

## Written Code Interpretation — Applicability of Use Limitations for Mini-Storage Facilities in Industrial Zone Districts

DZC Sections Affected: Sections 9.1.5.5, 11.5.23, and 13.1.11  
Issued by: Tina Axelrad, Zoning Administrator  
Date of Interpretation: January 22, 2019  
Authority for Interpretation: Denver Zoning Code, §12.4.6

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### Summary of Written Code Interpretation

This written Code Interpretation results in the following determinations:

1. DZC Section 11.5.23's specific use limitations on Mini-Storage Facility uses apply to the establishment of such uses in the I-MX as well as in the I-A and I-B industrial zone districts.
2. DZC Section 11.5.23's more specific use limitations governing Mini-Storage Facility uses take precedence over Section 9.1.5.5's general allowance permitting such uses in the I-MX, I-A, I-B zone districts without referring to any use limitations.
3. DZC Section 11.5.23.2's prohibition on the establishment of a Mini-Storage Facility, when the subject zone lot is located within ¼ mile of rail transit station platform, works to prohibit the establishment of a Mini-Storage Facility on the whole of the subject zone lot even if only a portion of the subject zone lot is located within ¼ -mile of a rail transit station platform.

### 1. Interpretation to Clarify Applicability of Mini-Storage Facility Limitations to Industrial Zone Districts

Effective May 24, 2018, Denver City Council adopted an amendment to the Denver Zoning Code (“DZC”) that added new limitations on the “Mini-Storage Facility” zoning use. The limitations are found in DZC, Section 11.5.23, which are restated below:

#### **Section 11.5.23 Mini-Storage Facility**

##### 11.5.23.1 All MX, MS, and Downtown Zone Districts

In all MX, MS, and Downtown zone districts, where permitted with limitations, a Mini-Storage Facility use shall not have individual entrances to storage units from the exterior of the structure.

##### 11.5.23.2 All MX, MS, CC, and Downtown Zone Districts

In all MX, MS, CC, and Downtown zone districts, where the Zone Lot is located within 1/4 mile of a Rail Transit Station Platform, a Mini-Storage Facility shall be prohibited.

##### 11.5.23.3 All I-A and I-B Zone Districts

In all I-A and I-B zone districts, where the Zone Lot is located within 1/4 mile of a Rail Transit Station Platform, and where permitted with limitations, a Mini-Storage Facility use shall not have individual entrances to storage units from the exterior of the structure.

The plain language of the limitations text cited above is that they apply in the I-A and I-B zones, per Section 11.5.23.3, and to “all MX” zone districts, per Sections 11.5.23.1 and 11.5.23.2, which would include MX districts in any neighborhood or special context established by the code, including the I-MX zone district. When read on their own, the limitations in Section 11.5.23.1 and 11.5.23.2 apply to establishment of a Mini-Storage use in the I-MX zone districts.

The legislative history and intent of the DZC text amendment that added the Section 11.5.23 use limitations to the code supports the plain language of the applicable text. In any code interpretation, an over-arching goal is to accomplish the intent of City Council in adopting the code provision at issue.

In the May 17, 2018, CPD staff report to City Council, describing a bundle of proposed DZC text amendments, which included the addition of new Section 11.5.23.2 and 11.5.23.3 limits on Mini-Storage Facilities, city planner Sara White included a detailed summary of the major code changes in the bundle. From that summary, the following is Ms. White’s description of the new use limitations on Mini-Storage Facilities (*emphasis added*):

**Primary Uses: Industrial, Manufacturing and Wholesale**

1. Use Definitions: Revise definitions of Wholesale Trade or Storage, General, and Wholesale Trade or Storage, Light, to specifically exclude Mini-Storage Facilities to remove overlap of definitions.
2. Use Limitations: Prohibit Mini-Storage Facilities within ¼ mile of a Rail Transit Station Platform in all zone districts, except for the I-A and I-B zone districts. In the I-A and I-B zone districts, within ¼ mile of a Rail Transit Station Platform, Mini-Storage Facilities would be permitted with limitations on the design of the facility.

Note that the new prohibition on Mini-Storage Facility uses near a rail transit station is specifically described as applying “in all zone districts, except for the I-A and I-B zone districts.” As phrased, if the prohibition near transit was intended not to apply in the I-MX zone district, the staff description in the staff report would have included “I-MX” in the short list of the zone district exceptions following the general intent that the limit apply “in all zone district.”

A copy of the CPD staff report to the City Council is attached to this interpretation. The portion of the report highlighted above is on page 8 and is referenced as Group 5: Uses.

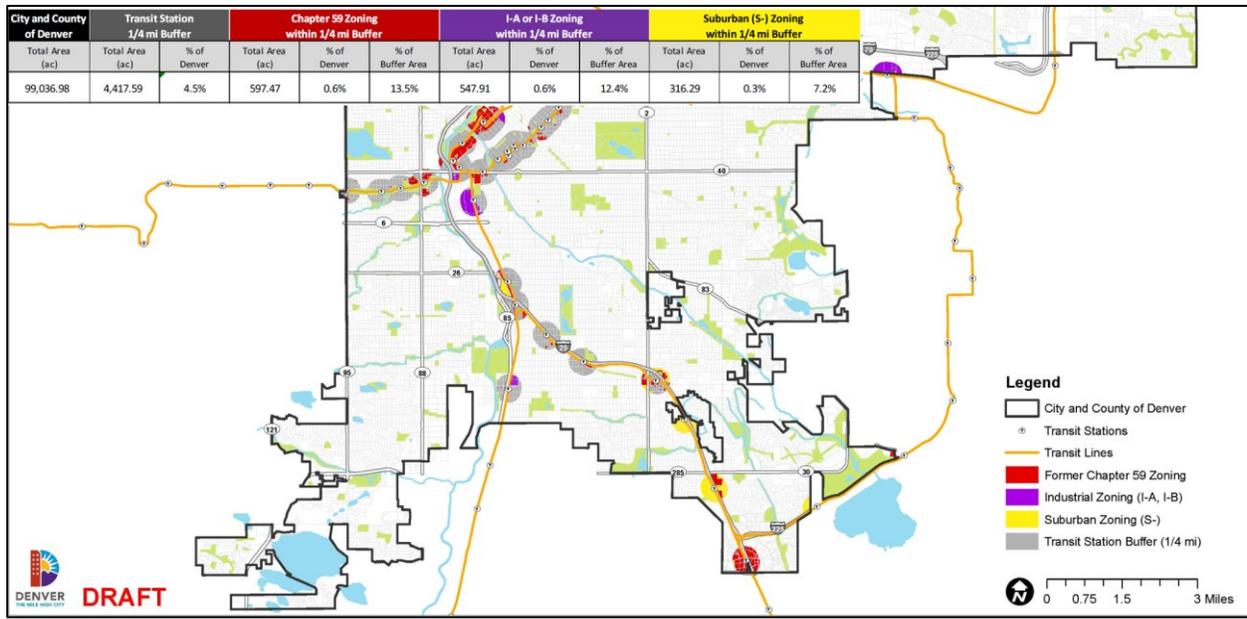
Similarly, in the CPD staff presentation to the Land Use Infrastructure and Transportation Committee (“Committee”) of the Denver City Council, where staff typically go into greater detail about pending DZC text amendments than at the City Council public hearing, staff’s PowerPoint presentation described the proposed new limits on Mini-Storage Facilities (at right), using the map shown below to illustrate the geographic impact of the proposed new limitations:



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**Summary of Major Proposed Changes**

2. Substantive – Uses continued
  - Prohibit Mini-storage in S-MS and Downtown Zone districts to promote pedestrian-oriented development
  - Prohibit or restrict Mini-storage and Drive-throughs within ¼ mile of Rail station to promote pedestrian-oriented development.



