music.

##### B. Limitations in the Primary Structure

###### 1. Applicability

This Section 11.7.1.2.B's limitations on accessory uses in the primary structure shall apply to all accessory uses. A limitation in this Section 11.7.1.2.B shall not apply when it conflicts with a limitation specific to an accessory use found in Divisions 11.8, Uses Ac-

cessory To Primary Residential Uses - Limitations, 11.9, Home Occupations Accessory to a Primary Residential Use - All Zone Districts, or 11.10, Uses Accessory to Primary Nonresidential Uses - Limitations.

**2. Limitations on Size of Accessory Use in the Primary Structure**

If an accessory use is operated partially or entirely within the structure containing the primary use, the gross floor area within such structure utilized by the accessory use (except loading docks, and dining rooms for the exclusive use of occupants or persons employed in the structure) shall not be greater than:

- a. In a Residential Zone District, 20 percent of the gross floor area, but not to exceed 300 square feet, of a single unit dwelling use, two-unit dwelling use, or multi-unit dwelling use in a structure containing 8 or less dwelling units.
- b. In a Residential Zone District, 10 percent of the gross floor area occupied by a primary use other than a single unit dwelling use, two-unit dwelling use, or a multi-unit dwelling use in a structure containing 8 or less dwelling units.
- c. In a Mixed Use Commercial Zone District or Industrial Context Zone District, 20 percent of the gross floor area of the structure containing the primary use.

When more than one accessory use is associated with a single primary use, the above limitations shall apply to the cumulative total gross floor area of all the accessory uses in the same primary structure.

**11.7.1.3 Prohibited Accessory Uses in Residential Zone Districts**

- A. In a Residential Zone District, the sale, lease, trade or other transfer of firearms or ammunition by a firearms dealer is prohibited.
- B. The accessory parking/storage of vehicles, trailers, commercial vehicles, and RVs are governed by Division 10.9, Parking, Keeping and Storage of Vehicles.
- C. The growing of marijuana is prohibited as accessory to a primary nonresidential use established in a Residential Zone District.

## **DIVISION 11.8 USES ACCESSORY TO PRIMARY RESIDENTIAL USES - LIMITATIONS**

The Use and Parking Tables in Articles 3 through 9 reference any limitations applicable to permitted primary, accessory, or temporary uses. This Division contains limitations applicable to specific uses accessory to primary residential uses across multiple Zone Districts and neighborhood contexts. In addition to meeting the general conditions and standards applicable to all accessory uses in Division 11.7 above, the following specific accessory uses shall comply with this Division's use-specific standards.

### **SECTION 11.8.1 [RESERVED]**

### **SECTION 11.8.2 ACCESSORY DWELLING UNIT ("ADUS")**

#### **11.8.2.1 All Zone Districts**

In all Zone Districts where permitted with limitations:

##### **A. Accessory to Primary Single Unit Dwelling Uses Only**

1. An Accessory Dwelling Unit is permitted as accessory only to a primary Single Unit Dwelling use according to the following requirements, except that an Accessory Dwelling Unit use is not permitted as accessory to a Single Unit Dwelling use in a Tandem House building form.
2. In case of conflict between the requirements for Accessory Dwelling Units stated in this Section 11.8.2.1 and the general conditions stated in Division 11.7, Accessory Use Limitations, the requirements in this subsection shall apply.

##### **B. General Building Requirements**

1. Mobile homes, recreational vehicles, and travel trailers shall not be used as Accessory Dwelling Units.
2. All Accessory Dwelling Units shall comply with the Denver Building and Fire Code.
3. ADUs established in a detached accessory structure shall comply with the Detached ADU Building form standards in the applicable Zone District.

##### **C. Structural and Location Requirements**

All Accessory Dwelling Unit uses shall meet the following requirements:

1. The primary Single Unit Dwelling use shall not be altered in any way so as to appear from a public street to be a multiple-unit dwelling use.
2. The structure housing an Accessory Dwelling Unit shall not be served by a driveway separate from that serving the primary Single Unit Dwelling except to utilize a new access from an alley.
3. The Accessory Dwelling Unit may be accessed by a separate outside stairway located in conformance with all building and zoning requirements, except outside access stairways shall not be located on the front facade of the building housing the primary Single Unit Dwelling use.
4. Roof and exterior wall materials and finishes for a detached structure housing the Accessory Dwelling Unit use shall be comparable in composition and appearance to that of the primary single unit dwelling structure on the zone lot.



5. Wherever feasible, water and sewer shall be supplied to both the primary Single Unit Dwelling use and the Accessory Dwelling Unit use through single taps, and electric and/ or gas utilities shall be supplied through a single meter.

**D. Special Allowance for ADUs on Existing Carriage Lots**

Accessory Dwelling Unit uses may be established on a carriage lot, even in the absence of a primary Single Unit Dwelling use on such carriage lot, provided the Accessory Dwelling Unit use complies with the standards in this Section 11.8.2 and with all applicable standards in Section 12.10.4, Development on Carriage Lots.

**11.8.2.2 All SU Zone Districts**

In all SU Zone Districts, where permitted with limitations:

1. The Accessory Dwelling Unit use shall be operated and maintained under the same ownership as the primary Single Unit Dwelling use.
2. No more than one Accessory Dwelling Unit shall be established on the same zone lot as the primary Single Unit Dwelling use.
3. Accessory Dwelling Units shall not be sold apart from the primary dwelling unit.
4. The owner of the zone lot on which an Accessory Dwelling Unit use is maintained shall occupy either the primary dwelling unit or the ADU as the owner’s legal and permanent residence. For purposes of this provision, “the owner’s legal and permanent residence” shall mean a property owner who makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means.
5. An Accessory Dwelling Unit use, whether detached or attached, shall not exceed a maximum size as stated in the following table, unless otherwise specifically permitted by this Code.

ZONE LOT OR CARRIAGE LOT SIZE	MAXIMUM FLOOR AREA OF ACCESSORY DWELLING UNIT USE
6,000 ft <sup>2</sup> or less	650 ft <sup>2</sup>
Greater than 6,000 ft <sup>2</sup> and up to 7,000 ft <sup>2</sup>	864 ft <sup>2</sup>
Greater than 7,000 ft <sup>2</sup>	1,000 ft <sup>2</sup>

6. In order to avoid overcrowding of the accessory dwelling unit, the Accessory Dwelling Unit use shall contain a minimum of 200 square feet of gross floor area per occupant.

**SECTION 11.8.3 DOMESTIC EMPLOYEES**

In all Zone Districts, where permitted with limitations, housing of one or more domestic employee(s) is permitted as accessory to all primary residential household living uses.

**SECTION 11.8.4 GARDEN**

**11.8.4.1 All Zone Districts**

In all Zone Districts, where permitted with limitations, the growing of marijuana shall comply with the following:

- A. No more than 6 plants may be grown for each registry identification card holder or for each adult 21 years or older residing in a dwelling unit, not to exceed 12 plants per dwelling unit.
- B. Growing and/or storage of marijuana shall occur within a completely enclosed structure.
- C. Growing and/or storage of marijuana shall not occur in a common area associated with the dwelling unit.

- D. Growing shall be for personal use only by persons residing in the dwelling unit; retail or wholesale sales of goods or products derived from the growing of marijuana and any off-site distribution of such plants or derived products are prohibited.

#### 11.8.4.2 All Residential Zone Districts

In a Residential Zone District, where permitted with limitations, retail or wholesale sales of goods or products derived from a Garden accessory to a primary residential use are prohibited in a Residential Zone District unless permitted as a Fresh Produce and Cottage Foods Sales Home Occupation.

### SECTION 11.8.5 KEEPING OF HOUSEHOLD ANIMALS

#### 11.8.5.1 All Zone Districts

In all Zone Districts, where permitted with limitations:

##### A. Animals Permitted Without a Zoning Permit

The keeping of domestic or household animals is permitted as accessory to a primary dwelling unit use, subject to compliance with the following standards regarding number and kinds of animals:

KIND OF ANIMAL PERMITTED	PERMITTED NUMBER OF ANIMALS ALLOWED / STANDARDS
Dogs	3 maximum
Cats	5 maximum
Combination of dogs and cats	No more than 5 dogs and cats combined provided there are no more than 3 dogs as part of the total.
Rabbits	2 maximum
Pigeons or doves	25 maximum
Horses	No more than 1 horse for each 1/2 acre of zone lot area
Small rodents--Rats, mice, guinea pigs, hamsters and other similar animals	No numerical limit, however, the raising or breeding of these animals for resale is prohibited.
Fish	No numerical limit, however, the raising or breeding of these animals for resale is prohibited.
Small reptiles and amphibians. The types of these animals is regulated by chapter 8 of the Revised Municipal Code	No numerical limit, however, the raising or breeding of these animals for resale is prohibited.
Domestic Honey Bees	<ul style="list-style-type: none"> <li>• 2 hives per zone lot;</li> <li>• Hives must be in rear 1/3 of zone lot with a 5 foot setback from side and rear zone lot lines;</li> <li>• Hives must be screened so that the bees must surmount a 6 foot barrier, which may be vegetative, before leaving the property;</li> <li>• No outdoor storage of any bee paraphernalia or hive materials not being used as a part of a hive.</li> </ul>
Chickens and Ducks	<ul style="list-style-type: none"> <li>• No more than 8 chickens and ducks combined per zone lot.</li> <li>• No structure used to house the animals may be closer than 15 feet to: (1) a structure on an abutting zone lot containing a dwelling unit, and (2) a dwelling unit not the residence of the animal keeper(s) and located in a primary structure on the same zone lot.</li> <li>• On any residential zone lot, the animals shall be maintained in the rear 50% of the Zone Lot Depth.</li> <li>• Slaughtering of the animals as part of keeping such animals is prohibited.</li> </ul>
Dwarf Goats	<ul style="list-style-type: none"> <li>• No more than 2 Dwarf Goats, except any number of their offspring younger than 6 months, may be kept per zone lot.</li> <li>• No structure used to house the animals may be closer than 15 feet to: (1) a structure on an abutting zone lot containing a dwelling unit, and (2) a dwelling unit not the residence of the animal keeper(s) and located in a primary structure on the same zone lot.</li> <li>• On any residential Zone Lot, the goats shall be maintained in the rear 50% of the Zone Lot Depth.</li> <li>• Slaughtering of the animals as part of keeping such animals is prohibited.</li> </ul>

**B. Animals Permitted With a Zoning Permit**

The Zoning Administrator may allow the accessory keeping of animals of a type or number other than permitted in Section 11.8.5.1.A above, upon finding that the use complies with Section 11.7.1, General Provisions Applicable to All Accessory Uses, and subject to the following limitations:

1. Section 12.4.2, Zoning Permit Review with Informational Notice, is required.
2. The Zoning Administrator may not approve the keeping of animals otherwise prohibited by federal, state, or other city law.
3. The animal shall be kept solely as a pet; a hobby; for educational, research, rehabilitation or propagation purposes; or for the production of food products for personal consumption by the resident.
4. Slaughtering of the animals as part of keeping such animals is prohibited.
5. No structure used to house the animals may be closer than 15 feet to: (1) a structure on an abutting zone lot containing a dwelling unit, and (2) a dwelling unit not the residence of the animal keeper(s) and located in a primary structure on the same zone lot.

**11.8.5.2 Related Animal-Keeping Provisions**

Related provisions governing the keeping of animals are found in D.R.M.C., Chapter 8 (Animals).

**SECTION 11.8.6 KENNEL OR EXERCISE RUN**

**11.8.6.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. Outdoor kennels and exercise runs shall not exceed 200 square feet in area;
- B. The use shall be located not less than 20 feet from any habitable building on an adjacent zone lot;
- C. The use shall be located in the rear one-half of the zone lot;
- D. The use shall be visually screened from adjacent residential property by a solid fence or wall; and
- E. The number of animals permitted on-site shall comply with the limit on the number and kinds of animals stated in Section 11.8.5, Keeping of Household Animals, of this Code.

**SECTION 11.8.7 LIMITED COMMERCIAL SALES, SERVICE ACCESSORY TO MULTI-UNIT DWELLING USE**

**11.8.7.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

**A. Specific Accessory Uses Permitted**

One or more of the following Commercial Sales or Service uses may be operated as accessory to a primary Multi-Unit Dwelling use in a single structure containing 50,000 square feet or more gross floor area, provided a zoning permit is obtained according to Section 12.4.1, Zoning Permit Review, before the establishment of such accessory use or activity:

1. Banking and Financial Services.
2. Retail Sales, Repair, Service uses, provided such use contains no greater than 10,000 square feet of gross floor area.

3. Eating and Drinking Establishments, completely enclosed, provided no live entertainment or accessory Amusement Devices are permitted; and
4. Office, but not including Dental/Medical Office and/or Clinic.

**B. Applicable Limitations**

The specific accessory uses listed above may be permitted, provided such uses:

1. Are provided principally for the convenience of the owner or owners of the zone lot and the tenants thereof;
2. Do not have outdoor signs of any type;
3. Do not have separate outside entrances to the accessory use facing any street;
4. Are not evident from any street; and
5. Are incidental to the primary use.

## **SECTION 11.8.8 SECOND KITCHEN ACCESSORY TO SINGLE UNIT DWELLING USE**

### **11.8.8.1 Intent**

The allowance for a second kitchen accessory to a single-unit dwelling use is intended to accommodate additional indoor cooking and food preparation areas to supplement a home's primary kitchen.

### **11.8.8.2 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. A second kitchen in a primary single unit dwelling building, not otherwise permitted as part of a permitted attached Accessory Dwelling Unit use, is permitted as an accessory use provided a zoning permit is procured according to Section 12.4.1, Zoning Permit Review, prior to establishment of the accessory kitchen and subject to compliance with the following limitations:
  1. The applicant is the owner of the subject structure and uses the structure as his/her primary residence;
  2. The second kitchen shall be used only by the residents or domestic servants; and
  3. The applicant complies with all provisions of the Denver Building and Fire Code in the construction of the kitchen.
- B. An approved zoning permit for a second kitchen shall not be valid until the applicant has executed an agreement listing the terms and conditions fixed by the Zoning Administrator and the conditions set forth above. Such agreement shall be recorded with the Denver City Clerk and Recorder.
- C. The permit for an approved exception shall automatically expire at such time as the applicant no longer resides at the subject property.

## **SECTION 11.8.9 YARD AND/OR GARAGE SALES**

### **11.8.9.1 All Zone Districts**

In all Zone Districts, where permitted with limitations, yard and/or garage sales:

- A. Shall not exceed 72 hours of total duration;
- B. Shall not have more than one such sale in the period from January 1st to June 30th and no more than one such sale in the period from July 1st to December 31st;
- C. Items offered for sale shall not have been bought for resale or received on consignment for the purpose of resale; and
- D. All external evidence of the sale shall be removed immediately upon the conclusion of the sale.

## **DIVISION 11.9 HOME OCCUPATIONS ACCESSORY TO PRIMARY RESIDENTIAL USES - ALL ZONE DISTRICTS**

### **SECTION 11.9.1 INTENT**

- 11.9.1.1 Home Occupations are a type of accessory use that accommodates limited business activities conducted incidental to a primary residential use. This Division's allowance for Home Occupations is intended to achieve multiple city goals and objectives, including reducing the number of home-to-work vehicle trips with related improvements in air quality; facilitating small business ventures that contribute to the city's overall economic health; and accommodating demand for certain business services convenient to where prospective clients or customers live. The standards and review procedures applicable to Home Occupations are generally intended to minimize the impact such uses may have on the character and enjoyment of the surrounding residential neighborhood, while furthering the goals and objectives stated herein.
- 11.9.1.2 The Use and Parking Tables in Articles 3 through 9 reference any limitations applicable to permitted primary, accessory, or temporary uses. This Division contains limitations applicable to Home Occupation uses accessory to primary residential uses across multiple Zone Districts and neighborhood contexts.

### **SECTION 11.9.2 LIMITATIONS APPLICABLE TO ALL HOME OCCUPATIONS - ALL ZONE DISTRICTS**

In addition to any use-specific limitations in this Division 11.9, all Home Occupations in all Zone Districts shall comply with the following general limitations. In case of any conflict between the general limitations in this Section and a more specific use limitation, the more specific use limitation shall apply to the Home Occupation.

#### **11.9.2.1 Residential Use**

A Home Occupation legally operated in a dwelling unit according to this Section shall be considered, in combination with the primary dwelling unit use, a residential use for all purposes of this Code.

#### **11.9.2.2 Location**

- A. All Home Occupations shall operate in a completely enclosed structure, except that:
1. A child care home (small or large) may include outdoor play and/or seating areas.
  2. For Fresh Produce and Cottage Foods Sales, retail sales may operate unenclosed.
- B. Home Occupations may operate in the primary dwelling unit structure, or in a detached accessory structure, allowed under this Code.

#### **11.9.2.3 Personal to Applicant**

- A. Only the person or persons maintaining the dwelling unit as their primary place of residence shall operate the Home Occupation. For purposes of this provision only, "person" shall not include any corporation, partnership, firm, association, joint venture, or other similar legal entity.
- B. A zoning permit for an approved Home Occupation shall automatically expire at such time as the applicant no longer resides at the subject property.

#### **11.9.2.4 External Evidence and Signage**

- A. If operated inside the primary dwelling unit structure, the Home Occupation shall not have a separate external entrance serving the Home Occupation.

- B. The Home Occupation shall not display or create outside the building any external evidence of the operation of the Home Occupation, except for the following:
  - 1. A child care home (small or large) may include outdoor play and/or seating areas.
  - 2. For Fresh Produce and Cottage Foods Sales, retail sales may operate unenclosed and utilize temporary, portable furniture such as tables, chairs, and umbrellas during permitted operating hours only.
  - 3. One non-animated, non-illuminated flat wall or window sign having an area of not more than 100 square inches is permitted for each street frontage of the subject zone lot.

#### **11.9.2.5 Size**

One or more Home Occupation(s), whether located within a primary dwelling unit or a detached accessory structure, shall not in the aggregate utilize more than 20 percent of the gross floor area of the dwelling unit primary use, but in no case shall exceed 300 square feet. However, this limitation shall not apply to Foster Family Care, Adult Care Home, Child Care Home, Small or Large, Craft Work, or Artist Studio, or to portions of a Home Occupation permitted to operate unenclosed.

#### **11.9.2.6 Other Limitations**

- A. The Home Occupation shall not have any employees or regular assistants not residing in the primary or accessory dwelling unit located on the subject zone lot, unless specifically permitted or required by the terms of a state or city license necessary to operate the permitted Home Occupation.
- B. The use of hand tools is permitted without limitation.
- C. The use of mechanical equipment is limited to the use of electric motors for power, with a total limitation of not greater than 3 horsepower.

### **SECTION 11.9.3 CHILD CARE HOME – LARGE**

Large Child Care Home, where permitted with limitations, is permitted as a Home Occupation subject to compliance with the following limitations:

- 11.9.3.1 The applicant shall be the owner or the applicant has written permission of the owner of the subject property.
- 11.9.3.2 The proposed Large Child Care Home is the applicant's primary place of residence.
- 11.9.3.3 The applicant has obtained or will obtain upon granting of the zoning permit all licenses and certifications required by the state and the city.
- 11.9.3.4 The proposed Large Child Care Home complies with the building and fire codes and all regulations established by the City.
- 11.9.3.5 No other Large Child Care Home is located within 400 feet of the proposed Large Child Care Home.
- 11.9.3.6 The proposed Large Child Care Home complies with all the requirements of the Zone District in which it is located, excepting for any legally nonconforming structure.
- 11.9.3.7 The applicant shall implement and maintain an ongoing traffic management program that ensures that the operation of the proposed Home Occupation will not create traffic or parking problems in the neighborhood as a result of either the additional traffic introduced or the drop-off and pick-up of children, and that off-street parking shall be provided for each member of the staff on duty unless it is clearly proven that such off-street parking provisions should be modified by the Zoning Administrator.

- 11.9.3.8 The Zoning Administrator may fix such reasonable terms and conditions to the granting of a zoning permit found necessary to mitigate adverse impacts on adjacent properties. In addition, each zoning permit approved for a Large Child Care Home shall include the following conditions and requirements:
- A. The proposed home shall provide full-time supervision of the children in the home during hours of operation; and
  - B. The proposed home shall comply with the limitations on external effects as established for primary uses in the district in which it is located.

## **SECTION 11.9.4 ALL OTHER TYPES**

In all Zone Districts, where permitted with limitations, the following types of Home Occupations are permitted subject to compliance with the use-specific limitations listed below.

### **11.9.4.1 Adult Care Home**

In Zone Districts where Home Occupations of Foster Family Care, rooming and/or boarding and adult care home are permitted, only one such Home Occupation will be permitted in any single-unit dwelling or dwelling unit.

### **11.9.4.2 Animal Care Services**

Animal Care Services, including grooming, care, or boarding of domestic or household animals (but not including retail sales), are permitted as a Home Occupation provided the total number of animals in the dwelling unit is no greater than the maximum number of animals permitted as accessory uses in Section 11.8.5, Keeping of Household Animals, above.

### **11.9.4.3 Artist Studio**

- A. An Artist Studio is permitted as a Home Occupation only to create individual works of art, except that Art Galleries, Retail Sales, and other commercial retail or wholesale sales activities are not permitted as part of the permitted Artist Studio Home Occupation.
- B. In all MU Zone Districts, the restoration of individual works of art is permitted as part of the Artist Studio Home Occupation, provided the use of hazardous or toxic materials within the dwelling unit shall be subject to review and approval by the Fire Department for compliance with the Denver Fire Code.

