

process for relatively less complex site development plans. In no case, however, shall rules and regulations vary the review criteria established in this Section 12.4.3 for approval of a site development plan. Once adopted by the Manager, such rules and regulations shall supersede the process, time frames, and application contents for general site development plan review established in this Section 12.4.3.

## **SECTION 12.4.4 ZONE LOT AMENDMENTS**

### **12.4.4.1 Purpose**

This Section establishes the general obligation of an owner to designate a zone lot prior to development, and establishes the administrative process to amend the boundaries of a previously designated zone lot.

### **12.4.4.2 Zone Lot Amendments**

#### **A. Initiation**

All owners of the subject property shall initiate an application for a zone lot amendment.

#### **B. Application and Fees**

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

#### **C. Pre-Application Conference**

A pre-application conference is optional before submittal of an application for zone lot amendment. See Section 12.3.2, Pre-Application Conference/Concept Review.

#### **D. Concurrent Applications**

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

#### **E. Review, Referral and Final Decision by Zoning Administrator**

1. The Zoning Administrator may refer the zone lot amendment application to other affected or interested parties and agencies for review and comment as deemed necessary to make a decision on the application.
2. In deciding to approve, approve with conditions, or deny the proposed zone lot amendment, the Zoning Administrator shall consider relevant comments of all interested parties.
3. The Zoning Administrator may attach any condition to the zone lot amendment reasonably necessary to protect the health, safety and welfare of the community and to minimize adverse impacts on adjacent properties.

#### **F. Review Criteria**

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

1. All owners of the zone lot have indicated in writing their agreement to the amendment.
2. Except in the case of adding or removing land by an act of government through right-of-way vacation, condemnation, or threat of condemnation, the following criteria shall be met:
  - a. A zone lot amendment shall not result in the creation of a new nonconforming or compliant zone lot, structure or land use.
  - b. Nor shall a zone lot amendment increase an existing nonconforming or compliant structure's degree of nonconformity with this Code's standards (e.g., a zone lot

amendment that would further decrease an existing compliant side interior setback is not allowed).

**G. Recordation**

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

## **SECTION 12.4.5 ADMINISTRATIVE ADJUSTMENT**

### **12.4.5.1 Purpose**

The Zoning Administrator may adjust, in minor ways, certain provisions of this Code otherwise applicable to a property pursuant to the procedures in this Section. Administrative adjustments may authorize minor changes to pending applications, or to approved plans and permits, and relief from specified standards as stated in this Section. Administrative adjustments are intended to relieve unnecessary hardship in complying with the strict letter of this Code or with overriding federal law, and to promote context-sensitive development in Denver's established neighborhoods. Administrative adjustments are not intended to relieve specific cases of financial hardship, nor to allow circumventing the intent of this Code and its standards.

### **12.4.5.2 Applicability**

**A. Adjustments to Approved Applications, Plans and Permits**

**1. General Allowance**

The Zoning Administrator may grant administrative adjustments to a previously approved application, plan or permit approved pursuant to this Code, except that the Zoning Administrator may grant administrative adjustments to a previously approved site development plan or zoning permit for development in an approved PUD District only when the terms of the PUD District Plan and documents expressly authorize administrative adjustments according to this Section 12.4.5.

**2. Limits on Authority to Grant Adjustments**

The Zoning Administrator may approve administrative adjustments to a previously approved plan or permit according to the allowances and limits stated in Section 12.4.5.3, Permitted Adjustments, below. In no circumstance, however, shall the Zoning Administrator approve an administrative adjustment to a previously approved application, plan or permit that qualifies as an "amendment" under Section 12.3.7.2, Amendments to Approved Applications, Plans or Permits.

**B. Adjustments to Pending Zoning Applications**

The Zoning Administrator may grant administrative adjustments as part of the review of a pending zoning application otherwise required by this Code according to the allowances and limits stated in Section 12.4.5.3, Permitted Types of Administrative Adjustments, below, except that the Zoning Administrator may grant administrative adjustments to a pending site development plan or zoning permit for development in an approved PUD District only when the terms of the PUD District Plan and documents expressly authorize administrative adjustments according to this Section 12.4.5.

## DIVISION 12.5 COMPLIANT USES

### SECTION 12.5.1 DEFINITION

See Article 13 for definition of "Use, Compliant," and "Use, Conforming."

### SECTION 12.5.2 EFFECT

#### 12.5.2.1 Right to Continue

Compliant uses are legal uses for all purposes under this Code, and may continue to operate indefinitely.

