

TECHNICAL CODE FIXES AND CLEAN UP ITEMS – July 2020

CHAPTER 2 - REVIEW PROCESSES

SUGGESTED CHANGES

1

Update to Variance code section related to Exceptions, and Board of Zoning Adjustment (BOZA) authority to clarify that the City Manager and BOZA may review Solar Exceptions.

Section 9-2-3, "Variances and Interpretations", B.R.C. 1981, should be amended as follows:

9-2-3. Variances and Interpretations.

(a) Purpose: This section identifies those standards that can be varied by either the city manager or the Board of Zoning Adjustment (BOZA). Some standards can be varied by the city manager through an Administrative Review process, others by BOZA by another level of Administrative Review. The city manager may defer any administrative decision pursuant to this section to BOZA. This section also identifies which city manager interpretations of this title may be appealed to BOZA and establishes a process for such appeals.

(b) Interpretations: The city manager may decide questions of interpretation and application of the regulations of this title as a ministerial function. Interpretations made by the city manager of Chapters 9-6, "Use Standards," 9-7, "Form and Bulk Standards," and 9-8, "Intensity Standards," B.R.C. 1981, may be appealed to the BOZA by filing an application in compliance with this section.

(1) Planning Board Call-Up: A member of the planning board may call-up any interpretation of the BOZA through the procedures of [Section 9-4-4](#), "Appeals, Call-Ups, and Public Hearings," B.R.C. 1981. The planning board may consider the record, or any portion thereof, of the hearing before the BOZA in its consideration of the matter.

(2) City Council Call-Up: The city council may call-up for review any interpretation of the BOZA upon which the planning board has acted pursuant to the procedures of [Section 9-4-4](#), "Appeals, Call-Ups and Public Hearings," B.R.C. 1981. The council may consider the record, or any portion thereof, of the hearing before the planning board in its consideration of the matter.

Reason for change: Minor edits and clarification of what code sections may be appealed to BOZA.

2

Update the Board of Zoning Adjustment (BOZA) section for clarity and correct code references. (also includes proposed changes to Title 2 related to BOZA)

Sections 9-2-3 and 9-9-16 should be amended as follows:

(d) Board of Zoning Adjustment (BOZA): The BOZA may grant variances from the requirements of:

- (1) Setback, separation and bulk plane requirements listed in Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, and standards referred to in that section;
- (2) The building coverage requirements of Section 9-7-11, "Maximum Building Coverage," and chapter 9-10, "Nonconformance Standards," B.R.C. 1981;
- (3) The setback and separation spacing requirements for mobile homes of Section 9-7-13, "Mobile Home Park Form and Bulk Standards," B.R.C. 1981;

- (4) The porch setback and size requirements of Section 9-7-4, "Setback Encroachments for Front Porches," B.R.C. 1981;
- (5) The side yard wall articulation standards of Section 9-7-10, "Side Yard Wall Articulation Standards," B.R.C. 1981;
- (6) The size requirements for accessory units of Subsection 9-6-34(a), B.R.C. 1981;
- (7) The total cumulative building coverage requirements for accessory buildings of Section 9-7-8, "Accessory Buildings in Residential Zones," B.R.C. 1981;
- (8) The use of a mobile home for nonresidential purposes subject to the requirements of Subsection 10-12-6(b), B.R.C. 1981;
- (9) The parking requirements of Subsection 9-9-6(d), B.R.C. 1981, with regards to parking in landscaped front yard setbacks; and
- (10) ~~The sign standards of Section 9-9-21, "Signs", B.R.C. 1981~~ ~~Sign code variances and appeals~~ as permitted by Subsection 9-9-21(s), B.R.C. 1981.

In granting any variance, the board may attach such reasonable conditions and safeguards as it deems necessary to implement the purposes of this title.

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9-2-3(e)

(e) Application Requirements: A person having an interest in the property for which the variance is requested or a person having an interest in an interpretation by the city manager of Section 9-6-1, "Schedule of Permitted Land Uses," or 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, Chapters 9-6, "Use Standards," 9-7, "Form and Bulk Standards," and 9-8, "Intensity Standards," B.R.C. 1981, may file an application on a form provided by the city manager that shall include, without limitation, the following, but the manager may waive particular application requirements if not required for review of the interpretation at issue:

- (1) The written consent of the owners of the property for which the variance is requested or, in case of a request for review of an interpretation, a statement of the person's interest in the interpretation at issue;
- (2) A list of property owners within three hundred feet;
- (3) An improvement survey;
- (4) A site plan including building height and setback;
- (5) A building floor plan and building elevation plan;
- (6) A demolition plan, if the applicant proposes to remove any part of the roof or remove any walls;
- (7) In case of a variance, a written statement addressing the applicable criteria for approval of Subsection (h), (i) or (j) of this section; and
- (8) Any other information pertinent to the request. In addition, in case of a variance, the submitted application shall include the fee prescribed by Section 4-20-43, "Development Application Fees," B.R.C. 1981.

9-2-3(i)-

(i) Floor Area Variances for Accessory Units: The BOZA may grant a variance to the maximum floor area allowed for an attached accessory dwelling unit or for a detached accessory dwelling unit under Subsection 9-6-34(a), B.R.C. 1981, only if it finds that the application satisfies all of the following applicable requirements of either subparagraph (i)(1) or (i)(2):

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2-3-12. - Board of Zoning Adjustment and Building Appeals.

- (a) The City of Boulder Board of Zoning Adjustment and Building Appeals consists of five members appointed by the city council for five-year terms.
- (b) The board's functions are to:
 - (1) Review and decide at the request of any interested person, any question of interpretation by the city manager of Section 9-6-1, "Schedule of Permitted Land Uses," or 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981;
 - (2) Hear and decide to grant or deny applications for variances from the setback requirements of Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, and the size and parking setback requirements for accessory dwelling units of subparagraph 9-6-3(a)(2)(B), B.R.C. 1981;
 - ~~(3) Hear and decide referrals from the planning department or appeals from applicants or interested parties regarding changes or expansion in nonconforming buildings or lots, as provided in Section 9-2-14, "Site Review," B.R.C. 1981;~~
 - (43) Hear and decide applications for exceptions under the solar access ordinance, Section 9-9-17, "Solar Access," B.R.C. 1981;
 - (54) Hear and decide appeals of orders from the city manager under the sign code, Section 9-9-21, "Signs," B.R.C. 1981;
 - ~~(6) Hear and decide appeals of alterations and modifications related to mandatory green building practices and green points awards under Section 10-7.5-5, "Alteration or Modification," B.R.C. 1981;~~
 - (75) Sit as the Board of Building Appeals pursuant to Section 2-3-4, "Board of Building Appeals," B.R.C. 1981; and
 - (86) Hear and decide such other matters as the city council may by ordinance provide.

Reason for change: Two code references to the ADU section have been updated to reference the renumbering of the section (i.e., 9-6-3 to 9-6-4) that occurred during the Use Table update in 2018. Further, Section 9-2-3(e) is inconsistent with Section 9-2-3(a), which lists the applicable sections. This has been corrected. Lastly, a portion of Title 2 on BOZA is being updated to be consistent with current procedures including removal of an old reference to Site Review, which is no longer applicable, and Green Points, a process that is no longer in effect. Section 9-2-3(e) is proposed to be updated with the proper code sections and would restore consistency with Section 2-3-12(b)(1), which specifies the BOZA process. Section 9-2-3(d)(3) is also proposed to be updated with the language "setbacks and spacing" to match the language in the mobile home standards of 9-7-13.

3 Update the Review Processes Summary Chart to reflect current ADR review processes and remove certain uses that are no longer required by the conditional use process (e.g., Drive-thrus which now require Use Review).

Paragraph 9-2-1, "Types of Reviews," B.R.C. 1981, should be amended as follows:

9-2-1. - Types of Reviews.

- (a) Purpose: This section identifies the numerous types of administrative and development review processes and procedures. The review process for each of the major review types is summarized in Table 2-1 of this section.
- (b) Summary Chart:

TABLE 2-1: REVIEW PROCESSES SUMMARY CHART

I. ADMINISTRATIVE REVIEWS	II. ADMINISTRATIVE REVIEWS - CONDITIONAL USES <u>as noted in Table 6-1," Use Table".</u>	III. DEVELOPMENT REVIEW AND BOARD ACTION
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<p>Affordable Housing Design Review pursuant to Section 9-13-4</p> <p>Building permits</p> <p>Change of address</p> <p>Change of street name</p> <p>Demolition, moving, and removal of buildings with no historic or architectural significance, per Section 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981</p> <p>Easement vacation</p> <p>Extension of development approval/staff level</p> <p>Landmark alteration certificates (staff review per Section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981)</p> <p>Landscape standards variance</p> <p>Minor modification</p> <p>Noise Barriers along Major Streets, per Subsection 9-9-15(c)(7), B.R.C. 1981</p> <p>Nonconforming use (extension, change of use (inc. parking))</p> <p>Parking deferral per Subsection 9-9-6(e), B.R.C. 1981</p> <p>Parking reduction per Subsection 9-9-6(f), B.R.C. 1981</p> <p>Parking reductions and modifications for bicycle parking per Paragraph 9-9-6(g)(6), B.R.C. 1981</p>	<p>Accessory Units</p> <p>Antennas for Wireless Telecommunications Services</p> <p>Bed and Breakfasts</p> <p>Daycare Centers</p> <p>Detached Dwelling Units with Two Kitchens</p> <p>Drive-Thru Uses</p> <p>Fuel Service Stations</p> <p>Group Home Facilities</p> <p>Home Occupations</p> <p>Industrial Service Center</p> <p>Manufacturing Uses with Off-Site Impacts</p> <p>Neighborhood Service Centers</p> <p>Offices, Computer Design and Development, Data Processing, Telecommunications, Medical or Dental Clinics and Offices, or Addiction Recovery Facilities in the Service Commercial Zoning Districts</p> <p>Recycling Facilities</p> <p>Residential Care, Custodial Care, and Congregate Care Facilities</p> <p>Residential Development in Industrial Zoning Districts</p> <p>Restaurants, Brewpubs, and Taverns</p>	<p>Annexation/initial zoning</p> <p>BOZA variances</p> <p>Concept plans</p> <p>Demolition, moving, and removal of buildings with potential historic or architectural significance, per Section 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981</p> <p>Landmark alteration certificates other than those that may be approved by staff per Section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981</p> <p>Lot line adjustments</p> <p>Lot line elimination</p> <p>Minor Subdivisions</p> <p>Out of city utility permit</p> <p>Rezoning</p> <p>Site review</p> <p>Subdivisions</p> <p>Use review</p> <p>Vacations of street, alley, or access easement</p>
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Parking stall variances	Sales or Rental of Vehicles on Lots Located 500 Feet or Less from a Residential Zoning District	
Public utility	Service Stations	
Rescission of development approval	Shelters (Day, Emergency, Overnight, temporary)	
Revocable permit	Temporary Sales	
Right of way lease	Transitional Housing	
Setback variance		
Site access variance		
Solar exception		
Zoning verification		

Reason for change: Updates the list of administratively reviewed conditional uses. Removes erroneous listings such as “drive thru uses” as a conditional use as it is now only allowed by Use Review in all zones; and clarifies that parking reductions per the standards can be processed with an Administrative Review (not up to 50% as previously stated). To be consistent, “fuel” is included in front of “service stations” which requires the term to be relocated within the table. Similarly, neighborhood service centers do not have conditional use criteria and thus, it has been revised in the table as “Industrial Service Center” which does have conditional standards and relocated to match the alphabetized list. Religious Assemblies are removed because there are no instances where the use is a conditional use. Affordable Housing Design Review is added since Chapter 9-13 specifies that such reviews are done through the Administrative Review process.

4 Clarifies that when properties under common ownership are combined through Site Review, the land area of the entire site included in the Site Review can be used for the purposes of averaging floor area, open space or to calculate density.

Section 9-2-14(c), B.R.C. 1981, should be amended as follows:

9-2-14. - Site Review.

(c) Modifications to Development Standards: The following development standards of B.R.C. 1981 may be modified under the site review process set forth in this section:

(2) 9-8-1, "Schedule of Intensity Standards," Table 8-1, minimum lot area (in square feet unless otherwise noted), **minimum lot area per dwelling unit, minimum open space per dwelling unit, minimum open space on lots,** and floor area ratio standards to permit the averaging of **lot sizes, open space,** floor area **and density** across **multiple building sites with a zoning district multiple lots that are subject to the site review and within the same zoning district.**

Averaged across these lots, the standards modified under this paragraph must be met and not result in an intensity or density greater than permitted by the zoning district.

Reason for change: Provides design flexibility and better project design outcomes for site development within the same zoning district, while maintaining the cumulative required open space. On average, lots would still be held to the applicable FAR or density limits of the zone they are in and the proposed change would clarify that split zoned lots may not use the land area of a portion of the same property or site in an adjoining zone to have a higher FAR or number of units on a piece of land not in the same zone.

5

Fix the Minor Modification criteria to properly refer to “modifying” standards instead of “varying” standards, clarify what setback modifications may be approved with a minor modification and clarifies when roof mounted solar requires a minor modification. (see Change # 22 for other references to rooftop solar installations)

Paragraph 9-2-14(k), B.R.C. 1981, should be amended as follows:

Minor Modifications to Approved Site Plans: Changes to the site plan, building plans, and landscaping plans may be approved by the city manager without an amendment to the site plan if such changes are minor. All minor modifications shall be noted, signed, and dated on the approved site plan. For proposed minor modifications of site review projects that are partially or totally developed, the applicant shall provide notice to any owners of property within the development that might be affected, as determined by the manager. In determining whether a proposed change is a minor modification, the following standards shall apply:

- (k) (1) Setbacks ~~on the perimeter of a development~~ **along the boundary of the site plan area** cannot be ~~varied~~ **reduced** by a minor modification to **be** less than the minimum setbacks permitted by the underlying zoning district;
- (2) **Excepting any site plan approval consisting of detached dwelling units on individual lots where no maximum floor area ratio applies,** ~~the~~ the floor area of the development, including principal and accessory buildings, may be expanded by the cumulative total of no more than the greater of ten percent or two hundred square feet. ~~or,~~ **In the case of a building that exceeds the permitted height, no more than five percent, except that the portion of any building over thirty-five feet in height may not be expanded under the provisions of this paragraph. However, the floor area or FAR shall not exceed the maximum floor area or FAR of a zoning district or granted in the site review approval, if such amount requires special approval through the site review process;**
- (3) **Approved** ~~C~~ commercial and industrial building ~~envelopes~~ **locations** may be moved or expanded by no more than the greater of ten feet, or ten percent of the length of the building, measured along the building's axis in the direction that the building is being moved **or expanded**;
- (4) **Approved** ~~p~~ principal and accessory buildings ~~not within an approved building envelope~~ **locations** may be **moved or** expanded ~~or moved~~ by no more than ten feet in any direction within the development in residential districts and lots abutting residential districts.
- (5) Dwelling unit type may not be changed;
- (6) The portion of any building over the permitted height under Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, may not be expanded under the provisions of this subsection;
- (7) No increase may be granted to an open space reduction or to a parking reduction in excess of that allowed in Subsection 9-9-6(f), B.R.C. 1981;
- (8) **Solar Panels that are proposed to be mounted on a building's roof do not substantially add to the mass or perceived height of the building and are consistent with Sections 9-7-7, "Building Height, Conditional," and 9-9-17, "Solar Access," B.R.C. 1981. Solar panels proposed to be ground mounted do not result in a building coverage greater than permitted by the zone and do not result in open space less than required by Chapter 9-8, "Intensity Standards," B.R.C. 1981, and;**

(89) No change may alter the basic intent of the site plan approval.

Reason for change: Clarifies that exterior setbacks could be modified along a perimeter if it is greater than the setback approved at Site Review so long as it is no less than the zone’s minimum setback. 9-2-14(k)(1). The section and subsection (8) have also been updated to clarify when installation of solar panels requires a minor modification and the conditions required for approval.

6 Clarification to Minor Amendment criteria regarding open space requirements.

Paragraph 9-2-14(l), “Minor Amendments to Approved Site Plans,” B.R.C. 1981, should be amended as follows:

(D) The total open space per dwelling unit in the development is not reduced by more than ten percent of **that required the amount specified on the approved site plan and is not reduced to less than the minimum required for** the zone;

Reason for change: This change would clarify that open space, if reduced, cannot be reduced to less than what the underlying zone requires. The current code is not explicit regarding this.

CHAPTER 6 – USE STANDARDS

SUGGESTED CHANGES

7 Removal of discrepancies in code related to Sales and Retail of Vehicles in business districts and Retail Fuel Stations and Retail Fuel Sales.

Paragraph 9-6,” B.R.C. 1981, should be amended as follows:

TABLE 6-1: USE TABLE

Zoning District	BT-1, BT-2	BMS	BC-1, BC-2	BCS	BR-1, BR-2	DT-4	DT-5	DT-1, DT-2, DT-3	IS-1, IS-2	IG	IM	IMS	P	A	
Use Modules	B1	B2	B3	B4	B5	D1	D2	D3	I1	I2	I3	I4	P	A	Specific Use Standard
Vehicle-Related Uses:															
Fuel sales (not including service stations)	U	C	C	U	C	*	U	U	C	C	*	U	*	*	9-6-10(d)
Fuel service stations or	U	U	C	C U	C	*	U	C U	C	C	*	U	*	*	9-6-10(d)

retail fuel
sales

TABLE 9-4 in section 9-9-6(b)(4), B.R.C. 1981 should be amended as follows:

Use	Parking Requirement
Gasoline Fuel service station	General ratio for the use zone plus storage of 2 vehicles per service bay

Chapter 16, Definitions, B.R.C. 1981 should be amended as follows:

Drive-thru means any use that is not a gasoline fuel service station, which by design, physical facilities, services, or operating procedures permits persons to receive services or obtain goods while remaining in their motor vehicles.

Gasoline Fuel service station means a use providing fuel sales, vehicle repair, service, and maintenance, and where no more than fifteen percent of the floor area is used for the sale of convenience and variety goods.

Reason for change: In the BR zoning districts, it does not make sense to allow sales and rental of vehicles as a Use Review use when not 500 feet from residential and then only a conditional use when within the 500-foot range. This change would remove that discrepancy. Further, there are discrepancies that exist between ‘retail fuel sales’ in the code (e.g., a gas station with no auto service element) and ‘fuel service stations’ (e.g., a gas station with auto services). Like the Sales and Rental use above, there are areas of the code where a conditional use is required for the use with the greatest potential for impact (i.e., fuel service stations) vs. a Use Review requirement for the use (i.e., retail fuel sales) with the lesser impact. This is proposed for correction.

The term “gasoline service station” was changed to “fuel service station” several years ago to recognize that there are other fuel sources other than gasoline. It was inadvertently not updated in the definitions or in the parking standards. This change would match the code Use Standards code section 9-6-9(d), “Fuel Service Stations or Retail Fuel Sales,” B.R.C. 1981.

Definitions of related terms should be revised to align with the Use Table category of Fuel Service Station.

8 Update the Use Table with respect to Accessory Sales (also see change #45)

Table 6-1 should be amended as follows:

Accessory sales	*	*	*	*	*	A	A	*	*	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	*	9-16
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Reason for change: Accessory sales has no conditional use standards and is not reviewed through the conditional use review process. It is governed by the definition (also proposed to be updated) in Chapter 9-16, just like other uses. Because it is actually an allowed use if the definition is met, just like other uses,

it does not make sense to keep it as a “C” in the table, but rather an “A”. A reference to 9-16 will remain to alert users of what qualifies as an “accessory sales” use.

9 Fix erroneous reference in the Residential in Industrial Zoning Districts section.

Section 9-6-4(f)(1)(B) should be amended as follows:
(f)(1)(B) Contiguity Map: A map that demonstrates that the proposed residential development meets the contiguity requirements of Paragraph ~~(g)~~(f)(2) of this section.

Reason for change: The current reference erroneously points to the occupancy standards. This will correct it to properly reference the contiguity requirements.

10 Codification of existing review process for home occupations and community gardens.

Paragraphs 9-6-4, “Specific Use Standards - Residential Uses.” And 9-6-5 “Agricultural and Natural Resource Uses,” B.R.C. 1981, should be amended as follows:

(d) Home Occupations:

.....

(3) Identification/contact information. No person shall engage in a home occupation unless such person has filed an affidavit with the city manager affirming compliance with the standards of this subsection including identification and contact information of the person operating the home occupation. No administrative review pursuant to Section 9-2-2, “Administrative Review Procedures,” B.R.C. 1981, is required.

(4) Prohibitions: No person shall engage in a home occupation except in conformance with all of the requirements of Paragraph (d)(1) of this section, except as provided in Paragraph (d)(2) of this section.

.....

(a) Community Gardens: The following criteria apply to community garden uses:

.....

(8) Setbacks. Structures accessory to the community garden use, such as accessory storage or utility buildings, gazebos, trellises, or accessory greenhouse structures, and activity areas exclusive of garden plots, shall comply with all applicable principal structure form and bulk standards in the applicable zone district per Chapter 9-7, “Form and Bulk Standards,” B.R.C. 1981. ~~No person shall construct a garden trellis that exceeds eight feet in height within any setback on the property.~~

(9) Identification/contact information. ~~The community garden shall post the site with a clearly visible sign near the public right of way that includes the name and contact information of the garden manager or coordinator. The contact information for the garden manager or coordinator shall be kept on file with the planning department. No person shall establish the use until the community garden operator or coordinator has executed and filed an affidavit with the city manager confirming compliance of the use with standards of this subsection. A sign shall be posted clearly visible from the public right of way that includes the name and contact information of the garden manager or coordinator. No administrative review pursuant to Section 9-2-2, “Administrative Review Procedures,” B.R.C. 1981, is required.~~

Reason for change: Most conditional uses require submittal of a specific Administrative Review application and associated fee. Home occupations and community gardens do not require a specific application or fees, but signed affidavits for filing with the city planning department. This code change would clarify the current process. Lastly, the last sentence of the "Setbacks" section is proposed for removal since a new section allowing certain garden arbor and trellis encroachments has been proposed for the Setback Encroachments section (see suggested change #17). A reference is already in that section for Chapter 9-7, "Form and Bulk Standards," B.R.C. 1981.

11

Change "varied" to "modified" in Section 9-6-9(b) as the section incorrectly infers a variance process of Section 9-2-3 rather than a standard modification that can be done through Site Review and Section 9-6-9(d) to correct an incorrect reference.