### **11.9.4.4 Beauty Shop or Salon**

Retail sales of related beauty and grooming supplies and products are prohibited as part of the Home Occupation.

### **11.9.4.5 Child Care Home, Small**

### **11.9.4.6 Clock and Watch Repair**

Retail sales are prohibited as part of the Home Occupation.

### **11.9.4.7 Craft Work**

Retail sales of such craft work are prohibited as part of the Home Occupation.

### **11.9.4.8 Custom Dressmaking, Millinery, Tailoring, Sewing**

Custom dressmaking, millinery, tailoring, or sewing of fabric for custom apparel and custom home furnishings is permitted as a Home Occupation.

### **11.9.4.9 Food Preparation**

On-premises retail sales direct to consumers are not permitted as part of this Home Occupation. (For retail sales see Fresh Produce and Cottage Foods Sales Home Occupation).



**11.9.4.10 Foster Family Care**

Foster Family Care is permitted as a Home Occupation subject to compliance with the following standards:

- A. The dwelling unit in which the Foster Family Care is proposed is located in a Residential Zone District or Mixed Use Commercial Zone District.
- B. In Zone Districts where Home Occupations of Foster Family Care, rooming and/or boarding, and adult care home are permitted, only one such Home Occupation will be permitted in any one dwelling unit.
- C. The permit is necessary and desirable to provide a service or a facility that would contribute to the general wellbeing of the community.

**11.9.4.11 Fresh Produce and Cottage Foods Sales**

Fresh Produce and Cottage Foods Sales is permitted as a Home Occupation subject to compliance with the following standards:

- A. Items for sale are limited to the products defined in Subsection 11.12.8.2.9 Fresh Produce and Cottage Food Sales;
- B. Sales are permitted only from 8:00 a.m. until dusk daily; and
- C. The home occupation permittee must have grown, cultivated, and/or prepared all items for sale.

**11.9.4.12 Laundering and Pressing**

**11.9.4.13 Office, Non-Medical, Non-Dental**

Office, not including Dental/Medical Office and/or Clinic, is permitted as a Home Occupation subject to compliance with the following standards:

- A. No goods, wares or merchandise shall be commercially created, displayed, exchanged, stored or sold as part of a permitted office Home Occupation.
- B. Professional and personal services provided shall be by appointment only. Walk-in appointments are prohibited.

**11.9.4.14 Professional Studio**

- A. Retail sales are prohibited as part of a Professional Studio Home Occupation use.
- B. Instructional or other services provided shall be by appointment only. Walk-in appointments are prohibited.

**11.9.4.15 Rooming and/or Boarding**

Rooming and/or Boarding is permitted as a Home Occupation subject to compliance with the following standards:

- A. The dwelling unit shall contain not more than one kitchen.
- B. Number of roomers/boarders permitted - see table below:

PRIMARY RESIDENTIAL USE - ZONE DISTRICT	MAXIMUM NUMBER OF ROOMERS/BOARDERS PERMITTED AS HOME OCCUPATION
Single Unit Dwelling Use - All SU Zone Districts	1
Single Unit Dwelling Use - All Other Zone Districts	2
Two-Unit Dwelling Use - All Zone Districts	2
Multi-Unit Dwelling Use - All Zone Districts	2

- C. The number of roomers/boarders permitted under this subsection shall not affect the number of Domestic Employees permitted to reside in the same dwelling unit. See Section 11.8.3, Domestic Employees, for provisions allowing domestic employees as an accessory use to all primary residential use.
- D. In Zone Districts where Home Occupations of Foster Family Care, rooming and/or boarding and adult care home are permitted, only one such Home Occupation will be permitted in any single-unit dwelling or dwelling unit.

#### **11.9.4.16 Tutoring Services**

Tutoring services are permitted as a Home Occupation, provided no more than 4 students shall be tutored simultaneously.

### **SECTION 11.9.5 UNLISTED HOME OCCUPATIONS**

Generally, an accessory home occupation use not listed as specifically permitted in this Division 11.9 is prohibited. However, the Zoning Administrator may approve Home Occupation uses not specifically listed in this Division 11.9 according to the general provisions stated in Section 11.8.1, Unlisted Accessory Uses, except that all determinations shall be reviewed according to Section 12.4.2, Zoning Permit Review with Informational Notice. The Zoning Administrator shall not allow any of the following uses as Home Occupations:

- 11.9.5.1 Adult business uses.
- 11.9.5.2 Animal services and sales, except as specifically permitted in Section 11.9.4, Home Occupations - All Other Types.
- 11.9.5.3 Commercial parking.
- 11.9.5.4 Commercial warehousing or storage uses.
- 11.9.5.5 Industrial, manufacturing and wholesale uses, except as specifically permitted in Section 11.9.4, Home Occupations - All Other Types.
- 11.9.5.6 Retail or wholesale sales.
- 11.9.5.7 Vehicle or equipment sales, rentals, and services, including repairs.

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## **DIVISION 11.10 USES ACCESSORY TO PRIMARY NONRESIDENTIAL USES - LIMITATIONS**

The Use and Parking Tables in Articles 3 through 9 reference any limitations applicable to permitted primary, accessory, or temporary uses. This Division contains limitations applicable to specific uses accessory to primary nonresidential uses across multiple Zone Districts and neighborhood contexts. In addition to meeting the general conditions and standards applicable to all accessory uses in Division 11.7 above, the following specific accessory uses shall comply with this Division's general and specific standards.

### **SECTION 11.10.1 UNLISTED ACCESSORY USES**

#### **11.10.1.1 All Zone Districts**

- A. The Zoning Administrator shall determine and impose limitations on accessory uses not otherwise listed as permitted in an applicable Use and Parking Table in Articles 3 through 9, or not otherwise covered by the standards in this Article 11.
- B. All such determinations shall be reviewed according to the procedures and review criteria stated Section 12.4.6, Code Interpretations and Determination of Unlisted Uses. In addition to the criteria stated in Section 12.4.6, the Zoning Administrator shall determine whether a proposed accessory use is common and customary to a specific use by right, and if the use or structure is incidental to the specific use by right.
- C. The Zoning Administrator may impose limitations on the proposed accessory use, which shall be uniform throughout the Zone District, and taking into consideration the intensity of the accessory use, the numbers of accessory uses, the space required by the accessory use, and the effect on adjacent property.
- D. Matters that may be regulated according to this Section 11.10.1 shall include, but shall not be limited to the types and intensity of repairs accessory to a use by right.

### **SECTION 11.10.2 AMUSEMENT DEVICES ACCESSORY TO EATING/DRINKING ESTABLISHMENTS, COLLEGE/UNIVERSITY AND THEATER USES**

#### **11.10.2.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. Notwithstanding more restrictive provisions of this Code, any establishment holding a beer and wine license, a hotel and restaurant license, or a club or tavern license, as issued by the State Department of Revenue, may maintain as an accessory use a number of Amusement Devices as follows:
  1. 10 devices or that number which occupies no more than 10 percent of the gross floor area of the Eating and Drinking Establishment, whichever is more restrictive. This allowance excludes adult amusement or entertainment.
- B. No Amusement Device serving as an accessory use to a primary use located within 1,000 feet of a school meeting the compulsory education laws of the state shall be operated by children under the age of 18 years old during the following described periods: between 8:00 a.m. and 4:00 p.m., Monday through Friday, from September 1 to June 15, excluding holiday vacations observed by such schools.
- C. Amusement devices may be operated and maintained as a part of a primary Theater and/or Performance Space use under the following limitations:

1. Shall be operated within the same structure and under the same management as the theater;
  2. Shall occupy a floor area not exceeding ten percent of the lobby area or shall contain no more than ten Amusement Devices, whichever is more restrictive;
  3. Shall be used by theater customers who have purchased a ticket and shall not be made available to the general public; and
  4. Shall be operated in compliance with all other applicable ordinances of the city.
- D. Amusement devices may be maintained and operated as a part of a permitted College or University use, provided such devices are located in the student center, lounge or residential dormitories and do not occupy an area more than 10 percent of the ground level floor area of the structure.

## **SECTION 11.10.3 AUTOMOBILE RENTAL SERVICES ACCESSORY TO CERTAIN RETAIL USES**

### **11.10.3.1 S-CC-3x, -5x; E-CC-3x Zone Districts**

In S-CC-3x, -5x; E-CC-3x Zone Districts, where permitted with limitations:

- A. The automobile rental services shall be accessory to a primary Retail Sales, Service, & Repair, All Other use containing 20,000 or more square feet of Gross Floor Area, or to a primary Automobile/Motorcycle/Light Truck Sales, Rentals, Leasing use;
- B. Storage of all rental automobiles shall be located on the same zone lot as the office for the automobile rental service;
- C. Not more than 15 rental automobiles shall be stored at any one location;
- D. Servicing and maintenance work on automobiles is permitted only as limited to Automobile Services, Light, uses permitted in the zone district;
- E. The land area assigned for storage of rental automobiles shall not be included for computation of any required off-street parking space; and
- F. Truck rental is not permitted.

## **SECTION 11.10.4 BOOK OR GIFT STORE; MEDIA RECORDING AND PRODUCTION FACILITIES ACCESSORY TO LIBRARY, MUSEUM, ASSEMBLY, AND COLLEGE/UNIVERSITY USE**

### **11.10.4.1 All Residential Zone Districts**

- A. In a Residential Zone District, where permitted with limitations, the following are permitted as accessory to a primary public Library, Museum, Place of Religious Assembly, or University or College use:
  1. Book or gift store; and
  2. Media recording and production facilities.
- B. All such accessory uses shall not occupy more than 10 percent of the gross floor area occupied by the primary use or uses.

## **SECTION 11.10.5 CAR WASH BAY ACCESSORY TO AUTOMOBILE SERVICES OR HOTEL USES**

### **11.10.5.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. A car wash bay is permitted as accessory to an Automobile Services, Light or Heavy, use only. The car wash bay shall be limited in capacity to one vehicle and may be operated with either manual or automatic equipment;
- B. An accessory car wash bay shall be sited on a zone lot and constructed, operated, and maintained in compliance with the standards stated in this subsection, and shall comply with the building form standards in the applicable Zone District;
- C. The car wash bay shall be set back a minimum 8 feet from any abutting residential use or Residential Zone District;
- D. Adequate landscaping and solid fencing shall be installed to control the effects of noise where such bay is located adjacent to a residential use or a Residential Zone District;
- E. If the zone lot containing the car wash bay abuts a residential use or Residential Zone District, the hours of operation of the car wash bay shall be limited to the time period between 7:00 a.m. and 10:00 p.m.; and
- F. Sufficient space on the same zone lot shall be provided to accommodate 3 vehicles waiting for the car wash bay, in addition to the required off-street parking for the primary use.

## **SECTION 11.10.6 COLLEGE ACCESSORY TO A PLACE FOR RELIGIOUS ASSEMBLY**

### **11.10.6.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. A College is permitted as accessory to a primary Religious Assembly use only;
- B. The accessory College use shall not have an enrollment greater than 75 students;
- C. The accessory College use shall provide no student or faculty housing;
- D. The accessory College use shall not operate any activities before 8:00 a.m. or after 6:00 p.m.; and
- E. The accessory College use shall provide off-street parking according to the parking requirements for university or college uses in the Urban Neighborhood Context (See Article 5).

## **SECTION 11.10.7 CONFERENCE FACILITIES ACCESSORY TO HOTEL USE**

### **11.10.7.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. Conference facilities are permitted as accessory to a primary hotel use.
- B. Notwithstanding the gross floor limitations for accessory uses, conference facilities not exceeding 20 percent of the gross floor area of the hotel are permitted in addition to the floor area occupied by all other accessory uses.
- C. For purposes of this allowance for accessory conference facilities, "gross floor area" shall include net meeting space plus related service and pre-function space.

## **SECTION 11.10.8 DRIVE-THROUGH FACILITY ACCESSORY TO EATING/ DRINKING ESTABLISHMENTS AND TO RETAIL SALES, SERVICE, AND REPAIR USES**

### **11.10.8.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

#### **A. General Limitations**

1. Drive-Through Facilities shall be permitted as accessory to a primary Eating and Drinking Establishment or to a primary Retail Sales, Service, or Repair use only.
2. Drive-Through Facilities accessory to a primary Eating and Drinking Establishment shall comply with all applicable use limitations for Eating and Drinking Establishments found in this Article 11. In case of conflict with the use standards stated in this Section specific to Drive-Through Facilities, the standards in this Section shall apply.
3. Accessory Drive-Through Facilities shall be sited on a zone lot and constructed, operated, and maintained in compliance with the building form standards allowed in the applicable Zone District, and with these use-specific standards.

#### **B. Site Design Standards**

1. Any Drive-Through Facility visible from a public street or from a Residential Zone District shall provide an opaque screen along the visible portion of the drive through queuing and operating lane. Such screen shall at least meet the requirements for screening found in Section 10.5.4.3, Perimeter Surface Parking Lot Landscaping Standards.
2. All parts of any Drive-Through Facility shall be separate from parking circulation aisles.
3. Vehicle access to the site shall not unreasonably interfere with automobile or pedestrian traffic. Queuing lanes shall be adequate to prevent backups onto public streets.
4. This subsection's Drive-Through Facility standards apply only to drive through facilities that commence operations after June 1, 2006.

#### **C. Drive-Through Facilities Adjacent to a Residential Zone District**

Accessory Drive-Through Facilities on a zone lot adjacent to a Residential Zone District shall comply with the following additional standards:

1. There shall be no glare from permanent lighting or vehicle headlights projected onto an abutting Residential Zone District. To ensure glare is controlled, all external lights shall have fully shielded fixtures. Light trespass onto adjacent residential uses shall not exceed 0.3 footcandles.
2. No device that amplifies sound shall be so designed or operated that the amplified sound exceeds the City's noise ordinance standards on any private property zone lot located within a Residential Zone District beyond the boundaries of the zone lot on which the Drive-Through Facility is operated.
3. Any Drive-Through Facility located on a zone lot that is adjacent to a Residential Zone District and which has any portion of the facility located 85 feet or less from the Residential Zone District may only be open during the hours of 5:30 a.m. to 11:00 p.m., Sunday through Thursday, and 5:30 a.m. to midnight Friday and Saturday.
4. This subsection's Drive-Through Facility standards apply only to drive through facilities that commence operations after June 1, 2006.

## SECTION 11.10.9 GARDEN

### 11.10.9.1 All Zone Districts

In all Zone Districts, where accessory garden uses are permitted with limitations:

- A. The growing of marijuana in an accessory garden is prohibited when the marijuana is made available for use in a marijuana establishment requiring a license by the City or made available for sale. Any growing of marijuana in an accessory garden shall occur inside a completely enclosed structure and shall not exceed the number of plants allowed under the laws and rules and regulations of the City.
- B. Bee keeping is permitted as incidental to the accessory Garden use, subject to compliance with the standards for accessory bee-keeping stated in Section 11.8.5, Keeping of Household Animals, except that the bee keeping use need not be sited within the rear 50% of the zone lot, and except that in an Industrial Context Zone District, Open Space Context Zone District, or CMP-NWC Zone District, the number of permitted bee hives may be increased to a maximum of 2 hives per 6,000 square feet of gross zone lot area.
- C. In a Residential Zone District, retail or wholesale sales of goods or products derived from a Garden are permitted when such use is accessory to a primary nonresidential use, including but not limited to a permitted Public, Institutional and Civic Use. In all other Zone Districts, retail or wholesale sales of goods or products derived from a Garden are permitted when such use is accessory to a primary nonresidential use.

## SECTION 11.10.10 KEEPING OF ANIMALS

### 11.10.10.1 All Zone Districts

In all Zone Districts, where accessory keeping of animals is permitted with limitations:

#### A. Animals Permitted Without a Zoning Permit

Keeping of no more than 8 chickens and ducks combined per zone lot, and no more than 2 Dwarf Goats, except any number of their offspring younger than 6 months, per zone lot may be kept, provided:

1. No structure used to house the animals may be closer than 15 feet to: (1) a structure on an abutting zone lot containing a dwelling unit, and (2) a dwelling unit not the residence of the animal keeper(s) and located in a primary structure on the same zone lot; and
2. Slaughtering of the animals as part of keeping such animals is prohibited.

#### B. Animals Permitted With a Zoning Permit

The Zoning Administrator may allow the accessory keeping of animals of a type or number other than permitted in Section 11.10.10.1.A above, upon finding that the use complies with Section 11.7.1, General Provisions Applicable to All Accessory Uses, and subject to the following additional limitations:

1. Section 12.4.2, Zoning Permit Review with Informational Notice, is required when the subject property is in a:
  - a. Residential Zone District;
  - b. MS-2x and MX-2x Zone District; or
  - c. Mixed Use Commercial Zone District where the subject property is adjacent to a Residential Zone District.
2. For all other requests, Section 12.4.1, Zoning Permit Review, is required.
3. The Zoning Administrator may not approve the keeping of animals otherwise prohibited by federal, state, or other city law;



4. No structure used to house the animals may be closer than 15 feet to: (1) a structure on an abutting zone lot containing a dwelling unit, and (2) a dwelling unit not the residence of the animal keeper(s) and located in a primary structure on the same zone lot; and
5. Slaughtering of the animals as part of keeping such animals is prohibited.

#### **11.10.10.2 Related Animal-Keeping Provisions**

Related provisions governing the keeping of animals are found in D.R.M.C., Chapter 8 (Animals).

### **SECTION 11.10.11 OCCASIONAL SALES, SERVICES ACCESSORY TO PRIMARY PLACES OF RELIGIOUS ASSEMBLY OR PRIMARY USES OPERATED BY NON-PROFIT ORGANIZATIONS**

#### **11.10.11.1 All Zone Districts**

In all Zone Districts, where permitted with limitations, occasional sales of goods and services, including unenclosed occasional sales of goods and services, are permitted as accessory to the following primary uses:

- A. A primary Religious Assembly use; or
- B. A primary use operated by a non-profit organization.

### **SECTION 11.10.12 OUTDOOR EATING AND SERVING AREAS ACCESSORY TO EATING/DRINKING ESTABLISHMENT USE**

#### **11.10.12.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. Outdoor Eating and Serving Areas are permitted as accessory to an Eating and Drinking Establishment use, and shall comply with all applicable limitations stated for primary Eating and Drinking Establishments in Section 11.4.8, Eating and Drinking Establishments - All Types. In case of conflict with the use limitations stated in this section specific to Outdoor Eating and Serving Areas, the more restrictive limitation shall apply.
- B. All Outdoor Eating and Serving Areas shall comply with the following limitations:
  1. The Outdoor Eating and Serving Area shall be contiguous to the Eating and Drinking Establishment to which it is accessory.
  2. The Outdoor Eating and Serving Area shall be clearly delimited by fences, walls or plant materials, but there shall be no structure or enclosure more than 42 inches tall, except for the following:
    - a. Temporary canvas awnings or umbrellas may serve as sun shades.
    - b. Permanent structures that form a covering over the Outdoor Eating and Serving Area, provided:
      - i. The entire area of the surface of such covering shall be at least 50% permanently open to the sky and openings shall be evenly dispersed across the surface of the covering; and
      - ii. A detached permanent structure shall comply with the applicable Detached Accessory Structure building form standards except the detached building form's setback standards shall not apply.
  3. Any part of the Outdoor Eating and Serving Area located outside of a completely enclosed structure shall have a hard, all weather surface.

4. No required off-street parking spaces shall be used for the Outdoor Eating and Serving Area.

**C. Specific Limitations When Located Less than 50' from a Protected District**

**1. Applicability**

This Section 11.10.12.1.C's use standards shall apply to all accessory Outdoor Eating and Serving Areas, where permitted with limitations, in the following Zone Districts:

- a. All RX Zone Districts
- b. All CC-3x, -5x Zone Districts
- c. All CC-3, -5 Zone Districts except when Zone District abuts a Commercial Arterial Street as designated in Blueprint Denver
- d. All MX-2x, -2A, -2 Zone Districts
- e. All MX-3A, -3, -5 Zone Districts except when Zone District abuts a Commercial Arterial Street as designated in Blueprint Denver
- f. All MS-2x, -2 Zone Districts
- g. All MS-3, -5 Zone Districts except when Zone District abuts a Commercial Arterial Street as designated in Blueprint Denver
- h. All C-CCN Zone Districts
- i. All I-MX, -A, -B Zone Districts
- j. All M-RX, -IMX, -GMX Zone Districts

**2. Use Limitations**

- a. In all C-CCN Zone Districts, Outdoor Eating and Serving Areas are not permitted when located above the Street Level and less than 50 feet from the nearest boundary of a Protected District.
- b. In all other Zone Districts, and in all C-CCN Zone Districts when not located above the Street Level, Outdoor Eating and Serving Areas located less than 50 feet from the nearest boundary of a Protected District shall be reviewed according to Section 12.4.9, Zoning Permit with Special Exception Review.
- c. The Board of Adjustment, in addition to compliance with the general limitations for Outdoor Eating and Seating Areas stated in this Section 11.10.12, shall allow the operation of the Outdoor Eating and Seating Area beyond 6 p.m. only upon consideration of the following factors:
  - i. Neighboring uses;
  - ii. Seating capacity of the outdoor eating and seating area;
  - iii. Type of food or drink being served; and
  - iv. The ambient noise generated by activity on the eating and seating area, including whether outdoor speakers will be authorized.
- d. All distance and spacing requirements shall be measured according to Section 13.1.9, Measurement of Separation or Distance.

