

### 9.6.1.3 Requirement for PUD District Plan

All applications for rezoning to a PUD District shall contain the information and representations required by this Division 9.6 and by Section 12.4.10, Official Map Amendment, and a PUD District Plan that complies with the following:

#### A. Choice of PUD District Plan Type

##### 1. General PUD District Plan

If development is to proceed in phases or over an extended period of time, or if more general zoning is desired prior to preparation of more detailed site development and pre-construction plans, the applicant may submit a “General PUD District Plan” covering the entire PUD District area. After the PUD District rezoning with a General PUD District Plan is approved, one or more site development plans shall be submitted for each phase of development and shall follow the general development concept established in the General PUD District Plan. See Section 12.4.3, Site Development Plan, for the procedure and review criteria applicable to site development plans.

##### 2. Detailed PUD District Plan

If development is not to be completed in phases or over an extended period of time, or if an applicant is prepared to submit more detailed site development plan or pre-construction plans, the applicant may submit a “Detailed PUD District Plan” covering the entire PUD District area. After the PUD District rezoning with a Detailed PUD District plan is approved, the Detailed PUD District Plan shall constitute a site development plan, enabling the applicant to proceed directly to final zoning / building permit approval (no intervening site development plan review step under Section 12.4.3).

#### B. PUD District Plan Contents -- Permitted Uses and Procedures

All PUD District Plans shall specify permitted primary, accessory and temporary uses, and may specify applicable use and development review procedures, in compliance with the following standards.

1. A PUD District Plan shall permit any use which is a permitted use in any zone district when such use is provided for, enumerated, and approved in the PUD District Plan.
2. All use limitations in this Code shall apply to the uses in the PUD District unless expressly waived or modified in the PUD District Plan.
3. A PUD District Plan may subject the establishment of a permitted use or the development of an allowed building form to any procedure established in Article 12, Zoning Procedures and Enforcement, including Zoning Permit Review with Information Notice, Special Exception review, Site Development Plan review, or Administrative Adjustment. However, a PUD District Plan shall not establish or include any use or development review procedure different from a procedure established in Article 12, Zoning Procedures and Enforcement.
4. A PUD District Plan may provide for future amendment by subarea, platted lots, or metes and bounds parcels, as allowed in Section 9.6.1.4, Amendments to Approved PUD District Plans.
5. A PUD District Plan that establishes single-unit dwellings as a permitted primary use must also include an Accessory Dwelling Unit use as a permitted accessory use.

#### C. PUD District Plan Contents -- Applicable Design Standards

##### 1. Required PUD District Plan Elements

While the level of detail will vary between a General PUD District Plan and a Detailed PUD District Plan, all PUD District Plans shall include or address the following elements, through specific standards wherever possible. All design standards stated in Article 10,

General Design Standards, shall apply in the PUD District Plan unless expressly waived or modified in the PUD District Plan.

- a. A written statement of development and design intent for the proposed PUD District Plan, consistent with the purpose and intent of the PUD District stated in Section 9.6.1.1. above.
- b. Relationship of the PUD District Plan to existing Neighborhood Context of surrounding properties
- c. Building form standards, including building height, siting, and design element standards formatted similarly to the Primary Building Form Standards found in Articles 3 through 7.
- d. Appropriate building, use, or other transitions to adjacent properties, development, and uses.
- e. Parking for vehicles and bicycles.
- f. Vehicle, bicycle, and pedestrian access and circulation, including connections to adjacent properties and public amenities or facilities (e.g., public parks, transit, open space, schools).
- g. Off-street loading.
- h. Landscaping, screening, fence and wall standards.
- i. Grading, including tree preservation and removal.
- j. Outdoor lighting.
- k. Outdoor storage, sales and display.
- l. Signs.
- m. Limitations on external effects.
- n. Mitigation of potential adverse impacts on surrounding properties.

