

## **DIVISION 8.3 DOWNTOWN CORE AND DOWNTOWN THEATER DISTRICTS (D-C, D-TD)**

### **SECTION 8.3.1 DOWNTOWN CORE AND DOWNTOWN THEATER DISTRICTS**

#### **8.3.1.1 Generally**

The provisions of this Division apply to all lands, uses and structures in the Downtown Core and Downtown Theater districts.

#### **8.3.1.2 Uses Permitted**

See Division 8.11 for uses permitted in the Downtown Core and Downtown Theater Districts.

#### **8.3.1.3 Required Downtown Ground Floor Active Uses**

In portions of new buildings and outdoor areas along or within 30 feet of the 16th Street pedestrian and transit mall, and in portions of existing buildings and outdoor areas within 30 feet of the 16th Street pedestrian and transit mall that are renovated and where the renovation includes all or a part of the leasable ground floor areas of the building, at least 65 percent of the linear frontage of the property along the 16th Street pedestrian and transit mall shall be occupied by Downtown Ground Floor Active Uses.

#### **8.3.1.4 Permitted Structures**

##### **A. Open Space Required**

For each structure designed, used or occupied either in whole or in part as a multiple unit dwelling, there shall be provided a minimum of 30 square feet of unobstructed open space for each dwelling unit; such unobstructed open space may be located on the ground or on several usable roofs or balconies, but shall not include space provided for off-street parking; provided however such requirement shall not apply to any structure converted from nonresidential to residential uses.

##### **B. Minimum and Maximum Heights**

- 1. Minimum Heights:** The minimum height of structures shall be 2 stories or 30 feet.
- 2. Maximum Heights:** The maximum heights of buildings are not limited except in the following height areas as shown on Exhibit 8.1:
  - a. Sunlight Preservation Area 1: See Subsection 8.3.1.4.C. below.
  - b. Height Area 1 : 200 feet
  - c. Height Area 2: 400 feet

Exhibit 8.1 Maximum Heights



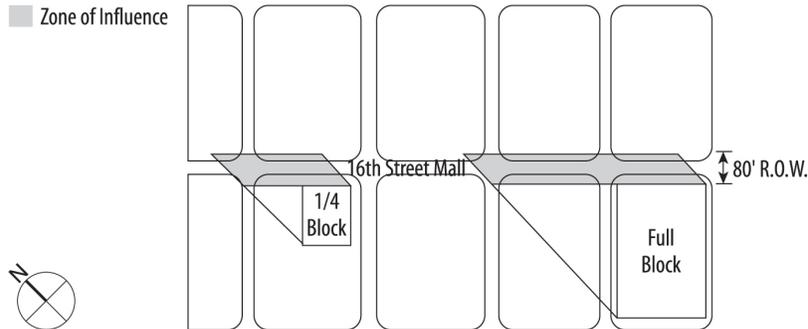
### C. Sunlight Preservation Area 1

#### 1. Definitions

For purposes of this provision only, the following definitions shall apply:

- a. "Zone of influence" shall mean that portion of the public right-of-way of the 16th Street pedestrian and transit mall lying between 2 lines extended due north from the easternmost and western most points of a zone lot located between 15th and 16th Streets, regardless of whether or not such zone lot extends across a public alley. If a zone lot extends across a public street right-of-way, then a separate zone of influence shall be established for each part of the property separated by a public street right-of-way. The 16th Street pedestrian and transit mall is 80 feet wide.
- b. "Project zone of influence" shall mean the zone of influence for the proposed structure or project.
- c. "Overlapping zone of influence" shall mean any zone of influence that overlaps all or a portion of the project zone of influence, regardless of whether or not such zone of influence is related to a zone lot that is (i) adjacent to the project zone lot or (ii) located within this Sunlight Preservation Area 1.

## Illustration of Project Zone of Influence



- d. “Excluded zone of influence” shall mean a zone of influence for a zone lot where the maximum permitted gross floor area from all sources except sunlight bonuses could not at any point exceed the height of a plane originating at the southwest right-of-way of the 16th Street pedestrian and transit mall and rising over the property southwesterly at an angle of 60 degrees from the horizontal.
- e. “Test time” shall mean 1:00 p.m., Mountain Daylight Time, on September 21.
- f. “Minimum required amount” shall mean:
  - i. For a zone lot of more than 15,000 square feet: 0.3
  - ii. For a zone lot of 15,000 square feet or less: 0.2

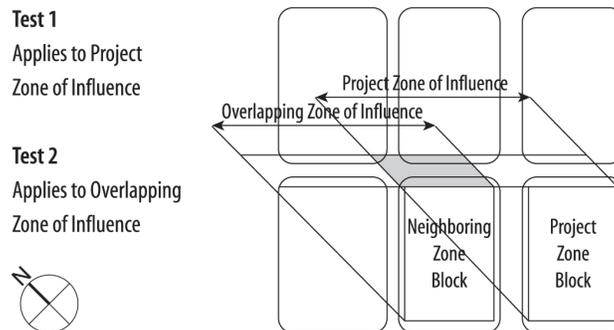
### 2. Sunlight Preservation on the 16th Street Pedestrian and Transit Mall

No structure or multiple structure project shall be constructed unless it complies with Subsection a. below or is otherwise permitted under Subsection b. below or the project zone of influence is an excluded zone of influence.