Section 9-6-10 (b) and (d), B.R.C. 1981 should be amended as follows:

- (b) Automobile Parking Garages: The following criteria shall apply to any automobile parking garage as a principal use on a lot that is over 20,000 square feet in a DT-1, DT-2, DT-3, or DT-5 zoning district:
- (1) Scope: The standards contained herein for automobile parking garages apply only to such uses first approved after June 17, 1997.
 - (2) Building Setbacks: The building shall be set back fifteen feet from any property line adjacent to a public street, but not an alley, for any portions of the building between thirty-five feet and forty-five feet in height. The facade of the building shall be set back thirty feet from any property line adjacent to a public street, but not an alley, for any portions of the building between forty-five feet and fifty-five feet in height. All portions of a building above the permitted height shall also be required to meet the requirements set forth in Section 9-2-14, "Site Review," B.R.C. 1981.
 - (3) Maximum Number of Stories: The requirements for the maximum number of stories set forth in Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, shall not be applied to the parking areas within automobile parking garages.
 - (4) First Floor Wrap Required: No person shall build an automobile parking garage pursuant to the provisions of this subsection without providing a first floor retail wrap meeting the following standards:
 - (A) The depth of the retail wrap is a minimum of twenty-five and a maximum of thirty feet;
 - (B) The wrap faces on all streets, except alleys, for the entire length of the building, except for those places necessary to provide ingress and egress into the parking areas; and
 - (C) The space is used for retail, restaurant, and other pedestrian-oriented uses otherwise permitted or approved in the zoning district.
 - (5) Second Floor Wrap Required: No person shall build an automobile parking garage pursuant to the provisions of this subsection without providing a second floor wrap meeting the following standards:
 - (A) The depth of the second floor wrap is a minimum of fifteen feet and a maximum of thirty feet;
 - (B) The second floor wrap faces on all streets, except alleys, for the entire length of the building; and
 - (C) The space is for any use otherwise permitted or approved for the zoning district.
 - (6) Floor Area Ratio Requirements: The maximum floor area ratio for non-parking uses shall be 0.7:1. Uninhabitable space shall not be included in the floor area ratio calculation for non-parking uses. The floor area ratios set forth in section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, and the floor area ratio requirements applying to the Downtown (DT) districts, as shown in section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, shall not be applied to an automobile parking garage.
 - (7) **Varied Modified** Through Site Review: The provisions in paragraphs (b)(2), (b)(4), (b)(5) and (b)(6) of this section may be **varied modified** as part of a site review pursuant to section 9-2-14, "Site Review," B.R.C. 1981, if the approving authority finds that the design of the structure provides other features that mitigate the adverse effects of the building on the street and on pedestrians.

.....

(d) Fuel Service Stations or Retail Fuel Sales: The following criteria apply to any fuel service station or retail fuel sales in a business or industrial district. A fuel service station use shall comply with paragraphs (d)(1) through (d)(8) of this section. Retail fuel sales uses shall comply with all standards except paragraphs (d)(2) and (d)(6) of this section:

- (1) Any fuel service station that is located adjacent to any residential uses shall meet the requirements of section 9-2-15, "Use Review," B.R.C. 1981.
- (2) Areas for the storage of vehicles to be serviced in excess of twenty-four hours are in enclosed areas or shielded from view from adjacent properties.
- (3) There is adequate space to allow up to three cars to stack in a line at a pump without using any portion of the adjacent street.
- (4) The visual impact of the use is minimized and screened from adjacent rights-of-way and properties through placement of buildings, screening, landscaping and other site design techniques.
- (5) Dispensing pumps are not located within twenty-five feet of a property line abutting a street.
- (6) In addition to the parking requirements of sections 9-7-1, "Schedule of Form and Bulk Standards," and 9-9-6, "Parking Standards," B.R.C. 1981, and the stacking requirements of paragraph (d)(3) of this section, adequate space is provided for the storage of two vehicles per service bay off-street.
- (7) The location, size, design and operating characteristics of the proposed facility are reasonably compatible with the use of nearby properties.
- (8) A minimum landscaped side yard setback of twenty feet and a minimum rear yard landscaped setback of twenty-five feet are required where the use abuts residential uses or residential zoning districts.
- (9) Retail Fuel sales in industrial zones shall only be permitted in association with a convenience retail store pursuant to subsection 9-6-3(g) 4(f), B.R.C. 1981.
- (10) Servicing of vehicles is limited to the checking and adding of fluids and air and the cleaning of windows. No other repair or servicing of vehicles is permitted on site.

Reason for change: Section 9-6-9(b)(7) refers to typical modifications that are done through Site Review which are not hardship based, but rather depend on consistency with the Site Review criteria. Using the term "varied" implies the hardship-based criteria of variances found in Section 9-2-3. This would appropriately clarify the process and terminology used elsewhere in the code. An incorrect reference to the Residential in Industrial District standards has been update to the correct 9-6-4(f), B.R.C. 1981.

CHAPTER 7 – FORM AND BULK STANDARDS

SUGGESTED CHANGES

12 Add references to applicable definitions in section 9-16, "Definitions," B.R.C. 1981.

Paragraph 9-7-2, Setbacks Standards," B.R.C. 1981, should be amended as follows:

9-7-1 Schedule of Form and Bulk Standards.

The purpose of this chapter is to indicate the requirements for lot dimensions and building form, bulk, location, and height for all types of development. All primary and accessory structures are subject to the dimensional standards set forth in [Table 7-1](#) of this section. No person shall use any land within the City authorized by [Chapter 9-6](#), "Use Standards," B.R.C. 1981, except according to the following form and bulk requirements unless modified

through a use review under [Section 9-2-15](#), "Use Review," B.R.C. 1981, or a site review under [Section 9-2-14](#), "Site Review," B.R.C. 1981, or granted a variance under [Section 9-2-3](#), "Variances and Interpretations," B.R.C. 1981.

Reason for change: Capitalization of sections of the code per legal standards and consistency.

13 Add footnote reference to Table 7-1, Form and Bulk Standards alerting users to special setback requirements on corner lots in the DT-5 zone, and footnotes related to side yard setbacks based upon the height of the building (i).

Table 7-1 of Paragraph 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, should be amended as follows:

SETBACK AND SEPARATION REQUIREMENTS ⁽ⁿ⁾

Principal Buildings and Uses (n)

Minimum side yard landscaped setback from a street (a)	25'	12.5'(k)	15'	10'	1' per 2' of bldg. height, 10' min. (i)	0' or 5' (b)	1' per 2' of bldg. height, 10' min. (i)	0' (attached DUs); 1' per 2' of bldg. height, 5' min. (detached DUs) (i)	1' per 2' of bldg. height, 10' min. (i)	10'	0' for first and second stories 12' for third story and above	0' (K)	0'	0'	n/a		
Minimum side yard setback from an interior lot line	15'	10'	5'	10'	0' or 12'	1' per 2' of bldg. height, 5' min. (i)	0' or 5' (b)	0' or 3'	0' (attached DUs); 1' per 2' of bldg. height, 5' min. (detached DUs) (i)	1' per 3' of bldg. height, 5' min. (i)	0' or 12'	0' or 5'	0' or 5'	0' or 12'	0' or 12'	0' or 5'	See Section 9-7-13
Minimum front yard setback from a	n/a	n/a	n/a	n/a	n/a	n/a	20'	15' (m)	15'	20'	20'	20'	20'	20'	20'	20'	

street for all principal buildings and uses for third story and above																
<i>Accessory Buildings and Uses ⁽ⁿ⁾</i>																
Minimum side yard landscaped setback from a street (a)	25'	12.5'(k)	15'	10'	1' per 2' of bldg. height, 10' min (i)	0' or 5'(b)	1' per 2' of bldg. height, 10' min. (i)	0' (attached DUs); 1' per 2' of bldg. height, 5' min. (detached DUs) (i)	1' per 2' of bldg. height, 10' min. (i)	10'	0'	0' (k)	0"	0"		n/a
Minimum separation between accessory buildings and any other building	6'	6'	6'	6'	6'	6'	6'	6'	6'	6'	6'	6'	6'	6'	6'	6'

Footnotes to Table 7-1, Form and Bulk Standards:

In addition to the foregoing, the following miscellaneous form and bulk requirements apply to all development in the city:

- (a) On corner lots, use principal building front yard setback where adjacent lot fronts upon the street.
- (b) For zero lot line development, see Subsection [9-7-2\(b\)](#), B.R.C. 1981.
- (c) The permitted height limit may be modified only in certain areas and only under the standards and procedures provided in [Sections 9-2-14](#), "Site Review," and [9-7-6](#), "Building Height, Conditional," B.R.C. 1981.
- (d) For buildings over 25 feet in height, see Subsection [9-9-11\(c\)](#), B.R.C. 1981.
- (e) For other setback standards regarding garages, open parking areas, and flagpoles, see Paragraph [9-7-2\(b\)\(8\)](#), B.R.C. 1981.
- (f) Where a rear yard backs on a street, see Paragraph [9-7-2\(b\)\(7\)](#), B.R.C. 1981.
- (g) Not including light poles at government-owned facilities. For additional height standards regarding light poles at government facilities, see [Section 9-2-14](#), "Site Review," B.R.C. 1981.

- (h) For front yard setback reductions, see Subsection [9-7-2\(a\)](#), B.R.C. 1981.
- (i) For side yard setback requirements based on building height, see Appendix B, "Setback Relative to Building Height," of this title.
- (j) The maximum percentage of the third floor area that can be in a fourth story standard may not be modified as part of a site review.
- (k) For properties located in the DT-5 and P zoning districts and shown in [Appendix I](#), the minimum setback shall be as required by [Section 9-7-1](#), "Schedule of Form and Bulk Standards," B.R.C. 1981, [Table 7-1](#), Form And Bulk Standards or 65 feet measured from the centerline of Canyon Boulevard right of way.
- (l) For buildings on nonstandard lots within the RMX-1, RL-1, RE, RR-1 and RR-2 zoning districts, refer to Table 10-1, Maximum Height Formulas, within Section 9-10-3, "Changes to Nonstandard Buildings, Structures and Lots and Nonconforming Uses."

(m) For setback requirements on corner lots in the DT-5 zoning district, refer to Subsection 9-7-6(c), B.R.C. 1981.

(n) For principal and accessory buildings or structures located on a lot or parcel designated in Appendix L, "Form-Based Code Areas," and subject to the standards of Appendix M, "Form-Based Code," refer to Appendix M, "Form-Based Code," for design standards applicable to such lot or parcel. With the exception of Charter [Section 84](#), "Height limit," and Sections [9-7-3](#), "Setback Encroachments," and 9-7-5, "Building Heights," 9-7-7, "Building Height, Appurtenances," B.R.C. 1981, the form and bulk standards of this chapter are superseded by the requirements of Appendix M, "Form-Based Code." Building heights in areas designated in Appendix L are not subject to the height limits of Table 9-7, Form and Bulk Standards.

Reason for change: Section 9-7-6(c) allows exceptions to the third floor setbacks if certain criteria are met, yet it is not referenced in the setback requirements table. This change would remedy that exclusion and correctly cross-reference the footnotes. Also, the term "varied" is replaced with "modified" as variances are not granted as part of Site Review.

14 Amend 9-7-2 "Setback Standards" to clarify standards for detached accessory structures and move the required swimming pool setback standard from the Development Standards (Section 9-9-9) to the more relevant form and bulk standards. (Also see change #42)

Section 9-7-2, Setback Standards, B.R.C. 1981, should be amended as follows:

(d) **Detached** Garages, **and** Carports, Open Parking Areas, and Flagpoles: **Detached** Garages, ~~detached~~ **and** carports, open parking areas, and flagpoles may be located in compliance with **either** the required principal building setbacks or accessory building setbacks.

(e) Swimming Pools, Spas, and Hot Tubs: Swimming pools, spas, and hot tubs shall be located according to the applicable accessory structure setbacks on a lot except that pools, spas or hot tubs may be located in compliance with the required front yard principal building setback.

Reason for change: The accessory structure section is amended to clarify that only detached garages and carports can be located in compliance with either principal or accessory building setbacks (attached garages or carports are subject to principal building setbacks). Swimming pools are currently regulated by the building code and Section 9-9-19 within the development standards. As the requirements listed in 9-9-19 are effectively zoning setbacks for pools and other building code regulations, staff is proposing to remove section 9-9-19 since the building code regulations need not be in the land use code and the specific setback requirements for pools would be more appropriate in the Form and Bulk Standards (in this case Section 9-7-2, which includes unique setback standards that are different than the principal and accessory setbacks in Table 7-1).

15 Amend 9-7-2 "Setback Standards" to clarify standards for Front Yard Setback Reductions, and update to corresponding graphic figure 7-1.

Section 9-7-2, Setback Standards, B.R.C. 1981, should be amended as follows:

9-7-2. – Setback Standards

(a) Front Yard Setback Reductions: The front yard setback required in [section 9-7-1](#), "Schedule of Form and Bulk Standards," B.R.C. 1981, may be reduced for a principal structure on any lot if more than fifty percent of the principal buildings on the same block face or street face do not meet the required front yard setback. The setbacks for the buildings on the block face shall be measured from the property line to the bulk of the building, excluding, without limitation, any unenclosed porches, decks, patios or steps. The bulk of the building setback shall not be less than the average bulk of the building setback for the principal buildings on the two adjacent lots. Where there is only one adjacent lot, the front yard setback reduction shall be based on the average of the principal building setbacks on the two closest lots on the same block face (see Figure 7-1 of this section).

....

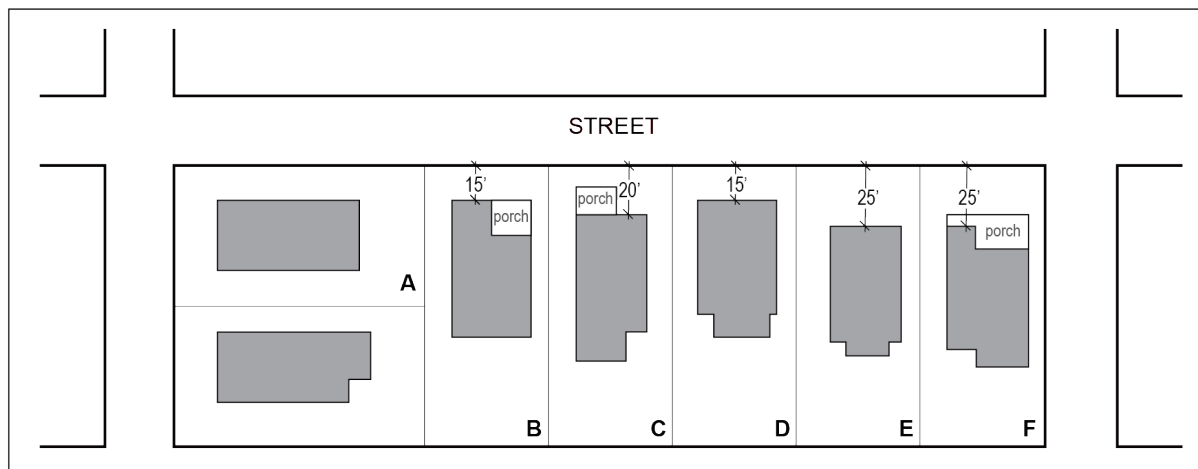


Figure 7-1 Setback Averaging Example

In this example, lots "B" through "F" are the face block. Lot "A" is not included in the face block, as the front of this lot is on a different street. Setback averaging is measured to the bulk of the buildings and does not include porches.

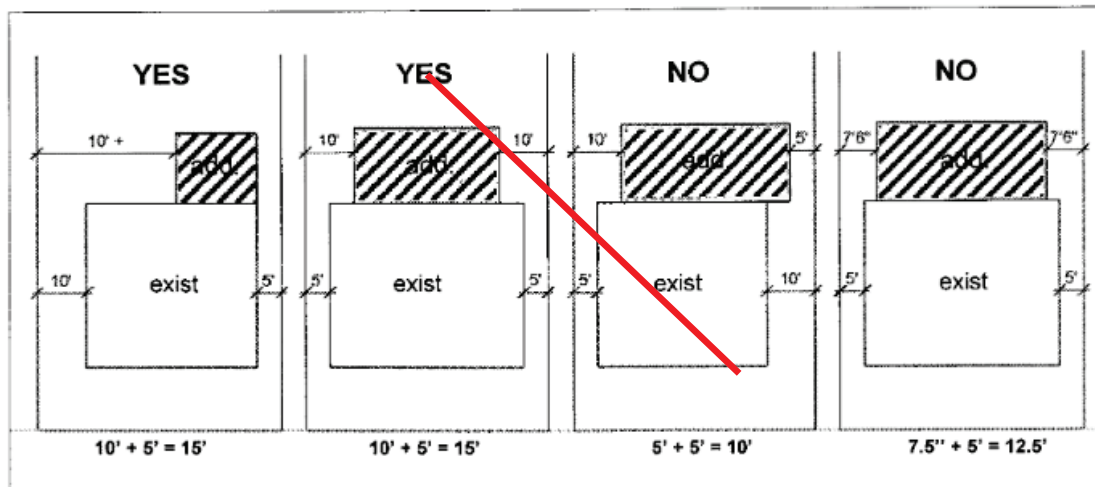
*Assuming this block is zoned RL-1, the minimum required front yard setback would be twenty-five feet. The block face shown would qualify for setback averaging, as more than fifty percent of the principal buildings do not meet the required front yard setback. An addition to the front of lot "E" would require the averaging of the setbacks of lots "D" and "F", the two closest buildings on the same block face. In this example the resulting setback would be 20 feet - the average of lot "D" (fifteen feet) and lot "F" (twenty-five feet). An addition to the front of lot "F" would be based on the average of the two closest buildings on the same **lot block** face; in this case, lots "D" and "E."*

Reason for change: The setback averaging graphic is hard to read, updated to become more legible. Language is revised to have consistent references to adjacent lots, buildings and block faces and Regulatory language in the graphic caption is incorporated into to the actual regulations in Front Yard Setback Reduction (a).

Clarify that section 9-7-2(b)(1), B.R.C. 1981 related to side setbacks refers to principal buildings and not accessory buildings and update figure 7-2.

Section 9-7-2(b)(1), Side Yard Setback Standards, B.R.C. 1981, should be amended as follows:

- (1) Setbacks for Upper Floors in Non-Residential Zoning Districts: A **principal** building constructed with a side yard setback of zero for the first story above grade in the BC-2, BR-1, DT-1, DT-2, DT-3, DT-4, DT-5, IS-1, IG or IM zoning districts, where the side yard setback is noted as "0 or 12," will be allowed to set back stories above the first story that is at or above the finished grade the greater of five feet or the distance required by chapter 10-5, "Building Code," B.R.C. 1981.
- (2) Maintenance Easements Required in Residential Zoning Districts: In residential zoning districts that allow a zero side yard or rear yard setback, the applicant shall be required to secure a recorded maintenance easement from the adjoining property owner if the zero setback side is not attached to another structure. The easement shall be effective for the life of the building. The easement shall not be less than three feet in width measured parallel to that portion of the building at zero setback.
- (3) Wall Height for Residential Zero Lot Line: The maximum wall height for detached dwelling units at the zero setback property line shall be twelve feet.
- (4) Calculating Residential Zero Lot Line Side Yard Setbacks: For detached dwelling units, the side yard setback opposite the zero setback property line shall be the sum of both side yards for the district.
- (5) Combined Side Yard Setbacks: When combined side yard setbacks are required by section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, the resulting structure, including the existing structure and any addition, must meet the combined side yard setback requirements. (See Figure 7-2 of this section for compliant and noncompliant examples).



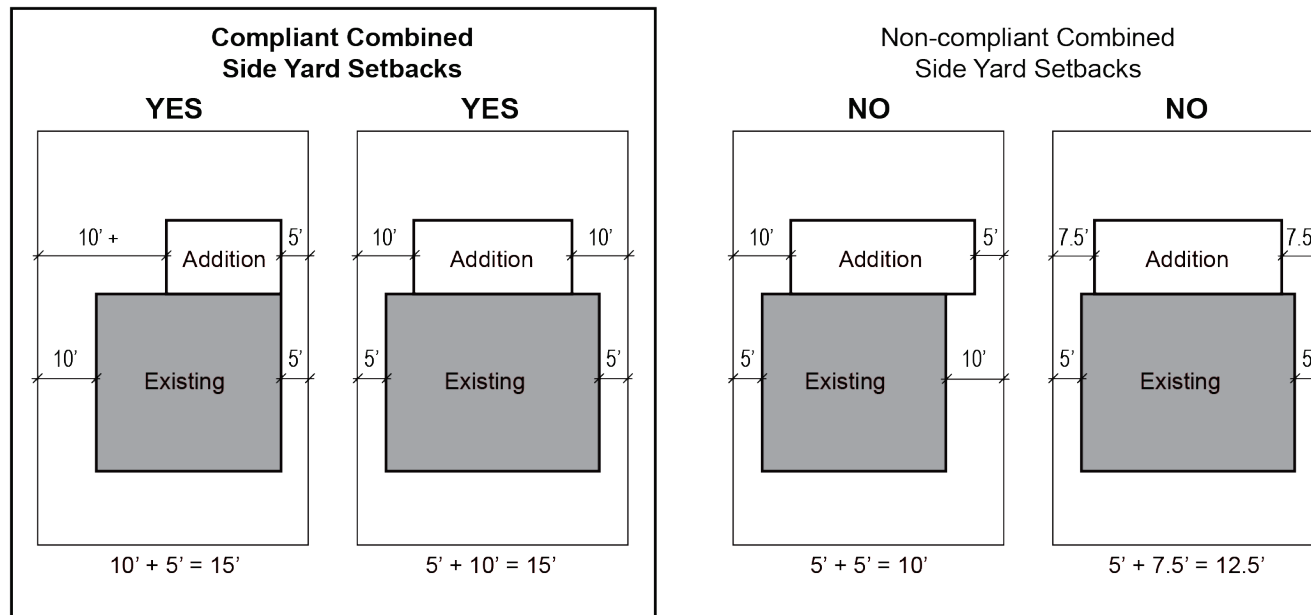


Figure 7-2: Combined Side Yard Setbacks

Example: In the RL-1 district, the combination of side yard setbacks must be no less than fifteen feet, with a minimum of five feet. Both existing structures and additions (hatched) are included in the calculation.

- (6) Existing Nonstandard Side Yard Setbacks for Existing Single-Family Detached Dwelling Units: A second story addition that does not comply with the minimum interior or combined side yard setbacks may be added to an existing single family detached dwelling unit subject to the following:
- (A) The interior side yard setback for the existing single family detached dwelling unit complied with the setback requirements in existence at the time of initial construction and was not created by a variance or other procedure;
 - (B) The resulting interior side yard setback will not be less than five feet and combined side yard setbacks will not be less than ten feet;
 - (C) That portion of the building in the side yard setback shall vertically align with the existing first story wall.

Reason for change: Currently Table 7-1 includes a footnote (b) which refers users to the special section above for side setbacks. Confusingly the footnote is in the row related to accessory building and may imply that all the requirements of Section 9-7-2(b)(2) maybe applied to accessory buildings, when in fact that is not the case. The footnote is accurate since Section 9-7-2(b)(2) does include special requirements that apply to any buildings at zero lot line, but the addition of “principal” in (b)(1) will clarify that that stipulation only applies to principal buildings.

17

Clarify 9-7-3 Setback Encroachments that safety railings are permitted to encroach into setbacks, set a maximum size for encroaching fireplaces and specify a maximum height, width and depth of arbors commonly seen along front yard setback areas for entries to properties.