**2. Optional PUD District Plan Elements**

In addition to the required elements stated in this subsection, a PUD District Plan may include:

- a. Requirements specifying the maximum amount of vehicle parking that may be provided.
- b. Design standards different than the type and subject matter of standards included in this Code, including without limitation, enhanced streetscape standards, minimum open space configuration or design standards, and minimum architectural design standards for buildings in the PUD District.

**3. Prohibited PUD District Plan Elements**

- a. A PUD District Plan shall not include requirements specifying a minimum amount of vehicle parking.
- b. A PUD District Plan shall not include Accessory Dwelling Unit building form standards or use limitations that are more restrictive than those applied to an Accessory Dwelling Unit in a single-unit zone district within the same Blueprint Denver future neighborhood context in which the property is located.

**D. Effect of Approval of PUD District Plan**

**1. Conformance with PUD District Plan Required**

All development in a PUD District shall conform to the approved PUD District Plan. Minor deviations may be permitted only according to this subsection.

- 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 and Modifications**

#### **A. Modifications and Collocations that are Physically Substantial**

Any Telecommunications Tower Structure, Telecommunications Tower-Alternative Structure, Antennas Not Attached to a Tower, Telecommunications Facility, Telecommunications Facility-All Others or Base Station may be modified or reconstructed in a manner that does not substantially change the physical dimensions of such structure. A modification shall be determined to be a substantial change to the physical dimensions of the subject structure only if the modification or change meets any of the following criteria:

1. It increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;
2. It involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
3. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for Base Stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
4. It entails any excavation or placement outside the current site of the telecommunications facility;
5. It would defeat the concealment elements of the eligible support structure; or
6. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is not in conformance only in a manner that would not exceed the thresholds identified in this Section 11.5.2.4.A.1.

## **B. Conditions on Modifications and Collocations that are Physically Substantial**

1. Modifications defined in Section 11.5.2.4.A shall be considered physically substantial. A tower may be substantially modified or reconstructed to accommodate the collocation of additional antennas under the following conditions:
  - a. 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;
  - b. An existing tower, to accommodate the collocation of an additional antenna, may be substantially 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.B shall not apply to Telecommunications Tower - Alternative Structures not over 50 feet in height;
  - c. The additional height referred to in this Section 11.5.2.4.B.1 shall not require an additional distance separation as set forth in Table 2 of Section 11.5.2.1.E.5, Separation Requirements. The tower's pre-modification height shall be used to calculate distance separations;
  - d. The existing tower shall comply with the separations from certain uses and zones in Table 1 of Section 11.5.2.1.E.5, Separation Requirements;
  - e. If a tower is replaced to accommodate a physically substantial collocation, only 1 tower may remain on the zone lot; and
  - f. If a tower is relocated on-site in compliance with all setback requirements, and within a 25 feet 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.5, Separation Requirements.
2. Antennas may be attached to an existing tower that is accessory to a police station, fire station or hospital, and said tower may be substantially modified to a height not to exceed 135 feet above grade. No part of any collocated antenna shall be more than 90 feet above grade.

## **C. Substantial Modifications to Towers not in Conformance**

Antennas may be attached to an existing tower that is not in conformance with all the requirements of Section 11.5.2.1, All Zone Districts, and said tower may be substantially modified, with the following limitations:

1. 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 a Telecommunications Tower - Alternative Structure, and;
2. The tower with the attached additional antenna as substantially 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.

