

**ARTICLE 11. USE LIMITATIONS, STANDARDS AND  
DEFINITIONS**

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## DIVISION 11.1 INTRODUCTION

### SECTION 11.1.1 INTENT

- 11.1.1.1 Article 11 sets forth the limitations and standards specific to primary, accessory and temporary uses allowed under this Code. Limitations and standards 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 and standards shall be established, operated, and maintained only in compliance with such limitations and standards.

### SECTION 11.1.3 ORGANIZATION

Article 11 is organized into divisions and sections that track the organization of the Summary 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 Summary 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.

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## **DIVISION 11.2 RESIDENTIAL PRIMARY USE LIMITATIONS ~~AND~~ STANDARDS**

The Summary Use and Parking Tables in Articles 3 through 9 reference limitations and standards applicable to allowed primary, accessory, or temporary uses. This Division contains limitations and standards applicable to primary residential uses allowed across multiple zone districts and neighborhood contexts.

### **HOUSEHOLD LIVING USE CATEGORY**

#### **SECTION 11.2.1 DWELLING, TWO UNIT**

##### **11.2.1.1 All SU Zone Districts**

In all SU Zone Districts, where permitted with limitations:

- A. Two unit dwelling uses that were legally established and are legally 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 applicable single-unit zone district, or in conformity with the tandem house building form applicable in the U-TU-C zone district, provided:
  1. The building height shall not exceed the tallest residential building form allowed in the applicable single unit zone district;
  2. The zone lot shall not be expanded or enlarged, and
  3. 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 in conformity with Section 12.4.7, Variance.

##### **11.2.1.2 All U-SU-A2, -B2, and -C2 Zone Districts**

In the U-SU-A2, U-SU-B2, and U-SU-C2 Districts, where permitted with limitations:

- A. New two-unit dwelling uses may be established in the U-SU-A2, U-SU-B2, and U-SU-C2 Zone Districts 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 11.2.2 DWELLING, MULTI-UNIT**

##### **11.2.2.1 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 are legally 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 in conformity with the building form standards allowed in the applicable single-unit or two-unit zone district, or in conformity with the tandem house or row house building forms applicable in the U-RH-2.5 zone district provided:
  1. The building height shall not exceed the tallest residential building form allowed in the applicable single unit or two unit zone district;
  2. The zone lot shall not be expanded or enlarged, and

3. 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 in conformity with 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.

#### **11.2.2.2 All U-TU-B2 Zone Districts**

In the U-TU-B2 Zone District, where permitted with limitations:

- A. New multi-unit dwelling uses may be established in the U-TU-B2 Zone Districts 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 11.2.3 DWELLING, LIVE/WORK**

#### **11.2.3.1 All Zone Districts (Except I-A and I-B Zone Districts)**

In all Zone Districts, except in the I-A and I-B Zone Districts, where permitted with limitations:

- A. 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 allowed in a live/work dwelling use:
  1. Art gallery;
  2. Artist studio;
  3. Professional studio;
  4. Office, not including dental/medical office and clinic; and
  5. Other similar activities as determined by the Zoning Administrator according to Section 12.4.6, Code Interpretation, Determination of Unlisted Uses.

#### **11.2.3.2 All I-A and I-B Zone Districts**

In all I-A and I-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 Zone 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.

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

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

#### **11.2.3.4 All G-RO and RX Residential Mixed Use Commercial Zone Districts**

In the G-RO Zone District and in all Residential Mixed Use (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.

## **GROUP LIVING USE CATEGORY**

### **SECTION 11.2.4 RESIDENCE FOR OLDER ADULTS**

#### **11.2.4.1 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.

#### **11.2.4.2 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 11.2.5 [RENUMBERED] RESIDENTIAL CARE USE, SMALL OR LARGE**

#### **11.2.5.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

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

The intent of these standards 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 Review with Informational Notice according to Section 12.4.2.
3. Any increase in the number of permitted residents shall require the approval of a Zoning Permit Review with Informational Notice according to Section 12.4.2.
4. Any change in the type of resident of a residential care use allowed under the provisions of this section shall meet all applicable requirements except the requirements set forth in Section 11.2.4.1.D.3.

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

All Large Residential Care Uses shall comply with the following standards:

**1. Owner and operational standards**

- 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 standards**

- 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 district in which they are located.
- b. The applicant and the operator will adequately maintain the building and grounds.

**3. Spacing, density, site and other standards**

- 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 this subsection 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 church containing a shelter that exceeds the limits of this section shall be counted when the following spacing and density requirements 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 uses by right 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 a SU, TU, TH, or RH zone district, 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 8.9.7.1. and 9.1.5.4 for additional standards applicable to community correction facility uses, which are a specific type of Large Residential Care Use.
- c. **Shelter for the Homeless** -- See Section 11.2.5. for additional standards applicable to homeless shelter uses, which are a specific type of Large Residential Care Use.

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

All Small Residential Care Uses shall comply with the following standards:

**1. Owner and operational standards**

- 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 standards**

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 sections 10.4.3, 11.2.4.1.D.4, 11.2.4.1.D.5, 11.2.4.1.C.2, 11.2.4.1.C.3.
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. 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.

**G. [Renumbered] Compliance with Denver Building and Fire Code**

All residential care uses shall comply with applicable provisions of the Denver Building and Fire Code.

## **SECTION 11.2.6 [RENUMBERED] SHELTER FOR THE HOMELESS**

### **11.2.6.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. Shelter for the homeless is a Large Residential Care use and is subject to all of the requirements of 11.2.4.1.E for “Standards for Large Residential Care Use.” In addition, all shelters for the homeless shall comply with following special requirements. In case of conflict with the requirements of section 11.2.4.1.D. above, the provisions of this subsection shall apply:

**B. Number of Beds**

The number of beds in the shelter shall not exceed 200. Notwithstanding the preceding sentence, for 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. There shall be no more than 950 beds in permanent homeless shelters in any one council district.

**C. Increase in Shelter Resident Population**

Except for an increase in the number of beds up to 350, pursuant to subsection B above, and notwithstanding the restriction of Sections 11.2.4.1.C.2 and 11.2.4.1.C.3, the permanent increase in the number of shelter residents or in the amount of floor area of such shelter exceeding 10 percent shall require the approval of a Zoning Permit Review with Informational Notice according to the procedure established in Section 12.4.2.

**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 five hundred (500) feet from a school meeting all the requirements of the compulsory education laws of the state.

**F. Alternative Standards for Shelters Allowed in Religious Assembly Buildings or Buildings Owned by Nonprofit Corporations or Governmental Entities**

1. Shelters operated within and by a religious assembly church need not comply with the provisions of this section's Residential Care Use standards provided the following limitation is satisfied:
  - 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 Article 13 of this Code.
  - b. If such limitation is exceeded, the shelter must comply only with the requirements of Section 11.2.4.1.D.3 Spacing, density, site and other standards, and need not comply with any other requirements of this section's Residential Care Use standards.
2. Temporary shelters operated in buildings owned by nonprofit corporations or by governmental entities need not comply with the provisions of paragraph 1.a. above provided the following limitation is satisfied. The Zoning Administrator shall have the power to issue a cease and desist order or otherwise close temporary shelters not meeting these limitations:
  - a. Such temporary 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 such limitation is exceeded, the temporary shelter must comply only with the requirements of section 11.2.4.1.D.3, Spacing, density, site and other standards, and need not comply with any other requirements of Section 11.2.4 Residential Care Use.
  - b. Prior to opening a temporary shelter in buildings owned by non-profit corporations or by governmental entities, the operator of the temporary shelter shall submit to the Zoning Administrator evidence (A) that the Denver Department of Human Services is involved in the proposed temporary shelter; (B) that a public meeting relating to opening the temporary shelter was held; (C) that at least seven (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 seven hundred (700) feet of the proposed use and to the city council member in whose district the proposed temporary shelter will be located, and flyers announcing the public meeting were distributed at least three (3) days prior to such public meeting to all properties within three (3) blocks of the proposed temporary shelter; and (D) that a community oversight committee has been created, consisting of the council member in whose district the proposed temporary shelter is located and at least four (4) persons who reside within one thousand five hundred (1,500) feet of the proposed temporary shelter, to address neighborhood issues relating to the ongoing operations of the temporary shelter. The community oversight committee may encourage appropriate parties to enter into a community agreement to address such issues.

**G. Suspension of Standards in Emergency**

The Zoning Administrator has the authority to suspend the terms of this Section's standards 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 AND STANDARDS

The Summary Use and Parking Tables in Articles 3 through 9 reference any limitations and standards applicable to allowed primary, accessory, or temporary uses. This Division contains limitations and standards 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, CC and MX Zone Districts**

In all Residential Zone Districts and in the CC and MX Zone Districts, where permitted with limitations:

- A. Major impact utility uses are limited to water reservoir, which need not be enclosed.