The Committee presentation materials show that the proposed prohibition on Mini-Storage Facilities within ¼-mile of rail transit stations (codified as Section 11.5.23.2) was intended to apply in all zone districts that fell within that ¼-mile radius, with only one exception called out: In the I-A and I-B industrial zones, such uses wouldn't be prohibited outright but would be more strictly regulated through additional design standards. Looking at the above map, the intent to prohibit the establishment of Mini-Storage Facilities in all zones when located within ¼ mile of a rail transit station is clear because, except for the specific I-A and I-B industrial zones identified separately by the purple color on the map, all the other DZC zones affected by the new prohibition are treated similarly— they are all lumped together without distinction by name under either the grey “transit station buffer” or the yellow “suburban zones” colors on the map. Thus, this portion of the legislative history supports an intent to have the Mini-Storage Facility prohibition apply in all zone districts, including the I-MX zone, except as specifically called out for such uses in I-A and I-B zone districts.

Given the whole of the legislative history described above, the City Council voted to adopt new Mini-Storage Facility limitations in Section 13.5.23 with the clear expectation that the limitations would apply in all the Industrial context zone districts, including the I-MX zone district.

***Interpretation #1:*** DZC Section 11.5.23's specific use limitations on Mini-Storage Facility uses apply to the establishment of such uses in the I-MX as well as in the I-A and I-B industrial zone districts.

## 2. Interpretation to Reconcile Conflicting Code Provisions Related to Mini-Storage Facilities in Industrial Zone Districts

While DZC Section 11.5.23's use limitations on their face, backed by the clear legislative intent, apply to Mini-Storage Facility uses in all Industrial zone districts, including the I-MX zone, the Use and Parking Table in DZC, Division 9.1, Industrial Context, shows that the Mini-Storage Facility use is allowed in all the Industrial context zone districts (I-MX, I-A, and I-B) as “Permitted” with a zoning permit (“P-ZP”) versus “Permitted subject to Limitations” with a zoning permit (“L-ZP”). Moreover, no “Applicable Use Limitations” are referenced in the last column of the subject table row. The applicable Use and Parking

Table entry is shown below, boxed by the red-dashed line:

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

USE CATEGORY	SPECIFIC USE TYPE • Vehicle Parking Requirement -# of spaces per unit of measurement • Bicycle Parking Requirement -# of spaces per unit of measurement (% required spaces in indoor facility/% required spaces in fixed facility)	APPLICABLE USE LIMITATIONS			
		I-MX-3 I-MX-5 I-MX-8	I-A	I-B	
Wholesale, Storage, Warehouse & Distribution	Automobile Towing Service Storage Yard* • Vehicle: .3/ 1,000 s.f. GFA • Bicycle: No requirement	NP	L-ZP	L-ZP	§11.5.22
	Mini-storage Facility • Vehicle: 0.1/ 1,000 s.f. GFA • Bicycle: No requirement	P-ZP	P-ZP	P-ZP	
	Vehicle Storage, Commercial* • Vehicle: .3/ 1,000 s.f. GFA • Bicycle: No requirement	NP	L-ZP	L-ZP	§11.5.24
	Wholesale Trade or Storage, General • Vehicle: .3/ 1,000 s.f. GFA • Bicycle: No requirement	NP	L-ZP	L-ZP	§11.5.25
	Wholesale Trade or Storage, Light • Vehicle: .3/ 1,000 s.f. GFA • Bicycle: No requirement	P-ZP	P-ZP	P-ZP	§11.5.26

When read on its own, the Use and Parking Table entry for Mini-Storage Facility indicates that establishment of a Mini-Storage use in the I-MX, I-A, and I-B zone districts is permitted and no use limitations apply.

In this case, a code interpretation is necessary to reconcile two conflicting DZC provisions:

- (1) Section 11.5.23, stating specific use limitations that apply to a Mini-Storage Facility in all industrial zones; and
- (2) Section 9.1.5.5, the Use and Parking Table entry for Mini-Storage Facility, which states the use is permitted without limitations in all industrial zones.

See DZC, Section 12.4.6.1.A (the code interpretation process may be used to determine “which of two or more conflicting provisions apply generally or to a specific case”).

A general rule of statutory construction is that when there is a conflict between two laws – one of them a general statement and the other a specific statement – a court will apply the more specific statement as an exception to the general statement.<sup>1</sup> The use limitations for Mini-Storage Facilities contained in DZC, Section 11.5.23, are much more specific than the Use and Parking Table entry in DZC, Section 9.1.5.5, which states a general permission for a Mini-Storage Facility use in the Industrial zones. Under this rule of statutory construction, the more specific rules in DZC, Section 11.5.23 that impose limitations on Mini-Storage Facility uses in the Industrial zones should be interpreted as an exception to the more general allowance for Mini-Storage Facility uses stated in the DZC, Section 9.1.5.5.

The conclusion that the more specific limitations should control over the more general use table

<sup>1</sup> The Colorado State General Assembly issues a primer on commonly applied rules for statutory construction, which includes the maxim that between conflicting statutes, “the specific controls over the general.”  
<https://leg.colorado.gov/agencies/office-legislative-legal-services/commonly-applied-rules-statutory-construction>

allowance is also supported by the legislative history of the new use limitations. As described in more detail above, the legislative history of the Mini-Storage Facility limitations shows the City Council's intent to enact these rules to limit the establishment of Mini-Storage Facilities in the Industrial zone districts generally, and more specifically, to prohibit the use's establishment in an Industrial zone when it is located within ¼ mile of a rail transit station platform.

*Interpretation #2:* DZC Section 11.5.23's more specific use limitations governing Mini-Storage Facility uses take precedence over Section 9.1.5.5's general allowance permitting such uses in the I-MX, I-A, I-B zone districts without referring to any use limitations.<sup>2</sup>

### 3. Interpretation to Clarify Prohibition on Mini-Storage Facilities When Only Portion of Subject Zone Lot is Within ¼-Mile of Rail Transit Station Platform

DZC, Section 11.5.23.2 states: "In all MX, MS, CC, and Downtown zone districts, where the Zone Lot is located within 1/4 mile of a Rail Transit Station Platform, a Mini-Storage Facility shall be prohibited."

A plain language reading of this code provision, in the context of its legislative history indicating an expressed intent to prohibit new Mini-Storage Facility uses on any site proximate to a rail transit, support an interpretation that when any portion of the subject zone lot falls within the ¼-mile radius of the rail transit station, a Mini-Storage Facility use is prohibited on the entirety of the subject zone lot.