#### a. Minimum sunlight preservation requirement.

- i. **Test 1.** All structures and projects shall be designed so that, after their construction, at least the minimum required amount of each project zone of influence shall remain in sunlight at the test time; and
- ii. **Test 2.** All structures and projects located on zone lots of more than 15,000 square feet shall be designed so that at least the minimum required amount of each overlapping zone of influence that extends further west and/or further east than the project zone of influence shall remain in sunlight at the test time.

## Illustration of Test 1 and Test 2



**b. Inability to meet minimum requirements**

**i. Inability to meet Test 1**

- a) If, prior to the proposed construction, less than the minimum required amount of each project zone of influence remains in sunlight at the test time, then the requirements of Test 1 above shall not apply to such project zone of influence, but the proposed structure or project shall not be permitted to cast additional shadows within such project zone of influence; or
- b) If the proposed structure or project is located on a zone lot of 53,000 square feet or more and, prior to the proposed construction, less than 42 percent of each project zone of influence remains in sunlight at the test time, and the proposed structure or project does not cast any shadow at the test time that exceeds a length of 225 feet measured along the south right-of-way line of the 16th Street pedestrian and transit mall, then the minimum required amount of sunlight under Test 1 shall be reduced as required to accommodate the proposed structure or project, but not below a minimum of 18 percent.

In such case, the basic sunlight premium set forth in Subsection 8.3.1.4.C.3.a. below shall still apply, but additional sunlight premiums set forth in Subsection 8.3.1.4.C.3.b. below shall not apply.

**ii. Inability to meet Test 2 on one (1) side.** If a proposed structure or project on a zone lot of more than 15,000 square feet meets Test 1, but prior to the proposed construction less than the minimum required amount of any overlapping zone of influence remains in sunlight at the test time, then the requirements of Test 2 above shall not apply to such overlapping zone of influence, but the proposed structure or project shall not be permitted to cast additional shadows within such overlapping zone of influence.

**iii. Inability to meet Test 2 on both sides.** If a proposed structure or project on a zone lot of more than 15,000 square feet meets Test 1 and does not cast any shadow at the test time that exceeds a length of 225 feet measured along the south right-of-way line of the 16th Street pedestrian and transit mall, but does not meet Test 2 for overlapping zones of influence extending both east and west of the project zone of influence, then the requirements of Test 2 shall be reduced within such overlapping zones of influence to the degree necessary to accommodate such proposed structure or project, provided, however, that under no circumstances shall such requirements be reduced to a point where:

- a) The resulting area of sunlight within any single overlapping zone of influence is less than 15 percent; or
- b) The resulting area of sunlight within that portion of the 16th Street pedestrian and transit mall lying between lines extended due north from the easternmost point of any overlapping zone of influence and from the western most point of any overlapping zone of influence is less than 18 percent.

**3. Premium for Sunlight Preservation**

A new structure or multiple structure project that complies with the requirements of this Section shall receive floor area premiums as set forth below:

**a. Basic sunlight premium**

All such structures or multiple structure projects shall receive a floor area premium equal to one (1) times the size of the zone lot.

**b. Additional sunlight premium**

Such structures or multiple structure projects may receive additional floor area premiums based on the amount of sunlight preserved at the test time. The amount of the additional sunlight premium shall be calculated for each project zone of influence based on the following formula:

$$Y = 6 - (.06 \times X)$$

Y: is the amount of additional sunlight premium, measured as a fraction or multiple of the size of the project zone lot; and

$$X = A / (B \times C - D)$$

where:

“A” is the area of additional shadow to be cast by the proposed structure or project within the project zone of influence;

“B” is .70 where the project zone lot is more than 12,500 square feet; and .80 where the project zone lot is 12,500 square feet or less;

“C” is the area of the project zone of influence; and

“D” is the area of preexisting shadows in the project zone of influence.

**c. Exceptions**

Notwithstanding Subsections a. and b. above, no such floor area premiums shall be available for any proposed structure or project whose project zone of influence is an excluded zone of influence.

**D. Maximum Gross Floor Area in Structures**

**1. Basic Maximum Gross Floor Area**

The sum total of the gross floor area of all structures on a zone lot shall not be greater than 10 times the area of the zone lot on which the structures are located (FAR = 10.0).