##### 11.3.1.2 **OS Zone Districts**

In Open Space (OS) Zone Districts, where permitted with limitations:

- A. Major impact utility uses are limited to water reservoir or, in the OS-B Zone District only, water filtration plant is also allowed.

##### 11.3.1.3 **All Industrial, Downtown and Open Space Zone Districts**

In all Industrial, Downtown (D-), and Open Space (OS) Zone Districts, 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**

Above-ground facilities include high-voltage transmission lines (115 kilovolts or more), electric substations, gas metering stations, and other similar 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 **All Industrial Zone Districts**

In all Industrial 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, Main Street (MS) Zone District, Open Space (OS) Zone District, and in all Downtown Neighborhood Context (D-) zone districts.
- B. In all zone districts except a Residential Zone District, Main Street (MS) Zone District, Open Space (OS) Zone District, or Downtown Neighborhood Context (D-) zone districts, 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 All C-CCN Zone Districts

In the C-CCN Zone District, where permitted with limitations:

- A. Utility pumping stations are prohibited.

## COMMUNITY/PUBLIC SERVICES USE CATEGORY

## SECTION 11.3.3 COMMUNITY CENTER

### 11.3.3.1 All SU and TU Zone Districts

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

- A. 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.

### 11.3.3.2 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. 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.
- D. No portion of any community center 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.
- E. As part of a community center use, accessory outdoor recreation or entertainment services facilities are permitted subject to compliance with the following conditions:

1. 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.
2. The facility occupies no more than 10 percent of the zone lot on which it is located.
3. Adequate off-street parking is provided by the community center to support the needs of the outdoor recreational or entertainment services facility.
4. No other such outdoor recreational or entertainment services facility on a different zone lot is located within 500 feet of the proposed use.
5. The hours of operation shall be 8:00 a.m. to one-half hour after sunset.
6. 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.
7. 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.

## **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 a structure 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:

- A. An ambulance service use may be established only if located in the same building with a police or fire station.

## **EDUCATION USE CATEGORY**

## **SECTION 11.3.6 ELEMENTARY OR SECONDARY SCHOOL, UNIVERSITY OR COLLEGE, VOCATIONAL OR PROFESSIONAL SCHOOL**

### **11.3.6.1 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 Multi-Unit (MU) zone district or a Mixed Use Commercial Zone District.

#### **11.3.6.2 All MS-2x, MS-2, MX-2x, MX-2A, or MX-2 Zone Districts**

In all MS-2x, MS-2, MX-2x, MX-2A, and MX-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 11.3.7 UNIVERSITY OR COLLEGE**

#### **11.3.7.1 All Residential Zone Districts**

In all Residential Zone Districts, where permitted with limitations:

- A. 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 11.3.8 PUBLIC OR RELIGIOUS ASSEMBLY, ALL TYPES**

#### **11.3.8.1 All Residential Zone Districts, MX-2x and MS-2x Zone Districts**

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

- A. Daily operations of uses and activities accessory to a primary Public or Religious Assembly use, including but not limited to accessory use activities such as recreation or day care centers, shall be terminated by 11:00 p.m.

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

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

- A. Club or lodge use is prohibited.

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

In all SU, TU, TH, RH, MU, and RO Zone Districts, where permitted with limitations:

- A. Conference Center use is prohibited.

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

The Summary Use and Parking Tables in Articles 3 through 9 reference any limitations and standards applicable to allowed primary, accessory, or temporary uses. This Division contains limitations and standards 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, RECREATION AND ENTERTAINMENT SERVICES, IN-DOOR

##### 11.4.1.1 **All MS-2x, MS-2, MX-2x, MX-2, and MX-2A Zone Districts**

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

- A. Seating capacity in a permitted arts, entertainment and recreation use shall be limited to no more than 100 persons.

##### 11.4.1.2 **All G-RO Zone Districts**

In all G-RO zone districts 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 of this Code):

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

##### ~~I-A and I-B Zone Districts-~~

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

~~An artist studio or performance studio may include a dwelling unit for the artist(s), designer(s), or teacher(s) associated with the artist or performance studio use. Such dwelling unit shall be occupied by no more than 4 unrelated persons, or by any number of persons related by blood, marriage, or adoption.~~

~~A dwelling unit included in the artist or performance studio use shall not be considered a “residential use” or “residential zone district” or “protected zone district”, nor in any other way be accorded residential protection against the effects of surrounding industrial uses as may otherwise be required by this Code.~~

#### SECTION 11.4.2 ARTS, RECREATION AND ENTERTAINMENT SERVICES, OUT-DOOR

##### 11.4.2.1 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 Single Unit (SU) or Two Unit (TU) Zone District.
3. All distance and spacing requirements shall be measured according to the rule of measurement found in Section 13.1.6.

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

### SECTION 11.4.3 NONRESIDENTIAL USES IN EXISTING BUSINESS STRUCTURES IN RESIDENTIAL ZONES

#### 11.4.3.1 All Residential Zone Districts

In all Residential Zone Districts, where permitted with limitations:

##### A. Limited Nonresidential Uses Allowed in Existing Business Structures

1. **Primary Nonresidential Uses Allowed**  
~~In all Residential Zond Districts, S~~subject to compliance with the conditions stated herein, one or more uses by right allowed in the MS-2x Zone District in the same neighborhood context as the subject property (e.g., U-MS-2x) may be operated as the primary use in an existing commercial or business structure ~~located in any Residential Zone District~~. Any use established according to this Section 11.4.3 shall comply with ~~the all applicable~~ limitations and use review procedure applicable to stated in this Article 11 for such use indicated in use table for the applicable MS-2x zone district , as well as with any applicable use review procedure for the business use, including but not limited to Special Exception Review or Zoning Permit Review subject to Informational Notice.
2. **Accessory Uses Allowed**  
A primary nonresidential use allowed by this Section 11.4.3 may include customary and incidental accessory uses allowed in the MS-2x Zone District in the same neighborhood context as the subject property (e.g., U-MS-2x). Any such accessory use shall comply with all applicable limitations and the use review procedure indicated in the Summary Use Table table for the applicable MS-2x zone district.

##### B. Conditions

The applicant shall prove by a preponderance of evidence that a nonresidential use proposed under this section's allowance complies with the following conditions:

1. The applicant is the owner of the subject structure.
2. The subject structure was originally designed for a business use and not for residential occupancy.
3. The subject structure was legally erected.
4. For any modifications to the structure that require landmark approval, the modification shall have been reviewed and approved by the Landmark Preservation Commission before submittal for zoning approval.
5. All uses in the structure involved shall comply with the limitations on external effects applicable to uses in the district in which the structure is located.

6. All uses operated in the structure involved shall comply with this Code's off-street parking and off-street loading requirements 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 to the Administrative Adjustment procedures in Section 12.4.5.
7. All uses allowed in the structure shall comply with limitations on permitted signs applicable to uses in the MS-2x district.

**C. Effect of Approval**

1. A nonresidential use allowed under this section shall be personal to the applicant and not transferable.
2. A zoning permit allowing a nonresidential use under this section may be rescinded according to Section 12.11.6.4 of this Code 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 11.4.4 PARKING, GARAGE**

**11.4.4.1 All D-C and D-TD Zone Districts**

In the D-C and D-TD Zone Districts, where permitted with limitations, garage parking use is allowed 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.

**11.4.4.2 All D-GT and D-AS Zone Districts**

In all 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 with Informational Notice is required according to Section 12.4.2 if the parking use is unenclosed and does not meet the criteria of Paragraph A above.

## SECTION 11.4.5 PARKING, SURFACE

### 11.4.5.1 All TU, TH, RH, RO or MU Residential Zone Districts

In all TU, TH, RH, RO or MU Residential Zone Districts, where permitted with limitations:

- A. Surface parking of vehicles as a primary use of land is allowed only to serve a permitted Civic, Public and Institutional Use in the zone district. Commercial surface parking lots are prohibited.

### 11.4.5.2 All 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 allowed 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.

### 11.4.5.3 All D-GT Zone Districts

In the D-GT Zone District, where permitted with limitations:

- A. Surface parking lots constructed after July 1, 1994, and not required to meet the requirements of this Subsection's requirements shall be allowed subject to Zoning Permit Review with Informational Notice (Section 12.4.2), and shall only be approved provided that the following conditions are met:
  1. Such parking lot shall serve a specific, identified business or residential facility that is an allowed use then permitted and operating in the D-GT district.
  2. 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 and Division 10.4, Parking and Loading, of this Code:
    - a. Shall have some portion of such parking lot located within 200 feet of the zone lot containing the use it serves; and
    - b. Shall not offer parking to the public in return for a fee; and
    - c. 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.