The words "where the Zone Lot is located within ¼ mile of a Rail Transit Station Platform" could be read to mean either the entirety of the zone lot must be located within the ¼ -mile radius, or, once any part of the zone lot is within ¼-mile radius, the entire zone lot (and proposed use) is subject to the prohibition. The intent of the provision is to prevent a relatively inactive land use, one that attracts few visitors and employs few worker on site given the size of the use, from locating close to the city's rail transit stations. Instead, per the city's adopted land use and transportation policies (Blueprint Denver 2002, and its pending update), sites closest to rail stations should be developed with high-density residential or employment uses to support and leverage the substantial public investment in mass transit. Accordingly, when read in the context of the legislative and policy intent, the provision's words should be interpreted to be more inclusive, rather than less inclusive of properties at the edge of the ¼-mile radius. In this case, then, Section 11.5.23.2, should be interpreted to apply to the entirety of the subject zone lot when any portion of it falls within the ¼-mile radius.

This interpretation is supported by the words of the most applicable Rule of Measurement for measuring the requisite ¼-mile distance between the subject zone lot and a near-by rail transit station. That rule is found in DZC, Section 13.1.11.3, stated below:

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<sup>2</sup> In the alternative, the specific use limitation in Section 11.5.23.2, which prohibits Mini-Storage Facilities on a zone lot located within ¼ mile of a rail transit station platform, on its face applies to such uses listed in the Use and Parking Table as "P-ZP" vs. "L-ZP" because the plain language of the limitation does **not** narrow its applicability – as the other two limits in Section 11.5.23.2 do – to Mini-Storage Facility uses "where permitted by limitations" in the cited zones. Arguably, the clear intent of the Section 11.5.23.2 limitation is to apply to Mini-Storage Facility uses allowed as "P-ZP", if the facility is located ¼ mile from a rail transit station.

“13.1.11.3 Measurement of Separation or Distance Between a Rail Transit Station Platform and a Zone Lot: When measuring distance between a Rail Transit Station Platform and uses for which Section 10.4 applies, distance shall be determined from the nearest point of the Rail Transit Station Platform to the nearest point of the Zone Lot.”

The rule of measurement in Section 13.1.11.3 is referenced in determining the applicability of DZC, Section 11.5.23.2 at issue, because it provides the most applicable rule in the absence of any other, even though, by its own words, Section 13.1.11.3 does not apply unless the subject use is seeking a parking exception under DZC Section 10.4.<sup>3</sup>

Here, the rule measures distance between the 2 “nearest points” of the rail station platform and the subject zone lot; this would tend to capture many zone lots where the entirety of the zone lot may fall outside the “nearest points”, versus a rule of measurement that relied on the “further-most points” between the two. It is arguable that the rule of measurement, used to implement zoning standards reliant on determining distance between a rail transit station platform and a zone lot, would have employed a “further-most points” approach if the intent of the zoning standards was to apply the standard only if the entirety of the zone lot fell within the requisite distance.

Interpretation #3: DZC Section 11.5.23.2’s prohibition on the establishment of a Mini-Storage Facility, when the subject zone lot is located within ¼ mile of rail transit station platform, works to prohibit the establishment of a Mini-Storage Facility use on the whole of the subject zone lot, even when only a portion of the subject zone lot is located within ¼ -mile of a rail transit station platform.

This code interpretation is a final decision of the Zoning Administrator and may be appealed to the Denver Zoning Board of Adjustment within 15 days from the date of this interpretation according to DZC, §12.4.8, Appeal of Administrative Decision.

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<sup>3</sup> It appears that when City Council adopted the new use limitation prohibiting Mini-Storage Facility uses on zone lots within a ¼-mile radius of rail transit, the pre-existing reference in Section 13.1.11.3’s rule of measurement to “uses for which Section 10.4 applies” was not updated (by deleting the phrase) to be consistent with the more recent amendment to add the use prohibition.



**TO:** Denver City Council  
**FROM:** Sara White, AICP, Senior City Planner  
**DATE:** May 17, 2018  
**RE:** Denver Zoning Code – 2018 Text Amendment Bundle

### **Staff Report and Recommendation**

This amendment to the Denver Zoning Code is sponsored by Community Planning & Development. The City Council will consider the amendment at a public hearing on May 21, 2018, and approve, approve with conditions, or deny the text amendment. A redline of the proposed amendment is available on the CPD website (see link below), while a summary of the proposed text changes is attached to this staff report.

Based on the review criteria for text amendments stated in the Denver Zoning Code, Section 12.4.11 (Text Amendment), CPD staff recommends that the City Council **approve** the proposed Text Amendment.

### **I. Summary and Purpose**

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The 2018 Text Amendment Bundle provides necessary clarifications, re-organization, graphics revisions, and a variety of substantive changes to the Denver Zoning Code. Please see the attached summary for additional detail of the proposed changes and see the full redlined document showing the proposed zoning text amendment changes posted on the CPD website at: <http://www.denvergov.org/textamendments>.

### **II. Criteria for Review and CPD Analysis**

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The criteria for review of a proposed text amendment are found in Section 12.4.11.4 of the DZC. CPD analyzed the proposed text amendment for compliance with the review criteria stated below and finds that the proposed 2018 Text Amendment Bundle satisfies each of the criteria.

## **A. Text Amendment is Consistent with Adopted Plans**

The Text Amendment is consistent with the city's following adopted plans, strategies, and policies:

### Denver Comprehensive Plan 2000:

#### Land Use

- Strategy 2-A: (*paraphrased*) [P]roposed revisions should ensure that the Denver Zoning Ordinance will be flexible and accommodating of current and future land use needs...
- Strategy 3-B: Encourage quality infill development that is consistent with the character of the surrounding neighborhood...

#### Denver's Legacies

- Strategy 2-A: Establish development standards to encourage positive change and diversity while protecting Denver's traditional character.
- Strategy 2-C: Identify community design and development issues, and target specific concerns with appropriate controls and incentives.

#### Neighborhoods

- Strategy 1-E: Modify land-use regulations to ensure flexibility to accommodate changing demographics and lifestyles.

### Blueprint Denver:

Blueprint Denver recommends various regulatory changes to implement adopted plans and improve compatibility with existing character, including:

- Language amendments: A change in the land-use standards of a zone is one tool to improve compatibility
- Creating new and more appropriate zone districts: a zoning district that allows the appropriate uses, densities, and design standards [...] may not exist. In such instances a new zone district needs to be created or an existing zone district needs to be modified through a language amendment.

Taken as a whole, the 2018 Text Amendment Bundle is consistent with the above-adopted plan policies because this update to Denver's zoning regulations responds to new and emerging businesses, industries and technologies, responds to evolving trends in residential and commercial development and design, and makes these important rules for development clearer to residents, developer and other code users. Additionally, the 2018 Text Amendment Bundle proposes several amendments that encourage development that is consistent with the character of surrounding neighborhoods and historic areas, achieving the recommendations of Comprehensive Plan 2000. The proposed changes to require development that is consistent with the character of the surrounding area is also consistent with Blueprint Denver's goals of making existing zone districts more compatible.