Section 9-7-3, Setback Encroachments, B.R.C. 1981, should be amended as follows:

No structure or building shall be constructed or maintained in the required setback except for:

- (a) A balcony, patio or deck less than thirty inches in height **and railings affixed thereto no taller than the minimum railing height required by the building code;**
- (b) A stairway less than thirty inches in height **and stairway railings affixed thereto no taller than the minimum railing height required by the building code;**
- (c) **An fireplace or chimney** encroachment of no more than thirty inches into the setback **by a fireplace, if the width of such fireplace or chimney does not exceed seventy inches in the setback;**
- (d) A maximum of thirty inches of roof-overhang;
- (e) One arbor or trellis as an accessory structure not exceeding eight feet in height, six feet in width and three feet in depth in a landscaped setback adjacent to a street. Such arbor or trellis may be attached to a fence;**
- (ef) Insubstantial encroachments, including, without limitation, electric meters, cable television or phone utility boxes, wires, conduits, wall mounted light fixtures, air conditioner compressors, windows or doors that may swing into a setback when open, radio or television antennae, small architectural details, bicycle racks or bicycle rental stations; or
- (fg) The outer four feet of completely open, uncovered, cantilevered balconies that have a minimum of eight feet vertical clearance below, which may project into any required yard except an interior side yard of less than ten feet in width. A balcony may be placed above another balcony if the railings along the exterior boundaries of all such balconies are not more than fifty percent opaque, the railings do not exceed forty-two inches in height, and there are no horizontal connections of any kind between balconies except the wall from which the balconies are cantilevered.

Reason for change: Building code requires safety railings for certain porches over a certain height. This change clarifies that such railings required for safety purposes does not disqualify the feature from being permitted in the setback. The code permits encroachment of fireplaces in setbacks but is silent on the width in the setback encroachment section. As some chimneys/fireplaces have significantly added to the mass and bulk of buildings, a maximum width is suggested. The 70 inches proposed would be consistent with the chimney/fireplace encroachment allowance in the Compatible Development regulations (see Section 9-7-9(d)(6)). Lastly, garden arbors are commonly seen as entry features to properties within the front yard setbacks. The code currently does not recognize such features. This change would permit a reasonably sized arbor along each street frontage of a property.

18 Clarifies the depth of porch encroachment within the setback

Paragraph 9-7-4, "Setback Encroachments for Front Porches" B.R.C. 1981 should be amended as follows:

...

- (c) Setback Encroachments for Porches: No person shall construct a front porch that encroaches into a front yard or a side yard adjacent to a street unless the front porch meets the following design standards:
 - (1) Maximum Encroachment Into Setbacks: For a structure that otherwise meets the front yard setback standards, no porch shall encroach more than eight feet **beyond into** the required front yard setback. For a structure that does not meet the front yard setback requirements no porch shall extend more than six feet beyond the bulk of the building. The bulk of the building includes the structure, but excludes unenclosed porches, decks, patios, steps or similar features. In no case, shall the resulting setback from the property line to the porch be less than fifty percent of the required setback of the underlying zoning district;
 - (2) Size of Porch: The front porch which encroaches into a front yard or side yard adjacent to a street shall have a minimum surface deck area of fifty square feet. The total area of any encroachment of the porch into a front yard or a side yard adjacent to a street shall not exceed one hundred fifty square feet;

(3) Depth of Porch: The minimum depth of the porch shall not be less than five feet ~~and the maximum depth of the porch shall not exceed eight feet.~~

Reason for change: Clarifies that the porch setback encroachment standard, the porch depth in the setback area is limited to eight feet, rather than the entirety of the porch being limited to eight feet.

19 Revise the Building Height figures to be more understandable, and place the corresponding regulations they depict from the Definitions section, to Section 9-7-5, Building Height.

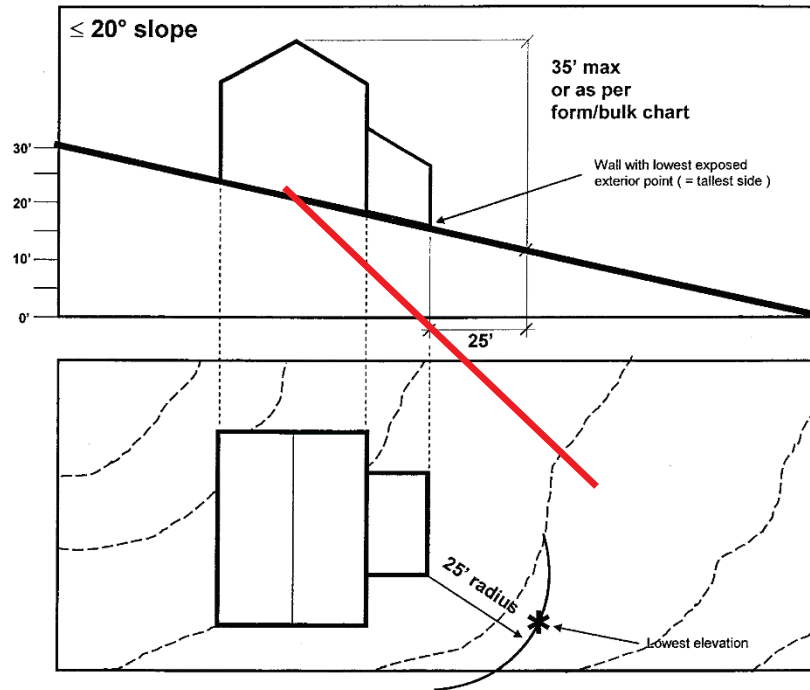
Section 9-7-5, "Building Height", B.R.C. 1981 should be amended as follows:

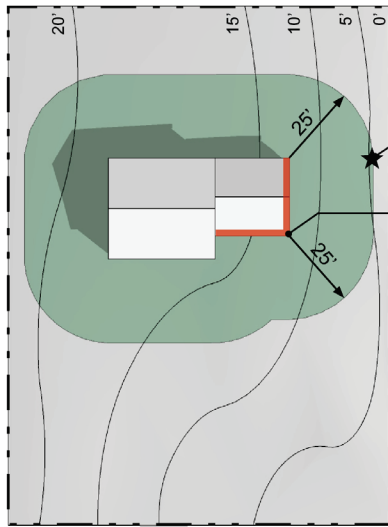
(a) Permitted Height: The height permitted without review within the City is set forth in ~~Section~~ **Section** 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, except as provided in paragraph ~~(ba)~~(2) of this section. Buildings greater than the permitted height may be approved under ~~ss~~ **Section** 9-2-14, "Site Review," B.R.C. 1981.

(b) Measurement of Height: Height shall be measured as the vertical distance from the lowest point within twenty-five horizontal feet of the tallest side of the structure to the uppermost point of the roof or structure. The lowest point shall be calculated using the natural grade. The tallest side shall be that side whose lowest exposed exterior point is lower in elevation than the lowest exposed exterior point of any other side of the building (see Figure 7-3 Measurement of Height).

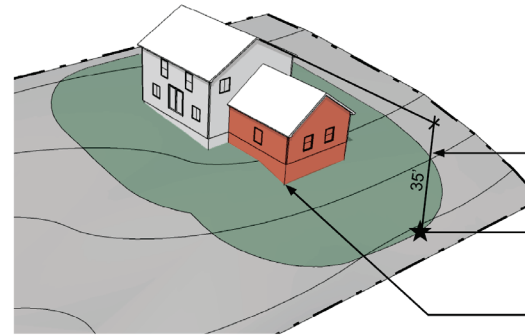
(1) Modifications to Natural Grade: ~~The height of a building is determined as described in the definition of "height" in chapter 9-16, "Definitions," B.R.C. 1981. (See Figure 7-3 of this section.)~~ If there is evidence that a modification to the natural grade has occurred since the adoption of Charter ~~Section~~ **Section** 84, "Height limit." B.R.C. 1981, on November 2, 1971, the city manager can consider the best available information to determine the natural grade. This may include, without limitation, interpolating what the existing grade may have been using the grade along property lines, topographic information on file with the City, or other information that may be presented to the city manager.

(2) Slopes Greater Than Twenty Degrees: On a slope measured within the building envelope created by the required setbacks from property lines that is greater than twenty degrees (36.4 percent slope), the building height may not exceed twenty-five feet ~~measured perpendicular from the natural grade below~~. (See Figure 7-4 of this section.) However, under no circumstances shall a structure exceed fifty-five feet as measured under charter section 84 except as provided for poles in ~~section-Section~~ **Section** 9-2-14, "Site Review," B.R.C. 1981. The slope percentage shall be calculated by measuring the difference between the high point and the low point within the building envelope and dividing it by the distance between the high and low points.





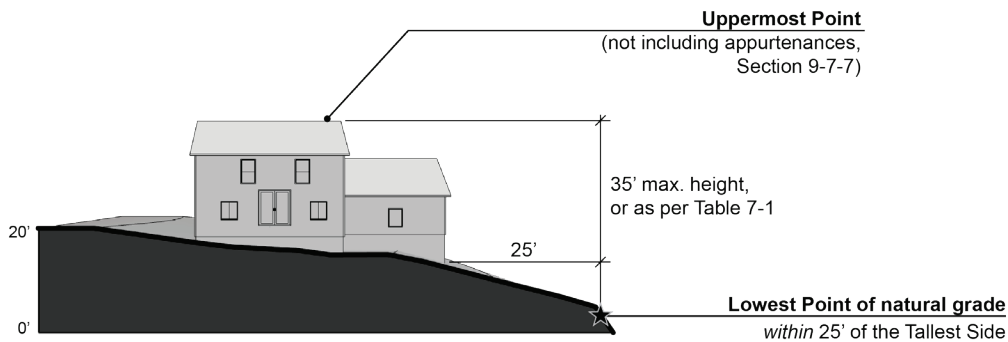
plan view



perspective view

- 1 Determine the building side (including decks and porches) with the lowest exposed exterior point. This is the *Tallest Side* per the code.
 Note: In the case of a corner point, all adjoining sides shall be considered the *Tallest Side*.

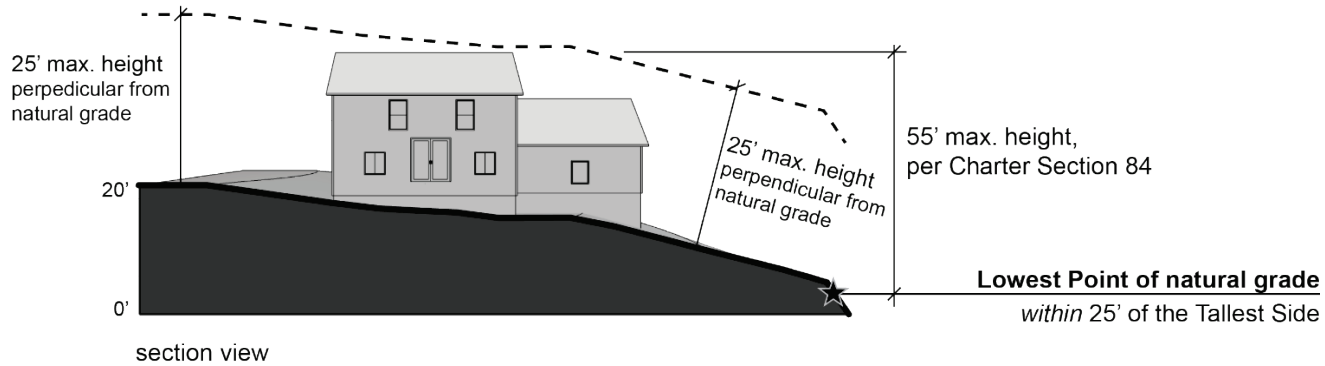
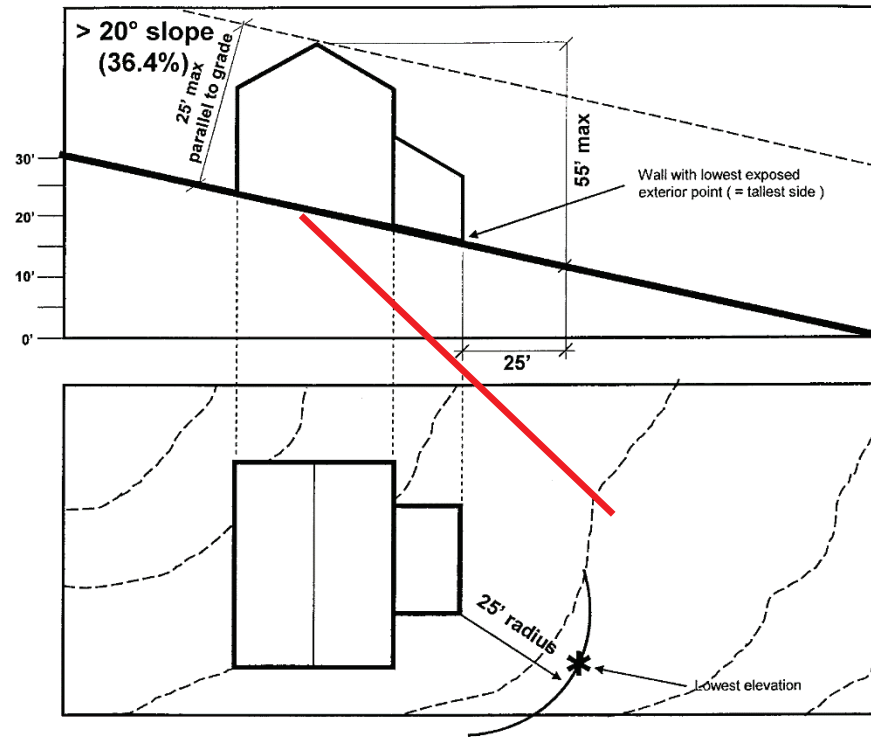
- 2 Find the lowest point of natural grade anywhere within 25' of the *Tallest Side*.
 Note: Building additions, including decks and porches >30" in height, to existing structures may change the lowest exposed exterior point and impact the subsequent measurement of height of the existing structure.



section view

- 3 Measure the height from the lowest point of natural grade to the uppermost point of the roof or structure.

Figure 7-3: **Building Height (Twenty Degree Slope or Less) Measurement of Height**



See section 9-7-5(b)(2), Slopes Greater than Twenty Degrees.

Figure 7-4: Building Height **on a Slope (Twenty+ Degree Greater than Twenty Degrees Slope)**

Chapter 9-16, "Definitions", B.R.C. 1981 should be amended as follows:

Definitions

.....
Height means the vertical distance from the lowest point within twenty-five **horizontal** feet of the tallest side of the structure to the uppermost point of the roof or structure. ~~The lowest point shall be calculated using the natural grade. The tallest side shall be that side whose lowest exposed exterior point is lower in elevation than the lowest exposed exterior point of any other side of the building.~~

Reason for change: Clarifies the measurement of height and aligns the corresponding figures to the regulations within one section (Section 9-7-5, *Building Height*) of the Land Use Code.

20 Updates and clarifies the building connections language and figures in Section 9-7-5(d)

Paragraph 9-7-5(d), "Height Calculations for Attached Buildings," B.R.C. 1981 should be amended as follows:

(d) Height Calculations for Attached Buildings:

(1) The following shall be considered separate buildings for the purposes of calculating building height:

(A) Buildings that are connected only below grade. ~~(See Figure 7-5 of this section.)~~

(B) Separate abutting buildings that may have an internal connection. (See Figure 7-6 of this section.)

(C) Buildings built to the common property line that may have an internal connection. ~~(See Figure 7-6 of this section.)~~

(D) Buildings attached by an at-grade open or enclosed connection not more than fifteen feet high **or and** twelve feet **wide deep**. ~~(See Figure 97-7 of this section.)~~

(2) Separate buildings in compliance with paragraph (d)(1) of this section, and which exceed the maximum permitted height allowed by section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, may be considered by the planning board pursuant to section 9-2-14, "Site Review," B.R.C. 1981.

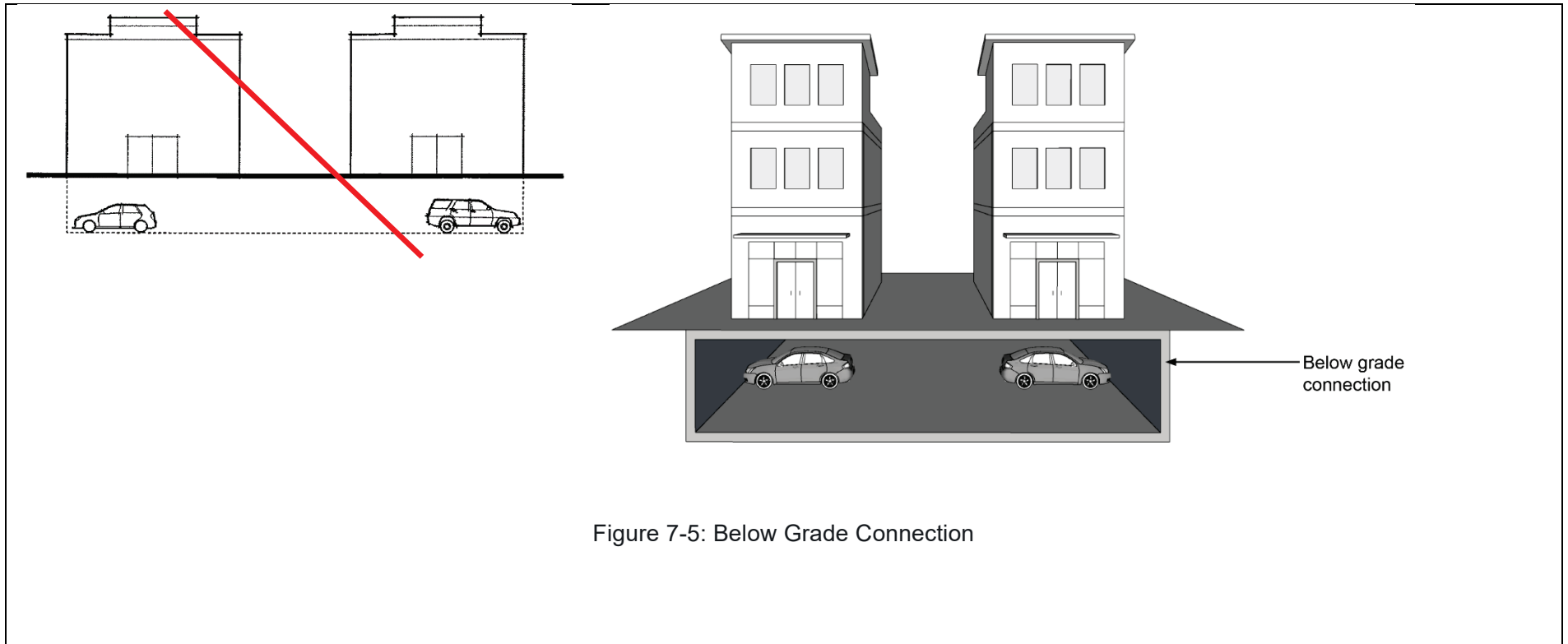


Figure 7-5: Below Grade Connection

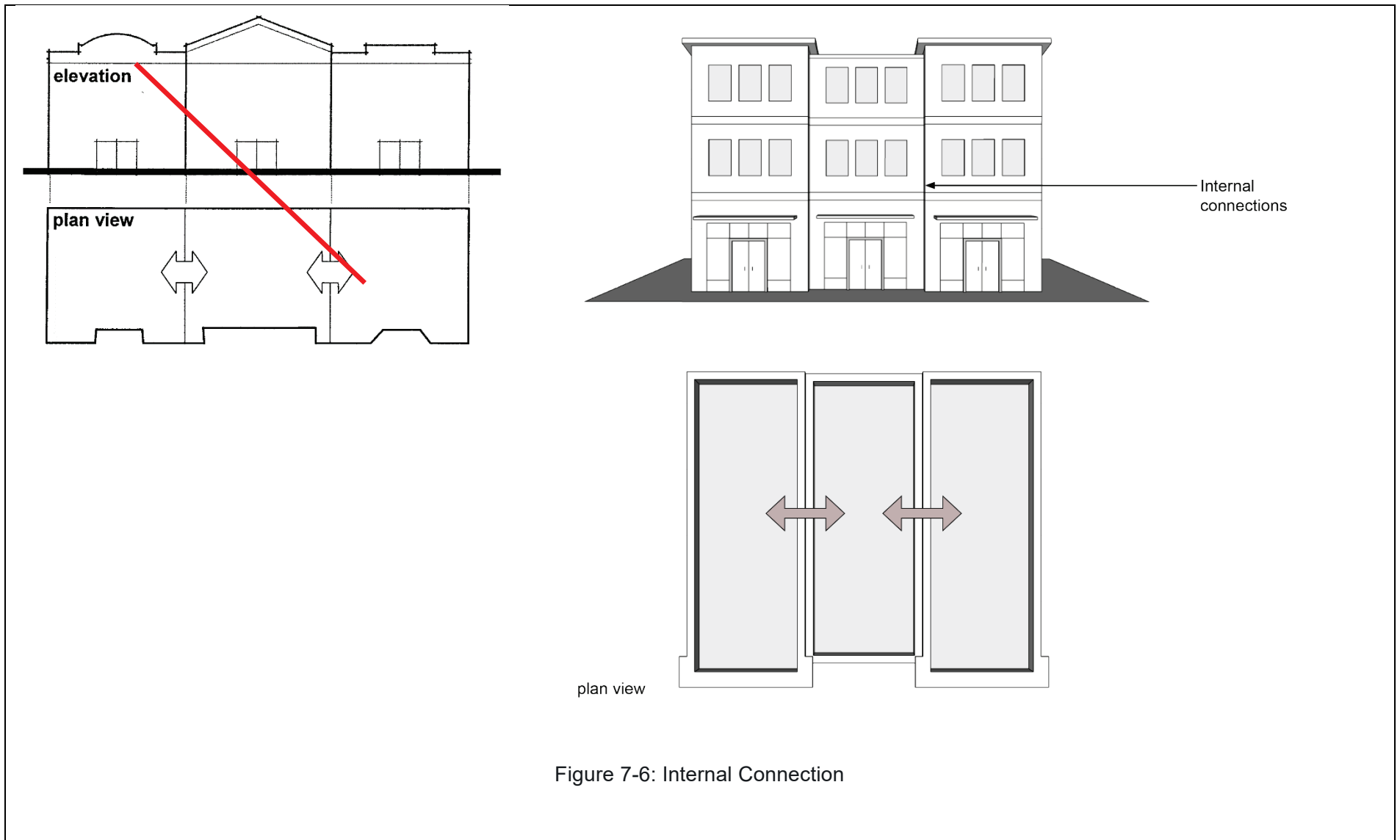


Figure 7-6: Internal Connection

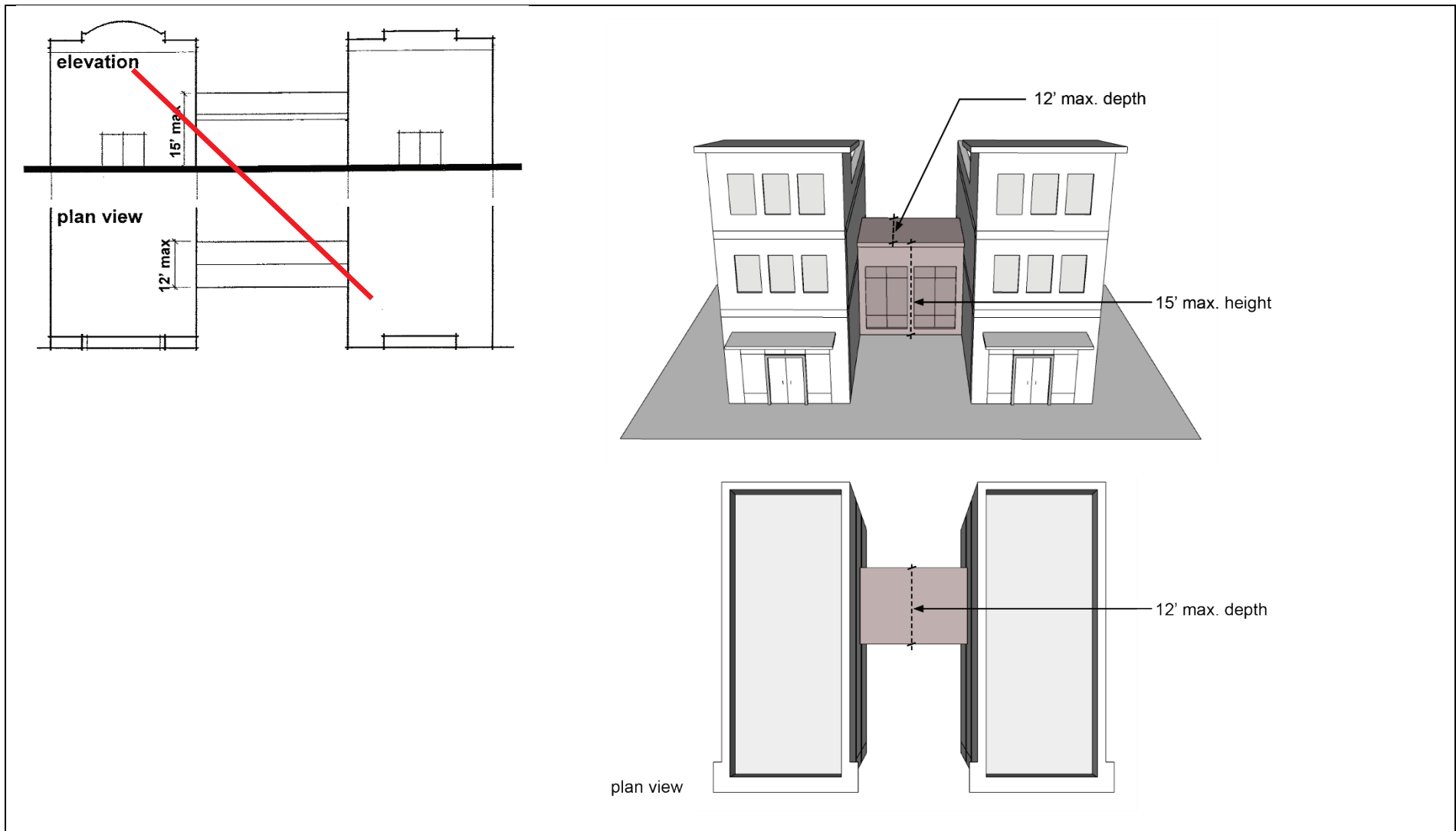


Figure 7-7: **Pedestrian or Breezeway At-Grade Open or Enclosed** Connection

Reason for change: Updates to older graphics, and aligns the language between the regulations and figure captions in a more accurate manner.