### 11.4.5.4 All CMP-H and CMP-EI Zone Districts

In all Campus Hospital (CMP-H) and Education/Institutional (CMP-EI) Zone Districts, where permitted with limitations:

- A. Surface parking of vehicles is allowed only to serve a use permitted in the district.



- B. Commercial surface parking lots are prohibited.

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

### **SECTION 11.4.6 EATING AND DRINKING ESTABLISHMENTS, ALL TYPES**

#### **11.4.6.1 All MS-2x, MS-2, MX-2x, ~~MX-2A~~ and MX-2x Districts**

In all MS-2, MX-2, MS-2x, ~~MX-2A~~ and MX-2x zone districts abutting a Single Unit (SU) or Two Unit (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.

#### **11.4.6.2 All MS-2x and MX-2x Zone Districts**

In all MS-2x and MX-2x zone districts, where permitted with limitations, in addition to compliance with the use limitations in Section 11.4.6.1 above, ~~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.~~

~~If the eating and drinking establishment is less than 50 feet from the nearest boundary of any Protected District, it shall be subject to Special Exception review and the approval of the Board of Adjustment according to the procedures stated in Section 12.4.7 of this Code.~~

## **OFFICE USE CATEGORY**

### **SECTION 11.4.7 DENTAL/MEDICAL OFFICE OR CLINIC**

#### **11.4.7.1 All G-RO Zone Districts**

In all G-RO Zone Districts, where permitted with limitations:

- A. Dental/medical office or clinic use is allowed provided, however, that such use that expands to create a gross floor area exceeding 10,000 square feet shall be subject to Zoning Permit Review with Informational Notice, according to the procedures and criteria stated in Section 12.4.2 of this Code. 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 do not need to comply with the Zoning Permit Review with Informational Notice procedures. This limitation shall not apply to rehabilitation centers for handicapped persons.

#### **11.4.7.2 All Zone Districts (Except RO, RX, MX-2x, MS-2x and 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 11.4.8 RETAIL SALES, SERVICE AND REPAIR, ALL SPECIFIC USE TYPES**

#### **11.4.8.1 All MS-2x, MS-2, MX-2x, ~~MX-2A~~ and MX-2 Zone Districts**

In all MS-2, MX-2 MS-2x, ~~MX-2A~~ and MX-2x 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.

#### **11.4.8.2 All I-B ~~Industrial~~ Zone Districts**

In an I-B Industrial Zone District (“I-B”), where permitted with limitations:

- A. Retail sales are allowed of any commodity manufactured, processed, or fabricated on the premises.
- B. Retail sales are allowed of any commodity that is warehoused only on the premises, but only to the extent that the total floor area utilized by retail sales of all such warehoused commodities shall not exceed 20 percent of the gross floor area of the warehouse.
- C. Retail repair services are allowed of any commodity that is manufactured, processed, fabricated, stored or sold in the I-B Zone District, except for the following: vehicle body shop, upholstery or top shop, paint shop, refrigeration and air conditioning service and repair, and disinfecting and pest control service.

### **SECTION 11.4.9 ANIMAL SERVICES AND SALES, HOUSEHOLD PETS ONLY**

#### **11.4.9.1 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 allowed 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 allowed 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 the Zoning Permit Review with Informational Notice procedures in Section 12.4.2 of this Code.
  - 2. Outdoor runs shall not be permitted within 20 feet of a habitable residential structure on a zone lot zoned to a Single Unit (“SU”), Two Unit (“TU”), Townhouse, (“TH”), or Row House (“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 11.4.10 BODY ART ESTABLISHMENT**

### **11.4.10.1 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. [Outline Numbering Corrected] 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  
Body art establishment; or
  6. Eating place with adult amusement or entertainment.

## **SECTION 11.4.11 FOOD SALES OR MARKET**

### **11.4.11.1 All RX Zone Districts**

In all Residential Mixed Use ("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 by-right food sales or market 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 11.4.12 LIQUOR STORE, INCLUDING DRUGSTORES LICENSED TO SELL LIQUOR**

### **11.4.12.1 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 13.1.6.

### **SECTION 11.4.13 PAWN SHOP**

#### **11.4.13.1 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 13.1.6.

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

### **SECTION 11.4.14 RETAIL SALES, SERVICES AND REPAIR, OUTDOOR**

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

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

- A. Outdoor retail sales only are permitted, and outdoor retail repair or service uses are prohibited.

#### **11.4.14.2 All Industrial Districts**

In all Industrial Zone Districts, where permitted with limitations:

- A. Special Exception review is required for all outdoor retail repair and service uses located within 500 feet of a Residential or Mixed Use Commercial Zone District.
- B. All distance and spacing requirements shall be measured according to the rule of measurement found in Section 13.1.6.

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

### **SECTION 11.4.15 AUTOMOBILE EMISSIONS INSPECTION FACILITY**

#### **11.4.15.1 All MX-2, MX-2A, MS-2 and Downtown (D-) Zone Districts**

In all MX-2, MX-2A, MS-2 and Downtown (D-) Zone Districts, where permitted with limitations:

- A. All automobile emissions inspection facility uses shall be totally enclosed with no outdoor displays, sales, or storage.

### **SECTION 11.4.16 AUTOMOBILE SERVICES, LIGHT OR HEAVY**

#### **11.4.16.1 All RX Zone Districts**

In a Residential Mixed Use (RX) Zone District, where permitted with limitations:

- A. All automobile services uses shall be completely enclosed.

#### **11.4.16.2 All MX-2, MX-2A and MS-2 Zone Districts**

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

- A. Automobile wash, laundry, detail or polishing shops (a specific type of Automobile Services, Light use) are prohibited.

#### **11.4.16.3 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 allowed as a primary use in the subject zone district.
- C. Fuel pumps and permitted accessory trailer storage need not be enclosed.
- 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.
- 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 defined by the Denver Fire Code.

## **SECTION 11.4.17 AUTOMOBILE SERVICES, LIGHT**

### **11.4.17.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. Automobile wash, laundry, detail or polishing shops are allowed 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 11.4.18 AUTOMOBILE SERVICES, HEAVY

### 11.4.18.1 All Zone Districts

In all Zone Districts, where permitted with limitations:

- A. Special Exception review is required for facilities that involve an environmental hazard as determined by the Denver Fire Code, including but not limited to the following:
  - 1. Vehicle body shop,
  - 2. Upholstery or top shop, and
  - 3. Paint shop.

### 11.4.18.2 All CC, MS, I-MX, M-IMX, and I-A Zone Districts

In all CC, MS, I-MX, M-IMX, and I-A 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 front line of the zone lot directly in front of the front building wall or main entrance of the principal structure, and in no case shall such fence or wall be required along more than 40 percent of the length of the front line of the zone lot described in this subsection; (2) The front line 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 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 11.4.19 AUTOMOBILE / MOTORCYCLE, LIGHT TRUCK, SALES, RENTAL AND/OR LEASING; PAWN LOT OR VEHICLE AUCTIONEER

### 11.4.19.1 All Downtown (D-) Zone Districts

In all Downtown (D-) Zone Districts, where permitted with limitations:

- A. The use shall be totally enclosed with no outdoor displays, sales, or storage.
- B. Automobile pawn lots are prohibited.

### 11.4.19.2 All RX and MS Zone Districts

In the Main Street (MS) Zone Districts, where permitted by limitations:

- A. All ~~automobile services, heavy, uses~~ Automobile / Motorcycle, Light Truck, Sales, Rental and/or Leasing; Pawn Lot or Vehicle Auctioneer uses shall be totally enclosed with no outdoor displays, sales, or storage.

### 11.4.19.3 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.
- 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 11.4.20 HEAVY VEHICLE / EQUIPMENT SALES, RENTALS, AND SERVICES**

### **11.4.20.1 All I-MX, M-IMX, and I-A Zone Districts**

In all I-MX, M-IMX, and I-A 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 district.

## **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 two tons shall not remain on the premises except as necessary to load and discharge contents.
- B. Any unenclosed areas allowed 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 (D-) Zone Districts**

In all Downtown (D-) Zone Districts, where permitted with limitations:

- A. This use shall be operated within a completely enclosed structure.

#### **11.5.3.3 All Industrial Zone Districts**

In the Industrial 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 LABORATORY, RESEARCH, DEVELOPMENT, TECHNOLOGICAL SERVICE**

#### **11.5.4.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. 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 11.5.5 SERVICE/REPAIR, COMMERCIAL**

#### **11.5.5.1 All CC, MX and MS Zone Districts**

In all Commercial Corridor (CC), Mixed Use (MX) and Main Street (MS) Zone Districts, except in the M-IMX zone districts, where permitted with limitations:

- A. Commercial Service/Repair uses are limited to building maintenance service uses only. All other Commercial Service/Repair uses are prohibited.