## **B. Text Amendment Furthers the Public Health, Safety, and General Welfare**

This Text Amendment furthers the general public health, safety, and welfare of Denver residents, land owners, and businesses by providing clarity and predictability in the zoning regulations, by removing regulatory barriers to planned and desired private enterprise and redevelopment, and by overall continuing to implement the city’s adopted comprehensive, land use and transportation plans through regulatory changes.

## **C. The Text Amendment Results in Regulations that are Uniform within Each Zone District**

The 2018 Text Amendment Bundle results in zoning regulations which are uniform in their application to buildings and land uses within each zone district. Moreover, the 2018 Text Amendment Bundle includes improvements to ensure consistency in zoning regulations and removes conflicting provisions with other City, state, and federal regulations, all of which will improve the City’s ability to administer and enforce the Code uniformly.

### **III. Public Outreach and Comments**

Below is a summary of the public outreach for this amendment:

- Late 2017/Early 2018:* Targeted stakeholder outreach, including presentation to AIA Urban Design committee and affected industry stakeholders
- January 27, 2018:* CPD attends Inter-Neighborhood Cooperation (INC) Zoning and Planning Committee for briefing
- February 12, 2018:* Summary of text amendments and Redline draft of text amendments posted to website for public review and email notice sent to all Registered Neighborhood Organizations (RNOs) and City Councilmembers
- February 21, 2018:* Televised Planning Board Informational Item
- March 5, 2018:* Email notice to all Registered Neighborhood Organizations (RNOs) and City Councilmembers of scheduled Planning Board public hearing, with link to updated summary and summary of all items
- March 6, 2018:* Televised Informational item at City Council LUTI Committee meeting
- March 7, 2018:* CPD staff hosts Office Hours for general public
- March 8, 2018:* CPD staff hosts Office Hours for general public
- March 13, 2018:* CPD staff hosts Office Hours for general public
- March 16, 2018:* Planning Board staff report and updated redline draft posted to website.
- March 21, 2018:* Planning Board Hearing
- April 10, 2018:* LUTI Committee Meeting
- May 21, 2018:* City Council Public Hearing

Additionally, notice of the proposed 2018 Bundle Text Amendment was sent in the CPD email newsletter, Development Services “Code Alert” email newsletter, and Development Services email newsletter from December through February. CPD staff also offered informal briefings to City Council members regarding proposed revisions in February and March.

As of the date of this staff report, CPD has received six written comments related to this Text Amendment, attached to this staff report and summarized below:

- One letter in support of the height and setback changes for the mixed-use, 2 story zone districts
- One letter in opposition of the proposed form changes for mixed-use, 2 story zone district, citing inappropriateness of restricting commercial buildings.
  - Staff finds the proposed text amendment better balances plan objectives to encourage quality infill development and consistency with neighborhood character.
- One letter asking for restrictions on the location of mini-storage facilities.
  - The proposed restrictions on mini-storage facilities will better reflect the desired active, vibrant character of certain areas of the city.
- One letter with concerns about unintended consequences of the proposed 25' height applicability for the Low-Slope roof setback. A follow up letter was provided stating that the 25' height is fine, but still has overall concerns with the form.
  - Staff will continue to study the implementation of the proposed changes for future refinement, if needed.
- One letter with comments generally on several proposed changes.
- One letter from the Vision Zero Coalition in support of the proposed restriction on drive-thrus within ¼ mile of Rail and asking that the restriction be expanded to all transit corridors.
  - As part of the drafting process, staff considered expanding the restriction beyond rail transit areas. At this time, there is less policy guidance for the type of development appropriate adjacent to all transit corridors at a citywide scale. As policy develops around certain enhanced transit corridors, expansion of the proposed restriction could be considered.

#### **IV. Planning Board Public Hearing & Recommendation**

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On March 21, 2018, the Denver Planning Board convened a public hearing on the 2018 Bundle Text Amendment. Three people gave testimony at the hearing. A representative for Denver Environmental Health and a representative of Vision Zero Coalition both spoke in support of the limitation on drive-thrus near transit, citing the improvements it will have for pedestrian safety and walkability. One person spoke on the setback requirements for Low-Slope roofs, with concern that the 25' height applicability was too high and may have unintended consequences. After discussion of the issue, Planning Board added a condition to continue to study this matter in future text amendments. The Planning Board voted 7-1 to recommended approval with conditions, as recommended by staff. The one “no” vote was based on the fact that the member of Planning Board did not agree with adding the 4<sup>th</sup> condition to the motion. The Planning Board's conditions were:

1. That the Planning Board Review Draft be edited for clarity, correctness, illustrative graphics, section references, and other non-substantive matters as well as any other changes to the Planning Board Review Draft made necessary by such edits.
2. Staff clarify the applicability of Lighting Standard changes and remove changes to maximum height for all fixtures.

3. Staff remove changes to Side Interior setbacks for MX/MS-2x districts when adjacent to Protected Districts
4. Staff further examine and consider in future changes regarding possible unintended consequences of Urban House 10' setback about 25' feet and possible unintended consequences of low-sloped roof definition and complexity of compound roof slopes.

The first three conditions of the Planning Board's recommendation to approve have been addressed in the revised "City Council Adoption Draft". In response to the fourth condition, staff further reviewed the new setback for unintended consequences and an Administrative Adjustment for Historic Structures has been added to the draft to allow for contextual development in landmark areas. Additional study of the proposal for potential future changes will also continue.

## **V. CPD Staff Recommendation**

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Based on the criteria for review as described above, CPD Staff recommends approval to the Denver City Council of the DZC 2018 Text Amendment Bundle.

### **ATTACHMENTS**

- 2018 Bundle Summary
- Public Comments



## **Denver Zoning Code 2018 Text Amendment Bundle**

### **Scope Summary** **May 17, 2018**

This document presents a **summary** of topics proposed in the 2017 Text Amendment Bundle. A redline draft of the complete amendment is available on the city website at [www.denvergov.org/textamendments](http://www.denvergov.org/textamendments).

#### **Purpose of the 2018 Bundle:**

1. Continue to improve usability and organization of the code.
2. Make clarifying and substantive changes based on experience working with the code for over six years.
3. Further implement adopted plans and policies.

#### **Contents:**

The summary is organized into the following groups:

Group 1: GENERAL PROVISIONS (Article 1)

Group 2: NEIGHBORHOOD CONTEXT DESIGN STANDARDS (Articles 3-9, excluding uses and parking requirements)

Group 3: GENERAL DESIGN STANDARDS (Article 10, except parking)

Group 4: PARKING (Articles 3-9, Use Tables-Parking changes only and Article 10 parking standards)

Group 5: USES (Articles 3-9 Use Tables and Article 11)

Group 6: ZONING PROCEDURES (Article 12 and Division 9.4, Overlay Zone Districts)

Group 7: RULES OF MEASUREMENT AND DEFINITIONS (Article 13)

Group 8: ENTIRE CODE CLARIFICATIONS / CORRECTIONS

**GROUP 1: GENERAL PROVISIONS**  
**ARTICLE 1**

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**Division 1.2.3: General Standards for all Zone Lots**

**Substantive**

1. Require that no new Zone Lot shall contain multiple Zone Districts when any Zone District contained within the Zone Lot is a Protected District. This is proposed in order to close a loophole to avoid meeting Protected District Standards.