## **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.5, Separation Requirements, but greater than or equal to 100 feet for Section 11.5.2.1.E.5. (Table 1) and greater than or equal to 500 feet for Section 11.5.2.1.E.5. (Table 2).

| PRIMARY USE AND APPLICABLE ZONE DISTRICTS  | LOCATION OF ACCESSORY DWELLING UNIT USE | ZONE LOT AREA         | MAXIMUM GFA OF ADU USE (Per Dwelling Unit for Two-Unit or Multi-Unit Dwelling Primary Uses) |
|--|---|-----------------------|---|
| Single Unit Dwelling Use - All SU Zone Districts where ADU use is permitted with limitations   | Attached or Detached                    | 7,000 sf or less      | 864 sf  |
|  |   | Greater than 7,000 sf | 1,000 sf  |
| Single Unit Dwelling Use - All Zone Districts Except SU Zone Districts where ADU use is permitted with limitations                           | Attached                                | Not applicable        | 75% of Primary Use GFA or 864 sf, whichever is greater                                      |
| Single Unit, Two Unit and Multi Unit Dwelling Uses - All Zone Districts Except SU Zone Districts where ADU use is permitted with limitations | Detached                                | Not applicable        | Not applicable  |

**C. Structural and Location Requirements**

All Accessory Dwelling Unit uses shall meet the following requirements:

1. The structure housing an Accessory Dwelling Unit shall not be served by a driveway separate from that serving the Primary Residential Use except to utilize a new access from an Alley.
2. 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 a Street-facing façade of the building housing the Primary Residential Use.
3. A Dwelling Unit containing an Accessory Dwelling Unit use may be established with either a Partial Kitchen or Full Kitchen, but only 1 kitchen per Accessory Dwelling Unit is allowed. A Partial Kitchen in an Accessory Dwelling Unit may be permitted to change to a Full Kitchen.

**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 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. In case of conflict between the standards in this Section 11.8.2 and in Section 12.10.4, the standards in Section 12.10.4 shall apply.

**11.8.2.2 All SU Zone Districts**

In all SU zone districts, where permitted with limitations:

**A. Ownership of Primary and Accessory Dwelling Units**

The Accessory Dwelling Unit use shall be operated and maintained under the same ownership as the Primary Dwelling Unit use to which it is accessory.

**B. Owner Occupancy at Time of Accessory Dwelling Unit Permit Application**

**1. Applicability**

The owner occupancy requirement in this subsection 11.8.2.2.B. shall apply to the establishment of all Accessory Dwelling Unit uses in a SU zone district with the exception of Accessory Dwelling Unit uses accessory to Primary Dwelling Units owned by the Housing Authority of the City and County of Denver (DHA) or an entity whose assets, operations, and management are controlled by DHA to carry out public housing authority functions or policies.

## 2. Owner Occupancy Use Limitations

- a. At the time a permit application is submitted for an Accessory Dwelling Unit use accessory to an existing Primary Dwelling Unit, at least one owner of the existing Primary Dwelling Unit shall occupy the existing Primary Dwelling Unit as the owner's primary residence, except as provided in Section 11.8.2.2.B.2.b below.
- b. The owner is not required to occupy a dwelling unit on the property at the time a permit application is submitted when a structure containing an Accessory Dwelling Unit use is being constructed simultaneously with a new Primary Dwelling Unit structure.
- c. For purposes of this Section 11.8.2.2.B.2, the term "primary residence" shall mean a residence which is the usual place of return for housing as documented by at least two of the following: motor vehicle registration, driver's license, Colorado state identification card, voter registration, tax documents, or a utility bill. A person can have only one primary residence.

### 11.8.2.3 All PUD Zone Districts

#### A. No ADU Prohibition

1. A PUD District Plan that establishes single-unit dwellings as a permitted primary use shall be deemed to allow an Accessory Dwelling Unit use as a permitted accessory use.
2. The Zoning Administrator shall not apply a prohibition on Accessory Dwelling Units in a PUD District Plan when a primary single-unit dwelling use is explicitly allowed.

#### B. ADU Standards

Where a PUD District Plan has been deemed to allow an Accessory Dwelling Unit use as a permitted accessory use per Section 11.8.2.3.A No ADU Prohibition, Accessory Dwelling Units shall be subject to building form standards and use limitations for which the PUD district/district subarea is based on. If the PUD is not based on a zone district, Accessory Dwelling Units shall be subject to Accessory Dwelling Unit form standards and use limitations applicable to a single-unit zone district within the same Blueprint Denver future neighborhood context in which the property is located.