**D. Specific Limitations When Located Between 50' and Less than 100' from Protected District**

**1. Applicability**

This Section 11.10.12.1.D's limitations shall apply to all accessory Outdoor Eating and Serving Areas, where permitted with limitations, in the following Zone Districts:

- a. All RX Zone Districts,

- b. All CC-3x, -3, 5x Zone Districts, except when Zone District abuts an Arterial Street as designated in Blueprint Denver;
- c. All MX-2x, -2A, -2 Zone Districts,
- d. All MX-3A, -3 Zone Districts, except when Zone District abuts an Arterial Street as designated in Blueprint Denver;
- e. All MS-2x, -2 Zone Districts,
- f. All MS-3 Zone Districts except when Zone District abuts an Arterial Street as designated in Blueprint Denver;
- g. All I-MX, -A, -B Zone Districts,
- h. All M-RX, -IMX, -GMX Zone Districts.

**2. Use Limitations**

- a. When the Outdoor Eating and Serving Area is between 50 feet and less than 100 feet from the boundary of a Protected District, the use of the Outdoor Eating or Serving Area shall cease by 10:00 p.m., except on Friday and Saturday nights when the use of the Outdoor Eating and Serving area shall cease by 11:00 p.m.
- b. All distance and spacing requirements shall be measured according to Section 13.1.9, Measurement of Separation or Distance.

## **SECTION 11.10.13 OUTDOOR ENTERTAINMENT ACCESSORY TO AN EATING/ DRINKING ESTABLISHMENT USE**

### **11.10.13.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. Outdoor Entertainment uses are permitted accessory to a primary eating and drinking establishment use only.
- B. Outdoor Entertainment uses are subject to compliance with all applicable standards stated for primary Eating and Drinking Establishments in Section 11.4.8, Eating and Drinking Establishments - All Types. In case of conflict with the use standards stated in this Section specific to Outdoor Entertainment, the standards in this Section shall apply.
- C. All Outdoor Entertainment areas shall comply with the following standards:
  - 1. The Outdoor Entertainment area shall be contiguous to the Eating and Drinking Establishment to which it is accessory.
  - 2. The Outdoor Entertainment area shall be clearly delimited by fences, walls or plant materials, but there shall be no structure or enclosure more than 6 feet tall, except that temporary canvas awnings or umbrellas may serve as sun shades.
  - 3. Any part of the Outdoor Entertainment area located outside of the completely enclosed structure shall have a hard, all weather surface.
  - 4. No required off-street parking spaces shall be used for an Outdoor Entertainment area.
- D. If the Outdoor Entertainment area is less than 100 feet from the boundary of a Protected District (measured according to Section 13.1.9, Measurement of Separation or Distance), the use of the Outdoor Entertainment area and all activities therein shall cease by 10:00 p.m., except on Friday and Saturday nights when the use of the outdoor eating area and all activities therein shall cease by 11:00 p.m.

- E. If the Outdoor Entertainment area is less than 50 feet from the nearest boundary of any Protected District (measured according to Section 13.1.9, Measurement of Separation or Distance), it shall be reviewed according to Section 12.4.9, Zoning Permit with Special Exception Review.

## **SECTION 11.10.14 OUTDOOR RETAIL SALE AND DISPLAY**

### **11.10.14.1 All Zone Districts**

In all Zone Districts, where permitted with limitations, Outdoor Retail Sales and Display shall comply with the following limitations:

#### **A. Exemption**

Vehicles for sale, lease, or rent as part of a permitted use (including boats and manufactured housing) shall not be considered merchandise, material, or equipment subject to the requirements of this Section 11.10.14.1.

#### **B. Location and Placement Standards**

1. Outdoor retail sales and display areas are permitted adjacent to the building façade containing an entrance, and shall extend no further from such facade than the inside edge of the required fire access lane or drive aisle abutting such facade.
2. Outdoor retail sales and display areas shall not exceed 20 feet in height.
3. Outdoor retail sales and display areas shall not obstruct the ingress/egress paths to the public way. Display of highly combustible goods shall be located at least 5 feet from ingress/egress paths.
4. Outdoor retail sales and display areas shall not obscure visibility of exits or address numbers (premises identification) from the primary street frontage.
5. If located beneath building projections, the outdoor retail sales and display areas area shall be protected by sprinklers if the primary building is protected by sprinklers.
6. Outdoor retail sales and display areas shall be located such that ADA standards are met.

### **11.10.14.2 All C-CCN Zone Districts**

#### **A. Intent**

To ensure that outdoor retail and display areas are located, contained, and designed to be consistent with the intent of the C-CCN Zone Districts, to promote pedestrian and retail shopping activity at the Street Level, to ensure continuity of storefronts located at the setback line, and to use outdoor spaces to provide settings for activities that contribute to a high-quality pedestrian experience.

#### **B. Limitations**

In all C-CCN Zone Districts, where permitted with limitations, Outdoor Retail Sale and Display accessory to a primary nonresidential use shall comply with the limitations in Subsection 11.10.14.1 All Zone Districts, in addition to the following limitations:

##### **1. Location on Zone Lot**

Outdoor retail sale and display shall be located within the boundaries of the subject zone lot. Structures for the outdoor retail sale and display use shall not encroach into the minimum street setback(s) applicable to the primary building. Encroachment of outdoor retail sale and display into the public right-of-way is also prohibited.

##### **2. Relation to Temporary Outdoor Retail Sales**

This section's limitations on accessory outdoor retail sale and display do not apply to *temporary* outdoor retail sales permitted in the C-CCN Zone Districts and subject to Section 11.11.11, Outdoor Retail Sales.

## **SECTION 11.10.15 OUTDOOR STORAGE, GENERAL**

### **11.10.15.1 All I-A, I-B Zone Districts**

In all I-A and I-B Zone Districts, where permitted with limitations, General Outdoor Storage uses shall comply with the following limitations:

- A. General outdoor storage shall only be permitted following review of a site development plan illustrating the extent of the permitted area for general outdoor storage and compliance with these limitations.
- B. Shall be located at least 15 feet from the public right-of-way and any abutting Residential Zone District.
- C. Shall not be permitted in a primary or side street setback area or otherwise forward of the primary street facing facade of a Primary Structure on the Zone Lot.
- D. May be located in a side interior or rear setback area.
- E. Shall be screened by a 100 percent opaque fence or wall that complies with all of the following standards:
  1. The screening fence or wall shall be high enough to completely conceal all general outdoor storage from view from adjacent rights-of-way and from any adjacent Residential Zone District or Mixed Use Commercial Zone District.
  2. When a general outdoor storage area is located within 200 feet of a Residential or Mixed Use Commercial Zone District, the screening wall or fence shall have a minimum height of 7 feet and maximum height of 10 feet.
  3. When a general outdoor storage area is located within 100 feet of a Residential Zone District or Mixed Use Commercial Zone District, stored materials and products shall not be stacked to a height above that of the screening wall or fence.
- F. No materials or wastes shall be deposited upon a zone lot in such form or manner that they may be transferred off the zone lot by natural causes or forces.
- G. All materials or wastes that may cause fumes or dust, or which constitute a fire hazard, or which may be edible by or otherwise be attractive to rodents or insects, shall be stored outdoors only in closed containers.
- H. The following limitation shall apply to the above-ground storage of certain materials:
  1. No flammable gases or solids, combustible or flammable liquids or explosives shall be stored in bulk above ground except that:
    - a. Railroad locomotive fueling, fuel tanks for energy or heating devices or appliances, tanks containing compressed natural gas and the fueling of vehicles operated in association with a permitted use may utilize above-ground tanks, provided they are located a minimum of 1,000 feet from a Protected District protected use.
    - b. Vaulted tanks as approved by the Fire Department may be located above ground.
    - c. The parking of railroad tank cars containing explosive or flammable materials shall be located at least 1,000 feet from a protected use. The 1,000-foot spacing may be reduced by the Zoning Administrator with review and concurrence of the Fire Department, provided the owner proves by a preponderance of the evidence that the proposed storage facility will not create a hazard for nearby protected uses.
    - d. For purposes of this provision only, a “protected use” is any residential use, a hospital, or an auditorium or other building used for public assembly.

2. Liquefied petroleum gases shall be stored no closer to any boundary line of a zone lot on which they are located than that permitted by the Denver Fire Code.
3. Explosives shall be stored no closer to any boundary line of the zone lot on which they are located than that permitted by the Denver Fire Code.

## **SECTION 11.10.16 OUTDOOR STORAGE, LIMITED**

### **11.10.16.1 All Zone Districts**

In all Zone Districts, where permitted with limitations, Limited Outdoor Storage uses shall comply with the following limitations:

- A. Shall only be permitted following approval of a site development plan illustrating the extent of the permitted area for limited outdoor storage and compliance with these limitations.
- B. Shall be limited in area to no more than 10% of the gross floor area of the Primary Structure on the Zone Lot.
- C. Stored materials and products shall not be more than 12 feet in height. This height limitation shall not apply to stored materials and products in the CMP-NWC Zone District.
- D. Shall be fully screened from view from the public right-of-way, public Off-Street Parking Areas, or adjacent Residential Zone Districts by a 100 percent opaque visual barrier or screen. Chain-link fencing with slats inserted may be considered acceptable for this screening, except where located abutting or across the street from a Residential Zone District. See also Section 10.5.5, Fences and Walls.
- E. Location on Zone Lot**  
The location of limited outdoor storage on a zone lot is subject to the following conditions:
  1. Shall be located at least 15 feet from the public right-of-way and any abutting Residential Zone District;
  2. Shall be located behind the Primary Street facing facade of a Primary Structure on the same zone lot;
  3. May be located to the side of a building, provided it is not located within the required side interior or side street setback.
- F. Vehicles awaiting repair may be stored up to 14 days within the required screened limited outdoor storage area.
- G. Shopping cart storage areas located within a surface parking lot for the convenience of the primary land use's customers are exempt from the location and screening standards in Sections 11.10.16.1.B, D, and E above.
- H. No materials or wastes shall be deposited upon a zone lot in such form or manner that they may be transferred off the zone lot by natural causes or forces.
- I. All materials or wastes that may cause fumes or dust, or which constitute a fire hazard, or which may be edible by or otherwise be attractive to rodents or insects, shall be stored outdoors only in closed containers.
- J. The following limitation shall apply to the above-ground storage of certain materials:
  1. No flammable gases or solids, combustible or flammable liquids or explosives shall be stored in bulk above ground except that:
    - a. Railroad locomotive fueling, fuel tanks for energy or heating devices or appliances, tanks containing compressed natural gas and the fueling of vehicles operated in

association with a permitted use may utilize above-ground tanks, provided they are located a minimum of 1,000 feet from a Protected District protected use.

- b. Vaulted tanks as approved by the Fire Department may be located above ground.
  - c. The parking of railroad tank cars containing explosive or flammable materials shall be located at least 1,000 feet from a protected use. The 1,000-foot spacing may be reduced by the Zoning Administrator with review and concurrence of the Fire Department, provided the owner proves by a preponderance of the evidence that the proposed storage facility will not create a hazard for nearby protected uses.
  - d. For purposes of this provision only, a “protected use” is any residential use, a hospital, or an auditorium or other building used for public assembly.
2. Liquefied petroleum gases shall be stored no closer to any boundary line of a zone lot on which they are located than that permitted by the Denver Fire Code.
  3. Explosives shall be stored no closer to any boundary line of the zone lot on which they are located than that permitted by the Denver Fire Code.

## **SECTION 11.10.17 RENTAL OR SALES OF ADULT MATERIAL ACCESSORY TO RETAIL SALES OF BOOKS**

### **11.10.17.1 All Zone Districts**

In all Zone Districts, where permitted with limitations, if a bookstore rents or sells adult materials, as described in the definition of “Bookstore, Adult,” (see Article 13, Rules of Measurement and Definitions), as an accessory use, such accessory use shall comply with the following limitations:

- A. The quantity of adult materials displayed or sold shall not exceed the numerical limitations specified in the definition for “Bookstore, Adult”;
- B. All adult materials shall be segregated into a separate section of the bookstore and screened from public view; and
- C. Access to the adult materials shall be denied to all persons under the age of 18 years.

## **DIVISION 11.11 TEMPORARY USE LIMITATIONS**

The Use and Parking Tables in Articles 3 through 9 reference any limitations applicable to permitted primary, accessory, or temporary uses. This Division contains limitations applicable to specific temporary uses across multiple Zone Districts and neighborhood contexts. Temporary uses are permitted according to Section 12.4.1, Zoning Permit Review, and subject to compliance with this Division's use-specific standards, as applicable.

### **SECTION 11.11.1 UNLISTED TEMPORARY USES**

#### **11.11.1.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. The Zoning Administrator may allow and impose limitations on unlisted temporary uses according to this subsection 11.11.1.
- B. All such determinations shall be reviewed according to the procedures and review criteria stated Section 12.4.6, Code Interpretations and Determination of Unlisted Uses.

### **SECTION 11.11.2 AMBULANCE SERVICE**

#### **11.11.2.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. Not more than 2 ambulances at any one location;
- B. Vehicles to be parked in completely enclosed structure when not in use;
- C. No mechanical or maintenance work is to be done on premises and no gasoline is to be stored there;
- D. No office is to be maintained in connection with the temporary ambulance service use; and
- E. Each permit shall be valid for a period of not more than 6 months, but may be renewed; provided, however, that failure to comply with any of these standards shall be cause for revocation of any permit.

### **SECTION 11.11.3 AMUSEMENT / ENTERTAINMENT USES**

#### **11.11.3.1 All Industrial Context Zone Districts; O-1 Zone District; CMP-H and CMP-NWC Zone Districts**

In all Industrial Context Zone Districts, the O-1 Zone District, the CMP-H Zone District, and the CMP-NWC Zone District, where permitted with limitations, a temporary amusement, entertainment or recreational use on the payment of a fee or admission charge shall comply with the following standards:

- A. The temporary use shall not be enclosed.
- B. The temporary use shall be a minimum of 500 feet from a Residential Zone District. This requirement may be reduced or eliminated by the Zoning Administrator if the applicant proves by a preponderance of the evidence that the proposed use, site design, its traffic generation, and other external effects indicates a smaller separation will have no significant effect on the nearby Residential Zone District.
- C. Each permit shall be valid for a period of not more than 6 calendar months, but may be renewed.



## **SECTION 11.11.4 BAZAAR, CARNIVAL, CIRCUS OR SPECIAL EVENT**

### **11.11.4.1 All Residential Zone Districts**

In all Residential Zone Districts, where permitted with limitations:

- A. Such temporary use is limited to a place for the display and sale of miscellaneous goods and for entertainment sponsored by a nonprofit organization or governmental entity, not including motorized amusement rides.
- B. The temporary use may be operated only between 9:00 a.m. and 11:00 p.m.
- C. A temporary bazaar, carnival, circus or special event permitted under this subsection shall be valid for a period not to exceed 12 consecutive days and a period of at least 90 days shall intervene between the termination of one permit and the issuance of another permit for the same location.

### **11.11.4.2 All Mixed Use Commercial Zone Districts; OS-B Zone District**

In all Mixed Use Commercial Zone Districts and in the OS-B Zone District, where permitted with limitations:

- A. The temporary use may be operated only between 9:00 a.m. and 11:00 p.m.
- B. The temporary use may have motorized rides only if located at least 500 feet from a Residential Zone District.
- C. Each permit for such temporary use shall be valid for a period of not more than 12 consecutive days and a period of at least 90 days shall intervene between the termination of one permit and the issuance of another permit for the same location.

## **SECTION 11.11.5 BUILDING OR YARD FOR CONSTRUCTION MATERIALS**

### **11.11.5.1 All Zone Districts**

In all Zone Districts where permitted with limitations, temporary building or yard for construction materials, which is the storage of equipment and/or excavated materials both incidental and necessary to a construction project, and which may include temporary parking for construction and/or temporary parking to replace parking temporarily displaced by construction, are permitted, subject to compliance with the following limitations:

- A. Every such permit shall be valid for a period of not more than 12 calendar months and shall not be renewed for more than three successive periods at the same location; however, site cleanup shall be completed within 30 days after completion of the project, regardless of the length of the permit.
- B. Each permit shall specify the location of the building, yard and/or parking and the location of the permitted operation.
- C. Construction materials, equipment, excavated materials and/or parking shall be stored a minimum of 100 feet from a residential use within a residential structure. This spacing requirement may be reduced if concurrence is obtained from the residents living on zone lots within 100 feet of and abutting to the proposed site.
- D. Such materials, equipment and/or parking shall be screened from the view of abutting residents to the maximum extent possible as determined by the Zoning Administrator; providing, however, that no screening fence or wall shall be required that is taller than 8 feet.
- E. Such materials shall be piled no higher than 20 feet above grade and any piles above 4 feet in height shall be protected by a 7 foot high security fence with controlled access. This requirement may be modified by the Zoning Administrator if the applicant proves by a preponderance of the evidence that the modification will provide security and controlled access to the materi-

als, and the proposed method to pile or store the excavated materials is certified by a licensed engineer or other qualified professional.

- F. A temporary building shall comply with the most restrictive building setback requirements of the Zone District in which it is located.
- G. Temporary parking for construction and temporary parking to replace parking temporarily displaced by construction shall not be subject to Article 10 General Design Standards.

## **SECTION 11.11.6 CONCRETE, ASPHALT, AND ROCK CRUSHING FACILITY**

### **11.11.6.1 All Zone Districts**

In all Zone Districts, where permitted with limitations, temporary concrete, asphalt, and rock crushing facilities, both incidental and necessary to a specific construction or demolition project, shall comply with the following limitations:

- A. Equipment and/or excavated materials shall be stored a minimum of 100 feet from a residential use within a residential structure. This spacing requirement may be reduced if concurrence is obtained from the residents living on zone lots within 100 feet of and abutting the proposed site.
- B. Such materials and/or equipment shall be screened from the view of abutting residents to the maximum extent possible as determined by the Zoning Administrator; providing, however, that no screening fence or wall shall be required in excess of eight feet in height.
- C. Such materials shall be piled no higher than 20 feet above grade and any piles above 4 feet in height shall be protected by a 7 foot high security fence with controlled access. This requirement may be modified by the Zoning Administrator if the applicant proves by a preponderance of the evidence that the modification will provide security and controlled access to the materials, and the proposed method to pile or store the excavated materials is certified by a licensed engineer or other qualified professional.
- D. Any temporary buildings shall comply with the most restrictive building setback requirements of the Zone District in which they are located.
- E. Each permit shall be valid for a period of not more than 12 calendar months and shall not be renewed for more than 10 successive periods at the same location.
- F. Site cleanup, shall be completed within 30 days after completion of the project, regardless of the length of the permit.

## **SECTION 11.11.7 FENCE FOR DEMOLITION OR CONSTRUCTION WORK**

### **11.11.7.1 All Zone Districts**

In all Zone Districts, where permitted with limitations, temporary fences for demolition or construction work are permitted subject to compliance with the following limitations:

- A. Notwithstanding other limitations on fence heights in setback areas, a 6 foot high security fence may be installed around the boundary of a zone lot where demolition or construction is to occur.
- B. Each permit shall be valid for 6 months and shall not be renewed for more than 2 successive periods.

## **SECTION 11.11.8 HEALTH CARE CENTER**

### **11.11.8.1 All Residential Zone Districts**

In all Residential Zone Districts, where permitted with limitations, temporary health care centers are permitted subject to compliance with the following standards:

- A. Such use shall be operated by a political subdivision of the State of Colorado and shall provide a service but not a commodity; and
- B. Each permit shall be valid for a period of 1 calendar year and may be renewed.

## **SECTION 11.11.9 NONCOMMERCIAL CONCRETE BATCHING PLANT**

### **11.11.9.1 All Zone Districts**

In all Zone Districts where permitted with limitations, temporary noncommercial Concrete Batching Plants, both incidental and necessary to a specific construction project, are permitted subject to compliance with the following standards:

- A. Each permit shall specify the location of the plant and the area, within the same Zone District, of the permitted operation, no part of which area shall be a distance of more than two miles from the plant.
- B. Each such permit shall be valid for a period of not more than 6 calendar months and shall not be renewed for more than six successive periods at the same location.

## **OUTDOOR RETAIL SALES, TEMPORARY - ALL TYPES**

## **SECTION 11.11.10 OUTDOOR RETAIL SALES - PEDESTRIAN /TRANSIT MALL**

### **11.11.10.1 All Mixed Use Commercial Zone Districts; All Downtown Neighborhood Context Zone Districts**

In all Mixed Use Commercial Zone Districts and in all Downtown Neighborhood Context Zone Districts, where permitted with limitations, temporary outdoor retail sales of articles such as books, artwork, craft work, food, flowers, clothing, newspapers and similar articles, within 125 feet of a pedestrian and/or transit mall, are permitted subject to compliance with the following standards:

- A. The use will not obstruct the movement of pedestrians through plazas or other areas intended for public usage, and shall not create congestion on adjoining public sidewalks;
- B. The use will not generate an undue amount of noise, fumes, glare or other external effects; and
- C. The use will not create a debris or litter problem.

## **SECTION 11.11.11 OUTDOOR RETAIL SALES**

### **11.11.11.1 All Mixed Use Commercial Zone Districts; OS-B Zone District**

In all Mixed Use Commercial Zone Districts and in the OS-B Zone District, where permitted with limitations, temporary outdoor sales involving the sale and display of goods and merchandise as an extension of a primary use operating on the same zone lot, shall comply with the following standards:

- A. Each permit for the proposed use shall be valid for a period of not more than 45 days with one renewal for a period of not more than 30 days during any six month period, if all requirements hereof have been complied with during the original permit period.
- B. No required off-street parking space will be used for such merchandise display, storage or dispensing.