#### **11.5.5.2 All M-IMX, I-A and I-B Industrial Zone Districts**

In all M-IMX, I A and I B all Industrial 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.

**In the I-MX, M-IMX, and I-A Industrial Zone Districts:**

- 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 11.5.6 MANUFACTURING, FABRICATION, AND ASSEMBLY - GENERAL OR HEAVY**

#### **11.5.6.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. The following manufacturing, fabrication, and assembly uses shall be located 500 feet or more from the nearest boundary of a Residential Zone District existing at the time of application for the industrial use:
1. Aircraft maintenance and repair;
  2. Building contractors, heavy;
  3. Concrete, asphalt, and rock crushing facility;
  4. Manufacturing, fabrication, and assembly, general;
  5. Manufacturing, fabrication, and assembly, heavy; and
  6. Recycling plant.
- 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 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.

## **SECTION 11.5.7 MANUFACTURING, FABRICATION, AND ASSEMBLY - GENERAL**

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

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

- A. Special Exception review shall be required if the use is on a zone lot greater than 25,000 square feet or operating between 10:00 p.m. and 5:00 a.m.
- B. Special Exception review shall be required if the use is proposed on zone lots fronting 56th Avenue, Tower Road, or Pena Boulevard.

## **MINING & EXTRACTION AND ENERGY PRODUCTION SYSTEMS USE CATEGORY**

## **SECTION 11.5.8 WIND ENERGY CONVERSION SYSTEM (“WECS”)**

### **11.5.8.1 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 allowed only subject to Zoning Permit with Special Exception Review according to Section 12.4.9 of this Code. 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 allowed 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 11.5.9 HELIPAD, HELISTOP, HELIPORT**

~~All Zone Districts~~

~~In all Zone Districts, where permitted with limitations:~~

~~Except in the Industrial Zone Districts, 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, however, helipads or helistops in the D-GT Zone District located south of 8th Avenue shall not be subject to the 1,000 feet distance requirement.~~

**11.5.9.1 All Residential Zone Districts, ~~MS, MX, CMP and Downtown Zone Districts~~**

In all Residential Zone Districts, ~~MS, MX, CMP and Downtown Zone Districts~~, where permitted with limitations:

- A. 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.

**11.5.9.2 All MS, MX, CMP, Downtown (D-), M-IMX, and M-GMX Zone Districts**

In all MS, MX, CMP, Downtown (D-), M-IMX and M-GMX 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 D-GT Zone District located south of 8th Avenue shall not be subject to this 1,000 feet distance requirement.

**11.5.9.3 All ~~I-A and I-B~~ Industrial Zone Districts**

In an Industrial Zone District, where permitted with limitations:

- A. 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 11.5.10 TERMINAL, STATION OR SERVICE FACILITY FOR PASSENGER TRANSIT SYSTEM**

**11.5.10.1 All Residential Zone Districts**

In all Residential Zone District, where permitted with limitations:

- A. 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.

**WHOLESALE, STORAGE, WAREHOUSE AND DISTRIBUTION USE CATEGORY**

**SECTION 11.5.11 MINI-STORAGE FACILITY**

**11.5.11.1 All MX and MS Zone Districts**

In a Mixed Use (MX) or Main Street (MS) Zone District, where permitted with limitations:

- A. A mini-storage facility use shall not have individual entrances to storage units from the exterior of the structure.

**SECTION 11.5.12 VEHICLE STORAGE, COMMERCIAL**

**11.5.12.1 All Downtown Districts**

In the Downtown 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 is subject to Zoning Permit with Special Exception Review.

**11.5.12.2 All ~~I-A and I-B~~ Industrial Zone Districts**

In all ~~I-A and I-B zone districts~~ ~~Industrial 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 genera-

tion, and other external effects indicates a smaller separation will have no significant effect on the nearby Residential Zone District.

## SECTION 11.5.13 WHOLESALE TRADE OR STORAGE, LIGHT

### 11.5.13.1 All CC, MS, ~~and MX,~~ and Zone Districts

In a ~~Commercial Corridor (CC), Main Street (MS, ) or Mixed Use (MX)~~ Zone District, where permitted with limitations:

- A. Zoning Permit with Special Exception Review, according to Section 12.4.9 of this Code, is required if the use is 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.  
~~All permitted wholesale, light, storage uses shall include an occupied accessory office use occupying at least 10 percent of the gross floor area.~~
- B. Zoning Permit ~~with Special Exception~~ Review with Informational Notice is required for the use if 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 in order to permit review and comment by adjacent jurisdictions.

## **DIVISION 11.6 AGRICULTURAL PRIMARY USE LIMITATIONS AND STANDARDS**

The Summary Use and Parking Tables in Articles 3 through 9 reference any limitations and standards applicable to allowed 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 GARDEN, URBAN**

#### **11.6.1.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. The urban garden use shall be maintained, including necessary watering, pruning, pest control, and removal of dead or diseased plant material.
- B. Detached accessory structures incidental to the urban garden use, such as accessory storage or utility buildings, gazebos, trellis, or accessory greenhouse structures, are permitted subject to compliance with all applicable accessory structure building form standards in the applicable zone district.
- C. Bee keeping is allowed as accessory to the urban garden use, subject to compliance with the standards for accessory bee-keeping stated in Section 11.8.6, except that in an Industrial Zone District or Open Space (OS) 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.

#### **11.6.1.2 All Residential Zone Districts**

In all Residential Zone Districts, retail or wholesale sales of goods or products derived from an urban garden use are prohibited.

## DIVISION 11.7 ACCESSORY USE LIMITATIONS AND STANDARDS

The Summary Use and Parking Tables in Articles 3 through 9 reference any limitations and standards applicable to allowed 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

Any use that complies with the conditions listed in this Division 11.7 may be operated as an accessory use to a primary use permitted by right, a use subject to limitations, or to a use by Special Exception review unless specifically prohibited. In this Section 11.7.1, the term “use by right” also includes these two other types of uses. Some zone districts allow certain specific accessory uses as listed in the Divisions 11.7, 11.8 and 11.9 below. Accessory uses need not be enclosed, unless specifically stated herein.

#### 11.7.1.2 General Conditions for All Accessory Uses

All accessory uses, except accessory dwelling unit uses, must comply with all of the following general conditions. Accessory dwelling units, where permitted, must comply with the specific conditions stated in Section 11.8.2 instead of these general conditions.

- A. Such use shall be clearly incidental and customary to and commonly associated with the operation of the primary use by right.
- B. Such accessory use shall be operated and maintained under the same ownership and on the same zone lot as the use by right; 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.
- C. 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 allowed by members of a household occupying the primary structure, or domestic employees and the immediate families of such employees.
- D. The area of specific accessory uses shall be calculated as follows:
  1. **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.
  2. **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.
  3. **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.
- E. The growing of medical marijuana is prohibited as accessory to a primary nonresidential use established in a Residential Zone District. **NOTE: ADD SUNSET PROVISIONS IF AMENDMENT 3 PASSES WITH PROVISION 10/25/10**

#### 11.7.1.3 Limitations in the Principal Structure

##### A. Applicability

Section 11.7.1.3's limitations on accessory uses in the principal structure shall apply to all accessory uses operated partially or entirely within the structure containing the use by right. A

limitation in Section 11.7.3.1.B shall not apply when it conflicts with a limitation specific to an accessory use found in Divisions 11.8, 11.9 or 11.10.

**B. Limitations in the Principal Structure**

If an accessory use is operated partially or entirely within the structure containing the use by right, 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:

1. 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 dwelling unit use in a structure containing 8 or less dwelling units.
2. In a Residential Zone District, 10 percent of the gross floor area occupied by a use by right other than a single unit dwelling use, two-unit dwelling use, or a multiple unit dwelling use in a structure containing 8 or less dwelling units.
3. In a Mixed Use Commercial Zone District or Industrial Zone District, 20 percent of the gross floor area of the structure containing the primary use by-right.

**11.7.1.4 Prohibited Accessory Uses in Residential Zone Districts**

In a Residential Zone District, the following accessory uses are specifically prohibited:

- A. The sale, lease, trade or other transfer of firearms or ammunition by a firearms dealer in Residential Zone Districts.
- B. The accessory parking/storage of vehicles, trailers, commercial vehicles, and RVs are governed by Division 10.9, Parking, Keeping and Storage of Vehicles, of this Code.



## DIVISION 11.8 USES ACCESSORY TO PRIMARY RESIDENTIAL USES - LIMITATIONS AND STANDARDS

The Summary Use and Parking Tables in Articles 3 through 9 reference any limitations and standards applicable to allowed primary, accessory, or temporary uses. This Division contains limitations and standards 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 11.8 above, the following specific accessory uses shall comply with this Division's use-specific standards.