21 Remove redundant language within Section 9-7-6 on Conditional Building Height.

Section 9-7-6(b), "Building Height, Conditional", should be changed as follows:

9-7-6. - Building Height, Conditional.

...

- (b) BC, BR, IS, IG, and IM District Review Criteria: ~~For the purposes of this paragraph, adjacent properties are properties which directly abut the subject property or are located directly across a right-of-way that is less than eighty feet wide from the subject property.~~ In the BC-1, BC-2, BR-1, BR-2, IG, IM, IS-1, and IS-2 zoning districts, principal building height may be increased by up to five feet in excess of the maximum height set forth in Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, if:
- (1) ~~The property is not adjacent to any residential district. For the purposes of this paragraph, adjacent properties are properties which directly abut the property or are located directly across a right-of-way that is less than eighty feet wide;~~ and
 - (2) The property is not adjacent to any property designated for low, medium, or high density residential uses in the Boulder Valley Comprehensive Plan. ~~Adjacent properties are properties which directly abut the property or are located directly across a right-of-way that is less than eighty feet wide.~~

Reason for change: Removes the redundant language on what counts as adjacent per this section in subsection (1) and (2) and places it once in the code section.

22

Updates to Section 9-7-7, "Building Height, Appurtenances," B.R.C. 1981 to add clarity with respect to review processes and encouragement of flush-mounted rooftop solar panels.

Section 9-7-7. - Building Height, Appurtenances, shall be changed as follows:

- (a) Appurtenances: Appurtenances may be added under the following circumstances:
- (1) The addition of an appurtenance to a building is permitted if it does not cause the building height to exceed the height allowed in this section, considering, for this purpose only, the uppermost point of the appurtenance to be the uppermost point of the roof.
 - (2) The city manager may approve additions of appurtenances to buildings causing a building height to exceed the maximum permitted height if the following standards are met:
 - (A) There is a functional need for the appurtenance;
 - (B) The functional need cannot be met with an appurtenance at a lesser height; and
 - (C) Visible materials and colors are compatible with the building to which the appurtenance is attached.
 - (3) No appurtenance may have useable floor area except for mechanical equipment installations; have more than twenty-five percent coverage of the roof area of the building; or be more than sixteen feet in height. For the purposes of this paragraph, *coverage* means the total area enclosed by the screening and *roof area* means the outside top covering of a building which is parallel to the ground.
 - (4) All mechanical equipment is screened from view, regardless of the height of the building, unless in the opinion of the city manager such screening conflicts with the function of the mechanical equipment. The city manager will determine if the screening of the equipment is adequate in form, materials and color based on the following criteria:
 - (A) Screening is consistent with the building design, colors and materials;
 - (B) Appurtenances are placed on the portion of the roof which is least visible from adjacent streets and properties;
 - (C) The height of the screen is the minimum appropriate to adequately screen the mechanical equipment; and

- (D) Screening does not increase the apparent height of the walls of the building. The use of parapet walls to screen mechanical equipment is discouraged. The height of parapet walls should be the minimum necessary to screen mechanical equipment.
 - (5) A parapet wall may exceed the height requirements of this title by up to eighteen inches if the parapet is necessary to accommodate rooftop drainage or to provide fire protection.
 - (6) An applicant may appeal the decision of the manager under this section to the planning board under the procedures set forth in section 9-2-7, "Development Review Action," B.R.C. 1981.
- (b) Landmarked Appurtenances: Notwithstanding any other provision of this section, appurtenances of buildings landmarked under chapter 9-11, "Historic Preservation," B.R.C. 1981, may be repaired or restored to their previous height, upon approval of the landmarks board. If the board approves such a repair or restoration, the approval is not effective until thirty days after the date of its approval. Promptly after the approval of the repair or restoration, the city manager will forward to the city council a written report, including a description of the repair or restoration and the reasons for the approval. The manager will publish notice of the approval once in a newspaper of general circulation in the City within thirty days after the approval is granted by the board. Upon receiving such report and at any time before the effective date of the approval, the council may rescind the approval and call-up the request for its consideration at a public hearing, which constitutes a revocation of the approval.
- (c) Rooftop Solar Systems: Rooftop solar systems shall comply with the requirements of this subsection:
- (1) The rooftop solar system may exceed the roof area coverage requirements in paragraph (a)(3) if:
 - (A) The system is under fifty-five feet in height; or
 - (B) The system complies with the following limitation for buildings or rooftop solar systems that exceed fifty-five feet in height. The rooftop solar system is:
 - (i) Mounted so that the solar panels are no greater than two feet from a plane parallel to the surface of a roof with a pitch of greater than 2:12.
 - (ii) Mounted so that the solar panels are no greater than ten feet from the surface of a flat roof with a pitch of less than 2:12.
 - (iii) On a parking garage in nonresidential zoning districts, mounted so that the panels are no greater than ten feet from the surface of the highest deck of the parking or parapet wall on the building.
 - (2) The city manager may vary any screening requirement for mechanical equipment if such screening will interfere with the efficient operation of the rooftop solar system.
 - (3) A rooftop solar system is not required to be accessory to the building upon which it is located.
 - (4) If a proposed rooftop solar system is located on a building subject to an approved planned unit development or site review, the application shall meet the standards of this section and the changes to the approved plans shall be reviewed under the standards of Section 9-2-14, "Site Review", B.R.C. 1981, except that a review under the standards of Section 9-2-14, B.R.C. 1981, is not required for flush-mounted rooftop solar systems. For the purposes of this section, flush-mounted means installed directly to the roof in a manner where the solar system is parallel to the roof pitch at no more than eight inches in height above the surface of the roof.

Reason for change: Adds a reference to Section 9-7-7, "Appurtenances, Building Height" to make it clear in the code that some modifications could be considered for Rooftop Solar Systems through the Site Review or associated minor mod process. The language also encourages flush mounted panels by making it clear that flush mounted systems would not require any discretionary review. The eight inches in height requirement from the roof is based on previous language in the energy code and is generally meant to encourage "thin" panel systems that would have less visual impact.

23 Clarifies the language for accessory structure connections to breezeways

Paragraph 9-7-8(b), “Accessory Buildings in Residential Zones” B.R.C. 1981 should be amended as follows:

(b) Connections Between a Dwelling Unit and an Accessory Building Located Within the Principal Building Envelope: In a residential zoning district, a single-family detached dwelling unit may be connected to an accessory building by a breezeway that is built in compliance with the principal building setback standards set forth in this chapter, or the principal building setback standards in place at the time of its construction, if the breezeway meets the following standards:

(1) The sides of the breezeway shall be completely open except for structural support columns and the walls of the **garage/carport/accessory structure** and the dwelling unit to which it is attached.

.....

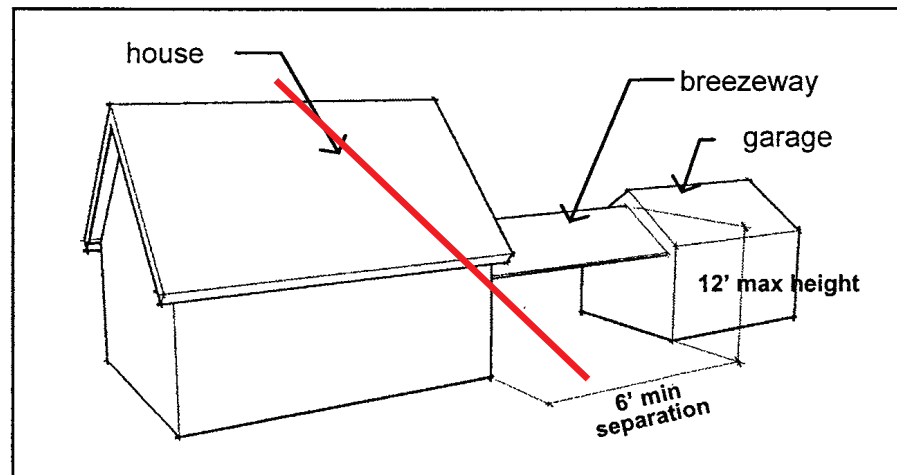
Reason for change: Aligns the regulatory language to *accessory structures*, rather than only to *garages/carports*, related to breezeway connections.

24 Clarification that breezeways count in the maximum building coverage limitations (see also Chapter 16 proposed code changes to *Building Coverage* definition).

Paragraph 9-7-8(c), “Accessory Buildings in Residential Zones, and Chapter 9-16, “Definitions” B.R.C. 1981 should be amended as follows:

.....

(8) A breezeway **shall be classified as** building coverage **for purposes of calculating the required open space for the dwelling unit per subject to Section 9-7-11, “Maximum Building Coverage,” B.R.C. 1981.**



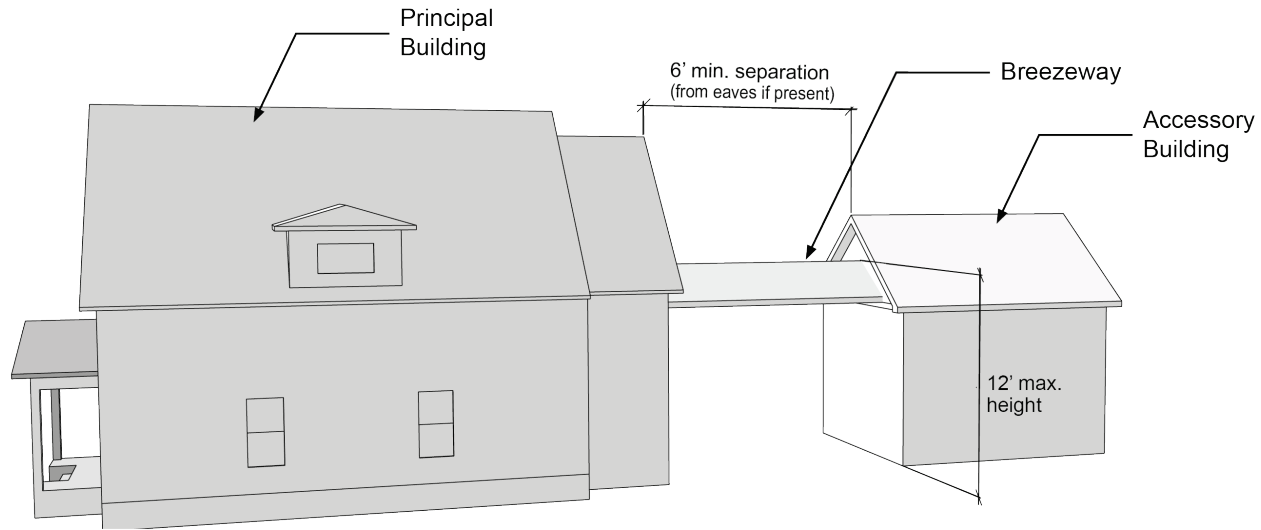


Figure 7-8: Breezeway

Reason for change: Appropriately references the 'building coverage' section, and updates the building coverage definition to reflect breezeways count as building coverage.

25 Removal of maximum cumulative coverage requirement in Table 7-1.

Section 9-7-1, Table 7-1, Form and Bulk Standards, should be amended as follows:

Maximum cumulative coverage of all accessory buildings regardless of location (m)

For residential uses—no greater than coverage of the principal building

Reason for change: This requirement is obsolete as it predates the coverage limitations that were adopted as part of the Compatible Development project and are no longer necessary.

26 Amend 9-7-9 "Side Yard Bulk Plane" figure 7-13 caption to be consistent with the actual regulations.

Section 9-7-9(d)(5), B.R.C. 1981, should be amended as follows:

.....

(d) Encroachments: No building or portion thereof shall be constructed or maintained beyond the required bulk plane except as provided for below:

....

(5) Dormers (see Figure 7-13), provided that:

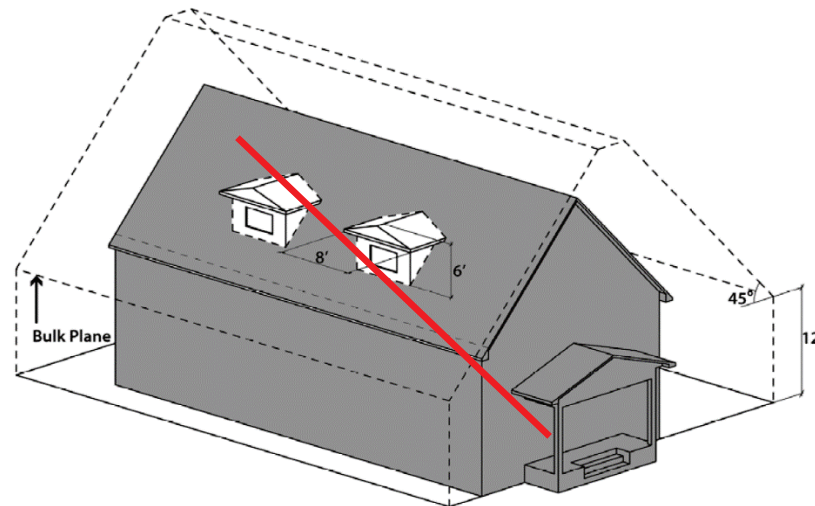
(A) The highest point of any dormer is at or below the height of the primary roof ridge.

(B) The portion of any dormer that extends beyond the bulk plane limit **does not exceed** has a maximum width of eight feet, including any roof overhang, **and does not extend beyond the bulk plane more than six feet, measured as shown in Figure 7-13.**

~~(C) The maximum height of any dormer is six feet or less, as measured from the surface of the roof on which it is located to the top of the dormer roof.~~

~~(D)~~ The combined width of all dormers **encroaching beyond the bulk plane** does not exceed fifty percent of the length of the roof on which they are located.

~~(E)~~ The space between dormers is not less than one-half the width of the adjacent dormer or the average of the two if they are different sizes, whichever is greater.



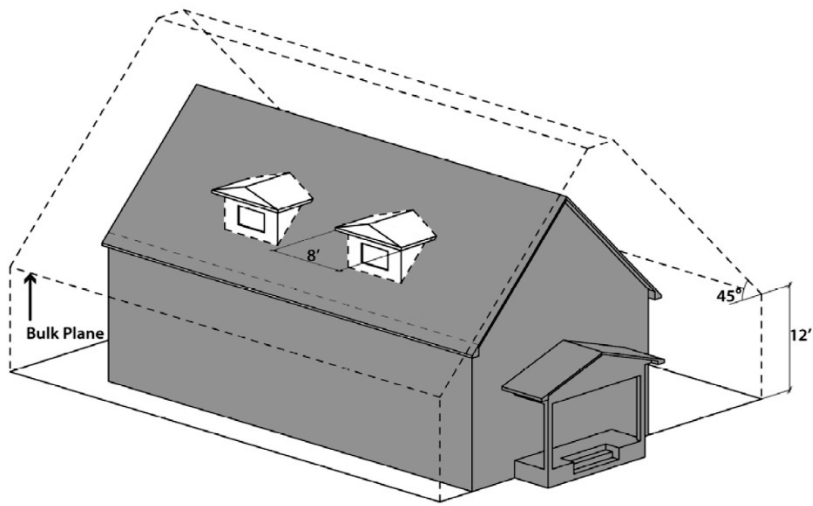
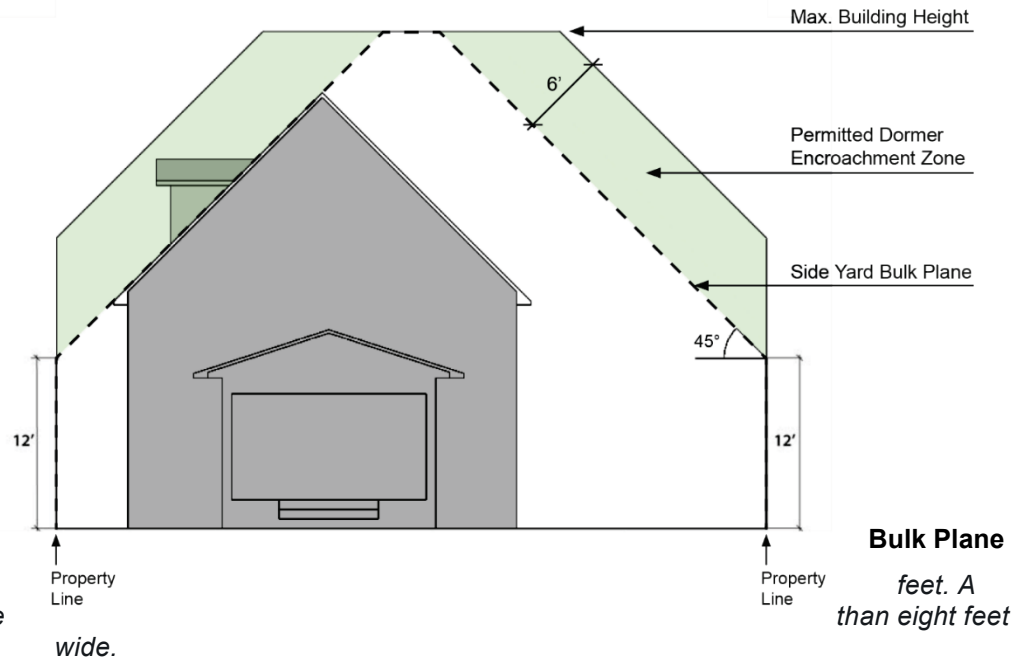


Figure 7-13: Dormer Encroachment into beyond the Side Yard

A dormer may project through the side yard bulk plane by up to six feet. A dormer that projects through the side yard bulk plane may be no more than eight feet wide.



Reason for change: Figure 7-13 of the section related to dormer encroachments within the side yard bulk plane assumes that all buildings are built abutting the bulk plane, which is not always the case. The changes above would clarify the extent of encroachments is 6' beyond the bulk plane, rather than only the physical dimensions of the dormer which may be different depending on the distance from the bulk plane. The revised language is consistent with the description within Figure 7-13. An additional Illustration is proposed to be added to the existing Figure 7-13.

27

Clarify the Side Yard Wall Articulation standards and revise Figure 7-14, *Wall Length Articulation* to match the regulations.