#### 12.5.2.2 General Allowance and Limitation on Expansion

Provided it continues to comply with all provisions of this Division, any compliant use may continue in operation on the same land area and on the same floor area in a structure that was occupied by the compliant use on the date the use first became a compliant use. Except as authorized in this Division 12.5, the land area or the floor area in a structure devoted to the operation and maintenance of a compliant use shall not be increased. Continuance authorized in this Division shall not be construed to permit an increase in the number of dwelling units, a reduction of the ratio of land area to the number of dwelling units, or any change whatsoever in any aspect of and feature of or in the character of the compliant use.

#### 12.5.2.3 Zoning Administrator Authority to Allow Limited Expansions

##### A. Zoning Administrator Authority in Special Cases Only

1. The Zoning Administrator may authorize, upon application in specific cases, an exception permitting an increase in either or both the land area or the floor area in a structure or structures occupied by a compliant use as are necessary and essential to enable the owner of the use to comply with lawful requirements of the federal, state, or municipal governments: or
2. As a result of an act of government through vacation of right-of-way that creates private land area immediately adjacent to an abutting zone lot, for that newly created private land, the Zoning Administrator may authorize, upon application in specific cases, an exception permitting the existing compliant use to expand in land area, but not floor area in a structure or structures, onto the newly created private land.

##### B. Procedure and Required Findings

All applications for an allowance under this Section 12.5.2.3 shall be reviewed according to the procedures stated in Section 12.4.1, Zoning Permit Review. In addition to the review criteria stated in Section 12.4.1, the Zoning Administrator shall grant an allowance only upon finding the following conditions exist:

1. That the use is a compliant use as defined in this Code, and is in full compliance with all requirements of this Code applicable to compliant uses, and
2. The Zoning Administrator has found that the application complies with Section 12.5.2.3.A. That the allowance for expansion is necessary and essential to enable the owner of the use to comply with lawful requirements of federal, state or municipal governments:

##### C. Allowance Personal to Owner

Every allowance authorized by this Section 12.5.2.3 shall be personal to the applicant and shall not be transferable, and shall run with the land only after construction of any authorized structure or structures and only for the life of such structure or structures.

#### **12.5.2.4 Board of Adjustment Authority to Grant Variances for Expansion**

The Board of Adjustment is authorized under its power to grant variances to permit an increase in the floor area occupied by a compliant use in an existing structure, subject to the procedures and applicable criteria stated in Section 12.4.7, Variance.

### **SECTION 12.5.3 TERMINATION OF COMPLIANT USES**

#### **12.5.3.1 By Changes in Use**

**A. To a Conforming Use**

Changing a compliant use to a conforming use shall terminate the rights of the compliant use, and any re-establishment of the compliant use shall comply with all applicable use limitations in this Code.

**B. To a Temporary Use**

Changing a compliant use to a temporary use properly permitted under the provisions of this Code shall not terminate the rights of the compliant use.

#### **12.5.3.2 By Abandonment**

Abandonment of a compliant use shall terminate immediately the right to operate such compliant use.

#### **12.5.3.3 By Violation of this Code**

- A. Unless remedied according to Subsection 12.5.3.3.B below, any one of the following violations of this Code shall terminate the right to operate a compliant use:
1. Failure to make a compliant use comply with the limitations on external effects of uses as established by this Code;
  2. Increasing the floor area occupied by a compliant use without the approval of the Board of Adjustment or the Zoning Administrator for such increase, as applicable; or
  3. Changing a compliant use to an unlawful use.
- B. Any of the following actions shall allow continuance of a compliant use in the event of a violation of this Code:
1. Approval of a zoning variance that grants specific relief from compliance with the provision of the Code at issue in the use termination case. The Board of Adjustment shall act on such variance application within 120 days from the date the Zoning Administrator of the city determines such use is in violation of this Code. For good cause, the Zoning Administrator may grant an extension of the 120-day period for up to one additional 90-day period.
  2. The Zoning Administrator finds that the violation is completely remedied within 90 days from the date the Zoning Administrator determines such use is in violation of this Code.
  3. The subject property owner submits a mitigation plan to the Zoning Administrator that proposes specific steps and time frames the owner will take to remedy the violation by a date certain, but in no case longer than 180 days from the date the Zoning Administrator of the City determines such use is in violation of this Code. The Zoning Administrator shall take final action to either approve, approve with conditions, or deny the mitigation plan. For good cause, the Zoning Administrator may grant an extension of the mitigation period for up to one additional 180-day period.

## DIVISION 12.7 NONCONFORMING USES

### SECTION 12.7.1 DEFINITION

- 12.7.1.1 Nonconforming use means any use which, at the time the use was first permitted or initiated, was lawfully operated, and has since that time been continuously lawfully operated, but which use is not a permitted use under this Code and is not a "compliant use" under Division 12.5 of this Code.
- 12.7.1.2 Nonconforming outdoor general advertising devices (billboards) and other nonconforming signs shall be subject to the nonconforming sign provisions in Division 12.9 of this Article instead of the nonconforming use standards stated in this Division 12.7.