**2. Floor Area Premiums**

In addition to the basic maximum gross floor area permitted under paragraph D.1. above, a premium of additional floor area may be constructed under the following circumstances, provided, however, that: (i) no use of the premiums described in those Subsections c. through f. below, either alone or in combination with one another, shall cause the maximum gross floor area on any zone lot to be increased by more than 2 times the size of such zone lot; and (ii) any area for which a premium has been granted pursuant to Subsections a. or c. below shall continue to be occupied by the use which originally earned the premium, or by other uses that would earn at least an equal amount of premium space.

**a. Premium for Housing**

- i. Two square feet for each square foot of housing constructed in a new building, or through conversion of all or a part of an existing building from other uses.
- ii. In addition, applicants may receive floor area premiums in return for cash contributions to the housing special revenue fund (Fund/Org. No. 1150-6330) to be used to create additional housing units within the Downtown Core or Downtown Theater zone districts. Such cash-in-lieu fee or fees shall be based on the standard that a floor area premium of 2 square feet shall be available in return for each contribution equal to the average cost of creating one additional square foot of downtown housing. Community Planning and Development is hereby granted authority:

- a) To adopt and to revise rules and regulations setting a cash-in-lieu fee or fees which, if contributed to such fund, would earn floor area premiums; and
  - b) To determine whether such fee or fees shall be based on the average cost of constructing new housing units or the average cost of creating a new housing unit through conversion of an existing building from nonresidential uses; and
  - c) To determine whether such fee or fees shall be based on the cost of creating new market rate housing units or new affordable housing units; and
  - d) To determine whether such fee or fees shall be based on a per square foot or per unit basis.
- iii. Such cash-in-lieu fee or fees shall be reviewed, and if necessary revised, at least once every three years following their initial adoption. No such rule or regulation shall be effective unless and until adopted pursuant to article VI, chapter 2 of the Revised Municipal Code.
- b. Premium for Rehabilitation of Historic Structure**  
Four square feet for each square foot of the street-facing exterior of an Historic Structure that is rehabilitated to the U.S. Secretary of the Interior’s standards for Treatment of Historic Properties, or to the design review standards, policies and guidelines of the Landmark Preservation Commission.
- c. Premium for Downtown Ground Floor Active Uses or Residential Support Facilities**  
Four square feet for each square foot of space to be occupied by one of the following constructed in a new building, or through conversion of all or a part of an existing building from other uses:
- i. Ground floor area constructed as a Downtown Ground Floor Active Use, as defined in Article 13 of this Code, so long as this floor area has not been excluded in Section 8.3.1.4.D.3.4.b (Floor area excluded from calculations) below.
  - ii. Ground floor or second floor area to be occupied by a food sales or market use or elementary or secondary school meeting all requirements of the compulsory education laws of the state, or day care center for children constructed to at least the minimum licensing standards of the Department of Environmental Health.
- d. Premium for Supporting Mass Transit Facilities**  
Three square feet for each square foot of land dedicated for a light rail station integrated into a new or existing building. An integrated station is one in which the building extends over all or part of a light rail facility and the station is constructed as part of the new building or a renovation of the existing building.
- e. Premium for Outdoor Art**  
A floor area premium equal to 25 percent of the zone lot area if, in connection with the construction of a new building or the renovation of an existing building, Public Art costing at least (i) one percent of the cost of the new building or one percent of the cost of the building renovation, as reflected in approved building permits, or (ii) \$500,000.00, whichever is smaller, is placed outside or on the exterior surface of such new or renovated building where it is visible from at least one public street.
- f. Premium for Underground Parking**  
A floor area premium equal to one and one-half square feet for each square foot of underground parking provided under a new building, provided, however, that no premium shall be earned for the first level of underground parking.

**g. Premium for Moderately Priced Dwelling Units**

A floor area premium equal to the zone lot area if the structure qualifies under the provisions of D.R.M.C., Article IV, Chapter 27 (affordable housing), provided all of said floor area premium is dedicated to residential uses and was submitted for approval prior to January 1, 2017.

**3. Transfer of Undeveloped Floor Area**

In addition to the two types of floor area permitted by Sections 8.3.1.4.D.1-2 above, a certain amount of floor area may be constructed by using undeveloped floor area. Undeveloped floor area shall be created, transferred and administered as set forth herein. Undeveloped floor area may be certified for transfer at any time and any undeveloped floor area certified prior to June 25, 2010 shall remain valid, however any such certified floor area may be amended.