## 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.

### **12.2.6.8 Appeals from the Board of Adjustment to District Court**

#### **A. Procedure**

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

#### **B. Effect of Appeal**

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

## **SECTION 12.2.7 CHERRY CREEK NORTH DESIGN ADVISORY BOARD**

### **12.2.7.1 Creation**

- A. The Cherry Creek North Design Advisory Board shall consist of seven members appointed by the mayor.
- B. The board shall consist of the following individuals to be appointed by the mayor from a list of nominations provided by the board of Cherry Creek North Business Improvement district: three licensed architects and one licensed landscape architect who reside in Denver; one member of the board of Cherry Creek North Business Improvement District or its designated successor; one property owner from the district; and one retailer from the district.
- C. The members of the board shall be appointed by the mayor for a term of three years and shall serve at the pleasure of the mayor. Vacancies shall be filled within 30 days by the mayor from the date on which the vacancy occurs.

### **12.2.7.2 Review Authority**

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

## **SECTION 12.2.8 DOWNTOWN DESIGN ADVISORY BOARD**

### **12.2.8.1 Creation**

- A. The Downtown Design Advisory Board shall consist of nine members appointed by the Mayor. The nine members shall include individuals from the following categories: four design professionals, including architects, landscape architects, and urban designers, at least one of whom shall be a landscape architect; one owner of property in the downtown area; three residents or community representatives of the downtown area; and one representative of the development/construction industry, including but not limited to engineers, contractors, and developers. All board members must be residents of Denver.
- B. The members of the board shall be appointed by the Mayor for terms of three years and shall serve at the pleasure of the Mayor. Terms of office shall be staggered by making the appointments so that approximately one-third of the members' terms expire each year. Vacancies shall be filled by the mayor within 30 days from the date on which the vacancy occurs.

### **12.2.8.2 Board Meetings**

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

### **12.2.8.3 Review Authority**

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

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

- b. In addition to the written notice required by Section 12.3.4.6.A.1, above, written notice for a Large Development Review shall also be sent to:
  - i. Any neighboring municipality or county that is contiguous to any boundary of the LDR area;
  - ii. Denver Public Schools if the LDR area anticipates residential development; and
  - iii. Any special district of which any part of the district's boundaries is included in the LDR area.
- c. The written notice shall be sent via U.S. mail first class or by electronic mail if the recipient has indicated their acceptance of notice by electronic mail.
- d. Notification shall include the location and general description of the proposed application, the location (in-person or remotely), time and date of the community information meeting, and, if applicable, the process to be followed, including date, time and place of any related public meeting or hearing, if such has been scheduled.
- e. The failure, for whatever reason, to receive a notification required hereunder shall not invalidate any final action by the city.

## **2. Posted Notice of Community Information Meeting**

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

- a. No later than 21 days prior to the date of the required community information meeting, the applicant shall be responsible for posting one or more signs on the subject property providing public notice thereof.
- b. Posted notice shall be in number, size, location, and content as prescribed by the Manager and shall indicate the time and place (in-person or remotely) of the community information meeting, and any other information prescribed by the Zoning Administrator.
- c. The applicant shall take all reasonable efforts to assure that posted signs remain on the site in the number and location prescribed by the Manager, and in good condition to maintain legibility, during the posting period.
- d. Posted notices shall be removed by the applicant from the subject property no later than 15 days after the community information meeting has been held. Failure to do so shall constitute a violation of this Code.