- C. The proposed use must be set back at least 30 feet from the curb of a public street and at least 150 feet from a single unit or two unit dwelling use.
- D. No part of the proposed use shall obstruct visibility of motorists if located near a street corner or driveway entrance, nor shall such use obstruct the parking lot circulation system or block access to a public street.
- E. No temporary structure erected in conjunction with the proposed use shall be built out of used or unpainted lumber or rusty metal, or similar material as determined by the Zoning Administrator. Tents are permitted, subject to Fire Department regulations.
- F. Notwithstanding more restrictive signage regulations found elsewhere, a maximum of 24 square feet of sign area is permitted for each use. Signage shall be limited to the walls or side of a tent, or structure or to a single freestanding sign which is not more than 24 square feet in area per sign face. The maximum sign area provisions of Division 10.10, Signs, shall not apply to this use.
- G. The applicant shall be responsible for the storage and daily removal of all trash, refuse and debris occurring on the site. All trash storage areas shall be screened from the view of persons using adjacent rights of way.
- H. This provision shall in no way be deemed to authorize the outdoor sale of used furniture, used appliances, used plumbing, used housewares, used building materials or similar items.

## **SECTION 11.11.12 OUTDOOR SALES, SEASONAL**

### **11.11.12.1 All RX Zone Districts, All Mixed Use Commercial Zone Districts, I-A Zone District, and OS-B Zone District**

In all RX Zone Districts, all Mixed Use Commercial Zone Districts, the OS-B Zone District, and the I-A Zone District, where permitted with limitations, temporary seasonal outdoor sales, not limited to the sale and display of goods and merchandise as an extension of a permitted use operating on the same zone lot, are permitted subject to compliance with the following limitations.

#### **A. Sale of Christmas Trees and Related Holiday Items**

In all Zone Districts, where temporary seasonal outdoor sales are permitted with limitations, the seasonal outdoor retail sales of Christmas trees, wreaths, and other related holiday goods shall comply with the following limitations:

1. In all RX Zone Districts, Section 12.4.2, Zoning Permit with Informational Notice shall apply.
2. In the MX-2x and MS-2x Zone District, when located within 500' of a Residential Zone District, Section 12.4.2, Zoning Permit with Informational Notice, shall apply.
3. No permit shall be effective prior to the 1st day of November in each calendar year;
4. No permit shall be valid for a period of more than 60 days; and
5. Site cleanup shall be completed no later than 5 days after Christmas day.

**B. Sale of Plants or Plant Sales Facilities**

In all Zone Districts, where temporary seasonal outdoor sales are permitted with limitations, seasonal plant sales facilities shall comply with the following limitations:

1. In all RX Zone Districts, Section 12.4.2, Zoning Permit with Informational Notice shall apply.
2. In a MX-2x and MS-2x Zone District when located within 500' of a Residential Zone District, Section 12.4.2, Zoning Permit with Informational Notice shall apply.
3. The applicant is the owner of the subject property or has written consent of the owner.
4. The proposed temporary use shall be operated wholly or partially within a temporary structure, which is not a motor vehicle or trailer.
5. The proposed temporary use, not including parking, encompasses an area of no more than one acre.
6. Permits shall be valid from April 1 through October 31 of each calendar year.
7. Parking shall be provided to encompass a minimum area equal to one-half the covered and uncovered retail sales area proposed at the facility. The Zoning Administrator may reduce or eliminate this off-street parking requirement if the applicant shows by a preponderance of the evidence that alternative parking is available and convenient to the proposed use, including but not limited to nearby on-street parking, public parking facilities, or commercial parking lots or garages. If provided on-site, parking surfaces shall be either paved or shall consist of a dust-free road base or acceptable gravel base material; and the ground area to be occupied by the proposed use shall not reduce the area occupied by the required parking of an existing permitted use on the zone lot by more than ten percent.
8. Vehicle access to the proposed facility shall provide appropriate ingress and egress areas to preclude traffic congestion on adjacent streets.
9. A security fence shall be installed around the entire area of the proposed facility consisting of an approved fencing material such as wire mesh at a height of not less than 6 feet.
10. Any advertising signage at the proposed facility shall be in place only during the proposed operations of the facility; signage shall be limited to a maximum of 50 square feet per face with no more than two signs for each street frontage of the proposed facility; and all signs shall be non-portable and shall conform to Zone District setback requirements.
11. Adequate utilities including water and electricity, as well as restroom facilities for the employees of the applicant, are available at or can be provided to the facility.
12. Lighting shall be provided for evening and night operations.
13. The proposed temporary use shall be operated in a manner that does not emit any obnoxious or dangerous degrees of heat, light, glare, or fumes beyond any boundary line encompassed by the facility.

**C. All Other Types of Temporary Outdoor Sales, Seasonal**

1. In all RX Zone Districts, Section 12.4.2, Zoning Permit with Informational Notice, shall apply.
2. In all MX-2x, -2A, -2 and MS-2x, -2 Zone Districts, when located within 500 feet of a Residential Zone District, Section 12.4.2, Zoning Permit with Informational Notice, shall apply.

3. Permits shall be valid for no longer than 6 consecutive months of any one calendar year, unless more specifically restricted in this Section.
4. Hours of operation are limited to 8:00 a.m. to 8:00 p.m. daily.
5. The temporary use shall provide off-street parking in an amount equal to one-half of the covered and uncovered retail sales area proposed at the facility. The Zoning Administrator may reduce or eliminate this off-street parking requirement if the applicant shows by a preponderance of the evidence that alternative parking is available and convenient to the proposed use, including but not limited to nearby on-street parking, public parking facilities, or commercial parking lots or garages. If provided on-site, parking surfaces shall either be paved or consist of a dust-free road base or acceptable gravel base material; and the ground area to be occupied by the proposed temporary use shall not reduce the area occupied by the required parking of an existing permitted use on the zone lot.
6. The temporary use shall comply with the setback requirements for the Zone District in which it is located and shall be at least 50 feet from any Residential Zone District.
7. The temporary use shall not obstruct the visibility of motorists, nor obstruct the parking lot circulation or block access to a public street.
8. Temporary structures associated with the temporary seasonal outdoor use shall be limited to no more than 200 square feet in gross floor area and shall obtain all required building and safety permits from the Fire Department, Environmental Health Department, and Community Planning and Development.
9. Any electrical work shall be duly permitted by the City prior to operation of the temporary use and related structures.
10. Signs shall be limited to not more than two ground or wall signs as defined in Article 13, Rules of Measurement and Definitions, with a total area not exceeding 24 square feet and located on the same zone lot as the seasonal outdoor sales. Such signs shall meet the most restrictive setback requirements of the Zone District in which they are located.
11. The applicant shall be responsible for the daily storage and removal of all trash, refuse, and debris. All trash storage facilities shall be provided with screening adequate to fully conceal such facilities from adjacent properties.
12. No truck-tractors or semi-trailers shall be parked or stored on or adjacent to the seasonal outdoor sales area.
13. No seasonal outdoor sales of fruits or vegetables shall be permitted on any zone lot where any types of chemicals or gasoline are stored or sold.

### **SECTION 11.11.13 PARKING LOT DESIGNATED FOR A SPECIAL EVENT**

#### **11.11.13.1 All Residential Zone Districts**

In Residential Zone Districts, where permitted with limitations, a temporary Off-Street Parking Area designated for a special event may be permitted by zoning permit on zone lots occupied by a non-residential use, including but not limited to a Civic, Public and Institutional use, subject to compliance with the following limitations:

- A. The Off-Street Parking Area, enclosed or unenclosed, may be used for parking for a special event only if the Off-Street Parking Area was legally established as Accessory Parking.
- B. A surface Off-Street Parking Area shall be surfaced with an all-weather surfacing material, but need not include any screening or landscaping as required by Division 10.4, Parking and Loading, or by Division 10.5, Landscaping, Fences, Walls and Screening.

- C. A parking lot manager or attendant shall either be present on the zone lot or shall make periodic, regular inspections of the zone lot (e.g., once every 30 - 60 minutes) during the entire period of each special event.
- D. The applicant shall be the owner of the property, or the owner's authorized agent.
- E. The zone lot shall be maintained in a manner that mitigates any adverse impacts on the surrounding neighborhood, including but not limited to the effect of dust, erosion and litter, and from damage caused by automobiles. The property shall be cleaned up within 24 hours after its use.
- F. Violation of any of the requirements of this section shall result in the cancellation of the zoning permit, and no new zoning permit for special event parking shall be issued for the subject zone lot until after a six-month period of time has transpired.
- G. Each zoning permit shall be valid only for a calendar year or remaining portion thereof, and shall allow parking only for the designated special events or series of special events as listed in the application for the permit.

#### **11.11.13.2 All Mixed Use Commercial Zone Districts**

In all Mixed Use Commercial Zone Districts, where permitted with limitations, a temporary Off-Street Parking Area designated for a special event may be permitted by zoning permit on a zone lot, subject to compliance with the following limitations:

- A. Each zoning permit shall be valid only for the duration of the designated special event; provided, however, that if the designated special event is a seasonal activity, the permit may be valid for the entire season but shall be restricted in use to designated dates and times during which the event is occurring.
- B. For Developed Zone Lots Containing a Structure:
  - 1. The Off-Street Parking Area, enclosed or unenclosed, may be used for parking for a special event only if the Off-Street Parking Area was legally established as Accessory Parking.
  - 2. A temporary surface Off-Street Parking Area shall be improved according to Section 10.4.7, Use and Maintenance of Parking Areas, and the dimensions for and the arrangement of parking spaces and driving aisles shall comply with the requirements of Section 10.4.6, Vehicle Parking Design.
- C. For Vacant Zone Lots:
  - 1. The surface Off-Street Parking Area shall be improved with an all-weather surfacing material comprised, at a minimum, of gravel or road base material with a thickness of at least 4 inches.
  - 2. The dimensions for and the arrangement of parking spaces and driving aisles shall comply with Section 10.4.6, Vehicle Parking Design.

#### **11.11.13.3 All I-A, I-B, OS-B, and O-1 Zone Districts**

In all I-A, I-B, OS-B, and O-1 Zone Districts, where permitted with limitations:

- A. Each permit for temporary surface Off-Street Parking Area for a designated special event shall be valid only for the duration of the designated event; provided, however, if the designated special event is a seasonal activity, the permit may be granted for the entire season but restricted in use to designated dates and times in which the event is occurring.
- B. Except in the O-1 and OS Zone Districts, a temporary surface Off-Street Parking Area shall be improved with an all-weather surfacing material comprised, at a minimum, of gravel or road base material with a thickness of at least 4 inches.

#### **11.11.13.4 All Zone Districts - Posted Sign Required**

- A. At each legal vehicle entry from the public street, no more than one advertising or directional sign may be installed, which shall be limited in size to 12 square feet.
- B. All signs related to the temporary surface Off-Street Parking Area shall be installed only during the time of the special event, shall not exceed a height of 6 feet, and need not be set back from any property line.
- C. Each parking lot shall have one sign 6 square feet in area which is installed on the front property line and which contains the following information printed in letters 2 inches high:
  1. Owner's name
  2. The temporary permit number
  3. Number of cars permitted in the lot
  4. The designated special event for which the parking is permitted

### **SECTION 11.11.14 RETAIL FOOD ESTABLISHMENT, MOBILE**

#### **11.11.14.1 All Mixed Use Commercial Zone Districts; I-A, -B Zone Districts; OS-B Zone District**

In all Mixed Use Commercial Zone Districts; I-A, -B Zone Districts; and OS-B Zone District, where permitted with limitations, mobile retail food establishments are permitted subject to compliance with the following standards:

- A. Permits shall be valid for 12 consecutive months and shall be renewed annually.
- B. Permits shall be valid for 4 consecutive hours for each day at each zone lot.
- C. No more than 1 retail food establishment, mobile shall be permitted to operate per day at each zone lot.
- D. Hours of operation shall be between 8:00 a.m. and 9:00 p.m.
- E. Operations shall only occur on zone lots and shall not reduce the area required for parking for any other use on the zone lot.
- F. Operations shall be at least 200 feet from any eating and drinking establishment lawfully existing at the time the permit or renewal permit was issued, and at least 200 feet from any other retail food establishment, mobile.
- G. Operations shall not obstruct the visibility of motorists, nor obstruct parking lot circulation or block access to a public street, alley or sidewalk.
- H. The permit authorized hereby shall be permanently displayed to the public in the food handling area of the retail food establishment, mobile during operation.
- I. Operations shall not occur outside of the retail food establishment, mobile.
- J. Structures, canopies and outdoor tables and chairs are prohibited.
- K. Signs must be permanently affixed to or painted on the retail food establishment, mobile.
- L. Signs shall not project from the retail food establishment, mobile and shall not illuminate.
- M. Operators shall be responsible for the storage and daily disposal of all trash, refuse, and litter.



- N. Operators shall not cause any liquid wastes used in the operation, with the exception of clean ice melt, to be discharged from the retail food establishment, mobile.
- O. Operations shall be located at least 50 feet from any Residential Zone District.
- P. Operations are prohibited on undeveloped zone lots and zone lots with unoccupied structures or unpaved surfaces.

## **SECTION 11.11.15 TEMPORARY CONSTRUCTION OFFICE**

### **11.11.15.1 All Zone Districts**

In all Zone Districts, where permitted with limitations, temporary construction offices needed for a specific construction project are permitted provided each permit shall be valid for a period of not more than 12 calendar months and shall not be renewed for more than three successive periods at the same location; however, site cleanup shall be completed within 30 days after completion of the project, regardless of the length of the permit.

## **SECTION 11.11.16 TEMPORARY OFFICE - REAL ESTATE SALES**

### **11.11.16.1 All Residential and Mixed Use Commercial Zone Districts**

In all Residential Zone Districts and Mixed Use Commercial Zone Districts, where permitted with limitations, temporary offices, for the sale or rental of dwelling units within one (1) specific project under construction, rehabilitation or recently completed, and both incidental and necessary for the sale or rental of real property in the Zone District are permitted subject to compliance with the following standards:

- A. Such permit shall be valid for a period of not more than 6 calendar months and shall not be renewed for more than four successive periods for the same project.
- B. Each permit shall specify the location of the temporary office and the area, within the same Zone District, of the permitted operation, no part of which area shall be a distance of more than 2 miles from the temporary office.

## **SECTION 11.11.17 TENT FOR RELIGIOUS SERVICES**

### **11.11.17.1 All Industrial Zone Districts; CMP-NWC Zone District**

In all Industrial Zone Districts and CMP-NWC, where permitted with limitations, tents for religious services shall comply with the following limitations:

- A. Must be 500 feet from a Residential Zone District.
- B. Applications shall be reviewed by the Denver Fire Department.
- C. Each such permit shall be valid for a period of one month and may be renewed.

## DIVISION 11.12 USE DEFINITIONS

This Division 11.12 contains definitions of primary, accessory and temporary uses permitted in this Code. The Division is organized in the same order as uses are presented in the Use and Parking Tables in Articles 3 through 9, with specific use definitions organized by sections and sub-sections that align with the primary use classifications and use categories, followed by sections for accessory uses and temporary uses.

### SECTION 11.12.1 PRIMARY USE CLASSIFICATION

11.12.1.1 All primary or principal land uses in Denver are organized into one of the following five general land use classifications:

- A. Residential Uses
- B. Civic, Public & Institutional Uses
- C. Commercial Sales, Service & Repair Uses
- D. Industrial, Manufacturing & Wholesale Uses
- E. Agriculture Uses

11.12.1.2 Uses are further organized into use categories and specific use types listed under each general land use classification. A definition of a specific use type shall also meet the definition of the use category in which it falls. The Use and Parking Tables in Articles 3 through 9 are all similarly organized into the above five general land use classifications, use categories and specific use types.

11.12.1.3 The general land use classifications and use categories listed in this Division are intended to be mutually exclusive; that is, a use classified into one use category, such as “lodging accommodations,” cannot be classified in a different use category, such as “group living,” unless otherwise expressly permitted by this Code.

### SECTION 11.12.2 PRIMARY RESIDENTIAL USES

#### 11.12.2.1 Definition of Household Living Use Category

##### A. Definition of Category

1. Household Living is defined as residential occupancy of a “dwelling unit” by a single “household”. Tenancy is arranged on a month-to-month or longer basis.

##### B. Definitions of Related Terms

###### 1. Dwelling Unit

One or more habitable rooms constituting a unit for permanent occupancy, having but one kitchen together with facilities for sleeping, bathing, and which unit occupies a structure or a portion of a structure.

###### 2. Household

A dwelling unit occupied by persons in any one of the following four categories living as a single non-profit housekeeping unit, including any permitted domestic employees:

- a. A single person plus, if applicable, any number of persons bearing to each other the relationship of: mother, father, grandmother, grandfather, son, daughter, brother, sister, stepson, stepdaughter, stepbrother, stepsister, stepmother, stepfather, grandson, granddaughter, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, uncle, aunt, nephew or niece; or

- b. A husband and wife plus, if applicable, any number of persons bearing to either the relationship of: mother, father, grandmother, grandfather, son, daughter, brother, sister, stepson, stepdaughter, stepbrother, stepsister, stepmother, stepfather, grandson, granddaughter, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, uncle, aunt, nephew or niece; or
- c. In a single unit dwelling use only: Two unrelated adults over the age of 18 years plus, if applicable, any persons bearing to either of the two unrelated adults the relationship of mother, father, grandmother, grandfather, son, daughter, brother, sister, stepson, stepdaughter, stepbrother, stepsister, stepmother, stepfather, grandson, granddaughter, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, uncle, aunt, nephew or niece; or
- d. In a two-unit dwelling use or multi-unit dwelling use only: Four unrelated adults over the age of 18 years plus, if applicable, any persons bearing to either of the four unrelated adults the relationship of mother, father, grandmother, grandfather, son, daughter, brother, sister, stepson, stepdaughter, stepbrother, stepsister, stepmother, stepfather, grandson, granddaughter, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, uncle, aunt, nephew or niece.

### C. Specific Household Living Use Types and Definitions

#### 1. Dwelling, Single Unit

One dwelling unit contained in a single structure.

#### 2. Dwelling, Two Unit

Two dwelling units contained in one structure located on a single zone lot.

#### 3. Dwelling, Multi-Unit

Three or more dwelling units contained in a single structure.

#### 4. Dwelling, Live/Work

A combination of residential occupancy and commercial activity located within the same dwelling unit. In a "Live/Work Dwelling," the commercial activity is a primary use in combination with a primary residential occupancy use, and the commercial occupancy shall not be considered a "Home Occupation" or other accessory use.

### 11.12.2.2 Definition of Group Living Use Category

Group Living is defined as residential occupancy of a structure by a group of people that does not meet the definitions of "household living," "lodging," or "correctional institution". Tenancy is arranged on a monthly or longer basis, except as permitted in a Shelter for the Homeless group living use, and the size of the group may be larger than a single household, and may include supervisory employees who reside on-site. Often, group living structures have a common eating area for residents. The residents may receive care, training, or treatment, and caregivers may or may not reside at the site. "Group living" includes the term "group home".

### A. Specific Group Living Use Types and Definitions

#### 1. Assisted Living Facility

A residential structure or structures licensed by the state as an assisted living residence and housing more than 8 adults. This use is a residential facility that makes available to more than 8 adults not related to the owner of such facility, either directly or indirectly through a resident agreement with the resident, room and board and at least the following services: personal services; protective oversight; social care due to impaired capacity to live independently; and regular supervision that shall be available on a 24-hour basis, but not to the extent that regular 24-hour medical or nursing care is required.

- a. Such a use shall not include residential treatment facilities for substance abusers or the mentally ill.

- b. This use shall not include the uses nursing home, hospice or residence for older adults.
- c. An assisted living facility shall not be considered a Residential Care use.
- d. A facility that otherwise meets this definition but has 8 or fewer residents shall be considered a Residential Care use, small, and not an assisted living facility.

**2. Community Corrections Facility**

A structure which provides a residence for three or more persons who have been placed in a community corrections program of correctional supervision, including a program to facilitate transition to a less-structured or independent residential arrangement; and residents of such facilities shall be those persons placed in the community corrections program by the judicial or correctional departments of the city, the state or the federal government. A community corrections facility shall be considered a Large Residential Care use.

**3. Nursing Home, Hospice**

An establishment licensed by the state department of public health, which establishment maintains and operates continuous day and night facilities providing room and board, personal services and skilled nursing care, including hospices, specifically excluding, however, hospitals. A nursing home, hospice shall not be considered a Residential Care use.

**4. Residence for Older Adults**

A single unit dwelling or multi-unit dwelling housing a number of unrelated mobile older adults (individuals fifty-five (55) or more years of age) in excess of the number of unrelated persons permitted per dwelling unit, receiving fewer services than a special care home or assisted living facility. A residence for older adults shall not be considered a Residential Care use.

**5. Residential Care Use**

**a. Definition**

A specific type of group living use where the residents are provided supervised medical, psychological, or developmental care or treatment on a daily, regular basis.