**a. Types of Undeveloped Floor Area**

The following types of undeveloped floor area may be transferred between zone lots after certification by the Zoning Administrator:

- i. Undeveloped floor area from an Historic Structure:
  - a) Where such designation or inclusion in a district occurred after October 10, 1994; or
  - b) Where such designation or inclusion in a district occurred before October 10, 1994, and certificates of undeveloped floor area were issued before October 10, 1994; or
  - c) Where such designation or inclusion in a district occurred before October 10, 1994, and certificates of undeveloped floor area were not issued before October 10, 1994.
- ii. Undeveloped floor area from a structure that (a) has received a floor area premium pursuant to Section 8.3.1.4.D.2.b or (b) would have received such a floor area premium if such premium had existed at the time of the rehabilitation.

**b. Calculation of Undeveloped Floor Area**

In the case of undeveloped floor area defined in Section 8.3.1.4.D.3.a.i above, the amount of undeveloped floor area available for transfer from each structure shall be equal to one times the size of the zone lot on which such structure is located, plus the difference between a) the gross floor area in the structure, and b) the maximum gross floor area permitted on the zone lot containing the structure pursuant to Sections 8.3.1.4.D.1-2 above.

**c. Evidence of Title**

The Zoning Administrator shall not issue a zoning permit with respect to the property on which floor area is to be constructed using undeveloped floor area (“receiving property”) unless the owners of the receiving property furnish evidence to the Zoning Administrator of their title to the undeveloped floor area acquired. Such evidence may be a current title commitment, a current endorsement to a prior title policy or other acceptable evidence of title including an opinion of counsel.

**d. Limitation On Use**

No receiving property shall be enlarged by more than 6 times the area of the zone lot through one or more applications of this procedure.

**e. Procedures**

Undeveloped floor area shall be administered according to the following procedures:

- i. Applications for certification of undeveloped floor area shall be submitted for a contiguous Zone Lot in common ownership, by or with the written consent of the owners of the included property, in triplicate, and shall include:
  - a) The names and signatures of all owners and security interest holders of the property included in the application;
  - b) The names of the owners to be designated as owners on the certificate applied for;
  - c) A legal description of the included property;
  - d) A current endorsement by a title insurance company to the owners' title policy covering such legal description or other acceptable evidence of title including an opinion of counsel;
  - e) A survey of the included property;
  - f) A certificate of a licensed engineer or architect as to the gross floor area of all structures to be included in the calculation of undeveloped floor area and a copy of the ordinance designating the property for preservation or including the property in a district for preservation;
  - g) Satisfactory evidence that each structure to be included in the calculation of undeveloped floor area is utilized by a primary use and that the exterior has been renovated or restored to the U.S. Secretary of the Interior's standards for historic preservation or to the design review standards, policies and guidelines of the Landmark Preservation Commission;
  - h) In the case of undeveloped floor area defined in Section 8.3.1.4.D.3.a.ii., above, satisfactory evidence that the street-facing exterior of the structure has been rehabilitated to the U.S. Secretary of the Interior's standards for Treatment of Historic Properties, or to the design review standards, policies and guidelines of the Landmark Preservation Commission; and
  - i) Such other information as the Zoning Administrator may reasonably require.
- ii. Applications shall be filed with the Zoning Administrator together with a \$1,500 filing fee. Upon filing, the Zoning Administrator shall deny the application if it is incomplete. If the application is complete, the Zoning Administrator shall forward one copy to the planning board and one copy to the Landmark Preservation Commission, and promptly shall grant the application or grant the application with conditions if it complies with Subsection i. above, but otherwise shall deny the application. All actions of the Zoning Administrator in denying the application shall be without prejudice to the owners to resubmit additional applications respecting the same zone lot. If an amended application covering the same property is made within 90 days after denial by the Zoning Administrator, no additional filing fee shall be required.
- iii. If the application is granted, the Zoning Administrator shall issue a certificate of undeveloped floor area in substantially the following form, and acceptable to the Zoning Administrator:

CERTIFICATE OF UNDEVELOPED AREA

\_\_\_\_\_  
(Applicants-Owners)

\_\_\_\_\_  
(Address)

having filed an application for Certification of Undeveloped Floor Area according to Section 8.3.1.4.D.3 of the Revised Municipal Code of the City and County of Denver, as amended, and the Zoning Administrator having granted such application, certifies and grants as follows:

1. The legal description of the property referred to in the application is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The future development of this property is physically limited as a result of this certification.

2. The Applicants are hereby determined to have \_\_\_\_\_ square feet of Undeveloped Floor Area as a result of the above described property.

3. Subsequent transfers of Undeveloped Floor Area are subject to the provisions of Section 8.3.1.4.D.3.

DATED: \_\_\_\_\_  
CITY AND COUNTY OF DENVER  
By Zoning Administrator

By

\_\_\_\_\_  
(STATE OF COLORADO)

City and County (of Denver) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by \_\_\_\_\_, Zoning Administrator of the City and County of Denver, Colorado. Witness my hand and official seal.