### SECTION 12.7.2 LIMITED CONTINUANCE OF NONCONFORMING USES ALLOWED

#### 12.7.2.1 General Allowance and Limitation on Expansion

Provided it continues to comply with all provisions of this Section, any nonconforming use may be continued in operation on the same land area and on the same floor area in a structure that was occupied by the nonconforming use on the date the use first became a nonconforming use. Except as authorized in Section 12.7.2.2 below, the land area or the floor area in a structure devoted to the operation and maintenance of a nonconforming use shall not be increased. The continuance authorized hereunder shall not be construed to permit increase in the number of dwelling units, a reduction of the ratio of land area to the number of dwelling units, or any change whatsoever in any aspect of and feature of or in the character of the nonconforming use.

#### 12.7.2.2 Zoning Administrator Authority to Allow Limited Expansions

##### A. Zoning Administrator Authority in Special Cases Only

1. The Zoning Administrator may authorize, upon application in specific cases, an exception permitting an increase in either or both the land area or the floor area in a structure or structures occupied by a nonconforming use as are necessary and essential to enable the owner of the use to comply with lawful requirements of the federal, state, or municipal governments; or
2. As a result of an act of government through vacation of right-of-way that creates private land area immediately adjacent to an abutting zone lot, for that newly created private land, the Zoning Administrator may authorize, upon application in specific cases, an exception permitting the existing nonconforming use to expand in land area, but not floor area in a structure or structures, onto the newly created private land.

##### B. Procedure and Required Findings

All applications for an allowance under this Section 12.7.2.2 shall be reviewed according to the procedures stated in Section 12.4.1, Zoning Permit Review. In addition to the review criteria stated in Section 12.4.1, the Zoning Administrator shall grant an allowance only upon finding the following conditions exist:

1. That the use is a nonconforming use as defined in this Code, is in full compliance with all requirements of this Code applicable to nonconforming uses, and is not a nonconforming use which, by the provisions of this Code, is to be terminated by operation of law; and
2. The Zoning Administrator has found that the application complies with Section 12.7.2.2.A. That the allowance for expansion is necessary and essential to enable the owner of the use to comply with lawful requirements of federal, state or municipal governments.

**C. Allowance Personal to Owner**

Every allowance authorized by this Section 12.7.2.2 shall be personal to the applicant and shall not be transferable, and shall run with the land only after construction of any authorized structure or structures and only for the life of such structure or structures.

**12.7.2.3 Board of Adjustment Authority to Grant Variances for Expansion**

The Board of Adjustment is authorized under its power to grant variances to permit an increase in the floor area occupied by a nonconforming use in an existing structure, subject to the procedures and applicable criteria stated in Section 12.4.7, Variance.

**SECTION 12.7.3 DETERMINATION OF NONCONFORMING STATUS**

Nonconforming status shall be determined by the Zoning Administrator.

**SECTION 12.7.4 COMPLIANCE WITH LIMITATIONS ON EXTERNAL EFFECTS OF USES**

Every nonconforming use shall comply with the limitations on external effects of uses established for the Zone District in which such use is located.

**SECTION 12.7.5 ZONE LOT FOR STRUCTURES CONTAINING NONCONFORMING USES**

Whenever a nonconforming use or uses is operated in a structure, a separate zone lot shall be designated, provided, and continuously maintained for the structure containing the nonconforming use or uses. Each zone lot shall have at least one front line. Upon application to and approval by the Zoning Administrator, the boundaries and area of a designated zone lot may be amended if full compliance with all requirements of this Code can be maintained.

**SECTION 12.7.6 MAINTENANCE OF OFF-STREET PARKING AND LOADING SPACES**

All off-street parking and loading space operated by, in connection with, or accessory to a nonconforming use shall be maintained in accordance with all specifications for maintenance of off-street parking space as established by this Code.

**SECTION 12.7.7 CHANGING NONCONFORMING USES**

**12.7.7.1 To a Conforming Use**

Changing any nonconforming use to a conforming use shall terminate the nonconforming use and the nonconforming use shall not be reestablished.

**12.7.7.2 To a Temporary Use**

Changing a nonconforming use to a temporary use properly permitted under the provisions of this Code shall not terminate the nonconforming use.

**SECTION 12.7.8 TERMINATION OF NONCONFORMING USES**

**12.7.8.1 By Abandonment**

Abandonment of a nonconforming use shall terminate immediately the right to operate such use.

**12.7.8.2 By Change in Use**

Changing any nonconforming use to another use, except changing to a temporary use allowed under Section 12.5.3.1.B, shall terminate immediately the right to operate such nonconforming use.