“Personal to the Applicant” Standards

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“Personal to the Applicant”

Remove all use limitations that require a permit for a primary, accessory, or temporary use be “personal to” the originating permittee or limited to a specified class of people.

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The focus of zoning is on the built form that development takes and the appropriateness of a land use, including the potential for external effects. In this section, I’ll describe the changes made in the DZC to regulate land use without regard to who owns or operates the use.

We’ve removed use limitations that require a permit for a primary, accessory, or temporary use to be personal to the original permittee or limited to a specified class of people.

Removed the “personal to” standard from:

Sec. 11.4.6: Primary nonresidential uses allowed in an existing business structure in a residential zone district.

11.4.6.5 ~~Effect of Approval~~Special Authority to Rescind Zoning Permit for Use

A. ~~The permit for a nonresidential use approved according to this Section 11.4.6 shall automatically expire at such time as the applicant specified in the permit no longer owns or operates the nonresidential use at the subject property.~~

B. A zoning permit allowing a nonresidential use under this Section 11.4.6 may be rescinded according to Section 12.11.6, Enforcement Powers, Penalties and Remedies, upon a finding that the structure involved is obsolete or substandard under any applicable ordinance of the City to the extent that the cost of placing such structure in lawful compliance with the applicable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.

Section 11.4.6 addresses the use limitations for primary nonresidential uses in an existing business structure in a residential zone district. We’ve removed the requirement that the use permit automatically expire when the permit applicant no longer owns or operates the use.

Removed the “personal to” standard from:

Sec. 11.8.9: Second full kitchens accessory to a single unit dwelling use

11.8.9.2 All Zone Districts

In all zone districts, where permitted with limitations:

A. A second Full Kitchen in a primary single unit dwelling, not otherwise permitted as part of a permitted attached Accessory Dwelling Unit use, is permitted as an accessory use provided a zoning permit is procured according to Section 12.4.1, Zoning Permit Review, prior to establishment of the accessory kitchen and subject to compliance with the following limitations:

1. The applicant is the owner of the subject structure and uses the structure as their primary residence. For purposes of this Section 11.8.9.2, the term “primary residence” shall have the meaning prescribed thereto in D.R.M.C. Chapter 33;

2. The ~~second~~ Full Kitchen shall be used only by the residents or domestic service workers. ~~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 Full Kitchen shall not be valid until the applicant has executed an agreement listing the terms and conditions fixed by the Zoning Administrator and the 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 at such time as the applicant no longer resides at the subject property.~~

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Section 11.8.9 addresses second full kitchens accessory to a single unit dwelling use. The updates here remove antiquated language about domestic servants and remove an unnecessary provision about compliance with the Building and Fire Code. Finally, under C – we’ve removed the requirement that the permit expires when the applicant no longer resides at the subject property.

Section 12.7.3 Limited Continuance Of Nonconforming Uses Allowed

12.7.3.3 Zoning Administrator Authority to Allow Limited Expansions

C. ~~Allowance Personal to Owner~~Effect of Approval

Every allowance authorized by this Section 12.5.3.3 ~~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.

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Section 12.7.3 addresses the continuation of nonconforming uses. It contains a provision that previously stated that the continuation of the use shall both be personal to the applicant and is nontransferable and also somehow runs with the land. This has been revised to maintain the ability for the use to run with the land but maintains the limitation that the use may only be continued for the life of the structure.

Carriage Lot Development

12.10.4.5 Zoning Permit Review Procedure and Conditions

A. The permit application under this subsection shall be subject to Zoning Permit Review with Informational Notice ("ZPIN"), according to Section 12.4.2 of this Code.

B. In deciding to approve, approve with conditions, or deny the application, the Zoning Administrator shall consider written comments of all interested parties and the impact of the proposed ~~detached accessory~~ structure and proposed use on adjoining properties.

C. ~~The granting of the zoning permit shall be personal to the Applicant and subsequent permittee, and therefore shall not run with the land. For example, a change in the Carriage Lot's ownership after issuance of a zoning permit shall terminate the zoning permit, which shall become null and void.~~

D. ~~An approved zoning permit for use of or construction on a Carriage Lot shall not be valid until the Applicant has executed an agreement listing the terms and conditions fixed by the Zoning Administrator and the conditions set forth in this Section 12.10.4. This Agreement shall be recorded in the real property records of the Denver County Clerk and Recorder.~~

Section 12.10.4. describes the requirements for development on carriage lots, which are unique pieces of land surrounded on 4 sides by alleys. Section 12.10.4.5 describes the zoning permit review procedure and conditions. Previously, this section required that the permit be personal to the applicant; this was especially onerous because the owner had to maintain their primary residence on the surrounding block. If the carriage lot was sold or the owner moved away, the zoning permit would automatically expire. This requirement will no longer be in the Denver Zoning Code. We've also deleted item D, which requires that the applicant execute an agreement agreeing to terms and conditions set by the zoning administrator. This is unnecessary, as the zoning administrator has the ability to set conditions of approval for the permit.