My commission expires:

\_\_\_\_\_  
\_\_\_\_\_

Notary Public  
(NOTARY SEAL)

- iv. The original certificate of undeveloped floor area shall be recorded by the Zoning Administrator in the office of the clerk and recorder of the City and County of Denver and State of Colorado. When the certificate has been recorded, it shall be filed with the Zoning Administrator. A copy of the certificate shall be given to the applicant.
- v. Upon the issuance of a certificate of undeveloped floor area by the Zoning Administrator, undeveloped floor area shall be created and shall be an independent right in the owner to whom the certificate is issued and may be transferred. Such transfer need not be made appurtenant to another zone lot until a permit is requested using the undeveloped floor area.
- vi. If the structure is partially or completely destroyed after a certificate of undeveloped floor area has been issued, no new structure shall be built exceeding the floor area of the former structure unless undeveloped floor area is acquired or through a combining of zone lots or other transfer procedures.

**f. Replacement Certificate**

- i. Until such time as undeveloped floor area is made appurtenant to another zone lot, and upon the payment of a \$75.00 fee, the holder of one or more certificates of undeveloped floor area may surrender such certificate or certificates to the Zoning Administrator and request the issuance of one or more replacement certificates reflecting the division of such undeveloped floor area into smaller units for transfer or the combination of such undeveloped floor area into larger units for transfer, provided that the total amount of all undeveloped floor area represented by the applicant's replacement certificates does not exceed the total amount of undeveloped floor area represented by the surrendered certificate(s).
- ii. Any such replacement certificate(s) shall be recorded in the same manner as the surrendered certificate(s). Each replacement certificate must document all previous certificates and issuances of replacements. Such documentation shall include (1) previous total undeveloped floor area of each certificate to be replaced, and (2) total floor area for each replacement certificate.

**g. Transfer Requirements**

Undeveloped floor area shall be transferred to and made appurtenant to another zone lot according to the following requirements:

- i. The instrument of conveyance shall identify the undeveloped floor area transferred by amount, the zone lot creating the undeveloped floor area and certification date and be signed by both the transferrer and the transferees.
- ii. The instrument of conveyance shall legally describe the receiving property which shall be in the Downtown Core or Downtown Theater zone districts.
- iii. No subsequent transfer of undeveloped floor area made appurtenant to another zone lot shall become effective until approved by the Zoning Administrator upon a finding that no construction using the undeveloped floor area has occurred, and any permit authorizing the use of undeveloped floor area has been canceled. Such approval shall be applied for by the owners of the receiving property by written application accompanied by a filing fee of \$1,500.00 and supported by all information necessary to justify approval by the Zoning Administrator.

**4. Final maximum gross floor area.**

**a. Limits for designated areas.**

Notwithstanding Sections 8.3.1.4.D.1-3 above, the final maximum gross floor areas that may be constructed on zone lots shall be limited as described below and shown on Exhibit 8.2:

- i. For structures located within the area bounded by 14th Street, Colfax Avenue, Broadway Street, 18th Street, and the Market Street-Larimer Street alley: (i) A floor area ratio of 17:1; or (ii) If structures contain over 50 percent of their gross floor area in housing uses, then a floor area ratio of 20:1.
- ii. For structures located in all other areas zoned D-C and D-TD:
  - a) A floor area ratio of 12:1; or
  - b) If structures contain over 50 percent of their gross floor area in housing uses, then a floor area ratio of 17:1.

**Exhibit 8.2 Maximum Gross Floor Area**



**b. Floor area excluded from calculations.**

Gross floor area occupied by Downtown Ground Floor Active Uses (i) which would qualify for a floor area premium pursuant to Section 8.3.1.4.D.2.c, but (ii) for which a floor area premium is not granted because of the restrictions in Section 8.3.1.4.D.2 above limiting the total amount of floor area premiums that may be granted, shall be excluded from the calculation of the gross floor area of a structure or project. Any floor area so excluded from the calculation of gross floor area shall continue to be occupied by Downtown Ground Floor Active Uses.

**8.3.1.5 Off-Street Parking Requirements**

**A. Applicable Standards**

The general off-street parking standards in Division 10.4 of this Code shall apply in the D-C and D-TD and D-CV zone districts, except where the standards stated in this Section 8.3.1.5 conflict, in which case the standards in this Section 8.3.1.5 shall apply.

**B. Amount of Parking Spaces Required**

1. There shall be no minimum off-street parking requirement for any use in the D-C or D-TD or D-CV zone districts.
2. Parking spaces provided in a parking structure to serve office uses in the D-C or D-TD or D-CV zone districts shall comply with the use limitations applicable to a “parking, garage” use stated in Section 11.4.7.1.