Section 9-7-10(c), Side Yard Wall Standards, B.R.C. 1981, should be amended as follows:

c) Side Yard Wall Standards: Within twenty feet of each side yard property line, Along each side yard property line, the cumulative length of any walls that exceed a height of fourteen feet shall not exceed forty feet in length, unless they are setback at least fourteen feet from the side property line. (sSee Figure 7-14). The remaining walls on each side yard property line shall meet the following standards:

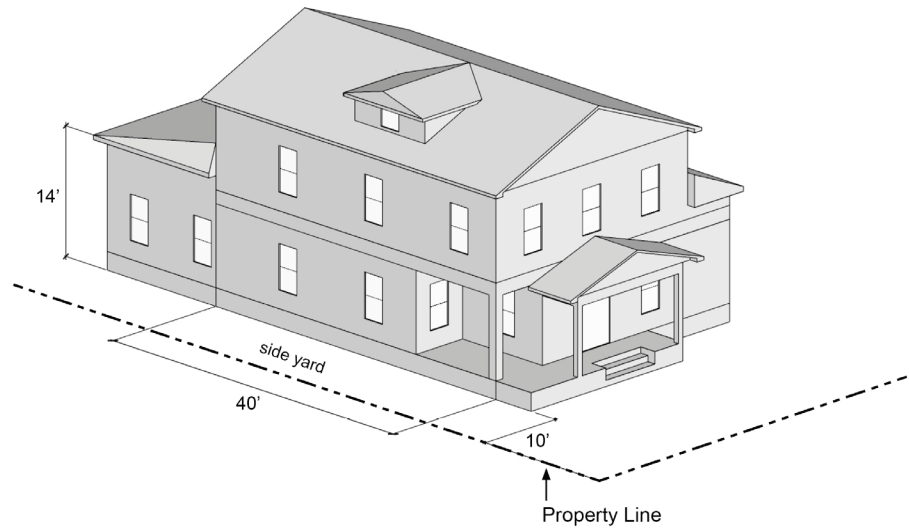
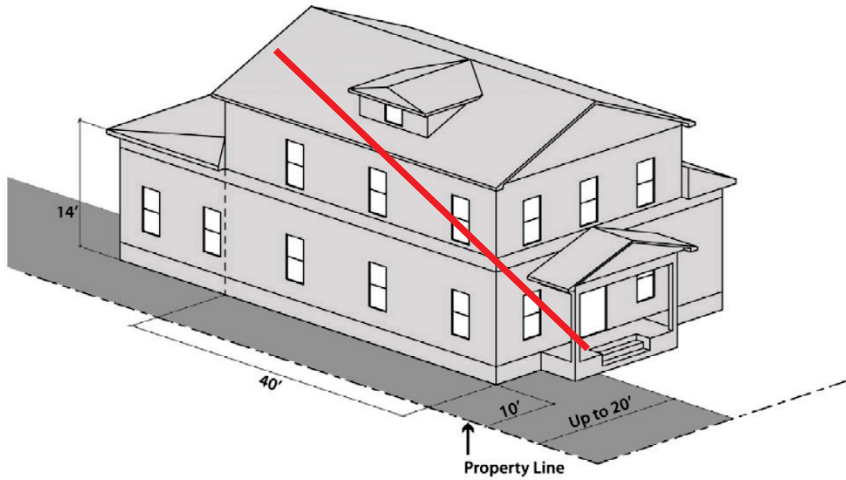
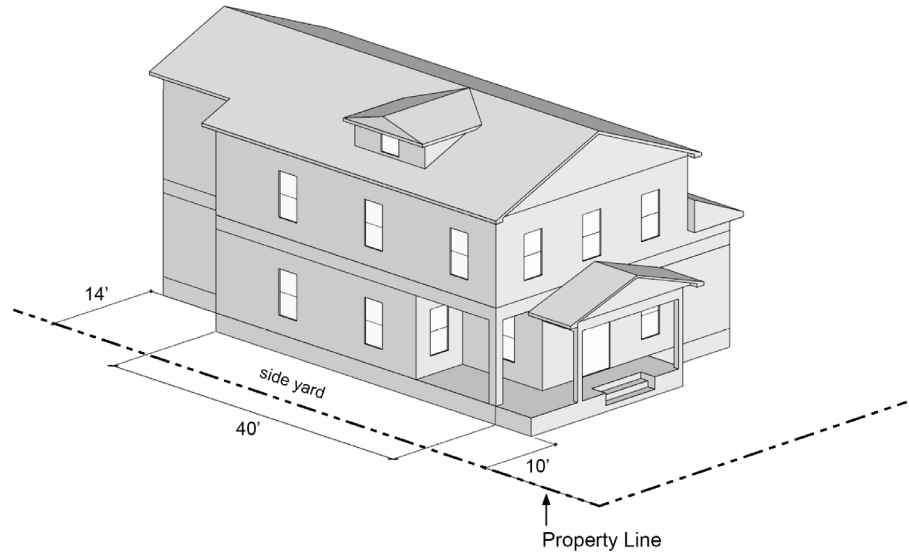
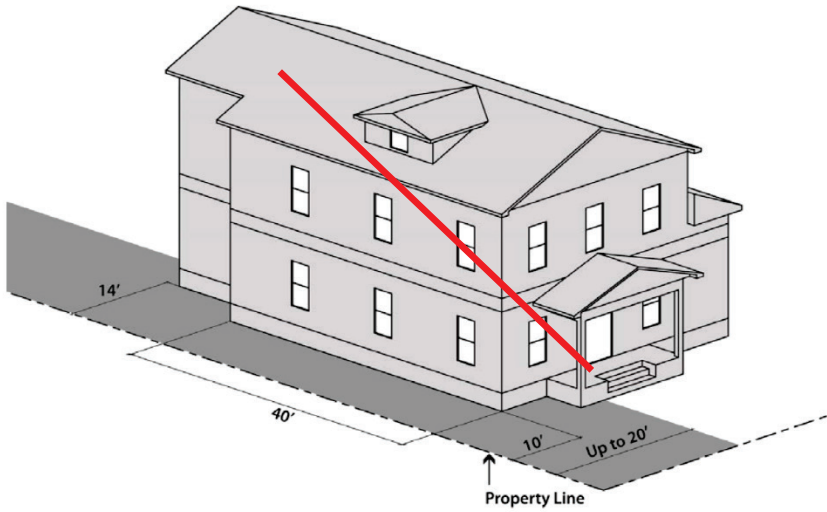
(1) Any portion of the wall that exceeds a height of fourteen feet shall be set back at least fourteen feet from the side property line or the wall shall not exceed fourteen feet height.

(12) For the purposes of this section, wall height shall be measured from finished grade as follows:

(A) Sloped roofs shall be measured from adjacent finished grade to the point where the vertical wall intersects with the sloped roof.

(B) Flat roofs shall be measured from adjacent finished grade to the top of the parapet.

(C) Window wells or door wells as described under subparagraph 9-8-2(e)(1)(D) shall not be counted as part of the wall height.



At After the maximum **40 feet' cumulative** wall length, the wall must either be set back from the **side** property line by a minimum of fourteen feet (top image) or the height of the wall must reduce to fourteen feet or less (bottom image).

Figure 7-14: Side Yard Wall Length Articulation Examples

Reason for change: The current language is difficult to understand and contradictory due to its organization. The code language has been simplified to more clearly state what is meant, and the corresponding graphic revised to match the proposed regulations with a varied building wall.

28 Standardize the format of the Table 7-2 Maximum Building Coverage formulas for consistency.

Section 9-7-1, Maximum Building Coverage, Table 7-2, Maximum Building Coverage for Residential Land Uses, B.R.C. 1981, should be amended as follows:

TABLE 7-2: MAXIMUM BUILDING COVERAGE FOR RESIDENTIAL LAND USES

Lot Size:	< 5,000 SF	5,000 to 10,000 SF	10,001 to 22,500 SF	> 22,500 SF
RR-1, RR-2, RE, RL-1, RL-2 and RMX-1	Lot Size X 0.41	(Lot Size x 0.2) + 1,050	(Lot Size x 0.116) + 1,890	Lot Size X 0.20

Reason for change: Standardizes the building coverage formulas to “Lot Size *times* a given value” for format consistency.

29 Amend 9-7-13 “Mobile Home Park Form and Bulk Standards” to clarify setback standards for structures and improve the graphic for clarity.

Section 9-7-13, Mobile Home Park Form and Bulk Standards, B.R.C. 1981, should be amended as follows:

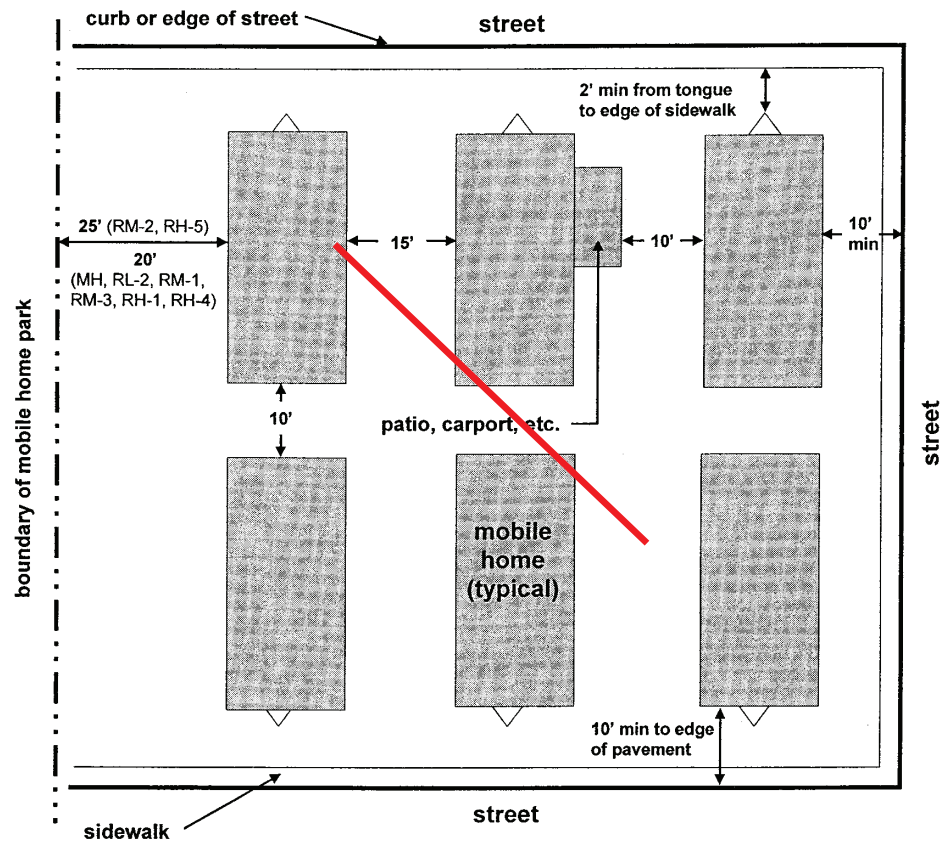
No person shall establish or maintain a mobile home park or mobile home on a lot within a mobile home park except in accordance with the following standards:

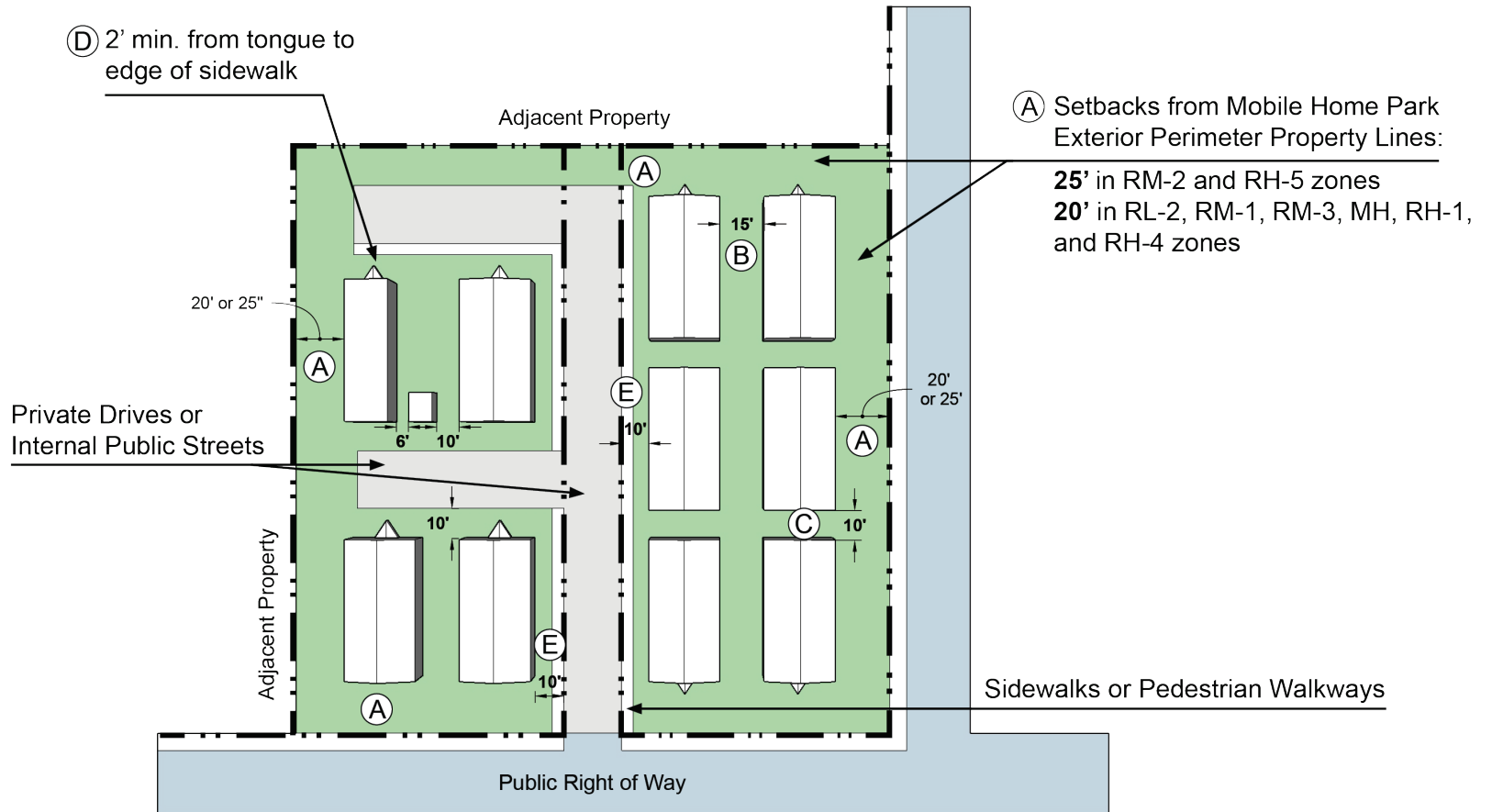
(a) Mobile Home Park Form and Bulk Summary Table: Development within a mobile home park in the MH zoning district shall comply with the standards shown in table 7-2 and illustrated in Figure 7-15 of this section.

TABLE 7-2: MOBILE HOME PARK DESIGN STANDARDS (MH DISTRICT)

Size and Intensity	
Minimum mobile home park size - MH zone RL-2, RM and RH zones	5 acres 10 acres
Maximum allowable density - RL-2 zone MH, RM and RH zones	6 units per acre 10 units per acre
Minimum site area reserved for recreational facilities	8 percent of mobile home park
Lot Area and Open Space	
Minimum lot area if subdivided	3,500 square feet
Minimum average lot area per mobile home	4,350 square feet
Minimum outdoor living and service area (with no dimension less than 15 feet)	300 square feet
Minimum usable open space per mobile home	600 square feet
Parking Requirements	
Minimum number of off-street parking spaces per mobile home	1
Setbacks and Separation	
(A) <u>Minimum front setback from exterior perimeter property lines of the mobile home park</u> MH-zone RL-2, RM-1, RM-3, RH-1 and RH-4 zones Minimum front setback - RM-2 and RH-5 zones	<u>MH, RL-2, RM-1, RM-3, RH-1 and RH-4 zones:</u> 20 feet <u>RM-2 and RH-5 zones:</u> 25 feet
(B) <u>Minimum side to side separation</u>	15 feet

(C) Minimum end to end separation	10 feet
(D) Minimum distance from tongue to any adjacent sidewalk or pedestrian walkway	2 feet
(E) Minimum setback from private drive or internal public street (from edge of street pavement)	10 feet
Accessory Buildings (10-12, B.R.C.)	
Maximum size of storage buildings	150 square feet
Minimum setback from adjacent mobile homes to all accessory buildings and structures	10 feet
Minimum separation between mobile home and its accessory building (on the same mobile home lotpad site)	6 feet





See Table 7-2: Mobile Home Park Design Standards for additional setbacks and requirements.

Figure 7-15: Mobile Home Park Setback & Separation Standards

The **minimum setback from the exterior perimeter property lines of the mobile home park to the boundary of the mobile home park** depends on the zoning district. All other setback requirements apply in all mobile home parks. The required setback from a **private drive or internal public street** is measured from the edge of **street pavement**. The required tongue setback is measured to the edge of the **sidewalk or pedestrian walkway**. See Table 7-2 for **corresponding setbacks and separation standards**.

(b) Area Requirements: In determining the required yard and space areas, the use of double-wide mobile homes and accessory structures shall be considered. The minimum average lot area per mobile home does not include additional area required by this chapter for access roads, off-street parking and storage areas, service buildings, recreation areas and office and similar mobile home needs.

(c) Driveways: Paved driveways with a minimum width of ten feet shall be provided where necessary for convenient access to each mobile home.

(d) Parking: Mobile homes in all zoning districts other than the MH district shall provide 1.5 off-street parking spaces per mobile home. Off-street spaces shall be located on or within three hundred feet of the mobile home space for which the parking is required.

~~(e) Setbacks From Boundary Lines: All mobile homes in RM-2 and RH-5 zoning districts shall be located at least twenty five feet from the boundary lines of the mobile home park. All mobile homes located in RL-2, RM-1, RM-3, MH, RH-1 and RH-4 zoning districts shall be located at least twenty feet from the boundary of the mobile home park.~~

~~(e)~~ **Reduction Modification** of Setbacks From **the Exterior Perimeter Property Lines of the Boundary-Mobile Home Park Lines**: Mobile home setback distances along **mobile home park boundary-exterior perimeter property** lines adjacent to other lots may be **modified reduced to ten feet** as part of a site review or use review approval if the mobile home park owner demonstrates that there is a need for such **reductions modifications** and that no detrimental effect will result to uses on adjoining properties or to residents of the mobile home park.

~~(e)~~ **Obstructions Prohibited**: No mobile home or portion thereof shall overhang or obstruct any driveway, access road or walkway.

~~(e)~~ **Screening**: All mobile home parks adjacent to other residential uses, commercial uses or industrial uses shall be provided with screening, such as opaque fencing or landscaping, along the property **boundary-lines** separating the mobile home park from such adjacent land uses.

Reason for change: The existing Mobile Home Park Design Standards in Table 7-2 and Figure 7-15 “Mobile Home Setback Standards” are not consistent in language, and the terminology is ambiguous. The proposed amendment creates consistency and clarity in the language, and the graphic in Fig. 7-15 is revised for further clarity and consistency as well. Some redundant language is also proposed for removal. The setback language has been revised to afford more flexibility through the Site Review or Use Review process.

CHAPTER 8 – INTENSITY STANDARDS

SUGGESTED CHANGES

30

Fix unclear and redundant sections of Table 9-8-1, “Intensity Standards,” and subsection 9-6-3(f), “Residential Development in Industrial Zoning Districts,” B.R.C. 1981, for consistency and clarity.

Table 8-1 of paragraph 9-8, “Intensity Standards,” B.R.C. 1981, should be amended as follows:

TABLE 8-1: INTENSITY STANDARDS

Zoning District	Intensity Module	Minimum Lot Area (in square feet unless	Minimum Lot Area Per Dwelling Unit (square feet) ^(c)	Number of Dwelling Units Per Acre^(e)	Minimum Open Space Per Dwelling Unit (square feet) ^(c)	Minimum Open Space on Lots (Residential Uses) ^(c)	Minimum Open Space on Lots (Nonresidential Uses) ^{(a), (c)}	Minimum Private Open Space (Residential	Maximum Floor Area Ratio ^(c)

		otherwise noted)						Uses) (square feet) ^(c)	
Mixed use developments require the greater amount of the residential or nonresidential standard for open space. See Section 9-9-11 for additional open space requirements. For mixed-use developments, use the requirements of either the residential or nonresidential standards that result in the greatest amount of open space									
A	1	5 acres	5 acres	0.2	0	-	40-20% 10-20%	0	0
RR-1, RR-2	2	30,000	30,000	1.4	0	-	40-20% 10-20%	0	See Table 8-3
RE	3	15,000	15,000	2.9	0	-	40-20% 10-20%	0	See Table 8-3
RL-1	4	7,000	7,000	6.2	0	-	40-20% 10-20%	0	See Table 8-3
P	5	7,000	7,000	6.2	0	-	40-20% 10-20%	0	0
RL-2	6	0	0	1	6,000	-	40-20% 10-20%	0	See Table 8-3
RMX-1	7	6,000	6,000	7.3	600	-	40-20% 10-20%	0	See Table 8-3
RMX-2	8	0	0	10 (up to 20 by review)	0	15%	15%	60	0
		=	-4,356 (down to 2,178 by Site Review)		=				=

RM-1	9	0 =	0 =		3,000	-	40–20% <u>10–20%</u>	0 =	0 =
IS-2	10	0 =	0 =		600	-	40–20% <u>10–20%</u>	60	0.5:1
IS-1	11	7,000	0 =		0 =	-	40–20% <u>10–20%</u>	60	0.5:1
RH-1	12	0 =	0 =		1,600	-	40–20% <u>10–20%</u>	0 =	0 =
RH-2	12.5	6,000	3,000 (down to 1,600 by Site Review)	14 (up to 27.2 by review)	600	-	40–20% <u>10–20%</u>	0 =	0 =
RM-2, RM-3	13	6,000	3,500	12.4	-	-	40–20% <u>10–20%</u>	0 =	0 =
RH-3, RH-7	14	0 =	0 =		0 =	60% (b)	60% (b)	60	0 =
RH-4, BT-1, BC-1	15	0 =	0 =		1,200	-	40–20% <u>10–20%</u>	0 =	0 =
BR-2	16	0 =	0 =		0 =	40%	40–20% <u>10–20%</u>	60	0 =
BMS	17	0 =	0 =		0 =	15%	15%	60	0.67 (1.85 if within CAGID or UHGID)
RH-6	17.5	-	1,800		600	-	-	-	0

MU-1, MU-2, IMS	18	0 =	0 =	-	0 =	15%	15%	60	0.6:1
RH-5, BC-2	19	6,000	1,600	27.2	600 (400 by site review if in a mixed use development)	-	40—20% <u>10—20%</u>	0 =	0 =
IM	20	7,000	1,600	27.2	600	40% (20% if within a park service area) =	40—20% <u>10—20%</u>	60	0.4:1
BT-2	21	6,000	1,600	27.2	600	-	40—20% <u>10—20%</u>	0 =	0.5:1
IG	22	7,000	1,600	27.2	600	40% (20% if within a park service area) =	40—20% <u>10—20%</u>	60	0.5:1
BR-1	23	6,000	1,600	27.2	0 =	-	40—20% <u>10—20%</u>	0 =	2.0:1
MU-3	24	0 =	0 =	-	0 =	15%	15%	60	1.0:1
MU-4	24.5	0 =	0 =	-	0 =	15%	15%	60	2.0
DT-1	25	0 =	0 =	-	0 =	-	40—20% <u>10—20%</u>	60	1.0:1
DT-2	26	0	0	-	0	-	40—20%	60	1.5:1

		=	=		=		10–20%		
DT-3, DT-4, DT-5	27	0	0	-	0	-	40–20%	60	1.7:1
		=	=		=		10–20%		
BCS	28	-	-	-	-	-	40–20%	-	-
							10–20%		

Footnotes:

(a) This requirement may increase based on building height pursuant to Subsection 9-9-11(c), B.R.C. 1981.

(b) Open space may be reduced using the standards in Sections 9-8-3, "Density in the RH-1, RH-2, RH-3 and RH-7 Districts," and 9-9-11, "Useable Open Space," B.R.C. 1981.

(c) For properties within an area designated in Appendix L, "Form-Based Code Areas," and subject to the standards of Appendix M, "Form-Based Code," the footnoted requirement is not applicable. Refer to Appendix M, "Form-Based Code," for specific form, bulk, intensity, and outdoor space requirements.

(-) No standard.