**Usability and Clarifications**

1. Clarify that minimum Zone Lot standards apply per Zone Lot.

## GROUP 2: NEIGHBORHOOD CONTEXT DESIGN STANDARDS

### ARTICLES 3-9

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#### Articles 3-9: All Zone Districts

##### Substantive

1. Allow a building with an established Building Form to be assigned a different Building Form if it can meet all required standards of the new form or if the previous form is no longer available.
2. Expand setback encroachments for pedestrian bridges to accommodate all publicly accessible pedestrian/bicycle routes (not only mass transit station bridges) and allow other associated bridge and circulation elements such as stairs, elevators, etc. Add Pedestrian Bridges as an allowed height exception.
3. Require Street Level Active Uses to include at least a door or window that meets applicable transparency requirements.
4. Allow a portion of the Street Level Active Use requirement to be satisfied with an Arcade.
5. Allow unoccupied elevator penthouses, stair enclosures, etc., as height encroachments when placed along the rear or side interior perimeter of a building in certain mixed-use zone districts.
6. Remove access and contiguity requirement for attached accessory structures.
7. Prohibit the Drive Through building form within  $\frac{1}{4}$  mile of a Rail Transit Station Platform.
8. Allow accessory art structures to exceed the Detached Accessory Structure Building Form standards when approved by Denver Arts & Venues.
9. For 2.5-story building forms with a Low-sloped Roof, require a 10' stepback from the primary street-facing façade above 25'.

##### Usability and Clarifications

1. Revise Supplemental Standards for detached accessory structures to clarify the maximum Gross Floor Area applies to the Detached Accessory Structures building form. Other accessory structures are already limited in size by other requirements such as maximum footprint dimensions, lot coverage, etc.
2. Clarify that building coverage exceptions for Detached Additional Dwelling Unit and Detached Garage building forms are only allowed if the structure meets the specific standards described in the building form table

#### Articles 3-9: Mixed-Use Commercial 2-story Zone Districts

##### Substantive

1. Reduce allowed height in feet of 2-story mixed-use commercial zone districts from 35' to 30'.
2. Require greater rear and side setbacks for the General and Shopfront Building Forms in MS-2x and MX-2x zone districts, when adjacent to a Protected District.

#### Articles 3-4: Street Level Active Use Requirement

##### Substantive

1. Require Street Level Active Uses in the S-MX and E-MX zone districts when the building is built within 80' of the Primary Street.

## Articles 3- 5: Tandem House Building Form

### Usability and Clarifications

1. Revise Tandem House building form table to refer to minimum “separation” between primary structures.

## Article 5: Zone District Intents

### Usability and Clarifications

1. Revise the intent statement for U-RH-3A to remove references to standards that are not applicable.

## Article 6: General Urban Neighborhood Zone Districts

### Substantive

1. Remove erroneous application of the block specific setback in the Duplex building form in 5-story districts.

## Division 8.3: Downtown Core and Downtown Theater Districts

### Usability and Clarifications

1. Allow the transfer of certificates by bill of sale for transfer of undeveloped floor area. Clarify process for issuance of replacement certificates.
2. Remove the reference to interior square footage counting towards the Premium for Rehabilitation of Historic Structure in the Downtown districts, as the city only reviews exteriors of Historic Structures for the purposes of any floor area premiums.
3. Improve graphic legibility.

## Division 8.4: Lower Downtown District

### Usability and Clarifications

1. Clarify applicability of bicycle parking standards in Section 8.10 related to the D-LD zone districts.

## Division 9.2: Campus Healthcare and Healthcare 2

### Substantive

1. Make the review procedure for helipads and emergency entrances for hospitals more consistent with other review procedures for uses that may have external impacts. Instead of being subject to Planning Board review of the Site Development Plan, these would be reviewed as a new accessory use, subject to Zoning Permit with Special Exception Review, which includes Board of Adjustment review.

## Division 9.7: Master Planned Context

### Substantive

1. Revise the M-RX district standards to better align with RX standards in other neighborhood contexts. Specifically, include the upper floor nonresidential restrictions that are found in other RX zone districts.
2. Limit the Urban House, Duplex, Garden Court, and Town House building forms to applicable residential uses.

### Usability and Clarifications

1. Revise Apartment building form table to remove erroneous reference to Permitted Uses in the Siting section and revise “Nonresidential” to “Lodging Accommodations” in the Uses section.
2. Clarify that M-RX is considered a Residential Zone district.

**GROUP 3: GENERAL DESIGN STANDARDS**  
**ARTICLE 10 (Except Parking – See Group 4)**

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**Division 10.5: Landscaping, Fences, Walls and Screening**

**Substantive**

1. Revise wording in the overheight fences approval criteria regarding maximum height so there is no confusion about what it means for fences to be out of scale with other fencing on the block.

**Division 10.6: Grading Standards**

**Usability and Clarification**

1. Clarify the interplay between grading and retaining wall standards to specify where wall and fill can be placed to comply with the code.

**Division 10.7: Parking Area Lighting**

**Substantive**

1. Add requirement for maximum and average uniformity differential to promote safe parking lot lighting design and reduce nuisance impacts.
2. Add maximum parking lot lighting illumination levels for certain auto-centric uses to reduce glare and impacts on adjacent properties.
3. Add maximum lighting levels at zone lot lines abutting Protected Districts.

## **GROUP 4: PARKING STANDARDS**

### **ARTICLES 3-9 (Parking Amounts) and 10 (Parking Standards)**

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#### **Division 10.4: Parking and Loading**

##### **Substantive**

1. Clarify effect on zoning permit when previously-approved reduced minimum standards for a special parking arrangement can no longer be met and the project becomes deficient in parking.

#### **Division 10.6: Parking, Keeping and Storage of Vehicles**

##### **Substantive**

1. Allow RVs up to 33' in length to be parked on a residential zone lot behind the primary street-facing façade if screened by an obscuring fence and not within side setback areas.

##### **Usability and Clarification**

1. Clarify that spaces serving permitted fuel pumps may count towards the required minimum number of vehicle parking spaces.
2. Clarify that Packed Parking standards also apply to mechanized parking systems in addition to traditional attendant parking facilities. The primary purpose of this amendment is to ensure that vehicles being parked by mechanized systems have all vehicle drop-off, maneuvering, and queuing sited on private property.

## GROUP 5: USES

### Articles 3-9 (Use Tables and Limitations) and Article 11 (Use Limitations and Definitions)

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#### Substantive

##### Primary Uses: Residential

1. Use Limitations and Definitions: Clarify that only one dwelling unit is permissible on nonconforming Zone Lots in the U-TU zone district.

##### Primary Uses: Civic, Public, and Institutional Uses

1. Use Limitations and Definitions: Remove "Open Space-Recreation" use to eliminate overlap with other recreation uses. Revise "Community Center" definition to include open space.

##### Primary Uses: Commercial Sales, Service and Repair

1. Use Limitations and Definitions: Remove Body Art Establishment as a sub-classification under Retail Sales, Service & Repair and classify it under Retail Sales, Service & Repair, All Others. Remove all use limitations for Body Art Establishments as a distinct use, including the 1,000' spacing requirement between other body art establishments and adult businesses.
2. Use Limitations: Allow Eating & Drinking Establishments as permitted uses in the CMP-H and CMP-EI zone districts, and as permitted uses, subject to limitations, in the CMP-H2 and CMP-EI2 zone districts.