## **3. Conduct of Community Information Meeting, General**

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

## **SECTION 12.3.5 EFFECT OF APPROVED APPLICATIONS, PLANS AND PERMITS**

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

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

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

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

### **12.3.6.2 Beginning of Approval Period - General Rule**

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

### **12.3.6.3 Extension of Approval Period**

- A. For extensions of the approval periods for a variance related to construction, the provisions in Section 12.4.7.7.A shall apply instead of this Section 12.3.6.3.
- B. The Zoning Administrator may grant an extension of an approval period up to 12 months according to the process and limitations contained herein, unless otherwise prohibited elsewhere in this Code.
- C. In no case shall the Zoning Administrator grant an extension if, since the date of the original approval, the subject property's zoning designation has changed or the applicant proposes an amendment to the approved application, plan, or permit with the request for extension. See Section 12.3.7, Modification or Amendment of Applications, Plans and Permits, below.
- D. All requests for extensions shall be submitted to Community Planning and Development in writing before the expiration of the approval period. An extension request shall include:
  1. Payment of any required fee for the extension review; and
  2. A narrative stating the reasons for the applicant's or owner's inability to comply with the specified deadlines, listing any changes in the character of the neighborhood, any changes to the Comprehensive Plan or this Code that have occurred since the original approval date and that affect the subject development, and the anticipated time schedule for completing the development.
- E. The Zoning Administrator will review the request for extension and shall approve, approve with conditions, or deny the extension request based on consideration of the following criteria:
  1. The Applicant's showing of good cause for the extension, including but not limited to a showing that development was delayed by economic or physical problems beyond the applicant's or property owners' control;
  2. Consistency with the intent of this Code;
  3. Consistency with the intent of the applicable neighborhood context and zone district; and
  4. Consistency with the intent of any changes to the Denver Comprehensive Plan or this Code that have occurred since the original approval date and that affect the subject Development.
- F. Additional review of the application, permit or plan may result in additional conditions placed on the extended approval, application, permit or plan, as applicable.

## DIVISION 12.4 ZONING APPLICATION AND REVIEW PROCEDURES

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

### SECTION 12.4.1 ZONING PERMIT REVIEW

#### 12.4.1.1 Purpose

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

#### 12.4.1.2 Applicability

##### A. Uses

A zoning permit is required prior to the following:

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

##### B. Structures

#### 1. General Rule: Zoning Permit Required

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

#### 2. Exceptions in All Zone Districts

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

- a. Structures or portions of structures that are 12 inches or less in height, as measured from Finished Grade at the lowest point of the structure, except that a zoning permit is required for construction or changes in the construction of in-ground swimming pools, spas, and hot tubs. *See also* Section 12.4.1.2.C. below, which states when development related to an Off-Street Parking Area, including new vehicle driveways, requires a zoning permit.
- b. Changes to the interior or exterior of an existing structure when neither of the following apply:
  - i. The structure is not located within the boundaries of any area subject to Urban Design Standards and Guidelines; or

- ii. The changes do not affect the structure's gross floor area, location, footprint, height in feet or stories, or compliance with build-to, transparency, or pedestrian access requirements.
- c. Regular maintenance and normal repairs to existing structures that do not change the location, increase the footprint, or change the assigned building form of the original permitted structure.
- d. Structures that comply with the standards for the Minor Detached Structure building form stated in Articles 3-9.
- e. Treehouses, swings, playsets, slides, and other playground equipment intended for children's use and accessory to a single unit dwelling or two unit dwelling Primary Use.
- f. Flagpoles, movable or permanent basketball goals, and other detached accessory structures with a similar profile and minimal footprint that may otherwise exceed the standards applicable to the Minor Detached Structure building form, as determined by the Zoning Administrator.
- g. Building-mounted solar panels.
- h. Electric Vehicle Supply Equipment (EVSE), as defined in the Denver Building Code.
- i. Wall-mounted fixtures, wiring, conduit, piping, and vents integral to conventional mechanical, electrical, plumbing, and fire protection systems including electrical panel boards, controllers, sensors, meters, drains, hose bibs, hydrants, fire department connections, sprinklers, alarms, dryer vents, bathroom vents, furnace vents, radon exhaust fans, lighting fixtures, and similar minor utility features approved by the Zoning Administrator.
- j. Modifications to a wireless service facility, including removal, discontinuance, or replacement, that are not determined to be physically substantial according to Section 11.5.2.4.A, Modifications and Collocations that are Physically Substantial; provided that the owner or operator of the wireless facility has notified the City in writing of the modification to the wireless service facility or associated equipment.