### SECTION 11.8.1 UNLISTED ACCESSORY USES

#### 11.8.1.1 ~~In~~ All Zone Districts:

- A. The Zoning Administrator shall determine and impose limitations on accessory uses not otherwise listed as allowed in an applicable Use 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 Interpretation & 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 11.8.1 shall include, but shall not be limited to the following:
  1. Numbers of animals, except as specifically listed in Section 11.8.6, maintained as accessory to a primary residential use; or
  2. Types and intensity of repairs accessory to a use by right.

### 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

Where specifically permitted in a zone district, an attached or detached accessory dwelling unit is allowed as accessory only to a primary single-unit dwelling use in accordance with the following requirements. In case of conflict between the specific requirements for accessory dwelling units stated below and the conditions stated in this Division 11.8 applicable to accessory uses or structures generally, the more specific requirements in this subsection shall apply to the accessory dwelling unit use.

##### B. General Building Requirements

1. Mobile homes, recreational vehicles, and travel trailers shall not be used as accessory dwelling units.
2. All attached or detached 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 attached or detached accessory dwelling units 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.
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 dwelling use.
4. Roof and exterior wall materials and finishes for a detached structure housing the accessory dwelling unit 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 attached or detached 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 Single Unit (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. Accessory dwelling units shall not be sold apart from the primary dwelling unit.
3. The owner of the zone lot on which an ADU 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.
4. An accessory dwelling unit use, whether detached or attached, shall not exceed a maximum size as stated in the following table, unless otherwise specifically allowed 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>
6,001 - 7,000 ft <sup>2</sup>	864 ft <sup>2</sup>
More than 7,000 ft <sup>2</sup>	1,000 ft <sup>2</sup>

5. In order to avoid overcrowding of the accessory dwelling unit, the accessory dwelling unit 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:

11.8.3.1 Housing of one or more domestic employee(s), as defined in Article 13, is allowed 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:

- A. A garden shall be maintained, including necessary watering, pruning, pest control, and removal of dead or diseased plant material.
- B. Detached accessory structures incidental to the garden use, such as accessory storage or utility buildings, gazebos, trellis, or accessory greenhouse structures, are permitted subject to compliance with all applicable building form standards in the subject zone district.
- C. The growing of medical marijuana shall comply with the following:
  1. No more than 6 plants may be grown for each patient registry identification card holder residing in a dwelling unit, not to exceed 12 plants per dwelling unit.
  2. Growing and/or storage of medical marijuana shall occur within a completely enclosed structure.
  3. Growing and/or storage of medical marijuana shall not occur in a common area associated with the dwelling unit.
  4. Growing shall be for personal use only by patient registry identification card holders residing in the dwelling unit; retail or wholesale sales of goods or products derived from the growing of medical marijuana and any off-site distribution of such plants or derived products are prohibited.

**NOTE: ADD SUNSET PROVISIONS IF AMENDMENT 3 PASSES WITH PROVISION 10/25/10**

### **11.8.4.2 All Residential Zone Districts**

In a Residential Zone District, where permitted with limitations:

- A. 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.

## **SECTION 11.8.5 GREENHOUSE**

### **11.8.5.1 All Zone Districts**

In all zone districts, where permitted with limitations:

- A. The growing of medical marijuana shall comply with the following:
  1. No more than 6 plants may be grown for each patient registry identification card holder residing in a dwelling unit, not to exceed 12 plants per dwelling unit.
  2. Growing and/or storage of medical marijuana shall occur within a completely enclosed structure.
  3. Growing and/or storage of medical marijuana shall not occur in a common area associated with the dwelling unit.
  4. Growing shall be for personal use only by patient registry identification card holders residing in the dwelling unit; retail or wholesale sales of goods or products derived from

the growing of medical marijuana and any off-site distribution of such plants or derived products are prohibited.

**NOTE: ADD SUNSET PROVISIONS IF AMENDMENT 3 PASSES WITH PROVISION 10/25/10**

### 11.8.5.2 All Residential Zone Districts

In a Residential Zone District, where permitted with limitations:

- A. Retail or wholesale sales of goods or products derived from a greenhouse accessory to a primary residential use are prohibited in a Residential Zone District.  
~~Retail or wholesale sales of goods or products derived from a greenhouse is allowed when the greenhouse is accessory to a primary nonresidential use in a Residential Zone District only, including but not limited to a permitted Public, Institutional and Civic Use.~~

## SECTION 11.8.6 KEEPING OF HOUSEHOLD ANIMALS

In all Zone Districts, where permitted with limitations:

### A. Types of Animals Allowed

The keeping of domestic animals is allowed as accessory to a by-right dwelling unit use subject to compliance with the following standards regarding number and kinds of animals:

KIND OF ANIMAL ALLOWED	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	2 hives per zone lot; hives must be in rear 1/3 of zone lot with a 5 foot setback from side and rear zone lot lines; the hives must be screened so that the bees must surmount a six foot barrier, which may be vegetative, before leaving the property; no outdoor storage of any bee paraphernalia or hive materials not being used as a part of a hive.

### B. Animal Keeping Exceptions

In addition to the animals permitted specifically by this Section 11.8.6, the Zoning Administrator may authorize, upon application in specific cases, an exception permitting the keeping of animals in connection with the operation of a primary residential use. Such exception shall be subject to the general provisions procedures stated in Section 11.8.1 for determination of unlisted accessory uses, except that all animal keeping exceptions shall be reviewed according to the Zoning Permit Review with Informational Notice procedure in Section 12.4.2. ,including any terms and conditions fixed by the Zoning Administrator, and In addition, all animal keeping exceptions shall comply with the following subject to compliance with the additional conditions: ~~stated in this paragraph below.~~

1. The application shall be filed in the name of the land owner.
2. The owner/tenant seeking the exception must occupy the subject property as his/her primary residence.

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. The application shall contain provisions which ensure that the exception will not substantially or permanently injure the appropriate use of adjacent conforming property. In determining that this condition will be met, the Zoning Administrator shall consider the following factors:
  - a. The type of animal to be kept;
  - b. The number to be kept;
  - c. The maximum size of the animal;
  - d. The space or area in which the animal is to be kept and whether or not other animals may occupy that same space;
  - e. The methods by which any sanitation problems will be controlled;
  - f. The methods by which abutting residents will be protected from any nuisance; and
  - g. The applicant's intent to allow reproduction.
5. The applicant shall have written approval from the City of Denver Department of Environmental Health.
6. The applicant shall have written approval from the Division of Wildlife, Colorado Department of Natural Resources, if applicable, for species of animals considered to be wildlife.
7. The applicant shall have notified abutting owners about the proposed animal and shall have requested letters of support or petitions of consent from such owners. If any of said owners fail to consent, the Zoning Administrator shall consider the circumstances, including any letters or petitions of opposition. Further, the Zoning Administrator shall give serious consideration to any letter from a physician stating that a resident living nearby is allergic to some feature of the proposed animal and may have a serious reaction if exposed to such animal.
8. Any structure erected for the shelter of such animal shall comply with all regulations for the zone district in which such property is located. If a variance is required for any such structure, an application for a variance must be made to the Board of Adjustment. Any such structure shall be maintained in accordance with the building and housing codes and shall be subject to inspection by the Building Inspection Division and the Department of Environmental Health.
9. An approved exception for an animal shall not be valid until the applicant has executed an agreement listing the terms and conditions fixed by the Zoning Administrator and the applicable conditions set forth above. Such agreement shall be recorded with the Denver City Clerk and Recorder. The permit for an approved exception shall expire at such time as the applicant no longer resides at the property, or discontinues the keeping of subject animal.

## **SECTION 11.8.7 KENNEL OR EXERCISE RUN**

### **11.8.7.1 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 allowed on-site shall comply with the limit on the number and kinds of animals stated in Section 11.8.6 of this Code.

## **SECTION 11.8.8 LIMITED COMMERCIAL SALES, SERVICE ACCESSORY TO MULTI-UNIT DWELLING USE**

### **11.8.8.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

#### **A. Specific Accessory Uses Allowed**

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 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 allowed; and
4. Office, non-dental or non-medical.

#### **B. Applicable Limitations**

The specific accessory uses listed above may be allowed, 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 use by right.

## **SECTION 11.8.9 SECOND KITCHEN ACCESSORY TO SINGLE UNIT DWELLING USE**

### **11.8.9.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. A second kitchen in a primary single unit dwelling building, not otherwise allowed as part of a permitted attached accessory dwelling unit use, is allowed as an accessory use provided a zoning permit is procured prior to establishment of the accessory kitchen and subject to compliance with the following standards:
  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 three 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 ~~and become null and void~~ at such time as the applicant no longer resides at the subject property.

## **SECTION 11.8.10 YARD AND/OR GARAGE SALES**

### **11.8.10.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- 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.