**C. Accessible Parking**

Whenever off-street parking spaces are provided, a minimum number of accessible parking spaces shall be provided according to the requirements of the Denver Building Code and the federal Americans with Disabilities Act.

**D. Bicycle Parking**

The following standard shall apply instead of the general bicycle parking standards in Article 10, Division 10.4, Parking and Loading.

1. All new parking structures shall contain at least 1 designated bicycle parking space for each 20 automobile parking spaces, provided, however, that in no event shall any new parking structure be required to contain more than 50 bicycle parking spaces.

**8.3.1.6 Design Requirements**

**A. Downtown Ground Floor Active Use Street Frontages**

1. New buildings or renovations of existing buildings in which the renovation includes all or part of the leasable ground floor areas of the building shall be designed and constructed to accommodate Downtown Ground Floor Active Uses for at least 65 percent of the linear frontage along the following streets: 16th Street pedestrian and transit mall, Larimer Street, Curtis Street, Tremont Place, Cleveland Place, and any light rail line operating in a street or fixed-guideway transit line operating in a street.
2. Street-facing ground floors of new buildings on named or numbered streets not included in the paragraph above shall provide 60 to 90 percent transparency as measured from floor to floor for at least 65 percent of the linear frontage of the building,
3. In all cases, transparent glass shall possess a minimum .65 light transmission factor.

**B. Minimum Build-to Requirements**

1. *Within the area bounded by the centerlines of 14th Street, 18th Street, Broadway and Colfax and the Larimer/Market Street alley:* Buildings shall be built-to or within 10 feet of the property line adjoining the street for no less than 65% of each separately owned zone lot

frontage, except along the Southwest side of the 16th Street Mall where the build-to zone shall be increased to 20 feet.

2. *In the areas northeast and southwest of the area noted above in Subsection B.1, buildings shall be built to within 10 feet of the property line adjoining the street for no less than 50% of each separately owned zone lot frontage.*

**C. Exposure to the Sky**

In order to allow reasonable levels of natural light to reach the street, while also promoting strong definition of the street space, all new structures located on zone lots containing more than 15,000 square feet shall provide at least 15 percent sky exposure as measured from each abutting public street on which the zone lot has greater than one hundred fifty (150) linear feet of frontage. All sky exposure measurements shall be calculated using a Waldram diagram.

**D. Ground Floors of Parking Structures**

Each primary use or accessory use parking structure constructed after October 10, 1994, or renovated after October 10, 1994, shall either (1) have all ground floor frontages within 30 feet of a public street or a pedestrian and transit mall occupied by Downtown Ground Floor Active Uses, or (2) have driving aisles, ceiling heights, utility layouts, and structural openings designed to be consistent with future occupancy of the ground floor street frontage by Downtown Ground Floor Active Uses, unless such requirements are inconsistent with the structural layout of existing structures being converted to parking uses.

**E. Design Review**

**1. Applicability**

All new structures and all structures that are being renovated, and the renovation includes alterations to the lower 80 feet of the facade of the structure shall be subject to either:

- a. Design standards and a design standards review process established by rules and regulations; or
- b. Design guidelines and a design guidelines negotiation process established by rules and regulations.
- c. Design standards and design guidelines shall address those topics listed in Section 8.3.1.6.E.4 below. For each element of building or project design listed in Section 8.3.1.6.E.4, the applicant shall have the option of submitting proposed designs for a determination of consistency under the design standards review process or for approval under the design guidelines negotiation process. The applicant shall also have the option of submitting different design elements for determinations of consistency or for approval at different times. The design standards review process and the design guidelines negotiation procedures shall be conducted by the planning office staff. The Zoning Administrator shall not issue permits for use and construction until all applicable requirements have been met.

**2. Exclusions**

The design standards review process and the design guidelines negotiation process set forth in this Section shall not apply to:

- a. Any Historic Structure, or
- b. Any facade of an existing structure that is not being altered.

**3. Intent**

The design standards and design guidelines are intended (i) to promote visibility of commercial activities at ground level; (ii) to provide human scale through change, contrast, and intricacy in facade form, color and/or material where lower levels of structures face

public streets and sidewalks; (iii) to spatially define the street space in order to concentrate pedestrian activity and create a clear urban character; (iv) to alleviate high wind conditions for pedestrians at the base of taller structures; (v) to encourage easy pedestrian entry and exit from structures; and (vi) to prevent significant blocking of sky exposure along a street right-of-way.