**3. Exceptions Do Not Apply to Historic Structures and Districts**

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

- a. Changes to existing structures and new construction affecting a Porch visible from a Primary Street or Side Street.
- b. Construction of or changes to a Minor Detached Structure when the structure meets one or more of the following:
  - i. The Minor Detached Structure is located forward of a Street-facing Façade of a designated structure for preservation;
  - ii. The Minor Detached Structure is located in the front 50 percent of the Zone Lot Depth; or
  - iii. The Minor Detached Structure is located 5 feet or less from the structure for preservation when measured from the Exterior Wall of each structure.

**C. Off-Street Parking Areas**

**1. General Rule: Zoning Permit Required**

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

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

2. The DRC shall consider the relevant comments of all interested parties, the actions taken by other agencies on the site development plan, as applicable, the recommendation by the Planning Board, as applicable, and the review criteria stated below, in approving, approving with conditions, or denying a site development plan application.
3. The DRC may attach conditions to the site development plan approval reasonably necessary to protect the health, safety and welfare of the community and to minimize adverse impacts on adjacent properties, as authorized by this Code.

#### **12.4.3.4 Review Criteria**

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

- A. The Site Development Plan has been reviewed and approved by the DRC, where such approval is authorized and required by the D.R.M.C. The DRC or Planning Board shall not approve a Site Development Plan until all DRC departments have approved the site development plan pursuant to their charter or D.R.M.C. authority.
- B. The Site Development Plan is consistent with all prior approvals that are regulatory and controlling for the subject property, as applicable. For example, the Site Development Plan shall be consistent with a previously approved Large Development Framework, Infrastructure Master Plan, General Development Plan, or Regulating Plan.
- C. The Site Development Plan complies with all applicable regulations in this Code.

#### **12.4.3.5 Appeal**

Section 12.4.8, Appeal of Administrative Decision, shall apply.

#### **12.4.3.6 Requirements and Limitations After Site Development Plan Approval**

##### **A. Recordation of Approved Site Development Plans**

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

##### **B. Effect of Approval**

1. A Site Development Plan approved according to this Section shall regulate the future use and development of the subject property.
2. Approval of a Site Development Plan means a proposed development complies with the standards and provisions of this Code and, consequently, the City may issue zoning permits to an applicant, assuming all other City standards and regulations have been satisfied. See Section 12.4.3.2.C, Prohibition on Activities Prior to Site Development Plan Approval, for limited authority to issue permits before Site Development Plan approval.
3. After approval of the site development plan and all requisite zoning permits, if the Zoning Administrator finds that development is not proceeding in accordance with the approved site development plan, the Manager, through its enforcement authority, may immediately issue an order stopping any or all work on the property that does not comply with such plans, until such time as any noncompliance is remedied. See Division 12.11, Enforcement, Violations and Penalties.

### **C. Expiration**

1. An approved Site Development Plan shall expire 30 months from the date of approval if an approved zoning permit and building permit, as applicable, have not been obtained and if construction, as applicable, has not started. See Article 13, for definition of "start of construction".
2. An approved Site Development Plan is not eligible for any extension to the 30-month validity period under Section 12.3.6.3., Extension of Approval Period.