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## DIVISION 11.9 HOME OCCUPATIONS ACCESSORY TO A PRIMARY RESIDENTIAL USE - ALL ZONE DISTRICTS

### SECTION 11.9.1 PURPOSE AND 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 and 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 Summary Use and Parking Tables in Articles 3 through 9 reference any limitations and standards applicable to allowed primary, accessory, or temporary uses. This Division contains limitations and standards applicable to home occupation 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 11.8 above, the following specific home occupation accessory uses shall comply with this Division's general and specific standards:~~

#### ~~11.9.10.2—General Standards—Applicable to All Home Occupations~~

### SECTION 11.9.2 STANDARDS APPLICABLE TO ALL HOME OCCUPATIONS

In addition to any use-specific standards in this Division 11.9, all home occupations shall comply with the following general standards. In case of any conflict between the general standards in this subsection and a more specific use standard, the more specific use standard shall apply to the home occupation.

- A. 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.
- B. All home occupations shall operate in a completely enclosed structure, except that a child care home (small or large) may include outdoor play and/or seating areas.
- C. Home occupations may operate in the primary dwelling unit structure, or may operate in a detached accessory structure allowed under this Code.
- D. 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.
- E. If operated inside the primary dwelling unit structure, the home occupation shall not have a separate external entrance serving the home occupation.
- F. 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; and
  2. ~~that o~~ne non-animated, non-illuminated flat wall or window sign having an area of not more than 100 square inches is allowed for each street frontage of the subject zone lot.
- G. The home occupation shall not utilize more than 20 percent of the gross floor area of the by-right dwelling unit use, but in no case shall exceed 300 square feet. However, this limitation

shall not apply to foster family care, adult care home, small or large child care home, craft work, or artist studio.

- H. 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 allowed or required by the terms of a state or city license necessary to operate the permitted home occupation.
- I. The use of hand tools is allowed without limitation. 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.
- J. A zoning permit for an approved home occupation shall automatically expire at such time as the applicant no longer resides at the subject property.

### SECTION 11.9.3 [REVISED OUTLINE NUMBERING & MOVED] CHILD CARE HOME – LARGE ~~(7-12 CHILDREN)~~

Large child care home, where allowed with limitations, is allowed as a home occupation subject to compliance with the following standards:

- A. The applicant shall be the owner or the applicant has written permission of the owner of the subject property.
- B. The proposed large child care home is the applicant's primary place of residence.
- C. The applicant has obtained or will obtain upon granting of the zoning permit all licenses and certifications required by the state and the city.
- D. The proposed large child care home complies with the building and fire codes and all regulations established by the City.
- E. No other large child care home is located within ~~four hundred (400)~~ feet of the proposed large child care home.
- F. 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.
- G. 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.
- H. 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:
  - 1. The proposed home shall provide full-time supervision of the children in the home during hours of operation; and
  - 2. The proposed home shall comply with the limitations on external effects as established for primary uses by-right in the district in which it is located.

### SECTION 11.9.4 ALL OTHER TYPES ~~ALL ZONE DISTRICTS~~

In all Zone Districts, where permitted with limitations, the following specific types of home occupations are allowed as accessory to a primary residential use, subject to compliance with the any use-specific limitations or standards listed below, as applicable -- change name of use in use tables to "all other types" - drop "home occupations"

#### **11.9.4.1 Adult Care Home**

#### **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 allowed 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 an “animal keeping” accessory uses in Section 11.8.6 above.

#### **11.9.4.3 Artist Studio**

- A. An artist studio is allowed as a home occupation only to create individual works of art. Art galleries, retail sales, and other commercial retail or wholesale activities are not allowed as part of the permitted artist studio home occupation.
- B. In a Multi-Unit (MU) zone district, 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.
- C. Retail or wholesale sales are prohibited as part of the home occupation.

#### **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 Foster Family Care**

Foster family care is allowed as a home occupation subject to compliance with the following standards:

- A. The applicant for the foster family care and the location for the foster family care shall have the prior approval of the Denver Department of Human Services.
- B. The dwelling unit in which the foster family care is proposed is located in a Residential or Mixed Use Commercial Zone District.
- C. 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.
- D. The permit is necessary and desirable to provide a service or a facility that would contribute to the general wellbeing of the community.

#### **11.9.4.10 Laundering and Pressing**

#### **11.9.4.11 Office, Non-Medical, Non-Dental**

Office, non-medical and non-dental, is allowed 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.

**11.9.4.12 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.

**11.9.4.13 Rooming and/or Boarding**

Rooming and/or boarding is allowed as a home occupation subject to compliance with the following standards:

- A. The by-right dwelling unit shall contain not more than one kitchen.
- B. Number of roomers/boarders allowed - see table below:

PRIMARY RESIDENTIAL USE - ZONE DISTRICT	MAXIMUM NUMBER OF ROOMERS/BOARDERS ALLOWED AS HOME OCCUPATION
Single Unit Dwelling Use - All SU Zone Districts	1
<del>Single Unit Dwelling Use - All Other Zone Districts</del>	<del>2</del>
Two-Unit Dwelling Use - All Zone Districts	2
Multi-Unit Dwelling Use - All Zone Districts	2

- C. The number of roomers/boarders allowed under this subsection shall not affect the number of domestic employees allowed to reside in the same dwelling unit. See Section 11.9.3 for provisions allowing domestic employees as an accessory use to all primary residential use.

**11.9.4.14 Tutoring Services**

Tutoring services are allowed as a home occupation subject to compliance with the following standards:

- A. No more than 4 students shall be tutored simultaneously.

**SECTION 11.9.5 OTHER SIMILAR (UNLISTED) HOME OCCUPATION USES**

The Zoning Administrator may approve home occupation uses not specifically listed in this Division 11.9, ~~not specifically prohibited by this Section~~, according to the general provisions stated in Section 11.8.1, Unlisted Accessory Uses; ~~except that all determinations shall be reviewed according to the Zoning Permit Review with Informational Notice procedure in Section 12.4.2. The Zoning Administrator shall not allow any of the following uses as home occupations:~~

~~work in below so clear that determination of unlisted cannot include any of the ones prohibited below~~  
~~Prohibited Home Occupations In all Zone Districts, the following home occupations are prohibited and shall not be allowed through any type of exception, variance, adjustment, or modification procedure in this Code:~~

- A. Adult business uses.
- B. Animal services and sales, except as specifically permitted in Section 11.9.43.
- C. Commercial parking.
- D. Commercial warehousing or storage uses.

- E. Industrial, manufacturing and wholesale uses, except as specifically permitted in Section 11.9.43.
- F. Retail or wholesale sales.
- G. Vehicle or equipment sales, rentals, and services, including repairs.

## DIVISION 11.10 USES ACCESSORY TO PRIMARY NON RESIDENTIAL USES - LIMITATIONS AND STANDARDS

The Summary Use and Parking Tables in Articles 3 through 9 reference any limitations and standards applicable to allowed primary, accessory, or temporary uses. This Division contains limitations and standards 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 11.8 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 ~~In a~~All Zone Districts:

- A. The Zoning Administrator shall determine and impose limitations on accessory uses not otherwise listed as allowed in an applicable Use 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 Interpretation & 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 Division 11.10 shall include, but shall not be limited to the following:
  1. Numbers of animals, except as specifically listed in Section 11.8.6, maintained as accessory to a primary residential use; or
  2. 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 chapter, 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: Ten devices or that number which occupies no more than ten percent of the gross floor area of the eating and drinking establishment, whichever is more restrictive. Excludes adult amusement or entertainment.
- B. No amusement device serving as an accessory use to a use by right 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: (a) Shall be operated within the same structure and under the same management as the theater; (b) 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; (c) Shall be used by theater customers who have purchased a ticket and shall not be made available to the general public; and (d) 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 All S-CC-3x, S-CC-5x, and E-CC-3x Zone Districts**

In all S-CC-3x, S-CC-5x, E-CC-3x Zone Districts, where permitted with limitations:

- A. Storage of all rental automobiles shall be located on the same zone lot as the office for the automobile rental service;
- B. Not more than 15 rental automobiles shall be stored at any one location;
- C. Servicing and maintenance work on automobiles is permitted only as limited to automobile service stations in the district;
- D. The land area assigned for storage of rental automobiles shall not be included for computation of any required off-street parking space; and
- E. 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 allowed as accessory to a primary public library, museum, place of religious assembly, or college/university 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 by right.

### **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 allowed 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 allowed as accessory to a primary place of 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 allowed 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 Standards**

1. Drive-through facilities shall be allowed 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 and standards 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. Minimum 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 Article 10, 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 abutting 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 permitted with limitations:

- A. The garden use shall be maintained, including necessary watering, pruning, pest control, and removal of dead or diseased plant material.
- B. Detached accessory structures incidental to the garden use, such as accessory storage or utility buildings, gazebos, trellis, or accessory greenhouse structures, are permitted subject to compliance with all applicable building form standards in the subject zone district.
- C. Bee keeping is allowed as incidental to the accessory garden use, subject to compliance with the standards for accessory bee-keeping stated in Section 11.8.6.
- D. **Retail Sales of Goods or Products Derived from the Accessory Garden Use**
  1. In a Residential Zone District, retail or wholesale sales of goods or products derived from a garden are allowed when the garden is accessory to a primary nonresidential use, including but not limited to a permitted Public, Institutional and Civic Use.  
  