**b. Types of Residential Care Uses**

“Residential care use” is limited to the following specific types of group living uses:

- i. Transitional housing:** A residential structure housing a number of unrelated persons in excess of the number of unrelated persons permitted per dwelling unit in the Zone District, where such persons are provided with individual bedrooms, where the primary service offered at the facility is related to transitioning into permanent housing and all services provided are not sufficient to constitute a “special care home” and where occupancy of such housing is primarily made available for more than 30 days and less than 2 years. Transitional housing shall be considered a Small Residential Care use.
- ii. Shelter for the homeless:** See definition of “shelter for the homeless” in subsection 11.12.2.2.A.7.
- iii. Community corrections facility:** See definition of “community corrections facility” in subsection 11.12.2.2.A.2.
- iv. Special care home:** A special care home is a residential structure housing a number of unrelated persons in excess of the number of unrelated persons permitted per dwelling unit in the Zone District in which the dwelling unit is located, where such persons are living as a single housekeeping unit and are receiving more than 12 hours per day of on-premises treatment, supervision, custodial care or special care due to physical condition or illness, mental

condition or illness, or behavioral or disciplinary problems. A special care home, depending on its size, shall be considered a large or Small Residential Care use.

**c. Exclusions**

Residential care uses shall NOT include any of the following types of group living or institutional uses:

- i. Assisted living facility
- ii. Foster family care
- iii. Nursing home or hospice
- iv. Residence for older adults
- v. Rooming and/or boarding house.
- vi. A residential structure containing residents whose principal form of support is financial assistance.
- vii. **Safe house:** A residential structure that provides residents a place of refuge from abusive people or dangerous social situations. Such structure does not provide refuge for fugitives from justice. Such use may be permitted as a "multi unit dwelling" use.

**d. Residential Care Use, Large**

A Residential Care use that is the primary residence of 9 or more persons. "Large Residential Care use" shall include a shelter for the homeless of any size, or a community corrections facility of any size.

**e. Residential Care Use, Small**

A residential structure that is the primary residence of 8 or fewer persons, but housing a number of unrelated persons in excess of the number of unrelated persons permitted per dwelling unit in the Zone District or transitional housing of any size. This use shall not include a community corrections facility, shelter for the homeless, rooming and/or boarding house, nursing home, safe house, or large special care home.

**6. Rooming and Boarding House**

A residential building containing one or more guest rooms that are used, rented, or hired out, with or without meals, for permanent occupancy. A Rooming and Boarding House makes no provision for cooking in any of the guest rooms occupied by paying guests.

- a. A Rooming and Boarding House use shall not be considered a Residential Care use.
- b. A Rooming and Boarding House use shall not be considered a Student Housing use.

**7. Shelter for the Homeless**

A facility that has as its primary function the provision for overnight sleeping accommodations for homeless people. Tenancy may be shorter than a monthly basis in a shelter for the homeless. A shelter for the homeless shall be considered a Large Residential Care use.

**8. Student Housing**

A structure used for long-term group residential accommodations for students of a college, university or seminary, and where such structure is related to the college, university or seminary. Common cooking facilities and common gathering rooms for social purposes may also be included. May include a building used for group living quarters for members of a fraternity or sorority that has been officially recognized by the college, university or seminary.

## SECTION 11.12.3 PRIMARY CIVIC, PUBLIC & INSTITUTIONAL USES

### 11.12.3.1 Basic Utilities

#### A. Definition of Basic Utilities Use Category

Basic Utilities is defined as buildings, structures, or other facilities used or intended to be used by any private or governmental utility, not including telecommunications. This category includes buildings or structures that house or contain facilities for the operation of water, wastewater, waste disposal, natural gas or electricity services. This use also includes water storage tanks; electric or gas substations, water or wastewater pumping stations, or similar structures used as an intermediary switching, boosting, distribution, or transfer station of electricity, natural gas, water, or wastewater. This category includes passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, water, sewage, or other similar services on a local level.

#### B. Specific Basic Utilities Use Types and Definitions

##### 1. Utility, Major Impact

“Major impact utility” shall mean a utility that falls into one or more of the following descriptions:

- a. Above-grade utilities exceeding 10,000 square feet of gross site area that have a substantially larger-than-local impact; or
- b. Any above-ground utility use in the following SIC groups:
  - 4911 Electric services, including high-voltage transmission lines (115 kilovolts or more), solar generating stations with a gross site area of 10,000 square feet or greater, and wind generating stations, but not including electrical substations with a gross site area of less than 10,000 square feet (which are defined as Minor Impact Utility);
  - 4922 Natural gas transmission;
  - 4923 Natural gas transmission and distribution;
  - 4924 Natural gas distribution;
  - 4925 Mixed, manufactured, or liquefied petroleum gas production and/or distribution;
  - 493 Combination electric and gas, and other utility services;
  - 494 Water supply;
  - 495 Sanitary services;
  - 496 Steam and air-conditioning supply;
  - 497 Irrigation systems; or
- c. The following specific uses:
  - i. **Sanitary Service Facility**  
Establishments primarily engaged in sewage systems or sewage waste treatment facilities that collect, treat and dispose of waste.
  - ii. Other similar facilities, as determined by the Zoning Administrator.

##### 2. Utility, Minor Impact

- a. Above-grade utilities of less than 10,000 square feet of gross site area that have a localized impact on surrounding properties and are necessary to provide essential services, including, but not limited to, above-ground utilities of less than 10,000 square feet of gross site area in the following SIC groups:
  - i. 4813 Telephone communications, except radiotelephone, limited to telephone switching stations;
  - ii. 4911 Electric services, limited to electrical substations, and electrical relay switching stations, and solar generating stations (NAICS 221114);

- iii. 4923 Natural gas transmission and distribution, limited to natural gas distribution substations;
- iv. 494 Water supply, limited to utility pumping stations.

### **11.12.3.2 Community / Public Services**

#### **A. Definition of Community / Public Services Use Category**

Community / Public Service uses are defined as community or public safety services that meet public needs for both safety and human services such as day care, Community Centers, fire, police, or life protection, together with incidental storage and maintenance of necessary vehicles. Typical uses include senior or Community Centers, adult or child day care, fire and police stations, detention facilities and ambulance services.

#### **B. Specific Community / Public Services Use Types and Definitions**

##### **1. Community Center**

A building, together with lawful accessory buildings and uses, used to provide social, recreational, cultural, educational, health care and/or food services, which is not operated for profit.

##### **2. Day Care Center**

An establishment used for the purposes of providing care for either children or adults for less than a 24 hour consecutive period.

a. **For adults:** “Day Care Center” means a facility limited to 5 or more persons who are 18 years and older and not related to the owner, operator or manager thereof, and where care is provided for less than a 24 hour consecutive period.

b. **For children:**

- i. “Day Care Center” means a child care center organized under Chapter 11 of the Denver Revised Municipal Code, which is maintained for the whole or part of the day but for less than 24 hour care, which offers care to 5 or more children not related to the owner, operator, or manager thereof, from the ages of 6 weeks through 18 years, whether such facility is operated with or without compensation for such care, and with or without stated educational purposes, subject to the licensing requirements of the state and the city.
- ii. “Day Care Center” includes, but is not limited to, facilities commonly known as Day Care Centers, school-age child care centers, before and after school programs, nursery schools, kindergartens, preschools, day camps, summer camps, and centers for developmentally disabled children, and includes those facilities for children under the age of 6 years with stated educational purposes operated in conjunction with a public, private, or parochial college or a private or parochial school.
- iii. “Day Care Center” shall not include any kindergarten maintained in connection with a public, private, or parochial elementary school system of at least 5 grades or operated as a component of a school district’s preschool program operated pursuant to article 28 of Title 22, C.R.S.
- iv. “Day Care Center” shall not include any facility licensed as a “child day care home” or “Foster Family Care”, as defined in this Code or in the Colorado Revised Statutes.

##### **3. Postal Facility, Neighborhood**

A facility that has distribution boxes, collection, and/or retail services related to mail delivery for the general public, but no mail carriers.

- 4. Postal Processing Center**  
A facility used for the collection, sorting, processing, and distribution of bulk mail or packages to other postal facilities or to the general public, and which may have some retail services for the general public, such as stamps, postcards, or postal insurance.
- 5. Public Safety Facility**  
Facilities that provide health and safety services to the general public including, but not limited to fire stations, police stations, and emergency medicine or ambulance stations or facilities.
- 6. Hospital**  
An institution licensed by the state providing 24-hour health services, primarily for inpatients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.
- 7. Correctional Institution**  
A secured institution under the supervision of the judiciary, correctional departments of any local, state or federal governments, or any law enforcement agency, in which persons are or may be lawfully held in custody after arrest or as a result of conviction of a crime.

### **11.12.3.3 Cultural / Special Purpose / Public Parks & Open Space**

#### **A. Definition of Cultural / Special Purpose / Public Parks & Open Space Use Category**

Cultural/ Special Purpose/Parks and Open Space use category is defined as uses generally providing for display, performance, preserving, or enjoyment of heritage, history, the arts, parks and open space. The use category includes, but is not limited to museums, libraries, parks and open space owned or operated by either public or private entities.

#### **B. Specific Use Types and Definitions**

- 1. Cemetery**  
Land used for interment of human or animal remains or cremated remains, including a burial park, a mausoleum, a columbarium, necessary sale and maintenance facilities, or a combination thereof. Mortuaries shall be included when operated within the boundary of such cemetery. The definition of “cemetery” also includes “crematorium.”
  - a. Crematorium**  
A location containing properly installed, certified apparatus intended for use in the act of cremation.
- 2. City Park**  
An area of land owned or leased by the City and operated or managed by the Denver Department of Parks and Recreation.
- 3. Library**  
A public or private special purpose cultural institution housing a collection of books, magazines, audio and videotapes, or other material for use by the general public.
- 4. Museum**  
A public or private facility, including an aquarium, botanic garden, or zoo, operated as a repository or a collection of natural, scientific, or literary curiosities or objects of interest, but not including the regular sale or distribution of the objects collected. Activities may include the sale of crafts work and artwork, boutiques, and the holding of meetings and social events. This definition includes, but is not limited to, all uses in the following SIC group: 84 Museums, botanical, zoological gardens.



**5. Open Space - Recreation**

An area of land developed or intended for development with landscaping, specialized structures, and other features that promote passive or active recreational activities. May be accessible to only a segment of the public with or without payment of a fee, or may be open and accessible to the general public. Commercial parking lots or structures and storage areas for vehicles and material shall not be considered an “open space, recreation” use.

**6. Open Space - Conservation**

Any parcel or area of land or water essentially unimproved with any residential, commercial, or industrial uses or structures, and set aside or reserved for scenic, environmental, or preservation of right-of-way purposes. Conservation open space may include agricultural uses and natural features located on a site, including but not limited to steep slopes, flood plains, hazard areas, unique vegetation and critical plant communities, stream/river corridors, wetlands and riparian areas, wildlife habitat and migration corridors, areas containing threatened or endangered species and archeological, historical, and cultural resources. Commercial parking lots or structures and storage areas for vehicles and material shall not be considered an “open space, conservation” use.

**11.12.3.4 Education**

**A. Definition of Education Use Category**

A public or private facility for the general or specialized education or instruction of children or adults. Education uses may or may not meet the requirements of the State of Colorado compulsory education laws. Education uses include elementary or secondary schools, universities or colleges, and vocational or professional schools.

**B. Specific Education Use Types and Definitions**

**1. Elementary or Secondary School**

A public or private school meeting all requirements of the compulsory education laws of the state and providing instruction to students in kindergarten and grades above. The definition of Elementary or Secondary School also includes “High School.”

**a. High School**

Any school designed for instruction that includes grades 10 through 12, regardless of whether instruction is also provided in other grades.

**2. University or College**

An educational institution that offers specialized instruction in any of several fields of study and/or in a number of professions or occupations and is authorized to confer various degrees such as the bachelor’s degree. University or college uses may be composed of multiple buildings and uses organized on an integrated campus property composed of one or more zone lots and blocks. Education uses may include a variety of uses such as classroom buildings, administrative offices, sports facilities, student housing, research facilities and other related uses operated by the governing board of the institution within the campus or on adjoining zone lots.

**3. Vocational or Professional School**

Education or training in business, commerce, language, or other similar activity or occupational pursuit, or in the use of specialized, technical, or technological equipment or office machines, and not otherwise defined as Home Occupation, college or university, or elementary or secondary school.

### 11.12.3.5 Public and Religious Assembly

#### A. Definition of Public and Religious Assembly Use Category

Public and religious assembly uses are permanent places where persons regularly assemble for religious worship or secular activities, and which are maintained and controlled by a body organized to sustain the religious or public assembly. Public assembly uses include civic and social organizations such as private lodges, clubs, fraternities, and similar private membership organizations.

#### B. Specific Public and Religious Assembly Use Types and Definitions

##### 1. Religious Assembly

A building where persons regularly assemble for religious worship and which building is maintained and controlled by a religious body organized to sustain public worship.

##### 2. Club or Lodge

A building or land used for the activities of an association of persons for the promotion of a private or nonprofit common objective, such as literature, science, politics, and good fellowship. A club or lodge is not accessory to, or operated as, or in connection with a tavern, eating or drinking place, or other commercial establishment open to the general public.

## SECTION 11.12.4 PRIMARY COMMERCIAL SALES, SERVICES, & REPAIR USES

### 11.12.4.1 Adult Business

#### A. Definition of Adult Business Use Category

Adult Business are characterized by commercial establishments where the primary use is the sale, rental, display or other offering of live entertainment, dancing, or material characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas. For purposes of this use definition, the following terms shall mean:

##### 1. Specified Sexual Activities: Shall include:

- a. Human genitals in a state of sexual stimulation or arousal;
- b. Acts of human masturbation, sexual intercourse, oral or anal sex, or sodomy; or
- c. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

##### 2. Specified Anatomical Area: Shall include less than completely and opaquely covered:

- a. Human genitals and/or pubic region;
- b. The area of the buttock which is located around the lower backbone between straight lines drawn from the outermost point of the pelvis on the side of the body to the ischial tuberosity;
- c. The area of the female breast described as follows: the areola and the lower quadrant of each breast as defined by two (2) lines which crisscross the breast and intersect at right angles at the areola. Such lines also intersect at a forty-five-degree angle the vertical axis of the body as represented by the backbone when viewed from the front of the body; or
- d. Human male genitals in a discernibly turgid state, even if completely or opaquely covered.

#### B. Specific Adult Business Use Types and Definitions

##### 1. Adult Amusement or Entertainment

Amusement or entertainment which is distinguished or characterized by an emphasis on material depicting, describing or relating to “specified sexual activities” or “specified ana-

tomical area” or which feature strippers or dancers, or similar entertainment by people who expose any specified anatomical area; provided, however, that live entertainment involving any specified sexual activity is prohibited.

**2. Adult Bookstore**

An establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals and goods and items, including video tapes and computer software, held for sale or rental which are distinguished or characterized by their emphasis on matters depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” (“adult materials”). An establishment which utilizes in excess of ten (10) percent of its gross floor area or its occupied shelf space for the display of adult materials or which has more than ten (10) percent of its total monthly receipts derived from the sale or rental of adult materials shall be regarded as an “adult bookstore.”

**3. Photo Studio, Adult**

An establishment which, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing “specified anatomical areas.”

**4. Sexually Oriented Commercial Enterprise**

A massage parlor, nude studio, modeling studio, love parlor, encounter parlor or any other similar commercial enterprise whose major business is the offering of a service which is intended to provide sexual stimulation or sexual gratification to the customer but not including: (a) a business licensed to sell alcoholic beverages, (b) any bookstore or theater, (c) a business operated or employing licensed psychologists, licensed physical therapists, licensed cosmetologists or licensed barbers performing functions authorized under the license held, and (d) a business operated by or employing licensed physicians or licensed chiropractors engaged in the healing arts.

**5. Theater, Adult**

A theater used for the presentation of material distinguished or characterized by an emphasis on material depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

**11.12.4.2 Arts, Recreation & Entertainment**

**A. Definition of Arts, Recreation & Entertainment Use Category**

Arts, Recreation & Entertainment use category includes a broad array of commercial establishments that operate indoor or outdoor facilities or provide services to meet varied artistic, cultural, entertainment, and recreational interests of their patrons. Uses within this category comprise (1) establishments involved in producing, promoting, or participating in live performances, events, or exhibits intended for public viewing; (2) establishments that create, preserve and exhibit objects and sites of artistic, historical, cultural, sports or educational interest; and (3) establishments that operate facilities or provide services that enable patrons to participate in recreational activities or pursue amusement, hobby, or leisure time interests. Excluded are restaurants and night clubs that provide live entertainment in addition to the sale of food and beverages, which this Code categorizes as “eating and drinking establishments.”

**B. Specific Arts, Recreation & Entertainment Use Types and Definitions**

**1. Arts, Recreation and Entertainment Services, Indoor**

Commercial establishments providing indoor sports, recreation, and/or entertainment services by and for participants, typically in exchange for the payment of a fee or admission charge; excluding, however, Community Center and adult business uses. This definition includes, but is not limited to:

**a. Art Gallery**

A public or private facility that is operated as a repository or a collection of works of individual art pieces not mass produced, consisting of one or more of the following:

paintings, drawings, etchings or sculptures; may include the sale of the individual art pieces or the sale of related objects and services.

**b. Artist Studio**

A place where any of the commercial activities or a combination of commercial activities listed below occur:

- i. Art Gallery.
- ii. Custom or Craft Manufacturing, Fabrication, and Assembly.
- iii. Professional Studio.

**c. Amusement Center and Arcade**

**d. Billiard Parlor**

**e. Bowling Center; Ice Rink; Swimming Pool, Tennis Club and Similar Sports Clubs, Indoor**

**f. Children's Indoor Play Center**

**g. Cinemas, Motion Picture or Movie Theater**

Cinemas, motion picture or movie theaters, but not including drive-in movie theaters.

**h. Fitness and Recreational Sports Center**

Fitness and recreational sports centers and other related establishments primarily engaged in operating fitness and recreational sports facilities featuring exercise and other active physical fitness conditioning or recreational sports activities, such as swimming, skating, or racquet sports.

**i. Personal Instruction Studio**

Personal instruction studios for dance, martial arts, photography, music and similar activities.

**j. Theater and/or Live Performance Space**

Establishments that produce, organize, promote, and/or present live performances of actors, singers, dancers, musical groups, artists, and other entertainers (including independent entertainers). Live performances may be presented as musicals, operas, plays, comedy and improvisation, mime, puppet shows, or dinner theater. Such performances are open to the general public and admission may be gained by a payment or fee. Meal service may be included with the performance. This definition excludes any establishment categorized by this Code as "adult business uses."

**k. Professional Studio**

A specific type of arts, recreation and entertainment, indoor service use. A place where works of art are created, displayed and/or sold, and/or where instruction of the arts to students occurs in the fields of painting, drawing, sculpture, etching, craft work, fine arts, photography, music, or similar fields; but not including health treatment.

**l. Conference Center, Event Center**

(1) A facility that provides meeting halls, trade centers, merchandise marts, or convention centers for training and other gatherings for large numbers of people for similar functions; or (2) a nonresidential building leased or rented for private parties and other various social or business gatherings for large numbers of people (e.g., banquet halls, reception halls, dance halls, private event centers) and not associated with another permitted use such as lodging accommodations or schools.

**2. Arts, Recreation and Entertainment Services, Outdoor**

Commercial establishments engaged in providing outdoor amusement, recreation, or entertainment services by and for participants, for the payment of a fee or admission charge, excluding Community Center and adult business uses. Any spectators would be incidental and on an irregular basis. This definition includes, but is not limited to:

- a. **Amusement/Special Interest Parks**  
A complex with both indoor and Outdoor Entertainment, eating places/restaurants and/or limited retail uses, open to the public upon payment of a fee or admission charge.
  - b. **Batting Cages**
  - c. **Go-Cart Raceway**
  - d. **Ice Rinks, Outdoor**
  - e. **Miniature Golf Course**
  - f. **Private Golf Course**  
Private golf course, defined to mean an area of land laid out for the game of golf with a series of holes each including tee, fairway, and putting green and often one or more natural or artificial hazards.
  - g. **Skateboard Centers or Parks**
  - h. **Swimming Pools, Outdoor**
  - i. **Tennis Clubs, Outdoor**
  - j. **Outdoor Theaters, Amphitheaters, or Other Permanent Outdoor Performance Spaces**
3. **Sports and/or Entertainment Arena or Stadium**  
Commercial establishments designed, intended, or used primarily for indoor or outdoor large-scale spectator events including, but not limited to, professional and amateur sporting events, concerts, theatrical presentations, or motor vehicle racing. Typical uses include coliseums, arenas and sports stadiums.

#### 11.12.4.3 Parking of Vehicles

**A. Definition of Parking of Vehicles Use Category**

Parking of Vehicles is a use category including the commercial assembly or standing of vehicles, either in a garage structure or on a surface lot.

**B. Specific Parking of Vehicles Use Types and Definitions**

**1. Parking, Garage**

- a. Any structure, other than a private garage, for the assembling, or standing of vehicles in a structure for relatively temporary periods of time, either with or without charge for such assembling and standing, but not for repair, sale, dismantling, or commercial storage thereof.
- b. The term "Garage Parking" includes underground parking, which means a parking surface that is located a minimum of 8 feet below the ground story and is covered by a structure which provides a surface for another use.
- c. A parking garage may include accessory off-street parking spaces required or permitted under this Code.

**2. Parking, Surface**

The assembling or standing of vehicles on a surface parking lot for relatively temporary periods of time either with or without charge for such assembling and standing, but not for repair, sale, dismantling, or commercial storage thereof.