#### **4. Design Standards and Design Guidelines Topics**

- a. The Manager is authorized to develop design standards and design guidelines that address the following topics:
  - i. For the lower 30 feet of structures:
    - a) The percentage of the linear frontage of the structure that must be built within a short distance of property lines along public streets and sidewalks; and
    - b) Requirements for direct entry doors from the street to ground floor.
  - ii. For the lower 80 feet of structures:
    - a) The percentage of glass to solid materials;
    - b) The use of reflective glass; and
    - c) The required use of scaling elements, insets, and projections to break up flat or monotonous facades and to respond to older structures nearby.
  - iii. For all structures more than 200 feet in height: The use of building massing and setbacks to prevent significant blocking of sky exposure by tall buildings built close to the a street right-of-way.
  - iv. For all structures more than 400 feet in height: The use of massing and setbacks to alleviate high wind conditions for pedestrians at ground level.
- b. Each structure and multiple structure project shall be consistent with the adopted design standards for each design element listed above, or shall be approved pursuant to design guidelines negotiations for each element listed above. Design standards rules and regulations shall be specific, objective requirements related to each topic listed above. Design guidelines rules and regulations shall ensure that design elements meet the intents set forth in Subsection E.3 above and address the topics listed above while allowing more variation and architectural creativity than the design standards rules and regulations adopted pursuant to this Subsection E.4.
- c. No design standards or design guidelines shall be effective until adopted pursuant to Section 12-18 of the Denver Revised Municipal Code. Any amendments to the design standards and guidelines shall be adopted pursuant to Section 12-18 of the Denver Revised Municipal Code and shall be consistent with the Intent and Topics set out above.

#### **5. Design Standards Review Process**

- a. The applicant may submit any or all elements of project design listed in Section 8.3.1.6.E.4 above for review under the design standards review process. Design standards review and determination shall be completed no later than 15 days after the submission of a completed application to the Zoning Administrator, or the submitted design shall be considered consistent with adopted design standards. Such 15-day review period shall be extended by an amount of time equal to any delay caused by the applicant, and may also be extended with the applicant's consent.
- b. The design standards review process shall determine whether the project design is consistent, with the design standards and shall make a recommendation to the Zoning Administrator for approval, approval with conditions, or denial of the application.

- c. Any determination of consistency or inconsistency shall be in writing.
- d. If elements of the applicant's design are found to be inconsistent with such design standards, the applicant shall have the options of (i) resubmitting a new design for review pursuant to the design standards review process, (ii) submitting the existing design to the design guidelines negotiation process, or (iii) appealing the finding of inconsistency pursuant to Section 8.3.1.6.E.7 below.

#### **6. Design Guidelines Negotiation Process**

- a. As an alternative to the design standards review process, the applicant may submit any or all elements of project design listed in Section 8.3.1.6.E.4 above for review under the design guidelines negotiation process. The applicant's decision to submit design elements to the design guidelines negotiation process shall not result in the extension of design negotiations to any element of the design not presented by the applicant for review, or to any element of design that has been reviewed and found to be consistent with design standards rules and regulations on the same topic, and shall not result in the extension of design guidelines negotiations to any element of design that the applicant would not have had to address if applicant had proceeded under the design standards review process, except with the applicant's consent.
- b. Design guidelines negotiation and determination shall be completed no later than 45 days after the submission of a completed application to the Zoning Administrator, or the submitted design shall be considered consistent with the intents set forth in Section 8.3.1.6.E.3. Such 45-day review period shall be extended by an amount of time equal to any delay caused by the applicant, and may also be extended with the applicant's consent.
- c. The design guidelines negotiation determination shall be in writing and shall recommend either approval, approval with conditions consistent with the intent set forth in Section 8.3.1.6.E.3. above, or denial of the application.

#### **7. Appeals**

- a. Any decision of the Zoning Administrator pursuant to this Section may be appealed to the Denver Planning Board. The applicant shall initiate such appeals process by delivering written notice of appeal to the Zoning Administrator identifying the design review decision or decisions that it wishes to appeal, within 30 days after the date of such decision.
- b. The Planning Board shall hold a public meeting and consider all information regarding the proposed project that it deems relevant and shall make a final decision regarding the appeal within 30 days after the Zoning Administrator receives the applicant's notice of appeal. The recommendation of the Planning Board shall be provided to the applicant and the Zoning Administrator.

#### **8. Approvals**

Approvals granted pursuant to this Section shall be valid for 3 years if approved in accordance with the following provisions:

- a. The application is submitted by or on behalf of a landowner for design standards review of some or all design elements, and it is determined that the design elements are consistent with adopted design standards, whether by (a) a Zoning Administrator determination of consistency, (b) failure of the Zoning Administrator to respond within the required time frame, (c) a Planning Board determination of consistency, or (d) a successful appeal of such determination of inconsistency; or

- b. The application is submitted by or on behalf of a landowner for design guidelines negotiations on some or all design elements, and some or all of the design aspects of a structure or a multiple structure project receive approval, whether by (a) an approval by the Zoning Administrator, (b) failure of the Zoning Administrator to respond within the required time frame, (c) an approval by the Planning Board, or (d) a successful appeal of such denial.
- c. During this 3-year period, only the applicant may make modifications to the approved design. Review of a modification to any single element shall be based on the design standards and guidelines in place at the time of review. Modification of more than a single element or all elements shall initiate a new review according to this Section.