##### Primary Uses: Industrial, Manufacturing and Wholesale

1. Use Definitions: Revise definitions of Wholesale Trade or Storage, General, and Wholesale Trade or Storage, Light, to specifically exclude Mini-Storage Facilities to remove overlap of definitions.
2. Use Limitations: Prohibit Mini-Storage Facilities within ¼ mile of a Rail Transit Station Platform in all zone districts, except for the I-A and I-B zone districts. In the I-A and I-B zone districts, within ¼ mile of a Rail Transit Station Platform, Mini-Storage Facilities would be permitted with limitations on the design of the facility.
3. Use Limitations: Explicitly exempt Emergency Service Telecommunications Facilities from zoning regulations.

##### Accessory Uses: Accessory to Primary Residential Uses

1. Use Definitions and Limitations: Allow Online Retail Sales as a newly-defined Home Occupation use.

##### Accessory Uses: Accessory to Primary Nonresidential Uses

2. Use Limitations: Allow accessory outdoor retail sales and display areas to include areas not adjacent to the building, with limitations on the size and setbacks from Protected Districts.
3. Use Definitions and Limitations: Add Helipad and Emergency Vehicle Access Point as new uses accessory to a primary Hospital use. The new accessory use will be subject to Zoning Permit with Special Exception review.
4. Use Limitations: Prohibit Drive-through facilities as an accessory use within ¼ mile of a Rail Transit Station, except for the Suburban (S-) neighborhood context. In all Suburban neighborhood context zone districts, accessory drive-through facilities may only be established

## 5/17/2018 Adoption Draft Summary

in the Shopfront or the General Building Form, and the drive-through lane may not be located between the building and any street.

### Temporary Uses

1. Use Definitions: Add new definition for Temporary Building or Yard for Construction Materials. The use is referenced in Use tables throughout the code, but has no corresponding definition.
2. Use Limitations: Revise limitations for Amusement/Entertainment uses to allow the Zoning Administrator to grant an extension longer than 12 days, provided certain criteria are met.

### Usability and Clarification Changes

1. Use Definition: Revise the definition of “household” to be gender-inclusive.
2. Use Definition: Revise definition of Conference Center, Event Center because it can be located in a building containing multiple uses, which may or may not be nonresidential uses.
3. Use Limitations: Clarify that Outdoor Storage, General, use limitations apply to all such uses, not just those in the I-A and I-B zone districts.
4. Use Limitations: Clarify that only retail sales, not wholesale sales, are permitted as part of a Produce/Cottage Foods Home Occupation.
5. Use Limitations: Clarify that retail sales may occur in combination with a primary Wholesale Trade or Storage Use, in the same building, provided that the commodities sold are the same goods that are stored/warehoused as part of the permitted use.
6. Use Limitations: Clarify that structures housing Temporary Uses are not required to comply with primary or accessory Building Form standards.
7. Use Limitations: Clarify Food Sales & Market limitations are applicable in MS and MX zone districts, as well as RX.
8. Use Limitations: Remove reference to Denver Building Code in Accessory Dwelling Unit limitations, as it does not require additional review.
9. Use Limitations: Clarify that a Dwelling Unit may have one Full Kitchen, unless otherwise allowed by zoning, and that it may have any number of additional partial kitchens.

## **GROUP 6: ZONING PROCEDURES**

### **Article 12 and Div. 9.4**

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#### **Division 9.4: Overlay Zone Districts**

##### **Usability and Clarification**

1. Clarify the intent of the UO-3 overlay district to encourage preservation to support decision-making for rezoning requests to UO-3.

#### **Division 12.4: Zoning Application and Review Procedures**

##### **Substantive**

1. Expand justifying circumstances rezoning criteria to broaden the range of changed conditions that may justify a rezoning, including adopted plans and Former Chapter 59 zoning.
2. Disallow variances to be requested for accessory or temporary uses. Primary uses are already ineligible for variances.

##### **Usability and Clarification**

10. Clarify the width range in the siting standards eligible for Administrative Adjustment. The width range includes 40' wide.
11. Revise language in protest petitions for map amendments to align with Charter language referencing the area of the 'lots', not the land area.
12. Remove Detached Accessory Dwelling Unit from site development plan applicability. These do not need to undergo separate site development plan review.
13. Clarify that informational notice is required for Special Exception review.
14. Clarify applicability of accessory building form standards to detached accessory dwelling unit form only.

## GROUP 7: RULES OF MEASUREMENT AND DEFINITIONS

### ARTICLE 13

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#### Division 13.1: Rules of Measurement

##### Substantive

1. Clarify that in cases where the subject property is used along with reference lots to determine a Primary Street Block Specific Setback, the subject property shall not be included in the measurement if it will be demolished.
2. Eliminate mezzanines as an exception from height in stories in the SU, TU, TH, RH, E-MU-2.5, MU-3, and RO-3 zone districts. Update the definition of mezzanine to clearly define and regulate mezzanines.
3. Clarify the measurement of Building Separation to explicitly include Tandem House situations and revise the existing graphic accordingly.
4. Clarify the measurement of the Overall Structure Length and create a new measurement for Overall Structure Width for Tandem House situations. The length and width shall include any attached partially enclosed structure in addition to the completely enclosed primary structure.
5. Add a specific rule of measurement for measuring the height of retaining walls to differentiate retaining walls from fences.
6. Allow subdivision or plat documents to determine the size and width of a zone lot for the purposes of Building Form standards. If no document is available, measurement will be determined by a survey and a measurement range of applicability.

##### Usability and Clarification

1. Add a new graphic to describe the measurement of the build-to range in cases where a public easement extends across a portion of the zone lot.
2. Allow a Building Specific Base Plane to be applied to large lots in Single Unit, Two Unit, and Rowhouse zone districts to facilitate multi-structure development.
3. Clarify that half stories are calculated based on the Gross Floor Area of the floor below contained within the same Dwelling Unit so a blanket allowance cannot be applied across multiple units in a single structure.
4. Clarify that half stories are calculated based on the Gross Floor Area of the completely enclosed floor below. Update the definition of Gross Floor Area by replacing the word “building” with “a completely enclosed structure.” This does not allow outdoor decks, or similar, to count towards the Gross Floor Area for purposes of determining half stories.
5. Clarify the definition of Street Level to include any point on the first story or level in a building or structure and to clarify what is meant by the term ‘building line’.
6. Clarify that an extra story of height in MX/MS zone districts is only available if, at the location in the building where one desires an extra story, there is also parking.

#### Division 13.3: Definitions of Words, Terms and Phrases

##### Substantive

1. Revise the definition of “Flat Roof” to “Low-Sloped Roof” for roofs with slopes no greater than 3:12 (previously 2:12) for consistency with the Building Code definition.
2. Add a definition of “Public Art” to be consistent with the City Charter definition.