Reason for change:

- Values throughout the table presently include a mix of zeros, dashes, and blanks to indicate no standard applies. This change would consistently use a dash ("-").
- Values in the "Minimum Open Space on Lots (Nonresidential Uses)" column use inconsistent dashes and hyphens between percentages. The change reformats values to consistently use the same dash ("10–20%").
- Dual controls related to Min. Lot Area per Dwelling Unit and Dwelling Units per Acre are redundant and create confusion, especially with differences in the fractional calculations. The change removes the unnecessary Dwelling Unit per Acre column and converts the RMX-2 and RH-2 Site Review references into an equal Min. Lot Area per Dwelling Units value.
- Information in the "Minimum Open Space on Lots (Residential Uses)" column for the IG and IM zoning districts is a design standard rather than an intensity standard and creates confusion when compared to the required open space information listed in other columns of the table. This change would consolidate the design standards for configuration of required common open space in subsection 9-6-4(f), "Residential Development in Industrial Zoning Districts," B.R.C. 1981. *Note that this is an iterative, non-substantive change proposed for clarity. Additional, substantive changes to the Residential in Industrial Standards could take place as part of a future code amendment process.*

31 Correct and clarify the FAR Additions table.

Table 8-2 of paragraph 9-8, "Intensity Standards," B.R.C. 1981 should be amended as follows:

TABLE 8-2: FLOOR AREA RATIO ADDITIONS

	<i>DT-1</i>	<i>DT-2</i>	<i>DT-3</i>	<i>DT-4</i>	<i>DT-5</i>	<i>MU-1</i>	<i>MU-2</i>	<i>MU-3</i>	<i>BT-2</i>	<i>BMS</i>	<i>IS-1/2</i>	<i>IG</i>	<i>IM</i>	<i>IMS</i>	<i>BR-1</i> ^(c)
Base FAR	1.0	1.5	1.7	1.7	1.7	0.6	0.6	1.0	0.5	0.67 ^(a)	0.5	0.5	0.4	0.6	n/a

																=
Maximum total FAR additions (FAR) ^(ed)	1.0	0.5	1.0	0.5	1.0	0.07	n/a =	n/a =	n/a =	0.33	n/a =	n/a =	n/a =	n/a =	n/a =	n/a =
FAR additional components:																
1) Residential floor area (FAR)	0.5	0.5	0.5	0.5	1.0 ^(b)	n/a =	n/a =	n/a =	n/a =	n/a =	n/a =	Not counted	Not counted	n/a =	n/a =	n/a =
2) Residential floor area if at least 35% of units are permanently affordable and at least 50% of total floor area is residential (FAR)	n/a =	n/a =	n/a =	n/a =	n/a =	0.07	n/a =	n/a =	n/a =	n/a =	n/a =	n/a =	n/a =	n/a =	n/a =	n/a =
3) Residential floor area for a project NOT located in a general improvement district that provides off-street parking	n/a =	n/a =	n/a =	n/a =	n/a =	n/a =	n/a =	n/a =	n/a =	0.33	n/a =	n/a =	n/a =	n/a =	n/a =	n/a =
4) <u>On-site Floor area used as off-street parking and circulation that is above grade and</u>	0.5	0.5	0.5	n/a =	0.5	Not counted	Not counted	Not counted	n/a =	Not counted	Not counted	Not counted	Not counted	Not counted	Not counted	n/a =

provided entirely within the principal structure or above-grade parking structure															
5) Below grade area used for occupancy	Not counted	Not counted	Not counted	Not counted	Not counted	n/a =	n/a =	n/a =	Not counted	Not counted	n/a =	n/a =	n/a =	n/a =	n/a =
6) Nonresidential floor area (FAR) (see Paragraph 9-8-2(e)(3) and Section 4-20-62, Table 4)	n/a =	n/a =	n/a =	n/a =	1.0 ^(b)	n/a =	n/a =	n/a =	n/a =	n/a =	n/a =	n/a =	n/a =	n/a =	n/a =
Maximum allowable FAR (sum of base plus all available additions)	2.0 + row 5	2.0 + row 5	2.7 + row 5	2.2 + row 5	2.7 + row 5	0.67 + row 4 above	0.6 + row 4 above	1.0 + row 4 above	0.5 + row 5 above	1.0 + rows 4 and 5 above	0.5 + row 4 above	0.5 + rows 1 and 4 above	0.4 + rows 1 and 4 above	0.6 + row 4 above	4.0 ^(c)

Footnotes:

(a) FAR up to 1.85:1 if property is located in a general improvement district providing off-street parking.

(b) The maximum additional FAR component is 1.0. FAR additional components may be combined, but shall not exceed the 1.0 maximum total floor are ratio limit.

(c) See Subparagraph 9-2-14(h)(2)(J), B.R.C. 1981.

(d) n/a - not applicable

(ed) For properties located in an area designated in Appendix L, "Form-Based Code Areas," and subject to the standards of Appendix M, "Form-Based Code," the floor area and floor area ratio (FAR) requirements do not apply. Refer to Appendix M, "Form-Based Code," for specific form, bulk, intensity, and outdoor space requirements.

(-) Not applicable.

Reason for change:

- The current section incentivizes parking within the building that is concealed from view and not outside the building. Effectively the bonus 0.5 FAR is for parking only and gives the extra level of flexibility to have parking contained within the building while not penalizing the designer with floor area that would be counted in the other FAR components. This change clarifies the intent and clarifies that the 0.5 FAR must be for parking only and not other uses. Further, the section has been updated to not allow the FAR addition if parking is within 20 feet from a public right-of-way. This is suggested as a better urban design option and also to incentivize ground level active pedestrian streetscapes.
- Currently, the table includes values of both “n/a” and “not counted” which can be confused by the reader. The change replaces “n/a” with a dash (“-”) to distinguish the values and for consistency with the formatting changes to Table 8-1, Intensity Standards. The footnotes are updated accordingly.

32 Clarifications and corrections to floor area requirements.

Paragraph 9-8-2, “Floor Area Ratio Requirements,” B.R.C. 1981, should be amended as follows:

- (a) Purpose: The purpose of the floor area ratio requirements is to limit the impacts of the use that result from increased building size.
- (b) Maximum Floor Area Ratio: The maximum floor area ratio on a lot or parcel shall be the greatest of the following:
- (1) The floor area set forth in this section;
 - (2) The floor area approved prior to June 3, 1997, as part of a valid existing or unexpired planned development (PD), planned residential development (PRD), planned unit development (PUD), or a site review; or
 - (3) The floor area on the lot or parcel on June 3, 1997.
- (c) Registration and Calculation of FAR for Existing Buildings: Building floor area on a lot or parcel that exceeds the floor area ratio set forth in this section may be registered with the city manager by June 16, 1998. The manager shall determine the type of information necessary to verify the floor area. If such floor area is not registered within one year, the floor area of the lot or parcel shall be the greater of the following:
- (1) The floor area ratios for the underlying zoning district;
 - (2) The floor area on the lot or parcel on June 3, 1997, according to city building records or county assessor records.

Upon a determination that an error exists in the calculation of the floor area under Paragraph (c)(2) of this section, the city manager will correct such error.

(d) Calculating Floor Area Ratios **and Floor Area Ratio Additions and Supplemental Floor Area**: The floor area ratio shall be calculated based on all buildings on a lot according to the definitions in [Chapter 9-16](#), B.R.C., 1981, "Floor Area," "Floor Area Ratio," "Uninhabitable Space," and "Basement," **except as indicated by [Table 8-2](#) of this section.** In addition to the floor area ratio limitations set forth in [Table 8-1](#), Intensity Standards, B.R.C. 1981, floor area ratio additions may be added above a base floor area ratio and certain floor areas may be excluded from the floor area calculations as set forth in [Table 8-2](#) of this section. Areas not included in the floor area ratio (FAR) calculation are considered "Supplemental Floor Area."

Reason for change: The existing section (d) is confusing in that it refers to supplemental floor area which is a term that is not used in any other part of the code. Further, the subsection has been rewritten to better describe how FAR is calculated and how FAR additions apply.

CHAPTER 9 – DEVELOPMENT STANDARDS

SUGGESTED CHANGES

33 Clarifications to minimum and maximum driveway widths, driveway parking, and when such standards apply.

Section 9-9-5. - Site Access Control , B.R.C. 1981, should be amended as follows:

(a) Access Control: Vehicular access to property from the public right-of-way shall be controlled in such a manner as to protect the traffic-carrying capacity and safety of the street upon which the property abuts and access is taken, ensuring that the public use and purpose of public rights of way is unimpaired as well as to protect the value of the public infrastructure and adjacent property. The requirements of this section apply to all land uses, including single-family residential land uses, as follows:

- (1) For all uses, except single-family residential, the standards shall be met prior to a final inspection for any building permit for new development; redevelopment exceeding twenty-five percent of the value of the existing structure; or the addition of a dwelling unit. For purposes of this paragraph (1), the applicant shall demonstrate the value of the existing structure by submitting, at the discretion of the applicant, either the actual value assessed by the Boulder County Assessor's Office or the fair market value determined by a real estate appraiser licensed in Colorado.
- (2) For single-family residential uses, the standards of this section shall be met prior to a final inspection for any building permit for new development; the demolition of a principal structure; or the conversion of an attached garage or carport to a use other than use as a parking space.

(3) Notwithstanding the above, development on a property that has three or fewer dwelling units must meet the driveway width standards of this section if the development has to comply with the landscape standards of Section 9-9-12(b), "Landscaping and Screening Standards," B.R.C. 1981. Compliance with the driveway width standards shall be met prior to final inspection of a building permit.

...

- (c)
- (8) ~~Minimum~~ Driveway Width. **See Figure 9-1 of this section.**

(A) Minimum driveway width. The ~~minimum~~ width of a driveway leading to an off-street parking space shall not be less than nine feet. A driveway, or portion of a driveway, may be located on an adjacent property if an easement is obtained from the impacted property owner. **(See figure 9-1 of this section.)**

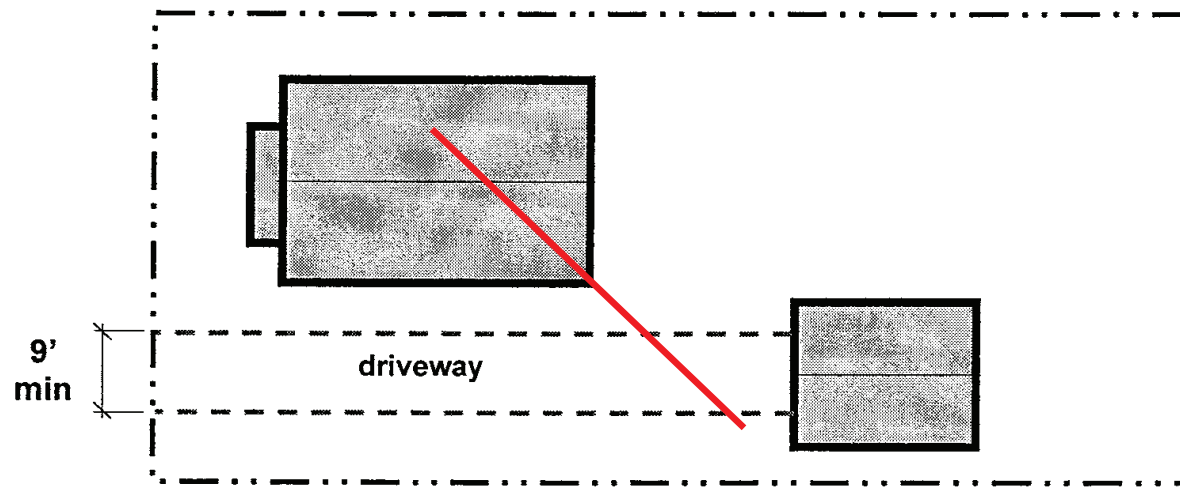


Figure 9-1: Minimum Driveway Width

(B) Maximum Driveway Width: For any property with three or fewer dwelling units, the driveway width within a landscaped setback, including any associated circulation or turnarounds, shall not exceed 20 feet.

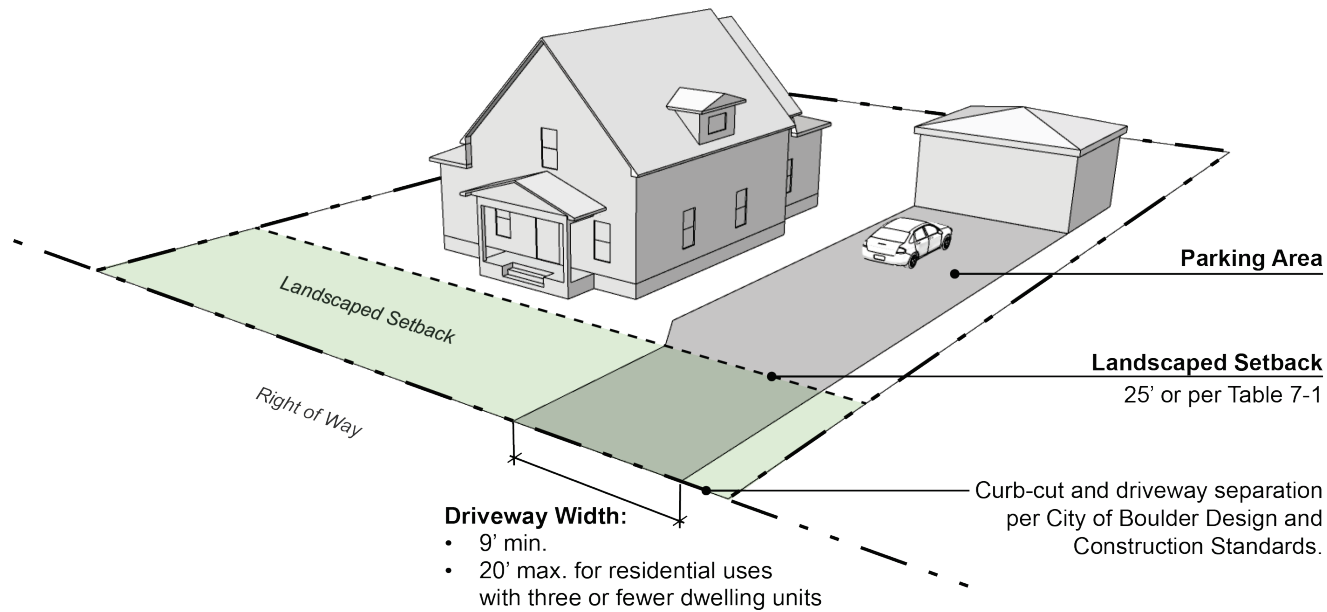


Figure 9-1: Driveway Width

- (9) Exceptions: The requirements of this section may be modified under the provisions of [Section 9-2-14](#), "Site Review," B.R.C. 1981, to provide for safe and reasonable access. Exceptions to this section may be made if the city manager determines that:
- The topography, configuration of a lot, or other physical constraints makes taking access from the lowest category street, alley or public access frontage impractical, or the character of the existing area is such that a proposed or existing access to the street, alley or public access frontage is compatible with the access of properties in such area;
 - The site access and curb cuts would not impair public use of the public right-of-way; create safety or operational problems or be detrimental to traffic flow on adjacent public streets; and
 - The site access and curb cuts will minimize impacts to the existing on-street parking patterns.

9-9-6, Parking Standards, B.R.C. 1981, should be amended as follows:

(d) Motor Vehicle Parking Design Standards:

(1) Location of Open or Enclosed Parking: Open or enclosed parking areas are subject to the following requirements:

- No parking areas shall be located in any required landscaped setback abutting a street. However, in RR, RE, or RL, **A, or P** zoning districts, if all off-street parking requirements of this chapter have been met, persons may park up to two additional vehicles in the driveway **within the**

~~landscaped setback, leading to the parking area~~ The requirements of this subsection may be varied to allow the required off-street parking to be located within the front yard setback pursuant to a variance being approved by the BOZA per Subsection 9-2-3(j), B.R.C. 1981.

Reason for change:

Code language is proposed to clarify that single-family homes must meet the site access requirements at the time of permit review.

A maximum driveway width is proposed to be included in the land use code to make clear the city’s standards on driveway width. The Design and Construction Standards already sets the maximum curb cut width at 20 feet, but a corresponding standard is not provided in the land use code.

Code language is proposed to permit up to two vehicles to be parked in a driveway leading to only one off-street parking space. This is a common occurrence in areas of the city where only 1 garage space, and a two-car driveway, exists for a single-family home. This change would bring a large number of single-family home driveways into code conformance. The corresponding graphic has been updated for clarity and effectiveness.

34 Remove ambiguity about duplex parking requirements.

9-9-6, “Parking Standards”, B.R.C. 1981, should be amended as follows:

TABLE 9-1: RESIDENTIAL MOTOR VEHICLE PARKING REQUIREMENTS BY ZONING DISTRICT AND UNIT TYPE

Zone District Standard	RR, RE, MU-1, MU-3, BMS, DT, A, RH-6	RMX-2, MU-2, MH, IMS	RL, RM, RMX-1, RH-1, RH-2, RH-4, RH-5, BT, BC, BR, IS, IG, IM, P	RH-3	MU-4, RH-7
Minimum number of off-street parking spaces for a detached dwelling unit (DU)	1	1	1	1	0
Maximum number of off-street parking spaces for an attached DU or each unit of a duplex	N/A	N/A	N/A	N/A	1 space per DU
Minimum number of off-street parking spaces for an attached DU or each unit of a duplex	1	1 for 1- or 2-bedroom DU 1.5 for 3-bedroom DU 2 for a 4 or more bedroom DU	1 for 1-bedroom DU 1.5 for 2-bedroom DU 2 for 3-bedroom DU 3 for a 4 or more bedroom DU	1 for 1-bedroom DU 1.5 for 2-bedroom DU 2 for 3-bedroom DU 3 for a 4-or-more-bedroom DU	0
Accessible space requirement	Must meet the requirements of the Americans with Disabilities Act, as amended.				

Reason for change: The code is currently unclear about whether the parking requirement would be per individual units in the duplex or apply to the whole duplex. This change would clarify that it would be per unit like the other parking requirements.

35 Clarify what is considered a retail center for purposes of parking.

9-9-6, "Parking Standards", B.R.C. 1981, should be amended as follows:

TABLE 9-4: USE SPECIFIC MOTOR VEHICLE PARKING REQUIREMENTS FOR NONRESIDENTIAL USES IN ALL ZONES

<p>Retail centers over 50,000 square feet of floor area that are:</p> <ul style="list-style-type: none"> i) under common ownership or management, or ii) approved through a common site review approval, and iii) that contains a mix of some or all of the following uses: retail, commercial, office, restaurants, brewpubs, or taverns with retail and restaurant, brewpub and tavern uses comprising more than 50 percent of the total floor area, and iv) where written consent of all property owners within the retail center are included with a proposal 	<p>Less than 30 percent of the total floor area is occupied by restaurants, taverns, or brewpubs: 1 space per 250 square feet of floor area for retail, commercial, and office uses and restaurants, brewpubs, and taverns.</p>
	<p>Greater than 30 percent or more and less than 60 percent of the total floor area is occupied by restaurants, taverns, or brewpubs: 1 space per 175 square feet of floor area for retail, commercial, and office uses and restaurants, brewpubs, and taverns.</p>
	<p>60 percent or more of the total floor area is occupied by restaurants, taverns, or brewpubs: 1 space per 100 square feet of floor area for retail, commercial, and office uses and restaurants, brewpubs, and taverns.</p>
	<p>This use-specific parking standard shall not apply to other uses for which a use-specific parking standard is created in this Table 9-4 or to uses other than retail, commercial, and office uses, restaurants, brewpubs, and taverns. For those uses, parking shall be provided as required for each such use under this Section 9-9-6, B.R.C. 1981, and in addition to the requirement above.</p>

Reason for change: The change would clarify that retail centers are predominantly comprised of retail uses and restaurants, brewpubs and taverns and would exclude any other mixed-use developments from qualifying under the proposed standards. For instance, an office park over 50,000 square feet that has a different parking requirement that incorporates a coffeeshop would not be considered a retail center. Further, the proposed change recognizes that some retail centers that were approved under common site plan approvals (Site Reviews and PUDs) may not have one ownership or management entity. The second column is also revised to clarify the distinction between the tiers.

36 Clarify and simplify parking standards per indoor and outdoor seat.

9-9-6, "Parking Standards", B.R.C. 1981, should be amended as follows:

TABLE 9-4: USE SPECIFIC MOTOR VEHICLE PARKING REQUIREMENTS FOR NONRESIDENTIAL USES IN ALL ZONES

<p>Restaurant, brewpub, or tavern - outside of retail centers greater than 50,000 square feet</p>	<p>1 space per 3 seats for indoor seats. Where outdoor seats do not exceed 20 percent of the indoor seats, no additional parking spaces are required. Where outdoor seats exceed 20 percent of the indoor seats, 1 space per 3 seats must be provided for those seats exceeding 20 percent of the indoor seats. Unless additional parking is provided to meet the requirements above, the maximum number of outdoor seats for restaurants, brewpubs, and taverns on sites that do not meet the required number of parking spaces for indoor seats shall be 20 percent \times the number of parking spaces provided on the site \times 3.</p> <p>Indoor Seats: 1 space per 3 seats.</p> <p>Outdoor Seats:</p> <ol style="list-style-type: none"> 1. If outdoor seats do not exceed 20% of the indoor seats, no additional parking required. 2. For the portion of outdoor seats exceeding 20% of indoor seats, 1 space per 3 seats. 3. Notwithstanding the requirements of (1) and (2) above, the following applies to uses that are nonconforming as to parking for indoor seats and the use is the sole principal use of the site: No additional parking required if the number of outdoor seats does not exceed 60% of the existing number of parking spaces on the site. 	
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Reason for change: The format change is proposed to simplify the wording of the per-seat parking standard for ease understanding. The actual standards are not proposed to change.

37 Amend 9-9-12(d)(10) "Mulches" to explicitly limit the use of rock mulch to approved plans.

Section 9-9-12(d)(10), B.R.C. 1981, should be amended as follows:

(B) Non-living materials such as bark or rocks shall not only be used, except as temporary mulch until full plant coverage is achieved, or as permanent mulch under shrubs if specifically approved as part of a final landscape plan.

Reason to change: Rock mulch is not appropriate for all landscape applications as it is often not compatible with other landscaping requirements. The proposed change would clarify that it can be used but only as part of an approved plan.

38 Amend 9-9-13(b) "Street Trees" to make wording consistent with 9-9-13(d).

Section 9-9-13, B.R.C. 1981, should be amended as follows:

(b) Street Trees: A planting strip consisting of deciduous trees shall be planted along the full length of all public and private streets in all zoning districts. When possible, trees shall be planted in the public right-of-way. Large deciduous trees and detached sidewalks are desired required wherever possible and shall be planted at a minimum, in accordance with Subsection (d) of this section.

Reason for change: The current language is not consistent with the requirements in section 9-9-13(d), B.R.C. 1981. The proposed changes clarifies that large deciduous trees are required per 9-9-13(d), B.R.C. 1981, which already allows for flexibility to plant small deciduous trees in the case of overhead power lines, narrow planting strips, and similar scenarios at the discretion of staff in keeping with the DCS.

Section 9-9-15, "Fences and Walls", B.R.C. 1981, should be amended as follows:

9-9-15. - Fences and Walls.

