

## MEMORANDUM

To: CPD Development Services Staff  
From: Matthew Seubert for Tina Axelrad, Zoning Administrator  
Date: May 15, 2018 (Revised: 6/10/2020)  
Re: **Denver Zoning Code Clarification — Parking Structure Stories, Incentive Heights**

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This memo provides a written clarification that addresses how height exceptions and incentives apply in the Denver Zoning Code (DZC). In particular, it answers the following questions:

1. Can allowances for parking structures to exceed the maximum height in stories (13.1.3.3.B.5) be added to the general height exceptions allowed in Articles 3-9?
2. Similarly, can incentive heights (for example in 9.4.6.6.E) be added on to the general height exceptions allowed in Articles 3-9?

The DZC does not specifically address how these allowances and incentives apply in relationship to the general height exceptions permitted in Articles 3-9 (for example 6.3.7.1). However, the intent of the height exception in section 6.3.7.1.A (and similar sections in Articles 3-9) is “to allow building features to exceed maximum height for utility purposes and/or limited recreation or building amenities in the higher intensity zone districts/larger forms.” The table following this section states that in the applicable zone districts, certain features such as elevator lobbies, unoccupied elevator penthouses, stair enclosures, or unenclosed mechanical equipment ‘may exceed maximum height in stories by’ 1 story.

This memo clarifies that:

**The measurement of allowances for an additional story for parking structures and incentive heights begins at the maximum building height that has been granted by code provisions outside of the specific height exceptions tables. The height exception allowed in the tables in Articles 3-9 can then be added to the additional story or stories allowed for a parking structure and incentive heights.**

### *Parking Structure Stories*

**Example #1:** An applicant in a 5-story district wishes to exercise the allowance for an additional story for a parking structure to add 1 story for a total of 6 stories, as well as the height exception to add an additional story for an elevator penthouse. The proposed building will include 6 stories plus the elevator penthouse, but is still within the permitted height limit in feet. Is this allowed?

Answer: Yes. The Rule of Measurement for Parking Structure Stories (13.1.3.3.B.5) allows the structure to exceed the maximum height in stories by one additional story. ‘May exceed maximum height in stories’ in 13.1.3.3.B.5 is the modified term. In a building eligible for an additional parking structure story, the height exception (eg. DZC 6.3.7.1) for a 1-story elevator penthouse will allow an additional story beyond what was allowed by Section 13.1.3.3.B.5. See illustration in Figure 13.1-18.

### *Incentive Heights*

**Example #2:** A property owner in the 38<sup>th</sup> and Blake area wishes to build a 16-story building with an elevator penthouse on top. The proposed building is less than 200' feet tall. The Base Height allowed by the underlying C-MX-8 zoning is 8 stories. The IO-1 overlay allows a maximum of 16 stories and 200'. Is this allowed?

Answer: Yes. The IO-1 District (Section 9.4.6.6.D) establishes the maximum Base Height as the maximum height in stories and feet in the underlying zone district. The C-MX-8 district establishes the maximum Base Height as 8 stories (7.3.3.4.D). Section 9.4.6.6.E allows structures to exceed this maximum Base Height and develop to the Maximum Incentive Height per the accompanying map, which in this case is 16 stories. As in Example #1 above, the height exception for a 1-story elevator penthouse, in this case permitted in 7.3.7.1.B, will allow an additional story beyond what was allowed by the Incentive Height. In this case, the property owner is permitted to construct a 16-story building, with an additional 1-story elevator penthouse, for a total of 17 stories.

If you have any questions, please contact your supervisor or Zoning Administration.