## 5/17/2018 Adoption Draft Summary

3. Add a definition of “Tunnel/Breezeway” for a previously undefined term. Includes clarification that neither “tunnel” nor “breezeway” are a room, but they represent the same concept in terms of connecting two or more structures with one above ground (breezeway) and the other subterranean (tunnel).
4. Add a definition of “Partial Kitchen” for a previously undefined term. To distinguish between a “Partial Kitchen” and a “Full Kitchen,” “Full” was added to the existing definition of “Kitchen.”

### **Usability and Clarification**

1. Revise definitions of “Trailer” and “Recreational Vehicle” to ensure there is no overlap between the two.

## GROUP 8: ENTIRE CODE CLARIFICATIONS / CORRECTIONS

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### Usability and Clarifications

1. Continue graphic enhancements for all primary building forms other than residential.
2. Replace the images for the Projecting Windows encroachment to accurately show examples of what is allowed.
3. Clarify that references to the former Inclusionary Housing Ordinance (IHO) only apply to projects submitted before the IHO was ended by City Council.

## White, Sara E. - CPD PS Citywide Planning

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**From:** Hickman <bnlhick@aol.com>  
**Sent:** Wednesday, March 07, 2018 1:00 PM  
**To:** White, Sara E. - CPD PS Citywide Planning  
**Subject:** Re: Text amendment - MX developments

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Sara,

I think those two changes are positive and are appropriate steps. Adding a rear setback and reducing the height to 30ft. (adjacent to protected districts) puts those projects in line with zoning requirements for other zoning allowed and more in keeping with the predominantly single family areas in which several of these MX/MS-2x zones are found.

Thanks for checking in on this with me.

bob hickman  
303-941-1280

-----Original Message-----

**From:** White, Sara E. - CPD PS Citywide Planning <Sara.White@denvergov.org>  
**To:** Hickman <bnlhick@aol.com>  
**Sent:** Wed, Mar 7, 2018 10:39 am  
**Subject:** RE: Text amendment - MX developments

Hi Bob,

Since a few of the bundle changes came directly as a request from you, I wanted to see if you felt that the proposals to increase rear setbacks in MX/MS-2x and reduce the overall allowed height in feet are appropriate steps to address the problem you raised with your example on Alameda. We always appreciate comments on our text amendments to help inform our Boards and Commissions, and it would be great if you felt that your request was heard to provide that kind of feedback. It isn't necessary to comment on the Bundle as a whole if you don't want, but even just on the issues that interest you would be helpful.

Planning Board is scheduled for March 21<sup>st</sup>, which means I would need to collect any comments by March 15<sup>th</sup> to include in the Staff Packet.

**Sara White, AICP** | Senior City Planner  
Community Planning and Development | City and County of Denver  
p: (720) 865-2824 | sara.white@denvergov.org  
DenverGov.org/CPD | @DenverCPD | Take our Survey



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**From:** Hickman <bnlhick@aol.com>  
**Sent:** Monday, February 26, 2018 12:08 PM

## White, Sara E. - CPD PS Citywide Planning

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**From:** John Riecke <toast2042@mac.com>  
**Sent:** Tuesday, March 06, 2018 6:08 PM  
**To:** White, Sara E. - CPD PS Citywide Planning  
**Subject:** 2018 Text Amendment Bundle

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hello,

Beginning on page 14, “ substantive – form standards continued”, please remove all that crap. It’s just NIMBYism dressed up as “protection”. The problem isn’t the extra two feet or half-story of height, the problem is the entitled and embittered owners of single family homes that bought property next to commercial corridors. Forcing commercial buildings to keep the same rear-setback as the homes they abut is plain dumb. Please forward this comment to the appropriate representative.

Thank you,

John R

"However beautiful the strategy, you should occasionally look at the results."

## White, Sara E. - CPD PS Citywide Planning

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**From:** Orange Face <chknlkn@yahoo.com>  
**Sent:** Thursday, March 08, 2018 4:02 PM  
**To:** White, Sara E. - CPD PS Citywide Planning  
**Subject:** STORAGE WARS!

Hi Sarah-

I would like to register my extreme displeasure in the copious amounts of massive storage units popping up in Denver's most prime areas for re/development, closest to downtown. We just had one nasty one go up in Globeville at 45th/Washington, and I would like to know what meetings to attend and what I can sign to keep these behemoths from proliferating. The Globeville Plan was not to have giant storage units everywhere. It's a disgrace. We don't even have a grocery store yet....still. How is the area supposed to improve when you are adding bike lanes.....next to 3+ story storage boxes?

Thank you,

Liz

## White, Sara E. - CPD PS Citywide Planning

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**From:** Richard Farley <dick@rf-urbandesign.com>  
**Sent:** Sunday, March 18, 2018 8:07 PM  
**To:** White, Sara E. - CPD PS Citywide Planning  
**Cc:** Richard Farley; dick@rf-urbandesign.com  
**Subject:** text amendment comment

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hi Sara, while I applaud the idea of setting back the partial third story for a house (regulated as a 2 1/2 story form) when the roof forms of the house are essentially flat, I think the setback height of 25 ft. is too high. Twenty five feet doesn't correspond to a typical third floor elevation where the height limit of, say, an urban house form, is 30 ft. A more realistic height for an upper level stepback of a partial third floor is around 20 to 21 ft. I hope 25 ft wasn't chosen just to be consistent with the Potter Highlands 25 ft. height limit for all flat roofed forms. I also worry about the definition of a low slope roof at 3:12 or lower when the target is essentially flat roofs. Will the unintended consequences be the encouragement of just over 3:12 sloped roofs which don't fit any neighborhood context? I know that you've discussed these changes a lot, and it is hard to precisely define such things as flat roofs. Maybe 4:12 is a better mark to determine 'low slope' roofs.

Thanks,

Dick Farley

## White, Sara E. - CPD PS Citywide Planning

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**From:** Richard Farley <brokenbow41@hotmail.com>  
**Sent:** Friday, March 30, 2018 10:51 AM  
**To:** White, Sara E. - CPD PS Citywide Planning; Showalter, Sarah K. - CPD PS Comprehensive Planning  
**Cc:** Richard Farley; Richard Farley  
**Subject:** Upper level stepback for the Urban House form

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Sara, after stating my concerns about the stepback of the third floor being too high at 25 ft, and after Jim Bershof's description of market rate floor to floor heights, i went back to the drawing board to test my hypothesis about the height of the stepback with Jim's floor to floor dimensions. I found that upper level stepback at 25 ft does what it is supposed to do - pushes back from the street facade the 3rd floor of a 2 1/2 story urban house - without necessarily pushing the the house form down into the grade, which was my fear at the time. Your amendment is an improvement to the 2 1/2 story flat roofed or low sloped roof house form (known as the Wedding Cake house).

What I found, though, is that by cramming in three flat roofed stories and a third floor deck, all under a 30 ft height limit, just by itself pushes the house form into the grade, generally eliminating a traditional raised porch. The stepback at 25 ft does not affect (or exacerbate) the fact that the Wedding Cake house with a partial third floor and third floor deck already pushes the house down to a grade close to level with the sidewalk. While the stepback is an improvement to this house form, it doesn't stop the use of this Wedding Cake form which has been so detrimental to Denver neighborhoods. In my view, that should be the real goal - eliminating the Wedding Cake form. The form has nothing to do with existing context of our older neighborhoods. It is really the exploitation of a loop hole in the intentions of the urban house form. The upper level stepback just ameliorates (and legitimizes) the Wedding Cake loop hole.