~~In a Residential Zone District, retail sales of goods or products derived from an accessory garden use are prohibited.~~
  2. In all other zone districts, retail or wholesale sales of goods or products derived from ~~the accessory~~ a garden are allowed when the garden is accessory to a primary nonresidential use are allowed.

## SECTION 11.10.10 OCCASIONAL SALES, SERVICES ACCESSORY TO PRIMARY PLACES OF RELIGIOUS ASSEMBLY OR PRIMARY USES OPERATED BY NON-PROFIT ORGANIZATIONS

### 11.10.10.1 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 allowed 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 11.10.11 OUTDOOR EATING AND SERVING AREAS ACCESSORY TO EATING/DRINKING ESTABLISHMENT USE

### 11.10.11.1 All Zone Districts

In all zone districts, where permitted with limitations:

- A. Outdoor eating and serving areas are allowed as accessory to an eating and drinking establishment, and shall comply with all applicable standards stated for primary eating and drinking establishments in Section 11.4.6 of this Code. In case of conflict with the use standards stated in this section specific to outdoor eating and serving areas, the more restrictive standard shall apply.
- B. All outdoor eating or serving areas shall comply with the following standards:
  1. The outdoor eating or serving area shall be contiguous to the eating and drinking establishment to which it is accessory.

2. The outdoor eating or 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 that temporary canvas awnings or umbrellas may serve as sun shades.
3. Any part of the eating and serving 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 the outdoor eating area.

**11.10.11.2 All RX, CC-3, CC-3x, CC-5x, MS-2, MS-2x, MS-3, MX-2, MX-2x, MX-2A, MX-3, MX-3a, I-MX, I-A, I-B, M-IMX, and M-GMX Zone Districts**

**A. Applicability**

This Section 11.10.11.2's use standards shall apply to all accessory outdoor eating or serving areas, where allowed with limitations, in the following zone districts:

1. In all RX, MS-2, MS-2x, MX-2, MX-2x, MX-2A, I-MX, I-A, I-B, M-IMX, and M-GMX zone districts; and
2. In all CC-3, CC-3x, MS-3, and MX-3 zone districts except when such zone district abuts an Arterial Street as designated in Blueprint Denver.

**B. Use Limitations**

1. If the outdoor eating or service area is between 50 feet and less than 100 feet from the boundary of any Protected District, the use of the outdoor eating or serving 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.
2. All distance and spacing requirements shall be measured according to the rule of measurement found in Section 13.1.6.

**11.10.11.3 All RX, CC-3, CC-3x, CC-5, CC-5x, MS-2, MS-2x, MS-3, MS-5, MX-2, MX-2x, MX-2A, MX-3, MX-3a, MX-5, C-CCN, I-MX, I-A, I-B, M-IMX, and M-GMX Zone Districts**

**A. Applicability**

This Section 11.10.11.3's use standards shall apply to all accessory outdoor eating or serving areas, where allowed with limitations, in the following zone districts:

1. In all RX, CC-3x, CC-5x, MS-2, MS-2x, MX-2, MX-2x, MX-2A, C-CCN, I-MX, I-A, I-B, M-IMX, and M-GMX zone districts; and
2. In all CC-3, CC-5, MS-3, MS-5, MX-3, and MX-5 zone districts except when such zone district abuts a Commercial Arterial Street as designated in Blueprint Denver.

**B. Use Limitations**

1. If the outdoor eating or service area is less than 50 feet from the nearest boundary of any Protected District, it shall be subject to Special Exception review and the approval of the Board of Adjustment according to the procedures stated in Section 12.4.9 of this Code.
2. The Board of Adjustment, in addition to compliance with the general standards for outdoor eating and seating areas stated in this Section 11.10.11, shall allow the operation of the outdoor eating and seating area beyond 6 p.m. only upon consideration of the following factors:
  - a. Neighboring uses;
  - b. Seating capacity of the outdoor eating and seating area;
  - c. Type of food or drink being served; and

- d. The ambient noise generated by activity on the eating and seating area, including whether outdoor speakers will be authorized.

The Board of Adjustment may restrict the sale and consumption of alcohol beverages on the outdoor eating and seating area for all, none, or only some of the permitted hours of operation.

3. All distance and spacing requirements shall be measured according to the rule of measurement found in Section 13.1.6.

## **SECTION 11.10.12 OUTDOOR ENTERTAINMENT ACCESSORY TO AN EATING/DRINKING ESTABLISHMENT USE**

### **11.10.12.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. Outdoor entertainment uses are allowed 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 11.4.6 of this Code. 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 the rule of measurement in Article 13), 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 the rule of measurement in Article 13), it shall be subject to Special Exception review and the approval of the Board of Adjustment according to the procedures stated in Section 12.4.9 of this Code

## **SECTION 11.10.13 RENTAL OR SALES OF ADULT MATERIAL ACCESSORY TO RETAIL SALES OF BOOKS**

### **11.10.13.1 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," 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 AND STRUCTURE LIMITATIONS AND STANDARDS**

The Summary Use and Parking Tables in Articles 3 through 9 reference any limitations and standards applicable to allowed primary, accessory, or temporary uses. This Division contains limitations and standards applicable to specific temporary uses and structures across multiple zone districts and neighborhood contexts. Temporary uses are permitted according to the Zoning Permit procedures stated in Section 12.4.1, subject to compliance with this Division's use-specific standards, as applicable.

### **SECTION 11.11.1 UNLISTED TEMPORARY USES AND STRUCTURES**

#### **11.11.1.1 All Zone Districts**

In all Zone Districts, where permitted with limitations:

- A. The Zoning Administrator shall determine and impose limitations on temporary uses and structures not otherwise listed as allowed in an applicable Use Table in Articles 3 through 9, or not otherwise addressed in this Division 11.11.
- B. All such determinations shall be reviewed according to the procedures and review criteria stated Section 12.4.6, Code Interpretation & 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 Zone Districts, O-1, and CMP-H Zone Districts**

In all Industrial Zone Districts, O-1, and Campus-Hospital (CMP-H) Zone Districts, 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 a Residential Zone District, 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 and OS-B Zone Districts**

In all Mixed Use Commercial Zone Districts or in OS-B Zone Districts, where allowed 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, are allowed, subject to compliance with the following limitations:

- A. Each permit shall specify the location of the building and/or yard and the location of the permitted operation.
- B. Construction materials and/or 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 to the proposed site.
- C. 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 that is taller than 8 feet.
- D. 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.
- E. A temporary building shall comply with the most restrictive building setback requirements of the zone district in which it is located.

- F. 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.
- G. The temporary use need not be enclosed.

## **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 allowed 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 allowed 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 allowed 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 Downtown Zone Districts and Mixed Use Commercial Zone Districts**

In all Downtown Zone Districts and in Mixed Use Commercial 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 and OS-B Zone Districts**

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 Section 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 Mixed Use Commercial Zone Districts and All OS-B and I-A Zone Districts**

In all Mixed Use Commercial Zone Districts, in the I-A Zone Districts, and in the OS-B 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 allowed subject to compliance with the following general standards. In case of conflict with any other standard in this Division, the more specific standard shall apply.

~~Any proposed seasonal outdoor retail sales use, including but not limited to a farmer's market or flea market, located within 500 feet of a Residential Zone District shall be reviewed and permitted according to Section 12.4.2, Zoning Permit Review with Informational Notice.~~

- A. Permits shall be valid for no longer than 6 consecutive months of any one calendar year, unless more specifically restricted in this Section.
- B. A farmers market may be conducted year-round in the same fixed location as a primary outdoor retail sales use, or may be operated on an occasional or periodic basis as a temporary use according to this Section.
- C. Hours of operation are limited to 8:00 a.m. to 8:00 p.m. daily.
- D. 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.
- E. 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.

- F. The temporary use shall not obstruct the visibility of motorists, nor obstruct the parking lot circulation or block access to a public street.
- G. 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, Health Department and Community Planning and Development.
- H. Any electrical work shall be duly permitted by the City prior to operation of the temporary use and related structures.
- I. Signs shall be limited to not more than two ground or wall signs as defined in Article 13, 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.
- J. 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.
- K. No truck-tractors or semi-trailers [DEFINE] shall be parked or stored on or adjacent to the seasonal outdoor sales area.
- L. 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.