(a) Purpose: The purpose of this section is to regulate the installation of fences, hedges, and walls to provide safety and security as well as visual barriers, while minimizing the impacts that result from fence location and height. A fence, hedge, or wall, which includes retaining walls, columns, posts, piers, or similar structures, or any combination of such structures, is permitted if it meets the standards of this section, **in addition to the requirements of Section 9-9-7, "Sight Triangles," B.R.C. 1981, and Chapter 10-5, "Building Code," B.R.C. 1981.**

(b) **Location Standards Requirements:** A fence, hedge, or wall is permitted if it meets the following conditions:

~~(1) Building Code and Sight Distance: All fences and walls meet the requirements of chapter 10-5, "Building Code," B.R.C. 1981, and section 9-9-7, "Sight Triangles," B.R.C. 1981;~~

~~(12) Location on Property: All property lines are located in order to determine that No~~ fence, hedge, or wall **shall** extend beyond or across a property line, unless an agreement with the abutting property owner is obtained; and

~~(23) Location Near Sidewalks: No fence or wall is placed nearer than eighteen inches to any public sidewalk.~~

(c) ~~Fence and Wall Height Standards: A maximum of seven feet in height is permitted for any No individual fence, or wall, hedge, or any combination thereof located within three feet of each other and located on the same property (see Figure 9-10); within shall exceed seven feet in height, except as otherwise permitted by this section. A fence or wall shall be measured as follows:~~

(1) Measurement of Height

~~(A) General: The height of a fence, wall, or hedge shall be measured from the finished grade directly beneath it to the tallest element of the fence, wall or hedge (see Figure 9-10).~~

~~(B) Fences on Berms or Mounds: A fence, wall, or hedge located on a berm or mound shall include the height of the berm or mound above natural grade located directly beneath the fence in the overall height measurement (see Figure 9-11).~~

~~(C) Modifications of Grade Not Permitted: No person shall modify the grade for the purpose of increasing the permitted height of a fence, wall, or hedge. If there is evidence that a modification to the grade has occurred which results in lowering or increasing the height measurement, the city manager may consider any information to determine the unaltered grade. The manager will use this information to determine the appropriate maximum height of the fence or wall, which shall be the functionally equivalent height if such changes to the grade had not been made.~~

(2) Exceptions:

~~(A) Fences on Retaining Walls: For the purposes of complying with applicable codes for safety, a fence or guard not exceeding forty-two inches in height may be placed on or within three feet of a retaining wall regardless of the combined fence and retaining wall height, provided the fence and retaining wall are located on the same property (see Figure 9-12).~~

~~(B) Fences and Walls located on or within three feet of a property line: A fence, wall, hedge or any combination thereof located within three feet of each other and located on or within three feet of a property line, may be permitted up to a maximum of 12 feet in height, provided that the abutting~~

property owners are in joint agreement and the height does not exceed seven feet when measured from the highest elevation of grade within three feet of either side of the property line. In no event shall such a fence, wall, hedge or combinations thereof exceed twelve feet in height (see Figure 9-13).

(C) Athletic Facilities: Fencing around athletic facilities, including, without limitation, tennis courts, may be ten feet in height so long as all portions above seven feet are constructed with at least fifty percent non-opaque materials.

(D) Noise Barriers Along Major Streets: Along any of the major roads shown in appendix A, "Major Streets," of this title, a fence or wall over seven feet in height may be approved by the city manager as part of a comprehensive noise barrier system.

(E) Garden arbors and Trellises: Garden arbors and trellises attached to a fence or wall are not subject to the standards of this section, but are subject to the accessory structure standards in Table 7-1 of Section 9-7-1, "Schedule of Form and Bulk Standards," and Section 9-7-3, "Setback Encroachments," B.R.C. 1981.

(F) Temporary Fences: A temporary fence on a construction site may be as high as required to protect the property during the period of construction.

(c) Fence and Wall Height: No fence or wall shall exceed seven feet in height, except as otherwise permitted by this section. A fence or wall shall be measured as follows:

(1) Height Measurement – Generally: The height of a fence or wall shall be measured from the finished grade directly beneath a fence or upon which a wall is located. (See Figure 9-10 of this section.)

(2) Fences on Retaining Walls: A fence located on or within three feet of a retaining wall, where both the fence and retaining wall are on the same property, shall not exceed a combined height of seven feet (see Figure 9-11 of this section), except that:

(A) Fence and Retaining Wall on Property Line: The combined height of a retaining wall and fence or a fence, located on or within three feet of a property line, may exceed seven feet when the abutting property owners are in joint agreement. (See Figure 9-12 of this section.) The fence shall not exceed an individual height of seven feet when measured from the highest elevation of grade within three feet of either side of the property line. (See Figure 9-13 of this section.) In no event shall such a fence exceed twelve feet in height. (See Figure 9-14 of this section.)

(B) A fence not exceeding forty-two inches in height may be placed on a retaining wall regardless of the combined fence and retaining wall height.

(3) Fences on Berms or Mounds: A fence or wall located on a berm or mound shall include the height of the berm or mound directly beneath the fence and above natural grade in the overall height measurement.

(4) Temporary Fences: A temporary fence on a construction site may be as high as required to protect the property during the period of construction.

(5) Modifications of Grade: No person shall modify the grade for the purpose of increasing the permitted height of a fence or wall. If there is evidence that a modification to the grade has occurred which results in lowering or increasing a fence or wall height, the city manager may consider any information to determine the unaltered grade. The manager will use this information to determine the appropriate maximum height of the fence or wall, which shall be the functionally equivalent height if such changes to the grade had not been made.

(6) Athletic Facilities: Fencing around athletic facilities, including, without limitation, tennis courts, may be ten feet in height so long as all portions above seven feet are constructed with at least fifty percent non-opaque materials.

(7) Noise Barriers Along Major Streets: Along any of the major roads shown in appendix A, "Major Streets," of this title, a fence or wall over seven feet in height may be approved by the city manager as part of a comprehensive noise barrier system.

(8) Modifications: The requirements of this section may be modified by the city manager subject to the provisions of subsection 9-9-7(d), or section 9-2-3, "Variances and Interpretations," B.R.C. 1981. Decisions by the city manager may be appealed to the BOZA.

(d) Other Fences: Electric or Barbed Wire Fences

- (1) ~~Electric or Barbed Wire Fences:~~ No barbed wire or other sharp, pointed, or electrically charged fence may be erected or maintained except as follows:
- (A) Temporary Construction Fences: A temporary fence on a site to protect the property during the period of construction which has an active building permit may be topped with barbed wire where the barbed wire is not less than eight feet above the ground and does not extend more than two feet above the temporary fence;
 - (B) Fences to Contain Livestock: in the A district, a barbed wire or electrically charged fence may be permitted provided it is used as an internal fence, not on the periphery of the property, to contain livestock;
 - (C) Location of Electric Fences: Electric fences may be permitted in the A district when used as an internal fence not on the periphery of the property to contain livestock, and in the A, RR, RE, and RL districts, as an internal fence not on the periphery of the property to protect crops and plantings. No person shall maintain an electric fence without a fence permit. All such electric fencing must meet the following requirements:
 - (i) Controllers are approved by Underwriters Laboratories and so designated on an attached label;
 - (ii) Electric fencing may not be located within five feet of the periphery of the property and must be located interior to a nonelectric fence which completely encloses the yard;
 - (iii) Electric fencing may not be located in a ~~required yard abutting a street landscaped setback~~ nor in a required sight triangle, as prescribed in Section 9-9-7, "Sight Triangles," B.R.C. 1981; and
 - (iv) Electric fencing may not inhibit access by emergency equipment and operators thereof; and
 - (D) Location of Barb Wire Fences: In the B, IM, IG, IS, and P districts, a fence or wall set back at least twelve feet from the property line may have barbed wire if it is not less than eight feet above the ground and does not extend more than two feet above the fence or wall, notwithstanding the requirements of subsection (c) of this section.

(e8) Modifications Variances and Interpretations: The requirements of this section may be ~~modified~~ varied by the city manager subject to the provisions of subsection 9-9-7(d), ~~or~~ and section 9-2-3, "Variances and Interpretations," B.R.C. 1981. Decisions by the city manager may be appealed to the BOZA.

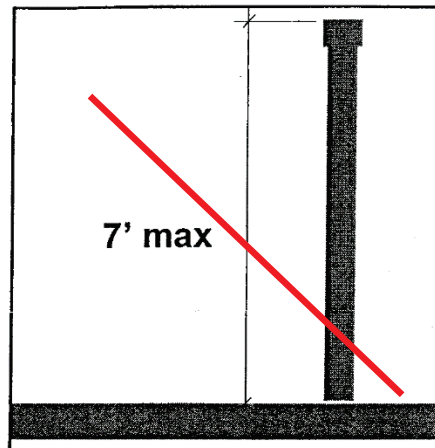


Figure 9-10: Level Grade

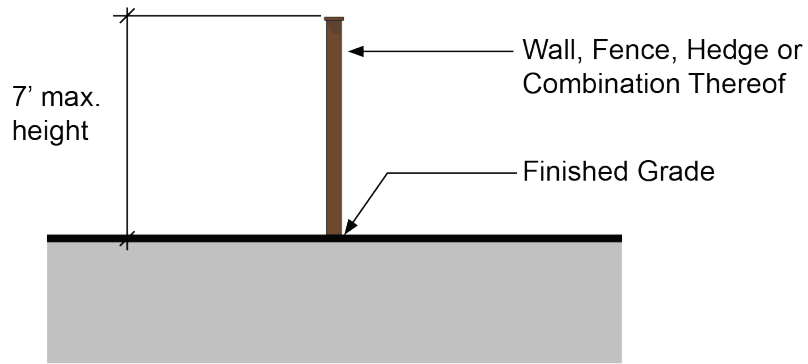


Figure 9-10: Height of Fence, Wall, Hedge, or Combination Thereof

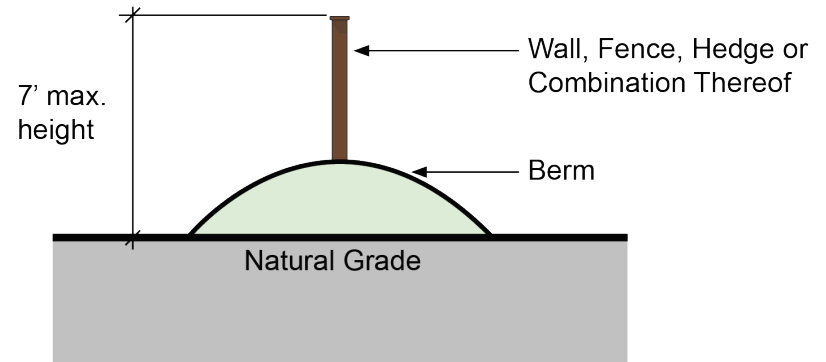


Figure 9-11: Fences on Berms or Mounds

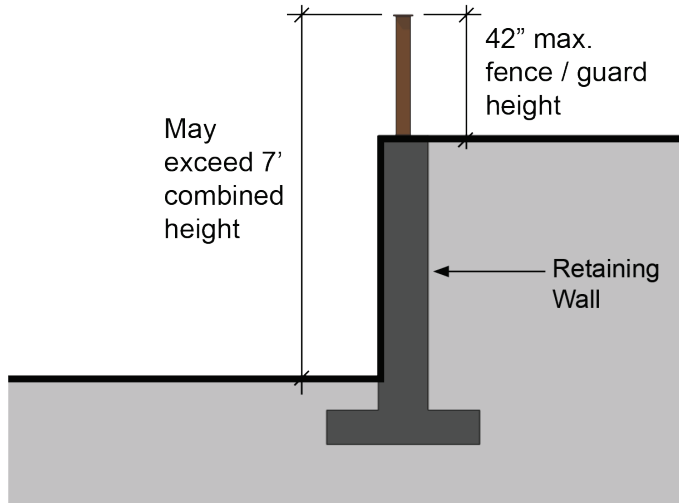


Figure 9-12: Exception - Fences on Retaining Walls

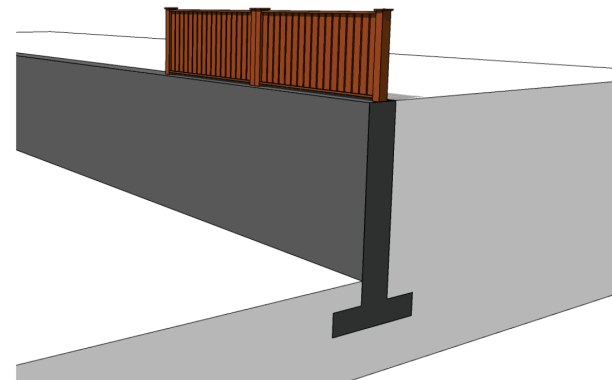
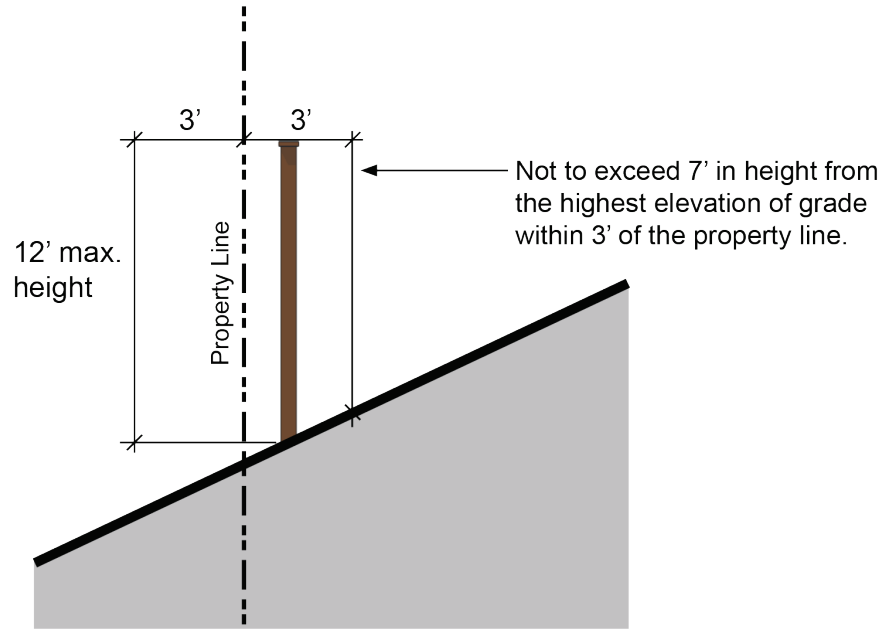
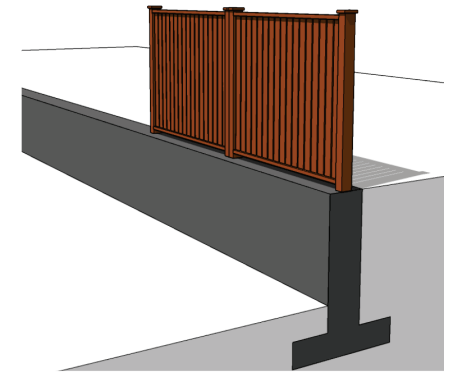
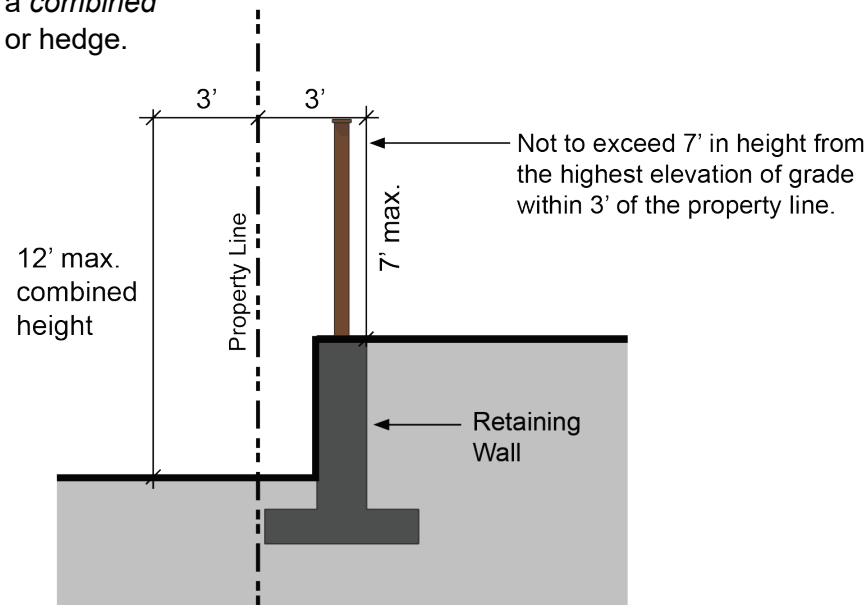


Figure 9-13: Exception – Fences or Walls Located on Within Three Feet of a Property Line (requires abutting owners' permission).

Example of an *individual* fence, wall, or hedge.



Example of a *combined* fence, wall, or hedge.



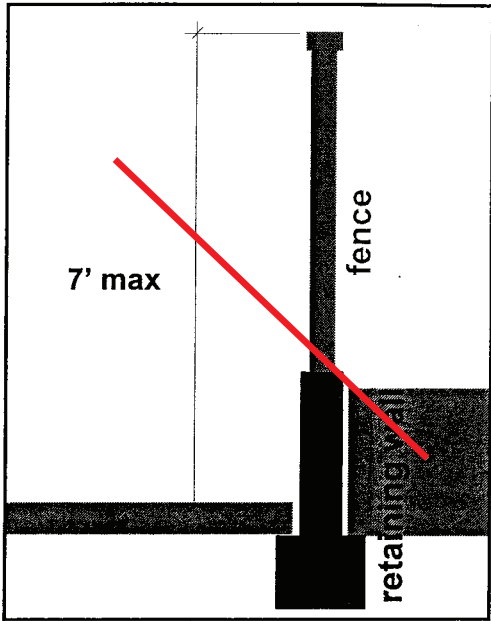


Figure 9-11: Fence on Retaining Wall

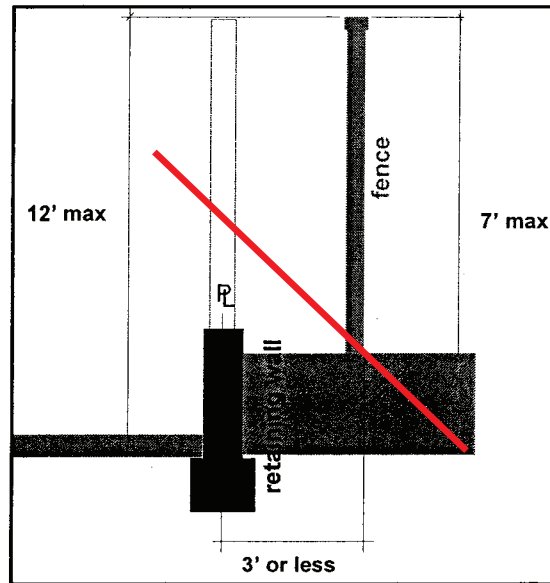
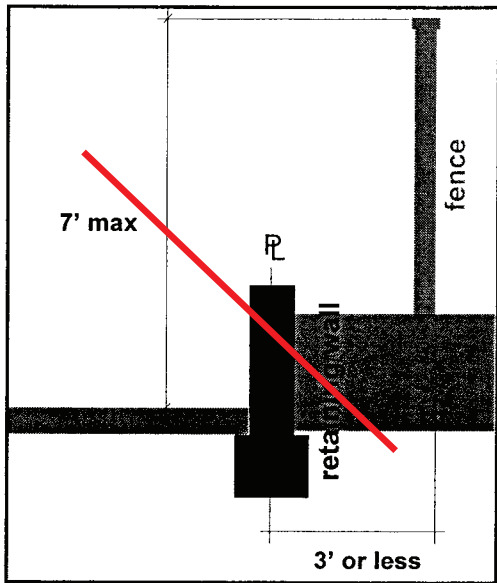


Figure 9-12: Fence on or Within Three Feet of Retaining Wall — Figure 9-13: Fence Within Three Feet of Retaining Wall (Adjacent Owner Permission Required)

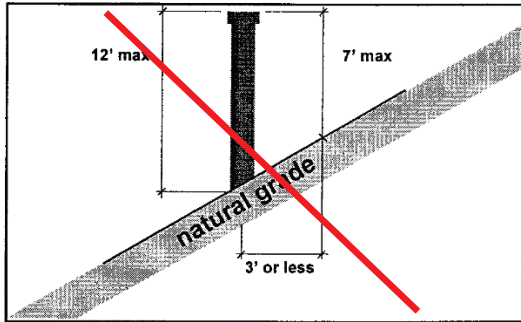


Figure 9-14: Fence on Grade (Adjacent Owner Permission Required)

Reason for change: This change simplifies the wording, corrects inconsistencies, and makes it clearer to understand the requirements for fences in relation to retaining walls, and property lines. The graphics have also been updated for legibility and to more accurately depict the regulations.

Garden arbors or trellises criteria has been added to alert applicants that those elements are considered accessory structures and are subject to those respective standards.

Subsection 9-9-15(d)(1)(C)(iii) is updated to use the term “landscape setback” which is already defined in the code and should be used.

40

Reference applicable definitions in Outdoor Lighting section and remove unnecessary lighting definition from 9-16-1, General Definitions.

Paragraph 9-9-16, “Outdoor Lighting,” B.R.C. 1981, should be amended as follows:

(c) Scope: This section shall apply to all exterior lighting, including illumination from outdoor signs that impact the outdoor environment. No person shall install any light fixture unless such fixture meets the requirements of this section. If an existing light fixture is removed, it shall only be replaced with a conforming light fixture. Chapter 9-16, “Definitions,” B.R.C. 1981, contains specific definitions applicable to the implementation of this section, including but not limited to “Control”, “Full cut-off light fixture”, “Fully shielded light fixture”, “Glare,” “Illuminance”, “Light bulb”, “Light fixture”, “Luminaire”, “Light pollution”, “Light trespass”, “Lumen”, “Luminaire,” “Maximum allowable light level”, “Maximum lumen rating”, “String of lights”, “Uniformity ratio” and “White light source”.

9-16-1. - General Definitions, B.R.C. 1981, should be amended as follows:

~~Fully shielded from view means that the light emitted by a light fixture is not visible from adjacent streets and properties.~~

Reason for change: In the spirit of section 9-8-2(d) that includes specific reference to definitions applicable to intensity standards, the proposed sentence would alert users to applicable definitions to the Outdoor Lighting standards.

Additionally, the defined term “Fully shielded from view” should be removed from 9-16-1, General Definitions, as this term is no longer used within the land use code.