## DIVISION 8.4 LOWER DOWNTOWN DISTRICT (D-LD)

### SECTION 8.4.1 LOWER DOWNTOWN DISTRICT

#### 8.4.1.1 General

The provisions of this Division apply to all lands, uses and structures in the D-LD District.

#### 8.4.1.2 Description of District

The district is intended to provide for and encourage the preservation and vitality of older areas that are significant because of their architectural, historical and economic value. A variety of land uses will be permitted in order to facilitate the reuse of existing structures without jeopardizing or reducing zoning standards promoting the public safety, convenience, health, general welfare and the preservation of the comprehensive plan. New residential development is encouraged. The design of new structures should recognize the style and character of adjoining building exteriors, i.e., cornice lines and building materials and colors should be similar wherever possible.

#### 8.4.1.3 Applicable Rules and Standards

##### A. DRMC Chapter 30 Applies

All new development, including construction or alteration of buildings and structures, shall comply with the standards stated in DRMC, Chapter 30.

##### B. DZC Building Form Standards Do Not Apply

New development, including construction or alteration of buildings and structures, is exempt from application of the primary and detached accessory building form standards in this Code.

##### C. DZC General Development Standards Apply

All development in the D-LD Zone District shall comply with applicable general development and design standards stated in DZC, Article 10, General Design Standards.

##### D. Uses Permitted

See Division 8.11 for all uses permitted, including any applicable use limitations, in the D-LD District.

#### 8.4.1.4 Off-Street Parking Requirements

##### A. Applicable Standards

All development in the D-LD zone district shall comply with the off-street vehicle parking standards and the bicycle parking standards in Division 10.4, Parking and Loading, of this Code except where the standards stated in this Section 8.4.1.4 conflict, in which case the standards in this Section 8.4.1.4 shall apply in the D-LD zone district.

##### B. Amount of Parking Spaces Required

1. There shall be no minimum off-street parking requirement for contributing buildings or residential additions to contributing buildings, as such buildings are designated in D.R.M.C., Article III, (Lower Downtown Historic District), of Chapter 30, (Landmark Preservation);
2. One off-street parking space shall be provided for each residential unit of a new residential building or a residential addition to a noncontributing building; provided that, upon proof that the development is eligible for an exception to payment of a linkage fee under DRMC Section 27-154(a)-(d), or the development complies with the provisions of DRMC Section 27-155, a 20 percent reduction in the total number of required parking spaces shall be granted for all primary residential uses in a building or addition that provides housing that can only be rented or purchased by households of a certain area median income level;

3. One off-street parking space shall be provided for each 750 square feet of gross floor area for any nonresidential addition to a contributing or noncontributing building, or a new nonresidential building;
4. For zone lots with a mix of residential and any other primary use, off-street parking spaces shall be provided based on the requirements in Subsections B.1 through B.3 above in proportion to the uses in the building; provided that, upon proof that the development is eligible for an exception to payment of a linkage fee under DRMC Section 27-154(a)-(d), or the development complies with the provisions of DRMC Section 27-155, a 20 percent reduction in the total number of required parking spaces shall be granted for all primary uses contained in a building on the zone lot that provides housing that can only be rented or purchased by households of a certain area median income level. This shall be calculated by first calculating the number of parking spaces otherwise required, multiplying that figure by eight tenths (.8) and rounding up to the nearest whole number;
5. “Additional parking” is parking above the required minimums as set forth in Sections 8.4.1.4.B.1 through 8.4.1.4.B.4 above. All structures may provide up to an additional one-half parking space per residential unit and one space per 1,500 square feet of gross floor area of nonresidential uses;
6. “Excess parking” is any parking in excess of the required minimums and allowed additional parking. Excess parking may be granted only upon application to the Lower Downtown Design Review Commission in accordance with the provisions of D.R.M.C., Article III (Lower Downtown Historic District) of Chapter 30 (Landmark Preservation);
7. Off-street parking requirements may be met off the zone lot according to Section 10.4.4.5, Location of Required Vehicle Parking, of this Code after consultation with the Lower Downtown Design Review Commission, and provided said parking is provided within the D-LD zone district or within 1,000 feet of the subject zone lot; and
8. All required off-street parking spaces shall be designed in accordance with Division 10.4, Parking and Loading, of this Code.

**C. Accessible Parking**

Whenever off-street parking spaces are provided, a minimum number of accessible parking spaces shall be provided according to the requirements of the Denver Building Code and the federal Americans with Disabilities Act.