#### 11.12.4.4 Eating & Drinking Establishments

**A. Definition of Eating & Drinking Establishments Use Category**

Commercial establishments engaged primarily in the sale of food or drink to consumers for on-premises or off-premises consumption.

**B. Specific Eating & Drinking Establishments Use Types and Definitions**

**1. Eating and Drinking Establishment**

A retail establishment primarily engaged in the sale of prepared, ready-to-consume food and/or drinks within a completely enclosed structure. Typical uses include restaurants, fast-food outlets, snack bars, taverns, bars and brewpubs.

**2. Brewpub**

A specific type of eating and drinking establishment. A facility at which malt, vinous, or spirituous liquors are manufactured on the premises, bottled, and sold on the same premises as where the eating and drinking services are provided. No more than 30% of the manufactured product may be sold to off-premises customers. The volume of liquor manufactured on the premises of the brewpub shall not exceed 300 gallons per day each calendar year.

**11.12.4.5 Lodging Accommodations**

**A. Definition of Lodging Accommodations Use Category**

Lodging accommodations uses are characterized by visitor-serving facilities that provide temporary lodging in guest rooms or guest units, for compensation, and with an average length of stay of less than 30 days except as specifically permitted for a Single Room Occupancy (SRO) Hotel. Accessory uses may include pools and other recreational facilities for the exclusive use of guests, limited storage, restaurants, bars, meeting facilities, and offices.

**B. Specific Lodging Accommodations Use Types and Definitions**

**1. Bed and Breakfast Lodging**

An owner-occupied or manager-occupied residential structure providing rooms for temporary, overnight lodging, with or without meals, for paying guests.

**2. Extended Stay Hotel**

A hotel containing guest rooms oriented to allow independent housekeeping for occupancy by the week or by the month, or some portion thereof, with facilities for sleeping, bathing, and cooking.

**3. Hotel**

One or more buildings providing temporary lodging primarily to persons who have residences elsewhere, or both temporary and permanent lodging in guest rooms, or apartments. The building or buildings have an interior hall and lobby with access to each room from such interior hall or lobby.

**4. Hostel**

A nonprofit facility located in a residential structure and associated with a national or international hostel organization, which facility has but one kitchen and provides sleeping accommodations for not more than 25 persons. All housekeeping duties are shared by the occupants under the supervision of a resident manager.

**5. Motel**

One or more buildings providing residential accommodations and containing rental rooms and/or dwelling units, each of which has a separate outside entrance leading directly to rooms from outside the building. Services provided may include maid service and laundering of linen, telephone and secretarial or desk service, and the use and upkeep of furniture. Up to 20 percent of the residential units may be utilized for permanent occupancy.

**6. Single Room Occupancy (SRO) Hotel**

One or more buildings providing lodging accommodations in 6 or more "SRO rooms" A SRO Hotel use shall not be considered a Residential Care use or a Student Housing use. A "SRO room" means:

- a. A guest room intended or designed to be used, rented, or hired out, and which is occupied as a primary residence for any duration; and
- b. SRO Rooms may contain kitchens and/or the building(s) may contain congregate cooking and dining facilities.

#### **11.12.4.6 Office**

##### **A. Definition of Office Use Category**

The Office use category is defined as uses where services are performed for predominately administrative, professional, medical, dental or clerical operations that function as a place of business for any of the following: accountants, architects, attorneys, bookkeeping services, brokers (of stocks, bonds, real estate), building designers, corporate offices, drafting services, dentists, doctors, financial institutions, development companies, engineers, surveyors and planners, insurance agencies, interior decorators and designers, landscape architects, psychiatrists, psychologists, notaries, typing and secretarial services, therapists, and internet publishing, broadcasting, and web search portal establishments, and other similar businesses and professions, not otherwise specifically defined in this Code or separately listed in the Use and Parking Tables.

The Office Use Category also include business operations typically less service-oriented than the more traditional office uses listed above, including but not limited to: (1) software and internet content development and publishing; (2) computer systems design and programming; (3) graphic and industrial design; (4) data processing or call centers; (5) facilities that broadcast exclusively over the Internet and have no live, in-building audiences participating in such broadcasts; (6) scientific and technical services; and (7) medical and/or dental laboratories.

Contractors and others who perform services off-site but who store major equipment and materials on the site are not included in this use category.

##### **B. Specific Office Use Types and Definitions**

###### **1. Dental / Medical Office or Clinic**

An office use where the primary service is the treatment of patients or clients for physical or mental ailments and disorders, and which may also include passive (non-intrusive) research involving human subjects. Examples include doctor or dentist offices and clinics, and treatment of persons with eating disorders, sleep clinics, and other similar clinic uses. This use excludes hospital and animal hospital uses.

#### **11.12.4.7 Retail Sales, Service & Repair (Not Including Vehicle or Equipment Sales, Service & Repair)**

##### **A. Definition of Retail Sales, Service & Repair Use Category -- Not Including Vehicle or Equipment Sales, Services & Repair**

1. The Retail Sales, Service and Repair use category includes commercial establishments involved in the retail sale of new or used products, and the retail provision of consumer, repair, or rental services to individuals, households, and businesses.
2. This category includes but is not limited to:
  - a. Banking and financial services,
  - b. Food sales,
  - c. Animal sales and services,
  - d. General merchandise sales,

- e. Personal and personal care services (e.g., dry cleaning and laundry services, hair/nail salons, tanning salons, day spas, and funeral homes, and mortuaries including accessory crematory services), and
  - f. Consumer repair services.
3. This land use category excludes motor vehicle and equipment sales, leasing, rental, or repair, except for the sale of motorized vehicles that do not require a license from the Colorado Department of Motor Vehicles.

**B. Specific Retail Sales, Service & Repair Use Types and Definitions -- Not Including Vehicle or Equipment Sales, Services & Repair**

**1. Animal Sales and Services, Household Pets Only**

An establishment engaged in any of the following:

- a. The retail sale, grooming, care, or boarding of domestic or household animals only, and which may include overnight accommodations. The retail sale of domestic animals (e.g., pet store) is permitted.
- b. The maintaining, raising, harboring and/or boarding of 4 or more dogs, or 6 or more cats, or 6 or more dogs and cats shall be considered a primary “animal services and sales - household pets only” use.
- c. Provision of veterinary medicine, dentistry, or surgery services by licensed veterinary practitioners for household or domestic pets only.

**2. Animal Sales and Services, All Others**

An establishment engaged in the retail sale, grooming, care, breeding, or boarding of animals, not restricted to domestic or household pets, and which may include overnight accommodations. Includes provision of veterinary medicine, dentistry, or surgery services by licensed veterinary practitioners and animal kennels or other animal boarding facilities not limited to domestic or household pets.

**3. Body Art Establishment**

A retail establishment where the practice of physical body adornment is performed by artists utilizing, but not limited to, the following techniques: body piercing, and tattooing, but does not include establishments performing only ear piercing.

**4. Food Sales or Market**

Retail establishments primarily engaged in the retail sale of food and beverages for off-site or home consumption. Typical uses include supermarkets, groceries, markets, or delicatessens. This definition includes, but is not limited to, all uses in the following SIC group: 54 Food stores.

**5. Liquor Store**

Retail establishments licensed by the state and/or city to engage in the sale of alcoholic beverages for off-premises consumption.

**6. Pawn Shop**

Any business that loans money on deposit of personal property or deals in the purchase or possession of personal property on condition of selling the same back again to the pledger or depositor, or loans or advances money on personal property by taking chattel mortgage security thereon, and takes or receives such personal property. This definition excludes motor vehicles.

**7. Retail Sales, Service and Repair - Outdoor**

Retail sale of new or used goods or retail provision of consumer, repair, or rental services, excluding the sale, service, or repair of motor vehicle or heavy equipment (and associated vehicle/equipment parts) and firearms, any or all of which primary sale, service or repair activity occurs outside a completely enclosed structure.



**8. Retail Sales, Service & Repair - Firearm Sales**

A retail establishment having at least 25 percent of its gross floor area used for the sale of firearms, ammunition and ammunition components, and hunting or shooting equipment.

**C. Retail Sales, Service & Repair, All Others -- Definition**

This use type includes all other retail sales, service and repair uses not otherwise specifically defined in Section 11.12.4.7.B, Specific Retail Sales, Service & Repair Use Types and Definitions -- Not Including Vehicle or Equipment Sales, Services & Repair, but which are consistent with Section 11.12.4.7.A, Definition of Retail Sales, Service & Repair Use Category -- Not Including Vehicle or Equipment Sales, Services & Repair.

**1. Banking and Financial Services**

A retail establishment engaged in deposit banking or extending credit in the form of loans. This definition includes, but is not limited to, all uses in the following SIC groups:

- a. 60 Depository institutions; or
- b. 61 Non-depository institutions.

**2. Learning Center**

A commercial business that regularly provides on-site, specialized or intensive educational services or tutoring to persons under eighteen (18) years of age.

**11.12.4.8 Vehicle / Equipment Sales, Rentals, Service & Repair**

**A. Definition of Vehicle / Equipment Sales, Rentals, Service & Repair Use Category**

Vehicle/Equipment Sales, Rental, Service and Repair includes establishments engaged in the sales, rental or service of motor vehicles and equipment for homeowner use and minor residential construction and landscaping projects. Accessory uses may include offices, parking, minor repair services, and storage of equipment and vehicles.

**B. Specific Vehicle / Equipment Sales, Rentals, Service & Repair Use Types and Definitions**

**1. Automobile Emissions Inspection Facility**

A facility that is equipped to enable vehicle exhaust, evaporative, and chlorofluorocarbon emissions inspections and any necessary adjustments and repairs to be performed, and which facility owner or operator is licensed by the State of Colorado to operate as an inspection and/or readjustment station. The use "automobile emissions inspection" does not include a retail establishment engaged in the sale of automotive fuel or motor oil for automobiles.

**2. Automobile Services, Light**

A retail establishment engaged in the provision of one or more of the following types of services, but not including heavy automobile service uses or any servicing of large-scale motor vehicles and trailers:

- a. The sale of automotive fuel, motor oil, and/or services; and/or
- b. Routine maintenance and minor repair serving of automobiles, which may include washing, polishing, greasing, tire repair, wheel alignment, brake repair, muffler replacement, engine tune-up, flushing of radiators, servicing of air conditioners, and other activities of minor repair and servicing; and/or
- c. Washing, cleaning, and/or waxing of automobiles by hand or with manually operated equipment or automatic machinery.
- d. This definition includes the uses in the following SIC groups:
  - i. 5541 Gasoline service stations, except truck stops; and
  - ii. 7549 Automotive services, except the following: towing service, automotive; and wrecker service (towing), automotive.

**3. Automobile Services, Heavy**

A retail establishment engaged in the provision of one or more of the following types of services to automobiles:

- a. Major repairs to and the servicing of automobiles, including engine overhaul or replacement, body work, upholstery work, glass replacement, transmission overhaul, brake repair with drum and disc grinding, replacement of electrical accessories such as starters and alternators, frame alignment, and rebuilding of wrecked automobiles. This use includes body work and painting. This definition includes, but is not limited to, all uses in the following SIC groups:
  - i. 753 Automotive repair shops;
  - ii. 7549 Automotive services.
- b. Large-scale motor vehicles and trailers washing/laundrying and/or steam cleaning.
- c. Such use excludes commercial wrecking, dismantling, junk yard, tire, and truck-tractor repair.
- d. An “automobile services, heavy” use that is combined with one or more light automobile service use shall still be categorized as “automobile services, heavy” under this Code.

**4. Automobile / Motorcycle / Light Truck Sales, Rentals, Leasing; Pawn Lot or Vehicle Auctioneer**

- a. Sales, leasing, rental, and related servicing of new and used automobiles, light trucks, vans and sport utility vehicles limited to a capacity of not more than one-and-one-half tons, motorcycles, motor scooters, mopeds, all-terrain vehicles, snowmobiles, go-carts, automobile hitches or utility trailers, and similar items; excluding, however, commercial wrecking, dismantling, or junk yard. This definition includes, but is not limited to, all uses in the following SIC groups:
  - i. 551 New and used car dealers;
  - ii. 552 Used car dealers;
  - iii. 557 Motorcycle dealers.
- b. A business that sells at auction or loans money on deposit of such personal property as:
  - i. Automobiles, motorcycles, light trucks;
  - ii. Trucks in excess of one-and-one-half tons or equipment for use in agriculture, mining, industry, business, transportation, building, or construction; or
  - iii. Automobile hitches or trailers, house trailers, recreational vehicles, and boats.
- c. A business that deals in the purchase or possession of such personal property as vehicles or heavy vehicle equipment on condition of selling the same back again to the pledger or depositor, or loans or advances money on personal property by taking chattel mortgage security thereon, and takes or receives such personal property.

**5. Heavy Vehicle / Equipment Sales, Rentals & Service**

- a. The sales, leasing, or rental, and related servicing, of:
  - i. High capacity mechanical devices for moving earth or other materials, and mobile power units including but not limited to: carryalls, graders, loading and unloading devices, cranes, drag lines, trench diggers, tractors, augers, bulldozers, concrete mixers and conveyors, harvester combines and other major agricultural equipment and similar devices operated by mechanical power as distinguished from manpower.

- ii. Trucks in excess of one-and-one-half tons or equipment for use in agriculture, mining, industry, business, transportation, building, or construction; or
  - iii. Automobile hitches or trailers, house trailers, recreational vehicles, and boats, but excluding commercial wrecking, dismantling, or junk yard.
- b. Establishments primarily engaged in servicing, repairing, overhauling, inspecting, licensing, and maintaining aircraft.

## **SECTION 11.12.5 PRIMARY INDUSTRIAL, MANUFACTURING & WHOLESALE USES**

### **11.12.5.1 Communications and Information**

#### **A. Definition of Communications and Information Use Category**

Communication and Information includes plant, equipment and property used for the transmission of voice, data, image or video programming.

#### **B. Specific Communications and Information Use Types and Definitions**

##### **1. Communication Services**

Establishments engaged in the provision of television and film production, broadcasting, and other information relay services accomplished through the use of electronic and telephone mechanisms; excluding, however, telecommunication facilities major impact utilities. Facilities that broadcast exclusively over the Internet and have no live, in-building audiences to broadcasts shall also be excluded from this definition and shall be classified as non-dental or non-medical "office" uses. Typical uses include: television studios; television and film production studios; broadcast and/or recording studios; telecommunication or telecommuting service centers; or cable services.

##### **a. Broadcast and/or Recording Studio**

An establishment containing one or more broadcasting studios for the over-the-air, cable or satellite delivery of radio or television programs, or studios for the audio or video recording or filming of musical performances, radio, television programs or motion pictures. This term does not include transmission towers.

##### **2. Emergency Telecommunication Services**

Telecommunications established or maintained by any public agency providing emergency services such as but not limited to fire, police, and other rescue or first responders.

##### **3. Telecommunications Towers**

Any structure designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and other similar structures, including alternative tower structures. This term also includes any antenna or antenna array attached to the tower structure.

##### **4. Telecommunications Tower, Alternative Structure**

A man made structure that camouflages or obscures the presence of a tower and is designed to resemble architectural or natural features commonly associated with the site and district where they are located. All such structures shall be subject to the regulatory limitations, such as maximum height and bulk, which are otherwise applicable to like features in the Zone District. This term also includes any antenna or antenna array attached to the alternative tower structure.

##### **5. Telecommunication Facilities**

The plant, equipment and property, including but not limited to, cables, wires, conduits, ducts, pedestals, antennas, towers, alternative tower structures, electronics and other

appurtenances used to transmit, receive, distribute, provide or offer telecommunications services.

### **11.12.5.2 Industrial Services**

#### **A. Definition of Industrial Services Use Category**

Industrial Service includes the repair or servicing of industrial, business or consumer goods mainly by providing centralized services for separate retail outlets. Contractors and similar uses perform services off site. Few customers, especially the general public, come to the site.

#### **B. Specific Industrial Services Use Types and Definitions**

##### **1. Contractor, Special Trades - General**

- a. An establishment providing general contracting and/or building construction services for residential, farm, industrial, or commercial uses, and which typically does not involve outdoor storage of machinery or equipment. This definition includes the following SIC groups:
  - i. 15 General building contractors;
  - ii. 171 Plumbing, heating, air-conditioning;
  - iii. 172 Painting and paper hanging;
  - iv. 173 Electrical work;
  - v. 174 Masonry, stonework, and plastering;
  - vi. 175 Carpentry and floor work;
  - vii. 176 Roofing, siding, and sheet metal work;
  - viii. 1793 Glass and glazing work;
  - ix. 1796 Installing building equipment;
  - x. 1799 Special trade contractors.
- b. Includes special trades contractor involving the following trades:
  - i. Air conditioning;
  - ii. Cabinet making;
  - iii. Carpentry;
  - iv. Decorating;
  - v. Electrical work;
  - vi. Exterminations;
  - vii. Fire-proofing;
  - viii. Floor laying;
  - ix. Glass;
  - x. Glazing;
  - xi. Heating;
  - xii. Linoleum;
  - xiii. Masonry;
  - xiv. Ornamental iron work;
  - xv. Painting;
  - xvi. Paper hanging;
  - xvii. Plumbing;
  - xviii. Refrigeration;

- xix. Sign construction or installation;
- xx. Stone work;
- xxi. Title;
- xxii. Waterproofing;
- xxiii. Wiring;
- xxiv. Other similar trades not listed elsewhere in this Code, but specifically excluding contractors dealing with excavation, structural steel, well drilling, and other similar heavy construction.

**2. Contractors, Special Trade-Heavy/ Contractor Yard**

Establishments providing general contracting and/or building construction services other than for buildings, such as for highways and streets, bridges, sewers, and flood control projects, and which may involve outdoor storage of machinery or equipment, or a contractor yard for vehicles, equipment, materials and/or supplies. This definition includes, but is not limited to, the following SIC groups:

- a. 6 Heavy construction, **except** building;
- b. 178 Water well drilling
- c. 1791 Structural steel erection
- d. 1794 Excavation work
- e. 1795 Wrecking and demolition work

**3. Food Preparation and Sales, Commercial**

Establishments primarily engaged in the preparation and production of prepared food items in individual servings for off-premises consumption and/or sale by others. Typical uses include caterers, wholesale bakeries, commissary kitchens, specialty food packaging and/or processing shops, and flight kitchens. This definition includes, but is not limited to, uses in the following SIC groups:

- a. 2099 Food preparations
- b. 2051 Bread and other bakery products, except cookies and crackers
- c. 2052 Cookies and crackers
- d. 5812 Caterers, commissaries, and contract feeding

**4. Laboratory, Research, Development, and Technological Services**

A building or group of buildings in which are located one or more of the following types of facilities.

- a. A research and development facility, training facility, production studio, laboratory, display/showroom/sales facility, or other similar use which typically has a high ratio of square feet of floor area per employee.
- b. A building or part of a building devoted to the testing and analysis of any product or animal (including humans). No manufacturing is conducted on the premises except for experimental or testing purposes.
- c. A business primarily engaged in the development or engineering of computer software or computer hardware, but excluding retail sales, computer hardware manufacturers, and computer repair services.
- d. A facility for the servicing of technological equipment and/or office machinery, such as computers, copying machines and word processing equipment.
- e. A facility for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

- f. A facility devoted to the testing and analysis of any product or animal (not including humans), including medical laboratories, biological product (not including diagnostic) manufacturing, and blood and organ banks.
- g. A laboratory that provides bacteriological, biological, medical, x-ray, pathological and similar analytical or diagnostic services to doctors or dentists. No fabricating is conducted on the premises, except the custom fabrication of dentures or similar dental appliances. This definition excludes in-patient or overnight care, animal hospitals, veterinarians, or other similar services.

**5. Service/Repair, Commercial**

Commercial establishments primarily engaged in providing services to commercial and business establishments. Operations may include large-scale facilities and storage of merchandise and equipment outside enclosed buildings. Commercial services includes the following list of uses (including SIC groups and all subcategories not elsewhere listed):

- a. Building maintenance service
- b. Laundry or dry cleaning, commercial, industrial
- c. 721 Laundry, Cleaning, and Garment Services
- d. 735 Equipment Rental and Leasing
- e. 7623 Refrigeration Service and Repair
- f. 7692 Welding Repair
- g. 7694 Armature Rewinding Shops
- h. 7699 Establishments from SIC 7699 primarily engaged in providing repair and other services to businesses and, to a lesser extent, individuals, that by the nature of their operation could impact adjoining property due to noise, odor, vibration, and/or air or water pollution. Uses include repair or servicing of large or heavy machinery, such as engines and appliances, and welding, blacksmith, or gunsmith shops; and septic tank or sewer cleaning services; but not to include agriculture and farm equipment, industrial truck repair, and motorcycle repair.

**11.12.5.3 Manufacturing and Production**

**A. Definition of Manufacturing and Production Use Category**

Manufacturing and Production includes manufacturing and production firms involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, human-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. In most cases, relatively few customers come to the manufacturing site.

**B. Specific Manufacturing and Production Use Types and Definitions**

**1. Manufacturing, Fabrication & Assembly, Custom**

Custom Manufacturing, Fabrication and Assembly uses are defined as either 1.a. or 1.b. below:

- a. Establishments engaged in the on-site assembly of completely hand-fabricated parts, or engaged in the on-site hand-manufacture or hand-fabrication of custom or craft goods. Goods are predominantly manufactured and fabricated involving only the use of hand tools or domestic-scaled mechanical equipment and kilns not exceeding 20 square feet in size. Typical uses include ceramic studios, fabrics, inlays, needlework, weaving, leather work, woodwork, metal or glass work, candle making facilities, or custom jewelry makers.