### **D. Modification and Rescission**

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

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

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

#### **12.4.3.7 Site Development Plan Rules and Regulations**

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

## **SECTION 12.4.4 ZONE LOT AMENDMENTS**

### **12.4.4.1 Purpose**

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

### **12.4.4.2 Applicability**

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

### **12.4.4.3 Exceptions for Zone Lot Amendments by the Zoning Administrator**

- A. See Section 1.2.2.2, Zone Lot for Existing Structures and Uses, for limited exceptions where a Zone Lot may be determined by the Zoning Administrator or automatically amended without resort to this Section's Zone Lot amendment review procedures.
- B. In the case of adding or removing land through either (1) a judgment or settlement ending a lawsuit or (2) acceptance of right-of-way dedication, vacations of right-of-way, land acquisition, or condemnation, the Zoning Administrator may amend the boundaries of the Zone Lot(s) at issue in the government act without an owner-initiated Zone Lot amendment under this Section 12.4.4., even if the legal status of the resulting Zone Lot(s), or structures thereon, changes (e.g., an existing structure's legal status changes from conforming to compliant or nonconforming).

#### **12.4.4.6 Requirements After Approval and Effect of Approval**

##### **A. Recordation**

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

##### **B. Effect of Approval – Expiration**

1. A Zone Lot amendment approved according to this Section shall regulate the future use and development of the subject property as stated in Division 1.2, Zone Lots, of this Code.
2. An approved Zone Lot amendment shall not expire and shall run with the land.

#### **12.4.4.7 Appeal**

Section 12.4.8, Appeal of Administrative Decision, shall apply.

### **SECTION 12.4.5 ADMINISTRATIVE ADJUSTMENT**

#### **12.4.5.1 Purpose**

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

#### **12.4.5.2 Permitted Administrative Adjustments**

##### **A. Administrative Adjustments to Ensure Compliance with Overriding Laws**

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

###### **a. Applicability**

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

###### **b. Extent of Adjustment Authorized**

- i. The Zoning Administrator may grant administrative adjustments to any use, building form, or design standard stated in Articles 3 through 11. In no circumstance shall the Zoning Administrator approve an adjustment that allows a religious assembly use, or any uses/structures/activities accessory to it, in a zone district where Articles 3 through 11 prohibit such use or accessory use/structure/activity.
- ii. In granting an administrative adjustment, the Zoning Administrator may require conditions that will substantially achieve the intent of the modified standard and will substantially mitigate any adverse impact on the environment or on adjacent properties, including but not limited to additional landscaping or screening.

###### **c. Review Criteria**

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

### 12.4.10.10 Requirements and Limitations After Rezoning Approval

#### A. Registration and Recording of Official Map Amendments

##### 1. Recording Required

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

##### 2. Approved PUD District Plans

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

- a. For approved PUD Districts with General PUD District Plans: "PUD-G # \_\_\_\_\_."
- b. For approved PUD Districts with Detailed PUD District Plans: "PUD-D # \_\_\_\_\_."

#### B. Effect and Limitations on Approval

##### 1. Effect of Rezoning Approval - In General

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

##### 2. Effect of Approved Detailed PUD District Plans

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

##### 3. Effect of Approved General PUD District Plans

- a. Within a PUD District subject to an approved General PUD District Plan, no zoning permits may be issued and no work may commence until a site development plan has been approved according to Section 12.4.3, Site Development Plan Review, or unless a Detailed PUD District Plan for a portion or portions of the PUD District has been approved by City Council according to Section 9.6.1.3.A of this Code.
- b. A site development plan within a PUD District may be for the entirety of the district, or for only one or more phases of the entire PUD District area. The approval of a site development plan for any one phase of the PUD District may be contingent on improvements that involve other or all phases. In any site development plan application for less than the entirety of the PUD District, the applicant shall submit plan exhibits that clearly show the relation of the subject site development phase(s) to the remainder of the PUD District area.
- c. The standards and provisions of the approved PUD District subject to a General PUD District Plan, together with all approved site development plans for the PUD District, shall constitute the zoning regulations regulating all use and development of the subject property.

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

Areas covered by an approved PUD District with a General PUD District Plan may be considered by City Council for rezoning to a more appropriate classification under this Section if a complete site development plan for at least one phase of the PUD District has not been submitted within 30 months following approval of the PUD District with a