**11.11.12.2 All RX, MS-2, MS-2x, MX-2, MX-2x, and MX-2A Zone Districts - All Seasonal Outdoor Sales**

In the RX, MS-2, MS-2x, MX-2, MX-2x, and MX-2A zone districts, all proposed seasonal outdoor retail sales use, including but not limited to a farmer's market or flea market, located either in a RX Zone District or within 500 feet of a Residential Zone District shall be reviewed and permitted according to Section 12.4.2, Zoning Permit Review with Informational Notice.

**11.11.12.3 [Renumbered] All Zone Districts - Seasonal Outdoor Sales of Christmas Trees**

In all Zone Districts, where temporary seasonal outdoor sales are permitted with limitations, the seasonal outdoor retail sales of Christmas trees and wreaths shall comply with the following limitations:

- A. No permit shall be effective prior to the 1st day of November in each calendar year;
- B. No permit shall be valid for a period of more than 60 days; and
- C. Site cleanup shall be completed no later than 5 days after Christmas day.

**11.11.12.4 [Renumbered] All Zone Districts - Seasonal Outdoor Sales of Plants**

In all Zone Districts, where temporary seasonal outdoor sales are permitted with limitations, seasonal plant sales facilities shall comply with the following limitations:

- A. The applicant is the owner of the subject property or has written consent of the owner.
- B. The proposed temporary use shall be operated wholly or partially within an approved temporary structure, which is not a motor vehicle or trailer.
- C. The proposed temporary use, not including parking, encompasses an area of no more than one acre.
- D. That the purpose of the proposed facility is to sell at retail horticultural items including, but not limited to bedding plants, plant containers, seeds, small trees and bushes, and accessories

therefor; sales of agricultural chemical and fertilizer products are permitted only if prepackaged.

- E. Permits shall be valid from April 1 through October 31 of each calendar year.
- F. 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.
- G. Vehicle access to the proposed facility shall provide appropriate ingress and egress areas to preclude traffic congestion on adjacent streets.
- H. 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.
- I. 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.
- J. 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.
- K. Lighting shall be provided for evening and night operations.
- L. 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.

## **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 surface parking lot designated for a special event may be allowed by temporary permit on zone lots occupied by a nonresidential use, including but not limited to a Civic, Public and Institutional use, subject to compliance with the following limitations:

- A. The parking surface and driving aisles shall consist of an all-weather surfacing material but need not include any landscaping as required by Article 10 of this Code.
- B. 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.
- C. The applicant shall be the owner of the property, or the owner's authorized agent.
- D. The dimensions for and the arrangement of parking spaces and driving aisles shall comply with the requirement of Article 10, Division 10.4, Parking.
- 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 temporary permit, and no new parking permit shall be issued for the subject zone lot until after a six-month period of time has transpired.
- G. Each 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. The temporary surface parking for a designated special event need not be enclosed.
- B. Each 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.
- C. For developed zone lots containing a structure: The temporary surface parking area shall be improved according to the provisions of Section 10.4.6 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 10.4.5 Design of Parking Lots and Structures.
- D. For vacant zone lots: The parking area shall be improved with an all-weather surfacing material. The dimensions for and the arrangement of parking spaces and driving aisles shall comply with the requirements of Section 10.4.5 Design of Parking Lots and Structures.

#### **11.11.13.3 All Zone Districts (Except Residential and Mixed Use Commercial Zone Districts)**

In all Zone Districts, except in a Residential Zone District or Mixed Use Commercial Zone District, where permitted with limitations:

- A. Each permit for temporary surface parking 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. The temporary parking area shall be improved with an all-weather surfacing material.

#### **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 parking use 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

puter 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, Entertainment & Recreation**

**A. Definition of Arts, Entertainment & Recreation Use Category**

Arts, Entertainment and Recreation 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, Entertainment & Recreation 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, marital 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. **[Moved] 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.
- 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 land 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 street level 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 allowed 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.



**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 System**

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 Interpretation, 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. Railway 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 railway right-of-way, including rail tracks, guideways, and overhead power lines, but not including railway 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 junkyard.

**2. Junkyard**

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.

## SECTION 11.12.6 PRIMARY AGRICULTURE USES

### A. Definition of Agriculture Use Category

Agriculture Category includes production, keeping, or maintenance for sale or lease, of plants, including but not limited to: forages and sod crops; grains and seed crops; fruits and vegetables; and ornamental products; and unless expressly prohibited, the keeping of 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. Agriculture, Limited

Limited agricultural activities including, but not limited to: the growing of fruits, flowers, vegetables, or ornamental plants; grazing of livestock, forage and feed crop production, sod farming, truck farming, and fruit and nut tree orchards; excluding, however, feed lots, hog farms, dairies, poultry and egg production facilities, bee-keeping and apiaries, horse boarding, and riding stables.

#### 2. Aquaculture

Including, but not limited to, hatcheries, growing tanks or raceways, processing, storage, packaging and distribution of shellfish and fish, including accessories such as feed storage and water treatment facilities. The outdoor storage of waste material from fish processing is prohibited.

#### 3. Garden, Urban

A private or public facility for the growing and/or selling of fruits, flowers, vegetables, or ornamental plants by one or more persons. "Urban garden" use includes associated buildings and structures incidental to or necessary for the use's operation, including but not limited to detached utility buildings for storage and irrigation systems/equipment.

#### 4. Greenhouse

A wholesale or retail business where the principal activity is the growing and selling of fruits, flowers, herbs, vegetables, or ornamental plants within an enclosed building. A "greenhouse" use may include aquaculture when the aquaculture is part of the process of growing fruits, flowers, herbs, vegetables, or plants, provided the aquaculture use occurs within the enclosed greenhouse structure and provided fish processing and outdoor storage of waste materials are prohibited.

#### 5. Husbandry, Animal

The cultivation, production, and management of animals and/or by-products thereof.

#### 6. Husbandry, Plant

The cultivation or production of plants and/or by-products thereof.

#### 7. Nursery, Plant

Any land used to raise trees, shrubs, flowers and other plants for sale or for transplanting.

## SECTION 11.12.7 DEFINITIONS OF ACCESSORY USES

### 11.12.7.1 Definition of Uses Accessory to Primary Residential Uses

#### A. 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:

1. **Dwelling, accessory unit, attached:** An accessory dwelling unit that is connected to the primary single unit dwelling.

**2. 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.

**B. Garden**

~~The raising of produce for personal consumption, and not for resale as a commodity. The growing and cultivation of fruits, flowers, herbs, vegetables, and/or ornamental plants.~~

**C. Greenhouse**

The growing and cultivation of fruits, flowers, herbs, vegetables, or ornamental plants within an enclosed building ~~as accessory to a primary residential use of land, and wherein the goods produced may not be sold in a Residential Zone District.~~

**11.12.7.2 Definition of Uses Accessory to Primary Nonresidential Uses**

**A. 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.

**B. Automobile Gasoline Filling Station**

A retail establishment engaged in the sale of automotive fuel or motor oil for automobiles.

**C. 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.

**D. Banking and Financial Services**

See definition of "banking and financial services" in Section 11.12.4.7.C.1 above.

**E. 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.

**F. College or University 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.

**G. Conference Center, Meeting Hall**

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.

**H. 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.

**I. Eating and Drinking Establishment**

See definition of "eating and drinking establishment" in Section 11.12.4.4.B.1, above.

**J. Food Sales and Market**

See definition of "food sales and market" in Section 11.12.4.7.B.4, above.

**K. Garden**

~~An accessory use wherein a portion of a zone lot is used for t~~The growing and cultivation of fruits, flowers, herbs, vegetables, and/or ornamental plants.

**L. Greenhouse**

The growing and cultivation of fruits, flowers, herbs, vegetables, or ornamental plants within an enclosed building ~~as accessory to a primary nonresidential use of land, and wherein the goods produced may be sold on-site or taken off-site for wholesale or retail sale.~~

**M. Office**

See definition of the “office” use category in Section 11.12.4.6.A above. Office as an accessory use does not include Medical / Dental Office or Clinic.

**N. 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.

**O. Outdoor Eating and Serving Area**

An unenclosed area containing only tables and chairs, where food and drinks are served to patrons of the primary eating and drinking establishment.

**P. Outdoor Entertainment**

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 allowed primary land uses.

**Q. Outdoor Sales 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.

**R. Outdoor Storage**

The 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 use.

## SECTION 11.12.8 DEFINITIONS OF HOME OCCUPATIONS

**A. General Definition of Home Occupation**

A ~~commercial business~~ use (e.g., ~~retails sales,~~ 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.

**B. Specific Home Occupation Use Types and Definitions**

**1. Adult Care Home**

A home occupation providing less than 24-hour care of ~~four~~4 or fewer clients, over the age of 16 years. 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.

**2. Artist Studio**

See definition of “artist studio” in Section 11.12.4.2.B above.