- b. Establishments that fall into one of the following SIC groups shall be categorized as Custom Manufacturing, Fabrication and Assembly uses; this use does not include or permit the production of marijuana concentrate:
  - i. 2082 Malt beverage manufacturing of no more than 110,000 gallons per calendar year not otherwise defined as a “General” or “Heavy” Manufacturing, Fabrication and Assembly use.
  - ii. 2084 Wines, brandy and brandy spirits manufacturing of no more than 100,000 gallons per year , or a manufacturing operation licensed by the State of Colorado as a “Limited Winery”, provided the wines/brandy spirits manufacturing or Limited Winery use are not otherwise defined as a “General” or “Heavy” Manufacturing, Fabrication and Assembly use, and provided brandy and brandy spirits manufacturing uses shall be subject to the same limits on flammable liquids applicable to SIC Code 2085 (Distilled and Blended Liquor) uses in paragraph B.1.b.iii. below.
  - iii. 2085 Distilled and blended liquors manufacturing of no more than 11,000 gallons per year not otherwise defined as a “General” or “Heavy” Manufacturing, Fabrication and Assembly use, and provided no more than 960 gallons of Class 1B Flammable Liquids (ethanol) with an alcohol by volume (ABV) content of greater than 19% may be produced or utilized in production within a single building at any point in time, including bulk storage for the purposes of aging or awaiting shipment. Bottled distilled spirits and blended liquors are excluded from this limitation.

## **2. Manufacturing, Fabrication & Assembly, General**

General Manufacturing, Fabrication and Assembly uses are defined as:

- a. A manufacturing establishment primarily engaged in the fabrication or assembly of products from prestructured materials or components; or a manufacturing establishment whose operations include storage of materials; processing, fabrication, or assembly of products; and loading and unloading of new materials and finished products, and does not produce or utilize in large quantities as an integral part of the manufacturing process, toxic, hazardous, or explosive materials. Because of the nature of its operations and products, little or no noise, odor, vibration, glare, and/or air and water pollution is produced, and, therefore, there is minimal impact on surrounding properties.
- b. Establishments that fall into one of the following SIC groups shall be categorized as General Manufacturing, Fabrication and Assembly uses, provided the operations of such use are consistent with Paragraph 2.a. above:
  - i. 2082 Malt beverage manufacturing not otherwise defined as a “Custom” or “Heavy” Manufacturing, Fabrication and Assembly use;
  - ii. 2084 Wines, brandy and brandy spirits manufacturing not otherwise defined as a “Custom” or “Heavy” Manufacturing, Fabrication and Assembly use, and provided: (a) wine manufacturing uses shall be limited to no more than 100,000 gallons per year, or a manufacturing operation licensed by the State of Colorado as a “Limited Winery”; and (b) brandy and brandy spirits manufacturing uses shall be subject to the same limits on flammable liquids applicable to SIC Code 2085 (Distilled and Blended Liquor) uses in paragraph B.2.b.iii. below.
  - iii. 2085 Distilled and blended liquors manufacturing not otherwise defined as a “Custom” or “Heavy” Manufacturing, Fabrication and Assembly use, and provided no more than 960 gallons of Class 1B Flammable Liquids (ethanol) with an alcohol by volume (ABV) content of greater than 19% may be produced or utilized in production within a single building at any point in time, including

bulk storage for the purposes of aging or awaiting shipment. Bottled distilled spirits and blended liquors are excluded from this limitation.

- c. This definition includes all uses or products in the following SIC groups except as noted:
  - i. 20 Food and kindred products, **except:**
    - a) 2011 Meat packing plants;
    - b) 2015 Poultry slaughtering;
    - c) 2061 Sugar cane;
    - d) 2062 Sugar cane refining;
    - e) 2063 Sugar beet refining;
    - f) 2076 Vegetable oil mill;
    - g) 2077 Animal and marine fats and oils;
    - h) 22 Textile mill products
    - i) 23 Apparel and other textile products
  - ii. 24 Lumber and wood products except furniture, **except:**
    - a) 2491 Wood preserving;
  - iii. 25 Furniture and fixtures
  - iv. 26 Paper and allied products, **except:**
    - a) 261 Pulp mills;
    - b) 262 Paper mills; and
    - c) 263 Paper board mills
  - v. 27 Printing, heat set web process only
  - vi. 28 Chemicals and allied products, **except:**
    - a) 281 Industrial inorganic chemicals;
    - b) 282 Plastic materials and synthetic resins, synthetic rubber, cellulosic, and other man-made fibers, except glass;
    - c) 2822 Synthetic rubber;
    - d) 2836 Biological products;
    - e) 284 Soap; detergents and cleaning preparations, perfumes, cosmetics, and other toilet preparations;
    - f) 2851 Paints, varnishes, lacquers, enamel, and allied products;
    - g) 286 Industrial organic chemicals;
    - h) 287 Agricultural chemicals; and
    - i) 289 Miscellaneous chemical products.
  - vii. 30 Rubber and miscellaneous plastics and products **except:**
    - a) 301 Tires and inner tubes.
  - viii. 31 Leather and leather products
  - ix. 34 Fabricated metal products except machinery and transportation equipment **except:**
    - a) 3462 Iron and steel forgings;
    - b) 3463 Nonferrous forgings; and
    - c) 3465 Automotive stampings.
  - x. 35 Industrial and commercial machinery and computer equipment



- xi. 36 Electronic and other electrical equipment and components **except:**
    - a) 3612 Power, distribution, and specialty transformer;
    - b) 3613 Switchgear and switchboard apparatus;
    - c) 3621 Motors and generators;
    - d) 3624 Carbon and graphite products;
    - e) 3625 Relays and industrial;
    - f) 3629 Electrical industrial apparatus;
    - g) 3631 Household cooking equipment;
    - h) 3632 Household refrigerators and freezers;
    - i) 3633 Household laundry equipment; and
    - j) 3639 Household appliances.
  - xii. 37 Transportation equipment
  - xiii. 375 Motorcycles, bicycles, and parts
  - xiv. 38 Measuring, analyzing and controlling instruments, photographic, medical and optical goods, watches and clocks
  - xv. 39 Miscellaneous manufacturing industries
- d. Establishments engaged in the production of marijuana concentrate through the use of water-based extraction, food-based extraction, and/or solvent-based extraction, where no more than 3,000 square feet of gross floor area is used in the solvent-based extraction process. This definition shall not include marijuana concentrate production that complies with the definition and limitations for a “Food Preparation and Sales, Commercial” land use under this Code.
- i. For purposes of this definition, “gross floor area” shall be the sum of all floor area within a completely enclosed structure where any step in the extraction process occurs, including related storage space for equipment, chemicals or other materials used in the extraction process or space for storage of waste and by-products. However, “gross floor area” shall not include floor area devoted to offices, restrooms, or other primary land use(s) operating within the same structure. All such “gross floor area” may or may not be contiguous with each other.

### **3. Manufacturing, Fabrication & Assembly, Heavy**

- a. A manufacturing establishment whose operations include storage of materials; processing, fabrication, or assembly of products; and loading and unloading of new materials and finished products.
- b. Toxic, hazardous, or explosive materials may be produced or used in large quantities as an integral part(s) of the manufacturing process.
- c. Noise, odor, dust, vibration, or visual impacts, as well as potential public health problems in the event of an accident, could impact adjacent properties.
- d. This definition includes, but is not limited to, all uses or products in the following SIC groups and the following uses:
  - i. 2011 Meat packing plants;
  - ii. 2015 Poultry slaughtering;
  - iii. 2061 Sugar cane;
  - iv. 2062 Sugar cane refining;
  - v. 2063 Sugar beet refining;
  - vi. 2076 Vegetable oil mill;

- vii. 2077 Animal and marine fats and oils;
- viii. 2082 Malt beverage manufacturing not otherwise defined as a Custom or General Manufacturing, Fabrication & Assembly use;
- ix. 2084 Wines, brandy and brandy spirits, not otherwise defined as a Custom or General Manufacturing, Fabrication & Assembly use;
- x. 2085 Distilled and blended liquors not otherwise defined as a Custom or General Manufacturing, Fabrication & Assembly use;
- xi. 2491 Wood preserving;
- xii. 261 Pulp mills;
- xiii. 262 Paper mills;
- xiv. 263 Paper board mills;
- xv. 281 Industrial inorganic chemicals;
- xvi. 282 Plastic materials, and synthetic resins, synthetic rubber, cellulosic, and other man-made fibers, **except** glass;
- xvii. 2822 Synthetic rubber;
- xviii. 2836 Biological products;
- xix. 284 Soap, detergents, and cleaning preparations, perfumes, cosmetics and other toilet preparations;
- xx. 2851 Paints, varnishes, lacquers, enamels and allied products;
- xxi. 286 Industrial organic chemicals;
- xxii. 287 Agricultural chemicals;
- xxiii. 289 Miscellaneous chemical products;
- xxiv. 29 Petroleum refining;
- xxv. 295 Asphalt paving and roofing materials;
- xxvi. 299 Miscellaneous products of petroleum and coal;
- xxvii. 301 Tires and inner tubes;
- xxviii.32 Stone, clay, glass and concrete products;
- xxix. 321 Flat glass;
- xxx. 322 Glass and glassware, pressed or blown;
- xxxi. 324 Cement, hydraulic;
- xxxii. 325 Structural clay products;
- xxxiii.3291 Abrasive products;
- xxxiv. 3295 Minerals and earths, ground or other otherwise treated;
- xxxv. 3297 Non-clay refractories;
- xxxvi.33 Primary metal industries;
- xxxvii. 3462 Iron and steel forgings;
- xxxviii. 3463 Nonferrous forgings;
- xxxix.3465 Automotive stampings;
- xl. 3612 Power, distribution, and specialty transformer;
- xli. 3613 Switchgear and switchboard apparatus;
- xlii. 3621 Motors and generators;
- xliii. 3624 Carbon and graphite products;
- xliv. 3625 Relays and industrial;

- xliv. 3629 Electrical industrial apparatus;
  - xlvi. 3631 Household cooking equipment;
  - xlvii. 3632 Household refrigerators and freezers;
  - xlviii. 3633 Household laundry equipment;
  - xliv. 3639 Household appliances;
  - l. 3711 Motor vehicles;
  - li. 3713 Truck and bus bodies;
  - lii. 3715 Truck trailers;
  - liii. 3716 Motor homes;
  - liv. 3721 Aircraft;
  - lv. 3724 Aircraft engines;
  - lvi. 3728 Aircraft parts and auxiliary equipment;
  - lvii. 373 Ship and boat building;
  - lviii. 374 Railroad equipment;
  - lix. 376 Guided missiles and space vehicles and parts;
  - lx. 3792 Travel trailers and campers;
  - lxi. 3795 Tanks and tank components.
  - lxii. Asphalt and concrete plant;
  - lxiii. Concrete, asphalt, and rock crushing facility.
- e. Establishments engaged in the production of marijuana concentrate through the use of water-based extraction, food-based extraction, and/or solvent-based extraction, where more than 3,000 square feet of gross floor area is used for the solvent-based extraction process. This definition shall not include marijuana concentrate production that complies with the definition and limitations for a “Food Preparation and Sales, Commercial” land use under this Code.
- i. For purposes of this definition, “gross floor area” shall be the sum of all floor area within a completely enclosed structure where any step in the extraction process occurs, including related storage space for equipment, chemicals or other materials used in the extraction process or space for storage of waste and by-products. However, “gross floor area” shall not include floor area devoted to offices, restrooms, or other primary land use(s) operating within the same structure. All such “gross floor area” may or may not be contiguous with each other.

#### **11.12.5.4 Mining & Extraction and Energy Producing Systems**

##### **A. Definition of Mining & Extractions and Energy Producing Systems Use Category**

Mining, Extraction and Energy Producing Systems include the process of removing or extracting minerals and building stone from naturally occurring veins, deposits, bodies, beds, seams, fields, pools or other concentrations in the earth’s crust. This term also includes the preliminary treatment of such ore or building stone.

##### **B. Specific Mining & Extractions and Energy Producing Systems Use Types and Definitions**

###### **1. Oil, Gas - Production, Drilling**

Production of and drilling for gas and oil, along with the installation of pumps, tanks, pits, treaters, separators and other equipment, transportation of petroleum products, and natural gas and natural gas liquids processing.

- 2. Sand or Gravel Quarry**  
An open pit from which sand, gravel is taken to be processed for commercial purposes.
- 3. Wind Energy Conversion Systems**  
Any mechanism including blades, rotors and other moving surfaces designed for the purpose of converting wind into mechanical or electrical power.

#### **11.12.5.5 Transportation Facilities**

##### **A. Definition of Transportation Facilities Use Category**

Transportation Facilities Category includes a variety of facilities, generally open to the public, related to the movement of passengers and goods, whether by private auto or public transportation. Typical uses include airports, mass transit facilities, and parking facilities for vehicles.

##### **B. Specific Transportation Facilities Use Types and Definitions**

###### **1. Airport**

A facility operated by an airport authority or governmental entity that provides infrastructure and services for air travel, together with all activities necessary for, directly related to, or commonly associated with the operation of a major air carrier facility. Such services, infrastructure, and activities may include but are not limited to the following uses:

- a. Landing fields;
- b. Facilities for the parking, storage, fueling, repair, and rental of aircraft;
- c. Passenger and baggage terminals;
- d. Air cargo operations and associated facilities;
- e. Public transportation infrastructure, including terminals and stations;
- f. Safety facilities such as fire and police stations;
- g. Open space uses such as agriculture, parks, golf courses, and recreation;
- h. Energy production;
- i. Retail, concessions, and other uses designed primarily to serve airline passengers, other airport users, and space.
- j. Other accessory uses as determined by the Zoning Administrator, in consultation with the Manager of the Department of Aviation or designee, according to Section 12.4.6, Code Interpretations and Determination of Unlisted Uses.

###### **2. Helipad, Helistop, Heliport**

A facility for landing or take-off area for rotor craft; may include a passenger terminal and/or routine servicing of rotor craft.

###### **3. Railroad Facilities**

Terminal related to a freight railway; or a railway yard, maintenance, or fueling facility related to a passenger or freight railway.

###### **4. Railway Right-of-Way**

A public or private Right-of-Way for the purpose of allowing rail travel, including, but not limited to, the following elements: rail tracks, guideways, overhead power lines, relay stations, and substations, but not including Railroad Facilities.

###### **5. Terminal, Station or Service Facility for Passenger Transit System**

Facilities primarily engaged in furnishing mass passenger transportation (e.g., via bus or rail) over regular routes and on regular schedules, the operations of which may be principally outside of a single municipality, contiguous municipalities, a municipality and its suburban areas or a regional transportation district. Terminal and service facilities for passenger transit systems are limited only to the following specific uses:

- a. Passenger stations, terminals, or transfer stations;
- b. Service facilities for transit vehicles but not including railway yard, maintenance, or fueling facilities for rail transit vehicles (the latter are categorized as “railway facility” uses); and
- c. Parking lots provided for the use of passengers or employees of the transit provider.

**6. Terminal, Freight, Air Courier Services**

Facilities for handling freight, with or without storage and maintenance facilities. This definition includes, but is not limited to, all uses in the following SIC groups and the following uses:

- a. 421 Trucking and courier services;
- b. 423 Trucking terminal facilities;
- c. Railroad terminal facilities;
- d. 4513 which includes:
  - i. Courier services, air;
  - ii. Letter delivery, private: air;
  - iii. Package delivery, private: air;
  - iv. Parcel delivery, private: air.

**11.12.5.6 Waste Related Services**

**A. Definition of Waste Related Services Use Category**

Waste Related Services include establishments that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the biological decomposition of organic material. Waste/Salvage uses also include uses that receive hazardous wastes from others.

**B. Specific Waste Related Services Use Types and Definitions**

**1. Automobile Parts Recycling Business**

An establishment at which motor vehicles are dismantled for the purpose of selling usable parts and which does not include a junk yard.

**2. Junk yard**

A place where junk, waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including automobile wrecking yards, house wrecking and structural steel materials and equipment, but not including the purchase or storage of used furniture and household equipment, used cars in operable condition, used or salvaged materials as part of manufacturing operations.

**3. Recycling Center**

A facility at which recoverable resources, such as newspapers, magazines, glass, metal cans, plastic materials, tires, grass and leaves, and similar items, except mixed, unsorted municipal waste or medical waste are collected, stored, flattened, crushed, bundled or separated by grade or type, compacted, baled or packaged for shipment to others for the manufacture of new products. This use does not include SIC group 5015 (motor vehicle parts, used), which is listed as a separate use.

**4. Recycling Collection Station**

Establishments engaged in collecting recyclable paper, household items, glass, plastic, aluminum, or other materials for the purpose of resource recovery. Typical uses include collection centers that use portable receptacles for collecting containers made from metal, glass, paper, or plastic.

- 5. Recycling Plant, Scrap Processor**  
A facility at which recoverable resources, such as newspapers, magazines, books, and other paper products; glass; metal and aluminum cans; waste oil; iron and steel scrap; rubber; organic materials; and/or other products are recycled and treated to return such products to a condition in which they may again be used for production or for retail or wholesale trade. This definition includes, but is not limited to, all uses in the following SIC group:
  - a. 5093 Scrap and waste materials.
- 6. Solid Waste Facility**  
An establishment in which municipal solid waste is collected, separated by material, compacted, baled or packaged for shipment to others for the manufacture of new products or for disposal. No manufacturing, remanufacturing, fabrication or processing of new products shall occur in this facility. This use may include a waste transfer station.

#### **11.12.5.7 Wholesale, Storage, Warehouse & Distribution**

- A. Definition of Wholesale, Storage, Warehouse & Distribution Use Category**  
Establishments primarily engaged in the sale, storage and distribution of goods and materials in large quantity to retailers or other businesses for resale to individual or business customers. This land use category does not include heavy manufacturing, resource extraction, scrap operations, or salvage operations.
- B. Specific Wholesale, Storage, Warehouse & Distribution Use Types and Definitions**
  - 1. Automobile Towing Service Storage Yard**  
The assembling or standing of damaged or impounded vehicles for indeterminate periods of time. Such use shall not include the wrecking, dismantling or repairing of vehicles.
  - 2. Mini-storage Facility**  
Provision of storage space for nonhazardous household or commercial goods within a completed enclosed building, which building typically permits direct public access to individual storage spaces. Storage of non-toxic, non-hazardous materials only, and sale or distribution of stored goods is prohibited. This use may include quarters for one or more persons employed by and residing at the mini-storage facility for the purpose of on-site management and security.
  - 3. Storage Services**  
The use of a building or part of a building designed for storing nonhazardous goods; business, personal, or household effects; and other items of personal property by or with permission of the owner of that personal property. Typically, such building does not provide individual entrances to storage units from the exterior of the structure.
  - 4. Vehicle Storage, Commercial**  
The assembling or standing of operable vehicles for periods of more than one day. Such use shall not include the storage of damaged, dismantled or impounded vehicles. This land use need not be enclosed.
  - 5. Wholesale Trade or Storage, General**  
“Wholesale trade or storage, general” use is defined to include all of the following activities:
    - a. Establishments primarily engaged in one or more of the following activities: Selling durable and nondurable goods to retailers; to industrial, commercial, institutional, farm, or building trade contractors; to professional businesses; or to other wholesalers. Activities may include physically assembling, sorting, and grading goods into large lots and breaking bulk for redistribution in smaller lots.

- b. The sale at wholesale and/or storage or warehousing of toxic and/or hazardous materials as defined in Article 13, Rules of Measurement and Definitions.
- c. Establishments providing support services primarily to other businesses (rather than to individuals), including but not limited to the following types of services:
  - i. Advertising;
  - ii. Employment services;
  - iii. Equipment rental and leasing;
  - iv. Property management, security and maintenance, including custodial services;
  - v. Printing and reproduction services;
  - vi. Publishing and bookbinding;
  - vii. Air courier pickup and delivery “drop-off points”;
  - viii. Personnel services;
  - ix. Computer programming, data processing and other computer-related services;
  - x. Mailing, addressing, stenographic services; and
  - xi. Special business services such as travel bureaus, news service, importer, interpreter, appraiser, film library.
  - xii. Business to business brokers or agents that arrange for the purchase or sale of goods for others, and which services do not include the warehousing of goods, are classified as “office” uses.
- d. The wholesale trade, distribution, or storage of products in the following SIC groups:
  - i. 501 Motor vehicles, parts, and supplies (except motor vehicle parts, used, SIC group 5015);
  - ii. 505 Metals and minerals, except petroleum;
  - iii. 5047 Medical, Dental and Hospital Equipment and Supplies
  - iv. 508 Machinery, equipment, and supplies;
  - v. 515 Farm-product raw materials;
  - vi. 516 Chemicals and allied products;
  - vii. 5191 Farm supplies.
- e. Operations with more than 25 percent of sales to retail customers shall be categorized as “retail sales” rather than as “wholesale trade” uses.