I'd be happy to go over my tests with you or other staff members.

Thanks,  
Dick Farley

## 2018 TEXT AMENDMENT MEMO 01:

**DATE:** 03/15/2018  
**PROJECT:** NA  
**PROJ. NO.:** NA  
**SUBJECT:** 2018 DZC TEXT AMENDMENT BUNDLE COMMENTS  
**FROM:** ROBERT SCHMID  
**TO:** SARA WHITE  
**COPY:** THE USUAL SUSPECTS

---

Hello Sara,

The following are comments to the 2018 Denver Zoning Code Text Amendment Bundle. The comments pertain as to how the text bundle would impact zoning generally and specifically within the Berkley-Regis Neighborhood.

### Public Review Draft Summary

- Page 12 / Substantive – Building Form Standards – Where existing buildings result in an overly large front setback, the average of the required primary street setback for the zone district and reference zone lot(s).
- Page 13 / Substantive – Building Form Standards – This removal of the exception should be extended to MS and MX districts. i.e. – allowing the additional of a mezzanine to a 5<sup>th</sup> floor apartment in an MX-5 district creates a building that visually is six stories high. The height limit for the district should take precedent over the building design.
- Page 13 / Substantive – Building Form Standards – The incursion on privacy to protected districts does not decrease with building height. The increase of rear setback should apply to all MX/MS districts.
- Page 15 / Substantive – Rules of Measurement and Definitions – Using the subdivision or plat measurement to address inconsistencies in lot width dimensions that occur in surveys is good, however it is recommended that there be a maximum not exceed dimension in calculating the percentage of difference between the two documents.

### 2018 Text Amendment Bundle Scope Summary

- No comments.

### 2018 Bundle Public Review Draft

- Page 3.3-16 & 18 (and other similar sections) – In comparison to the existing page, it is recommended that the plan graphic be retained for clarity of the setback/width dimensions noted.
- Page 3.3-41 / 3.3.5.3/C/6 – Street Level Active Uses – To promote a stronger connection to the Sidewalk/Street why is not the requirement for door/window “and” instead of “or”?
- Page 6.3-9 (and other similar sections) – Duplex / Siting / Primary Street Block Sensitive Setback – There are several aspects of the Siting portion of this table that do not make sense, but I have to assume that since this is written as it is, somewhere in Denver there is a 3,000 s.f. lot that is zoned G-MU-5, or G-MU-12 for that matter. Why someone would want to waist an allowable five floor lot on a duplex escapes me. What is the point of removing this requirement within the designation noted for a TU building form?

- Page 9.7-6 / 9.7.2.2/B/C/D – Specific Intent – I take no exception to a commercial use within this designation, however, I have a concern regarding parking for any commercial use that is open to the public.
- Page 10.4-5 / 10.4.4.2/A/3 – Vehicle Parking Required / Calculations / General Rule – If I read this right the space used for queuing for access to a gas pump can count against the overall required minimum number of parking spaces. If so, this needs to be looked at with regard to the size of the lot. There will be cases where a “typical” lot size, based on industry standards, should not require a reduction in the minimum number of parking spaces.
- Page 10.5-15 / 10.5.6.2 – Retaining Wall Standards – Note the following:
  - Point A – The 4’ height is measured from where – lower elevation or upper elevation? Am I assuming that stated in Section 13.1.7?
  - Point A – I totally do not understand the second half of the first sentence. A graphic would be helpful.
  - Point B – “any height” needs to be limited to the 6’ standard as measured from the upper elevation. Needs to reference Section 13.1.7.
- Page 10.9-3 / 10.9.3.6/A/3 – RV Storage on Private Property – What is driving the need to change the vehicle length? A 33’ vehicle length would overwhelm some neighborhood contexts. Recommend retaining 22’ maximum length.
- Page 13.1-23 – basis of Zone Lot Size Width – (more study needed of this section / comment may be forwarded to DPB later)

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Additional Comments:

*(note: The comments below, although not associated with any redline within the 2018 Bundle, are made because the referenced page/section presents an issue that should be addressed.)*

- 3.3-25 (and all similar tables) – Setback / Rear, Adjacent to Protected Districts, Alley/no Alley – The setback dimension, where noted, is to provide a degree of privacy to the adjoining property. This consideration of a setback dimension should also be considered for protected designation across an Alley. In most all cases within an MX/MS designation occupied floors begin at the second floor and, even with typical Alley widths, have visual access to the protected property rear yard. Having the existing higher elevation before which a setback applies is no solution for the floors below the maximum height dimension. It is recommended that the 10’ rear setback be applied to all conditions.
- Page 10.5-1 / 10.5.2.1 – Corner Sight Triangles – There is a definite need to have the specific dimensional requirements from Public Works referenced here. It should also be stated that the Zoning Administrator will be responsible for coordination and enforcement of this standard between the departments.
- Page 12.4-31 / 12.4.10.5 – Protect Petitions – The City should not count as a “property owner” in determining the percentage of those “owners” available to sign a protest.

Thank you for the opportunity to comment,

Robert

# VISION ZERO

SAFE SPEEDS FOR DENVER

March 21, 2018

Dear Denver Planning Board Members,

We are writing on behalf of the Denver Vision Zero Coalition to express our support for Community Planning and Development's (CPD's) proposed amendment to the Denver Zoning Code to prohibit the drive through building form within a quarter-mile of a rail transit station platform in all zone districts. We further support prohibiting the drive through building form along major bus corridors.

Prohibiting drive throughs near both rail and bus transit supports the City's goals of reducing single-occupant vehicle mode share to 50% of trips, and eliminating traffic fatalities and serious injuries by the year 2030. Every driveway is a potential conflict point between people driving, walking, and riding bikes. Research has shown that eliminating driveways not only makes streets more comfortable for people walking and biking, but also reduces crashes. In Denver, the vast majority of drive throughs are located along the High Injury Network - the five percent of streets where 50 percent of the traffic fatalities occur. Many of these streets are also high ridership bus routes, such as Colfax Avenue, Federal Boulevard, and Broadway.

Together with representatives from Denver Public Works, the Denver Police Department, and other public agencies, members of the Vision Zero Coalition participate in "Rapid Response Team Meetings" at the locations of fatal pedestrian and bicycle crashes, to discuss short- and long-term strategies for preventing similar crashes in the future. At many of these meetings, we have observed how the frequency and location of drive throughs creates safety issues, often forcing bus stops to locate far away from safe pedestrian crossings.

Given that nearly twice as many people ride the bus in Denver, compared to rail, the safety benefits of prohibiting drive throughs near transit would be greatly increased by including major bus routes in addition to rail stations. We therefore strongly encourage the Planning Board to approve CPD's proposed Zoning Code amendment, and to expand the prohibition on drive throughs to include major bus routes.

Sincerely,

Jill Locantore  
Executive Director, WalkDenver  
Chair, Denver Vision Zero Coalition

James Waddell  
Executive Director, BikeDenver

Piep van Heuven  
Denver Director, Bicycle Colorado

Tangier Barnes Wright  
Director of Transportation Programs, Groundwork Denver