**6. Wholesale Trade or Storage, Light**

“Wholesale trade or storage, light” use is defined to include all of the following activities:

- a. Establishments primarily engaged in selling durable and nondurable goods to retailers; to industrial, commercial, institutional, farm, building trade contractors; to professional business uses; or to other wholesalers. Activities may include physically assembling, sorting, and grading goods into large lots and breaking bulk for redistribution in smaller lots in such a way as to have a minimal impact on surrounding properties.
- b. “Wholesale trade or storage, light” does not include the sale at wholesale and/or storage or warehousing of toxic and/or hazardous materials, as defined in Article 13, Rules of Measurement and Definitions.
- c. Establishments providing support services primarily to other businesses (rather than to individuals), including but not limited to the following types of services:

- i. Advertising;
  - ii. Employment service;
  - iii. Equipment rental and leasing;
  - iv. Property management, security and maintenance, including custodial services;
  - v. Printing and reproduction services;
  - vi. Publishing and bookbinding;
  - vii. Air courier pickup and delivery “drop-off points”;
  - viii. Personnel services;
  - ix. Computer programming, data processing and other computer-related services;
  - x. Mailing, addressing, stenographic services; and
  - xi. Special business services such as travel bureaus, news service, importer, interpreter, appraiser, film library.
  - xii. Business to business brokers or agents that arrange for the purchase or sale of goods for others, and which services do not include the warehousing of goods, are classified as “office” uses.
- d. The wholesale trade, distribution, or storage of products in the following SIC groups:
- i. 502 Furniture and home furnishings;
  - ii. 503 Lumber and construction materials;
  - iii. 504 Professional and commercial equipment;
  - iv. 506 Electrical goods;
  - v. 507 Hardware, plumbing, and heating equipment;
  - vi. 509 Miscellaneous durable goods (except scrap and waste materials, SIC group 5093);
  - vii. 511 Paper and paper products;
  - viii. 512 Drugs, proprietaries, and sundries;
  - ix. 513 Apparel, piece goods, and notions;
  - x. 514 Groceries and related products;
  - xi. 518 Beer, wine, and distilled beverages;
  - xii. 519 Miscellaneous nondurable goods (except farm supplies, SIC group 5191).
- e. The following specific uses:
- i. Storage services, as defined in Subsection B.3 above.
- f. Operations with more than 25 percent of sales to retail customers shall be categorized as “retail sales” rather than as “wholesale trade” uses.

## **SECTION 11.12.6 PRIMARY AGRICULTURE USES**

### **A. Definition of Agriculture Use Category**

Agriculture Use Category includes cultivation, production, keeping, or maintenance for personal use, donation, sale or lease, of: (1) plants, including but not limited to: forages and sod crops; grains and seed crops; fruits and vegetables; herbs; and ornamental plants; and (2) livestock, including but not limited to: dairy animals and dairy products; poultry and poultry products; cattle and cattle products; or horses.



## **B. Specific Agriculture Use Types and Definitions**

### **1. Aquaculture**

An agricultural use in which food fish, shellfish or other marine foods, aquatic plants, or aquatic animals are cultured or grown in order to sell them or the products they produce. Includes fish hatcheries, growing tanks or raceways; the processing, storage, packaging and distribution of shellfish and fish; and accessory uses such as feed storage and water treatment facilities. This use does not include or permit the growing of marijuana.

### **2. Garden, Urban**

Land that is (1) managed by a public or nonprofit organization, or by one or more private persons, and (2) used to grow and harvest plants for donation, for personal use consumption, or for off-site sales by those managing or cultivating the land and their households. This use does not include or permit the growing of marijuana.

### **3. Husbandry, Animal**

The cultivation, production, and management of animals and/or by-products thereof, including, but not limited to grazing of livestock and production of meat, fur, or eggs; excluding, however, feed lots (see definition below), hog farms, dairies, poultry and egg production facilities, bee-keeping and apiaries, horse boarding, and riding stables.

#### **a. Feed Lot**

A feed lot shall be determined to be any of the following facilities:

- i. Any tract of land or structure wherein any type of fowl or the by-products thereof are raised for sale at wholesale or retail; or
- ii. Any structure, pen or corral wherein cattle, horses, sheep, goats and swine are maintained in close quarters for the purpose of fattening such livestock before final shipment to market; or
- iii. The raising of swine under any conditions.

### **4. Husbandry, Plant**

An agricultural use, other than a Plant Nursery, in which plants are cultivated or grown for the sale of such plants or their products, or for their use in any other business, research, or commerce; excluding, however, forestry and logging uses. This use includes the cultivation or growing of marijuana.

### **5. Plant Nursery**

An agricultural use in which plants are grown, cultivated, produced, or managed for the on-site or off-site sale of such plants or their products, or for their use in any other business, research, or commerce. Other customarily incidental products may be sold with the plants. A Plant Nursery may include accessory Aquaculture use, when the Aquaculture is integral to the growing and maintenance of the plants, and provided the accessory Aquaculture occurs within a completely enclosed structure. This use does not include or permit the growing of marijuana.

Examples of Plant Nursery uses include, but are not limited to: wholesale or retail plant nurseries with greenhouses or garden stores; retail nurseries where plant inventory and related plant products are sold, but which may not be grown or produced on-site; tree farms; vineyards and orchards; flower farms; field nurseries; and sod farms. Plant Nursery uses do not include forestry or logging uses, or the keeping of animals or livestock except where expressly permitted as an accessory use.

## **SECTION 11.12.7 DEFINITIONS OF USES ACCESSORY TO PRIMARY RESIDENTIAL USES**

### **11.12.7.1 Accessory Dwelling Unit**

A second dwelling unit located on the same zone lot as a primary single unit dwelling use. An accessory dwelling unit is a type of accessory use. An accessory unit may be either “attached” or “detached”, defined as follows:

#### **A. Dwelling, Accessory unit, Attached**

An accessory dwelling unit that is connected to or an integrated part of the same structure housing the primary single unit dwelling (for example, an attached accessory dwelling unit may be located in the basement level of a structure also housing a single-unit dwelling use).

#### **B. Dwelling, accessory unit, Detached**

An accessory dwelling unit that is located within an accessory structure detached from the structure housing the primary single unit dwelling use.

### **11.12.7.2 Domestic Employee**

A person or persons living in the household of another, paying no rent for such occupancy and paying no part of any household utilities; where such person or persons perform household and/or property maintenance duties for the general care, comfort and convenience of the household occupants.

### **11.12.7.3 Garden**

The growing and cultivation of fruits, flowers, herbs, vegetables, and/or other plants. An accessory Garden use may operate as either an enclosed or unenclosed use.

### **11.12.7.4 Limited Commercial Sales, Services Accessory to Multi-Unit Dwelling Use**

Commercial sales, service, and repair uses limited to the following:

- A. Banking and Financial Services as defined in Section 11.12.4.7.C.1, Banking and Financial Services.
- B. Eating and Drinking Establishment as defined in Section 11.12.4.4.B.1, Eating and Drinking Establishment.
- C. Office as defined in Section 11.12.4.6.A, Definition of Office Use Category.
- D. Retail Sales, Service & Repair uses as defined in Section 11.12.4.7.A, Retail Sales, Service & Repair Use Category.

### **11.12.7.5 Second Kitchen, Accessory to Single Unit Dwelling Use**

A second kitchen accessory to a primary single-unit dwelling use and located in the same primary structure.

### **11.12.7.6 Vehicle Storage, Repair and Maintenance**

- 1. Storage of operable automobiles or trucks but not “Large-Scale Motor Vehicles and Trailers,” as defined in this Code, except as specifically permitted in Division 10. 9, Parking, Keeping and Storage of Vehicles.
- 2. Routine maintenance and minor repair servicing of automobiles or trucks that are not “Large-Scale Motor Vehicles and Trailers,” as defined in this Code, where such vehicles are owned by occupants of the primary residential use. Routine maintenance and repair may include washing, polishing, greasing, tire repair, wheel alignment, brake repair, muffler replacement, engine tune-up, flushing of radiators, servicing of air conditioners, and other activities of minor repair and servicing.

### **11.12.7.7 Wind Energy Conversion Systems**

See Section 11.12.5.4 for definition of “Wind Energy Conversion System.”

## **SECTION 11.12.8 DEFINITIONS OF HOME OCCUPATIONS ACCESSORY TO PRIMARY RESIDENTIAL USES**

### **11.12.8.1 General Definition of Home Occupation**

A business use (e.g., personal care services or, office), accessory to a primary residential use, which is conducted entirely within a Dwelling Unit, or in a detached structure accessory to such Dwelling Unit, which is carried on by the occupants thereof, and which is clearly incidental and secondary to the primary use of the Dwelling Unit for Residential Occupancy.

### **11.12.8.2 Specific Home Occupation Use Types and Definitions**

**1. Adult Care Home**

A Home Occupation providing less than 24-hour care of 4 or fewer clients, over the age of 16 years.

**2. Animal Care Service**

A Home Occupation that provides for the keeping and day-time care only of household animals of a type and number specifically permitted under Section 11.8.5. The number of such animals shall not exceed the number(s) permitted under Section 11.8.5 including any animals kept by the resident(s) of the primary dwelling unit. As a home occupation, Animal Care Services may also include cleaning and grooming services.

**3. Artist Studio**

See definition of “Artist Studio” in Section 11.12.4.2.B, Specific Arts, Entertainment & Recreation Use Types and Definitions.

**4. Child Care Home, Small**

A Home Occupation providing the care and education for periods of less than 24 hours of not more than 6 children, plus 2 additional children who attend either before or after school hours, subject to the licensing requirements of the state and the city.

**5. Child Care Home, Large**

A Home Occupation operated in a single-unit dwelling unit or in a dwelling unit in a multiple-unit dwelling providing care and education for periods of less than 24 hours of 7 to 12 children subject to the licensing requirements of the state and the city.

**6. Craft Work**

A Home Occupation where individual pieces are crafted but not mass produced, and which shall consist of one (1) or more of the following: ceramics, inlays, needlework, knitting, weaving, leather work, woodwork, metal work or glass work.

**7. Food Preparation**

A Home Occupation where prepared food items that are not Cottage Foods, as defined in Fresh Produce and Cottage Food Sales, are made and assembled for off-premises consumption by others and/or for off-premises sale.

**8. Foster Family Care**

A Home Occupation that provides full-time care of not more than 4 children or 2 adults unrelated to the residents by blood or adoption subject to the licensing requirements of the state. A qualified foster care adult is a person who is placed in the home by an agency of the state or one of its political subdivisions.

**9. Fresh Produce and Cottage Foods Sales**

A Home Occupation where:

- a. Raw, uncut fresh fruits, vegetables, and herbs , excluding marijuana, that were grown in a permitted accessory Garden or primary Urban Garden are sold; and/or
- b. Cottage Foods are prepared and/or sold.

Cottage Foods are defined in the State of Colorado Cottage Foods Act (House Bill 13-1158) unless otherwise prohibited by the Department of Environmental Health. Cottage Foods shall not include any food products made with marijuana.

**10. Office, Non-Medical, Non-Dental**

See Section 11.12.4.6.A, Definition of Office Use Category, but not including Dental / Medical Office or Clinic.

**11. Professional Studio**

See definition of “Professional Studio” in Section 11.12.4.2.B, Specific Arts, Entertainment & Recreation Use Types and Definitions.

**12. Rooming and/or Boarding**

A Home Occupation that provides lodging with or without meals, is available for permanent occupancy only, and which makes no provision for cooking in any of the rooms occupied by paying guests.

**SECTION 11.12.9 DEFINITIONS OF USES ACCESSORY TO PRIMARY NONRESIDENTIAL USES**

**11.12.9.1 Amusement Devices**

An electronic or mechanical device which operates as a game, contest or amusement of any description and which includes but is not limited to pinball machines, video games, foosball machines or similar devices. This term does not include musical devices, children’s rides, or pool and/or billiard tables.

**11.12.9.2 Automobile Rental Services**

The rental of automobiles under conditions where (1) the storage of all rental automobiles is located on the same zone lot as the office for the automobile rental service, and (2) no mechanical or maintenance work on automobiles shall be done on the premises, and (3) the land area assigned for storage of rental automobiles shall not be included for computation of any required off-street parking space.

**11.12.9.3 Car Wash Bay**

Washing, cleaning, and/or waxing of private automobiles, light trucks and vans, but not commercial fleets, by hand or with manually operated equipment or automatic machinery.

**11.12.9.4 College Accessory to a Place for Religious Assembly**

A post-secondary education facility operated by a place for religious assembly and physically located on a zone lot occupied by such place for religious assembly.

**11.12.9.5 Conference Facilities**

A facility which provides meeting halls, trade centers, merchandise marts, or convention centers for training and other gatherings for large numbers of people for similar functions; may be developed separately or in combination with another permitted use.

**11.12.9.6 Drive Through Facility**

An accessory use designed and operated to enable persons to receive a service or purchase goods while remaining within a motor vehicle. The facility includes the area of the drive aisle dedicated to placing orders or picking up such goods or services, as well as the actual facility for placing orders and picking up of such goods or services.

**11.12.9.7 Garden**

The growing and cultivation of fruits, flowers, herbs, vegetables, and/or other plants. An accessory Garden use may operate as either an enclosed or unenclosed use.

**11.12.9.8 Occasional Sales, Services Accessory to Places of Religious Assembly**

Retail sales of goods to the general public for a time period not to exceed 6 consecutive months in any one calendar year, and which sales are made from the same zone lot that contains a permitted religious assembly use.

**11.12.9.9 Outdoor Eating and Serving Area Accessory to an Eating/Drinking Establishment Use**

An unenclosed area containing only tables and chairs where food and drinks are served to patrons of the primary eating and drinking establishment.

**11.12.9.10 Outdoor Entertainment Accessory to an Eating/Drinking Establishment Use**

An accessory use allowing the provision of live and/or Outdoor Entertainment to the general public for a fee. The use is conducted in open or partially enclosed or screened facilities. This use does not include adult businesses or any permitted primary land uses.

**11.12.9.11 Outdoor Retail Sale and Display**

An accessory use; an outdoor arrangement of objects, items, products, or other materials, typically not in a fixed position and capable of rearrangement, designed and used for the display, sale and/or advertising of a business, product, or service. The outdoor location of soft drink or similar vending machines shall be considered outdoor retail sales and display. Outdoor retail sales and display shall not include merchandise or material in boxes, in crates, on pallets or other kinds of shipping containers (such merchandise shall be considered “outdoor storage” as defined herein). Temporary outdoor retail sales and displays are regulated as temporary uses and structure according to Division 11.11, Temporary Use Limitations.

**11.12.9.12 Outdoor Storage**

The permanent placement or deposit of any equipment, furniture, machine, material, merchandise, or supplies in an outside location or outside an enclosed structure, except objects that are customarily placed outside and clearly incidental and commonly associated with the permitted primary use. “Outdoor storage” is more intensive than “Outdoor Retail Display and Sales” use, with such Outdoor Storage typically remaining outdoors overnight. Vehicles for sale, lease, or rent as part of a permitted primary use (including boats and manufactured housing) shall not be considered “outdoor storage” for purposes of this Code.

**A. Outdoor Storage, General**

The overnight outdoor storage of fuel, raw materials, shipping containers, lumber, pipe, steel, junk and other similar merchandise, material, or equipment.

**B. Outdoor Storage, Limited**

The overnight outdoor storage of vehicles awaiting repair (includes the storage of vehicles at self-storage facility); merchandise or material in boxes, in crates, on pallets or other kinds of shipping containers; garden supplies; building supplies; plants; fleet vehicles; and other similar merchandise, material or equipment.

**SECTION 11.12.10 DEFINITIONS OF TEMPORARY USES**

**A. Ambulance Service**

The dispatching of vehicles for transportation of ill or injured persons to or from treatment facilities together with incidental storage and maintenance of such vehicles.

**B. Amusement/Entertainment Uses**

An amusement, entertainment, or recreation use accessible to the general public upon payment of a fee or admission charge. Examples include temporary circus or sport events.

**C. Bazaar**

A place for the display and sale of miscellaneous goods and for entertainment sponsored by a nonprofit organization or governmental entity, but not including motorized amusement rides.

**D. 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.

**E. Health Care Center**

A facility or institution providing health services.

**F. 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.

**G. 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.

**H. 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.

**I. 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.

**J. 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.

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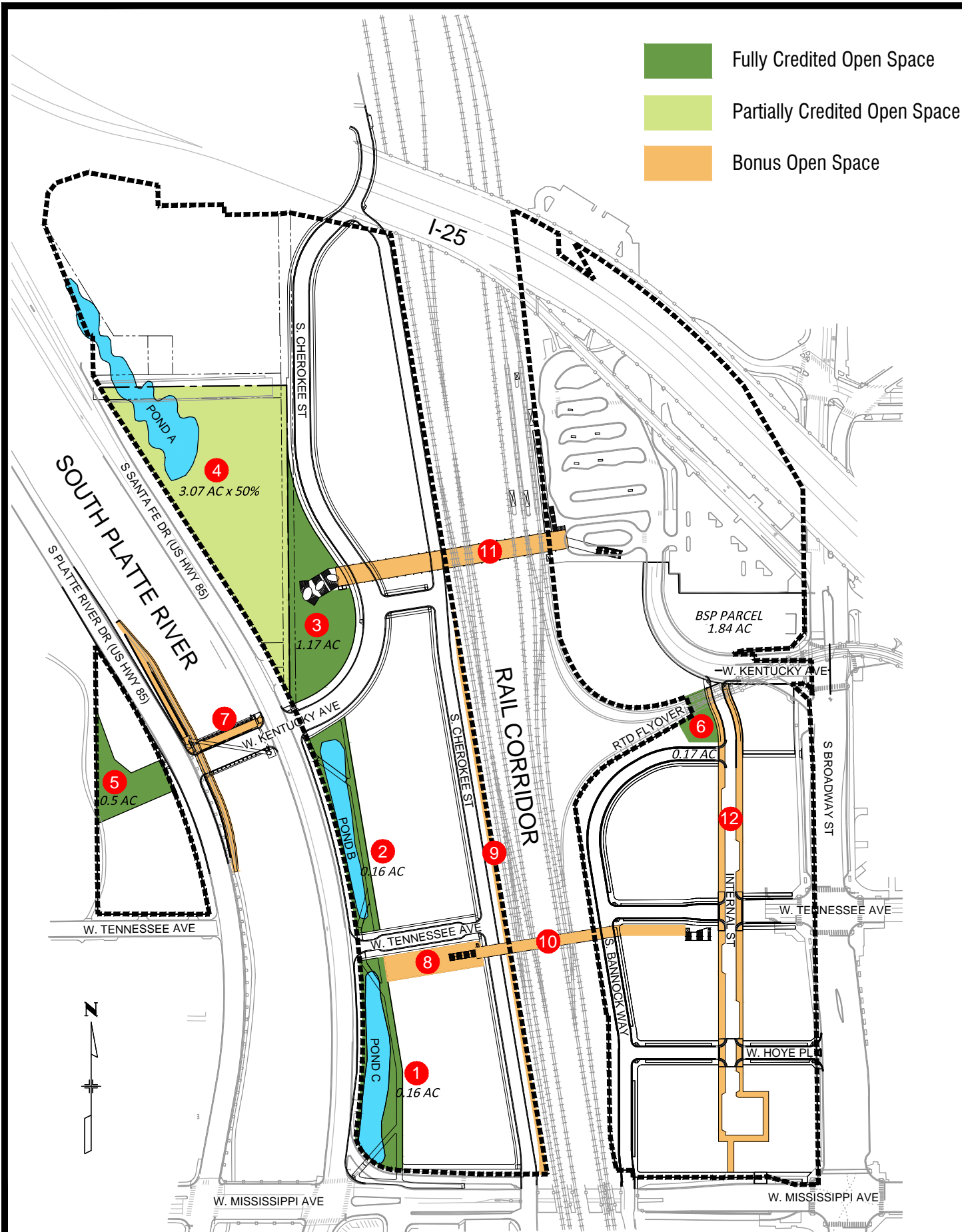
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**Exhibit H: Open Space Requirements and Language  
from IMP**

# EXHIBIT H "OPEN SPACE CALCULATIONS"



Open Space	Title	Gross Area (AC)	Credited Area (AC)
1	Santa Fe Promenade (South) Credit Area = Gross - 0.87 Ac Detention Area	1.03	0.16
2	Santa Fe Promenade (North) Credit Area = Gross - 0.63 Ac Detention Area	0.79	0.16
3	North Pedestrian Bridge Plaza/Park Credit Area = Parcel Gross Area - Bridge & Stairway Area	1.31	1.17
4	Vanderbilt Park East Credit Area = (Vanderbilt Park East Area - 0.83 Ac Detention Area) x 50%	3.89	1.53
5	Vanderbilt Park Connection	0.5	0.5
6	North Market Place Plaza	0.37	0.17
7	Platte River Trail Connections	0.43	0
8	South Ped Bridge Plazas	0.32	0
9	Rail Corridor Buffer	0.31	0
10	South Pedestrian Bridge/Park	0.28	0
11	North Pedestrian Bridge/Park	0.6	0
12	Internal Street Enhanced Streetscape	0.84	0
Subtotal		10.67	3.69

IMP Net Area	33.291 Acres
Open Space Required (10% of IMP Net Area)	3.33 Acres
<b>Total Open Space Credit Provided</b>	<b>3.69 Acres</b>
Bonus Project Open Space	6.98 Acres

**NOTES:**

- When developed, the RTD Ownership area will be required to provide 10% of the net developable area as open space. However, the 1.84 acre parcel owned by BSP within the I-25 & Broadway Station District is included in the gross area calculation for open space provided hereon and may be excluded from the gross area calculation for open space associated with the RTD sub-area.
- Pond A is conditionally approved subject to separate agreement and City Council approval.

**BROADWAY STATION**  
INFRASTRUCTURE MASTER PLAN  
OPEN SPACE CALCULATIONS