41 Clarify Solar Access variance process consistent with practice.

Paragraph 9-9-17(f)(5), “Solar Access,” B.R.C. 1981, should be amended as follows:

- (5) ~~Referral or~~ Appeal of City Manager's Decision: The city manager ~~may refer the application~~ ~~decision may be appealed~~ ~~or the city manager's decision may be appealed by the applicant~~ to the BOZA pursuant to the procedures of [section 9-4-4](#), "Appeals, Call-Ups and Public Hearings," B.R.C. 1981. Public notification of the hearing shall be provided pursuant to [section 9-4-3](#), "Public Notice Requirements," B.R.C. 1981. The sign posted shall remain posted until the conclusion of the hearing.
- (6) Review Criteria: In order to grant an exception, the approving authority must find that each of the following requirements has been met:
- (A) Because of basic solar access protection requirements and the land use regulations:
- (i) Reasonable use cannot otherwise be made of the lot for which the exception is requested; ~~or~~
 - (ii) The part of the adjoining lot or lots that the proposed structure would shade is inherently unsuitable as a site for a solar energy system; or
 - (iii) Any shading would not significantly reduce the solar potential of the protected lot; and
 - (iv) Such situations have not been created by the applicant;

Reason for change: Clarifies that applications can be appealed by the applicant or referred by the city manager as opposed to neighbor appeals or call ups which is not the intent nor how applications have been processed. Should neighbors have concerns with a proposal, the staff reviewer has discretion to refer applications for BOZA consideration.

42 Remove the Swimming Pool, Spas and Hot Tub regulations from the Development Standards. (see Change #14 above)

Paragraph 9-9-19, “Swimming Pools, Spas, and Hot Tubs,” B.R.C. 1981, should be amended as follows:

9-9-19. ~~Reserved. Swimming Pools, Spas, and Hot Tubs.~~

~~A swimming pool, spa, or hot tub may be permitted in any district as an accessory use, subject to the following additional requirements:~~

~~(a) Location: Such use may not be located in any required front yard or side yard abutting a street;~~

~~(b) Fences or Walls Required: All pools, spas, and hot tubs shall be fenced as required by chapter 10-5, "Building Code," B.R.C. 1981.~~

~~(c) Gates or Doors: All gates or doors opening through such enclosures must be equipped with self-closing and self-latching hardware keeping the gate or door securely closed at all times when not in use.~~

Reason for change: Swimming pools are currently regulated by the building code and Section 9-9-19 within the development standards. As the requirements listed in 9-9-19 are effectively zoning setbacks for pools and other building code regulations, staff is proposing to remove section 9-9-19 since the building

code regulations need not be in the land use code and the specific setback requirements for pools would be more appropriate in the Form and Bulk Standards (in this case Section 9-7-2, which includes unique setback standards that are different than the principal and accessory setbacks in Table 7-1.

CHAPTER 10 – NONCONFORMANCE STANDARDS

SUGGESTED CHANGES

43

Clarify in Table 10-2, Maximum Height Formulas, that 25 feet is the minimum permitted height allowed for Nonstandard Lots or Parcels in the RMX-1, RL-1, RE and RR-1, and RR-2 zones.

Section 9-10-3 (b), "Nonstandard Lots or Parcels," B.R.C. 1981, should be amended as follows:

(b) Nonstandard Lots or Parcels:

.....

(2) Maximum Height: The maximum height for a principal building or structure on a nonstandard lot in the RMX-1, RL-1 and RE zoning districts will range from twenty-five feet for a building or structure on a lot which is at or below one-half the minimum lot size of the zoning district up to thirty-five feet for a building or structure on a lot which meets or exceeds the minimum lot size. In RR-1 and RR-2 districts, the maximum height for a principal building or structure on a nonstandard lot shall range from twenty-five feet for a building on a lot which is at or below one-fourth the minimum lot size up to thirty-five feet for a building or structure on a lot which meets or exceeds the minimum lot size. Such lots shall be allowed to have a maximum building or structure height in proportion to the lot area. In the event that an existing building or structure exceeds the height limitations of this paragraph, the applicant shall be permitted to complete a site review to increase the height of the building or structure up to the permitted height in Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981. The permitted heights for the RMX-1, RL-1, RE, RR-1 and RR-2 zoning districts shall be computed as set forth in Table 10-1 of this section and as indicated in appendix C, "Height Restrictions for Nonstandard Lots," of this title.

TABLE 10-1 NONSTANDARD LOT MAXIMUM HEIGHT FORMULAS

Zoning District (standard min. lot size in square feet)	Minimum Lot Size (Square Feet)	Maximum Height Formula
RMX-1 (6,000)	6,000	Height = (nonstandard lot size - 3,000) x .003333 + 25
RL-1 (7,000)	7,000	Height = (nonstandard lot size - 3,500) x .002857 + 25
RE (15,000)	15,000	Height = (nonstandard lot size - 7,500) x .001333 + 25
RR-1; RR-2 (30,000)	30,000	Height = (nonstandard lot size - 7,500) x .000444 + 25

***All nonstandard lots are permitted a principal building height of at least 25 feet.**

Reason to change: The formulas in the existing table can result in zero or negative values when the nonstandard lot size reaches a certain square footage threshold, resulting in confusion for applicants. The proposed change would make clear that nonstandard lots are permitted a maximum height of at least 25 feet, consistent with the regulations in the preceding paragraph 9-10-3(b)(2).

CHAPTER 12 – SUBDIVISION STANDARDS

SUGGESTED CHANGES

44 Update the Subdivision Regulations to reflect current practice and requirements.

9-12-8. - Final Plat.

- (a) A final plat may be submitted at the same time as a preliminary plat.
- (b) In order to obtain city manager review of a final plat, the subdivider shall submit a final plat that conforms to the approved preliminary plat, includes all changes required by the manager or the planning board, and includes the following information:
 - (1) A map of the plat drawn at a scale of no less than one inch equals one hundred feet (and of a scale sufficient to be clearly legible) with permanent lines in ink and whose outer dimensions are twenty-four inches by thirty-six inches on a reproducible Mylar or paper sheet (maps of two or more sheets shall be referenced to an index placed on the first sheet) or electronic format saved as a PDF document using no less than 300 dots per inch (dpi), a font of no less than ten point type, a file size no greater than 100 MB, a drawing size of no more than twenty-four inches by thirty six inches, legible and scalable (to a standard architectural or engineering scale) with a graphic scale bar on each page, and sufficient blank space for recording labels on each sheet.;
 - (2) A one inch equals one hundred foot reduction of the plat; A vicinity map on the title sheet showing at least three blocks on all sides of the proposed subdivision, which may be of a different scale than the plat.;
 - (3) The title under which the subdivision is to be recorded;
 - (4) Accurate dimensions for all lines, angles and curves used to describe boundaries, public improvements, easements, areas to be reserved for public use and other important features. (All curves shall be circular arcs and shall be defined by the radius, central angle, tangent, arc and chart distances. All dimensions, both linear and angular, are to be determined by an accurate control survey in the field that must balance and close within a limit of one in ten thousand. No final plat showing plus or minus dimensions will be approved.);
 - (5) The names of all abutting subdivisions, or, if the abutting land is unplatted, a notation to that effect;
 - (6) An identification system for all lots and blocks and names for streets;
 - (7) An identification of the public improvements, easements, parks and other public facilities shown on the plat, a dedication thereof to the public use and areas reserved for future public acquisition;
 - (8) The total acreage and surveyed description of the area;
 - (9) The number of lots and size of each lot;
 - (10) Proposed ownership and use of outlots;
 - (11) A designation of areas subject to the one-hundred-year flood, the estimated flow rate used in determining that designation, and a statement that such designation is subject to change;
 - (12) A description of all monuments, both found and set, that mark the boundaries of the property and a description of all control monuments used in conducting the survey;

- (13) A statement by the land surveyor that the surveyor performed the survey in accordance with state law;
- (14) A statement by the land surveyor explaining how bearings, if used, were determined;
- (15) The signature and seal of the Colorado registered land surveyor;
- (16) A delineation of the extent of the one hundred year floodplain, the base flood elevation, the source of such delineation and elevation and a statement that they are subject to change;
- (17) The square footage of each lot;
- (18) Certification for approval by the following:
 - (A) Director of planning,
 - (B) Director of public works and utilities,
 - (C) Director of parks and recreation, if park land is dedicated on the plat, and
 - (D) Director of real estate and open space, if open space land is dedicated on the plat;
- (19) Signature blocks for all owners of an interest in the property; and
- (20) A signature block for the city manager's signature.

(c) The subdivider shall include with the final plat:

- (1) Engineering drawings, certified by a professional engineer registered in the State of Colorado, for proposed public and private utility systems meeting the requirements of the City of Boulder Design and Construction Standards;
- (2) An update to the preliminary title report or attorney memorandum based upon an abstract of title current as of the date of submitting the plat;
- (3) Covenants for maintenance of private utilities or improvements, as prescribed by subsection 9-12-12(c), B.R.C. 1981;
- (4) Copies of documents granting any easements required as part of the plat approval, the county clerk and recorder's recording number and proof of ownership of the property underlying the easement satisfactory to the city attorney;
- (5) Evidence that adequate utility services, including electrical, natural gas, telephone and other services, are provided for each lot within the subdivision; and
- (6) Agreements with ditch companies, if needed.

9-12-10. - Final Plat Procedure.

- (a) If the final plat and the required plans, specifications, agreements, guarantees and other documents meet the requirements of this code, the City of Boulder Design and Construction Standards and other ordinances of the City or requirements determined by the city manager to be necessary to protect the public health, safety or welfare, the manager shall approve the final plat (subject to the provisions of subsection (d) of this section) within ninety days of the date of submitting the required documents. The manager shall then execute a subdivision agreement that incorporates the final plat, the undertaking to provide public improvements prescribed by section 9-12-12, "Standards for Lots and Public Improvements," B.R.C. 1981, the undertaking of financial guarantees prescribed by section 9-12-13, "Subdivider Financial Guarantees," B.R.C. 1981, the public improvement warranty prescribed by section 9-12-14, "Public Improvement Warranty," B.R.C. 1981, the subdivider's commitment to provide an update of the preliminary title report or attorney memorandum current as of the date of recording the plat and any other terms and conditions to which the parties agree.
- (b) The applicant shall sign the subdivision agreement and the plat, and shall submit these to the City along with the fees prescribed by subsection 4-20-43(a), B.R.C. 1981, and financial guarantees required by section 9-12-13, "Subdivider Financial Guarantees," B.R.C. 1981.

- (c) The City shall sign the subdivision agreement and the plat, and issue a disposition indicating the date of the plat approval.
- (d) The city manager shall notify the planning board in writing within seven days of the disposition of the final plat application.
- (e) Any person aggrieved by a decision of the city manager to approve or deny an application for a subdivision may appeal such decision to the planning board by filing an appeal with the city manager within fourteen days of the decision. The board shall hear the appeal or call-up of the subdivision application, after giving notice to all interested parties, within thirty days of the notice of appeal or call-up, under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981. The board shall determine whether the subdivision application meets the requirements of this code and other ordinances of the City or those determined by the city manager to be necessary to protect the public health, safety and welfare and shall grant or deny the application.
- (f) The city manager shall sign the city manager certification on all plats of the subdivision following planning board approval, or the expiration of the call-up period, as applicable. Within one week after any conditions of the subdivision agreement required to occur prior to recording have been met, the city clerk shall record all such plats and agreements in the office of the Boulder County Clerk and Recorder **in a form acceptable to the office and consistent with state law.**
- (g) A plat expires if not recorded within twenty-four months after the date it was submitted, unless the city manager extends final plat approval for not more than twelve months upon a showing of good cause.

9-12-13. - Subdivider Financial Guarantees.

- (a) In order to protect the city and prospective purchasers of and residents in a subdivision, except as provided in Subsection (h) of this section, the subdivider shall provide to the city financial security to guarantee the installation of public improvements and other obligations undertaken by the subdivider in the subdivision agreement and the plat and shall record the undertaking to provide the guarantee.
- (b) No building permit shall be issued for any portion of a subdivision for which the required financial guarantee has not been provided.
- (c) The guarantee shall be in an amount to secure the full costs, as determined by the city manager, of constructing or installing the improvements and utilities required in Section 9-12-12, "Standards for Lots and Public Improvements," B.R.C. 1981. The subdivider shall complete such improvements and utilities within eighteen months of the issuance of the first building permit and prior to occupancy of any structure abutting the improvements. The manager may extend the required time period for completion to be consistent with phasing of construction of structures, or the manager may reduce the time upon a determination that, under generally accepted engineering principles, any or all of the improvements are required within a shorter time to protect the health, safety, and welfare of the residents of the subdivision.
- (d) The city manager shall annually review the guarantee to assure that it meets the full current cost of constructing the improvements whose installation it secures and may require the subdivider to amend the guarantee to meet such current costs.
- (e) If the improvements are not completed according to the subdivision agreement or the plat within the time required by Subsection (c) of this section, the city may complete the improvements and collect against the guarantor for their full cost of construction and installation.
- (f) The subdivider's financial guarantee may be any of the following:
 - (1) An escrow of funds with the city;
 - (2) An escrow with a bank or savings and loan association upon which the city can draw as provided in this section;
 - (3) An irrevocable clean sight draft or letter of commitment upon which the city can draw as provided in this section, **or**
 - ~~(4) A performance bond for the benefit of the city upon which the city can collect as provided in this section; and~~
 - (54)** Any other form of guarantee approved by the city manager that will satisfy the objectives of this section.
- (g) Whenever the city receives financial guarantees in the form of the escrow of funds, the city shall take such measures as it deems appropriate to ensure that such funds are maintained in a secure manner. Any interest earned on such funds while they are controlled by the city shall accrue to the sole benefit of the city to be used, in part, to offset administrative costs associated with the management and tracking of such funds. However, the city shall pay interest

to existing escrow account holders who provided financial guarantees to the city in the form of escrows of funds prior to July 1, 1998. As to those existing escrow funds, interest shall be paid at a rate of return to be determined by the city manager on an annual basis in light of those rates of interest typically being paid by local financial institutions on regular passbook accounts. Upon request, persons who deposited escrow funds prior to July 1, 1998, shall be permitted to substitute another acceptable form of financial guarantee, as provided by this chapter, for the escrow funds currently on deposit with the city.

- (h) The city manager may allow construction of public improvements without the financial guarantee prescribed by this section if the manager approves the plans for such improvements and if the subdivider does not request building permits or sell the property until after the city's final construction acceptance of the improvements.

9-12-14. - Public Improvement Warranty.

- (a) The subdivider shall warrant all public improvements, private improvements in lieu of public improvements and utilities for two years after acceptance by the city and shall secure the two-year warranty ~~through a financial guarantee meeting section 9-2-13(f) above by an insurance policy, bond or letter of credit~~, from a surety or financial institution and in a form acceptable to the city manager, payable to the city as beneficiary, in an amount adequate to replace or repair twenty percent of the total value of all of the improvements if they are damaged or become inoperable during the warranty period.
- (b) If the city manager determines that any such public or other improvements or utilities need repair or replacement, the manager shall so notify the subdivider. The manager shall not approve any other development applications from or improvements constructed or installed by the subdivider until the subdivider satisfactorily repairs or replaces the defective improvements.
- (c) If the subdivider fails to repair or replace any such public or other improvements or utilities after notice, the city manager may cause the work to be performed and charge the costs against the ~~financial guarantee insurance policy, bond or letter of credit~~. If the amount of the ~~financial guarantee policy, bond or letter of credit~~ is less than the cost of repair or replacement the difference shall be due and payable to the city by the subdivider. If any letter of credit is due to expire before the end of the warranty period, and is not replaced no less than sixty days before its expiration with another letter of credit which is valid until the end of the warranty period or for an additional year, whichever is less, the city manager shall call the letter of credit and shall hold the funds thereby received in a separate account, and shall return such funds as are not expended or to be expended for warranty work to the subdivider at the end of the warranty period.

Reason for change: Subsection (b)(2) requires that a “reduction” of the plat be provided at the same scale (1” = 100’) as the plat itself, which does not make sense. The minimum plat scale is specified in subsection (b)(1). As the requirement is the same as preliminary plat, staff is just suggesting that the same language requirement for the vicinity map be added to the final plat section to remove the erroneous requirement. Changes to the final plat requirements related to allowing electronic filing and updates to the financial guarantee section are also proposed and described as follows:

- A. Final plat requirements are proposed to be amended so as to allow filing of electronic format plats. This is consistent with the policies of the County Clerk and Recorder’s office which encourages electronic recording of documents.
- B. Performance bond is not a strong form of guarantee. The city has not accepted that form of guarantee for years. That is why it is proposed to be deleted.

CHAPTER 16 – DEFINITIONS

SUGGESTED CHANGES

45 Clarify the definition of Accessory Sales.

Chapter 9-16, “Definitions,” B.R.C. 1981, should be amended as follows:

Accessory sales means incidental retail sales ~~in a nonresidential zone zoning districts where retail sales are not otherwise permitted, where sales do~~ not exceeding fifteen percent (twenty-five percent in an IS zone) of the gross floor area ~~of the principal use and are permitted~~ if the products sold are directly related to the principal use. Examples, art work sold at an artist's studio, convenience goods in a hotel or motel, health care products sold by a healing arts practitioner, or a factory outlet store selling products manufactured on the site.

Reason for change: The current definition does not specify if the floor area is calculated per the use or site. If based on sites, sites with multiple uses would impact each others ability to meet this definition. It is not the intent of the code to have this be other than as applied to an individual use and the proposed change clarifies this.

46

Clarify that atriums as used in the floor area definition do not count as floor area, but high-volume spaces within detached dwelling units do count if 16 feet or more in height.

Chapter 9-16, "Definitions," B.R.C. 1981, should be amended as follows:

Atrium means an opening through at least one floor level of a building, ~~excluding detached dwelling units~~, that is enclosed on all sides and by the roof or upper floors of the building, but excluding a stairway, elevator, or other space for mechanical equipment.

Other relevant section-

9-8-2(e), B.R.C. 1981-

(e) District-Specific Standards:

(1) Maximum Floor Area in the RR-1, RR-2, RE, RL-1, RL-2, and RMX-1 Zoning Districts:

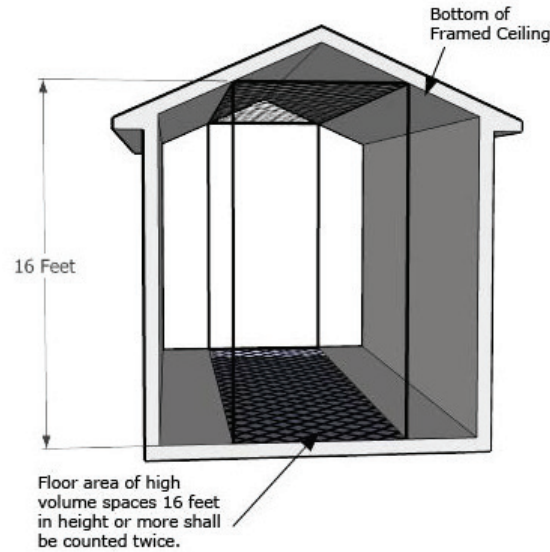
- (A) Purpose: The purpose of a floor area ratio standard is to address the proportionality of building size to lot size and allow variation in building form within the established building envelope.
- (B) Scope: All construction related to principal and accessory buildings shall comply with the floor area ratio requirements of this section. This section applies to all construction related to residence buildings, including new construction, building additions, or modification of existing buildings as follows:
 - (i) All residential and principal and accessory buildings in the RR-1, RR-2, RE, and RL-1 zoning districts, including lots located in planned developments, planned residential developments, and planned unit developments.
 - (ii) All principal and accessory buildings that are used as a detached single-family land use in the RMX-1 zoning district, including lots located in planned developments, planned residential developments, and planned unit developments.
 - (iii) In the RL-2 zoning district, the floor area ratio requirements shall apply to lots that are 8,000 square feet or larger, used for detached single-family land uses that are not within the boundaries of a planned development, planned residential development, planned unit development, or an approved site review.
 - (iv) In the RL-2 zoning district, the floor area ratio requirements shall apply to all lots and parcels used for detached single-family land use that are within the boundaries of a planned development, planned residential development, and planned unit development that are shown on Appendix H to this title.
 - (v) For projects subject to site review in Section 9-2-14, "Site Review," B.R.C. 1981, the floor area shall be calculated based upon each dwelling unit that is proposed for the property. Each dwelling unit within a development shall not exceed the floor area ratio that is specifically associated with the land area for such dwelling unit as part of a site review.

(C) Maximum Floor Area Permitted: The maximum floor area shall be the floor area that is in Table 8-3, "Maximum Floor Area Ratio for Residential Land Uses."

.....

(ii)

The floor area of a high volume space where the distance between any floor and the bottom of the framed ceiling directly above it is sixteen feet or more shall be counted twice. If the distance between any floor and the bottom of the framed ceiling above it is twenty-six feet or more, the floor area shall be counted three times. Up to 150 square feet of a stairwell shall not be considered a high volume space subject to the requirements of this paragraph.



Reason for change: There is a current ambiguity in the code relative to atriums and high-volume spaces. Section 9-8-2(e), B.R.C. 1981, was added to the code as part of the Compatible Infill Development project to ensure that high volume spaces within single-family homes were included in floor area if they added to the mass of the building. Atriums, per the floor area definition, which are customarily within multi-family, commercial or industrial buildings, were intended to not count as floor area. This code change would clarify that the atriums stated in the floor area definition do not apply to high volume spaces in single-family dwellings.

47

Clarification that breezeways count in the maximum building coverage limitations, corresponding update to the *Building Coverage* definition (see also proposed Code Change # 23).

Chapter 9-16, "Definitions," B.R.C. 1981, should be amended as follows:

Building coverage means the maximum horizontal area within the outer perimeter of the building walls, dividers, or columns at ground level or above, whichever is the greater area, including, without limitation, **breezeways**, courts and exterior stairways, but excluding:

- (1) Uncovered decks, stoops, patios, terraces, and stairways, all less than thirty inches high;

- (2) The outer four feet of completely open, uncovered, cantilevered balconies that have a minimum of eight feet vertical clearance below;
- (3) Up to three hundred square feet of a single-family detached residence front porch that is adjacent to a street;
- (4) Up to one hundred fifty square feet of additional porch area not located in the front yard for a single-family detached residence; **and**
- (5) One accessory building, no larger than eighty square feet in size and no taller than ten feet in height, associated with a single-family detached residence. **and**
- (6) **Up to a maximum of thirty inches of a roof or breezeway overhang.**

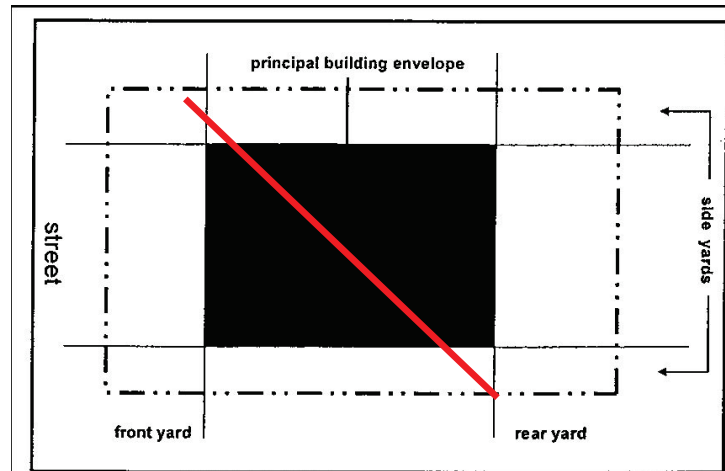
Reason for change: Building coverage is calculated by the footprint of a structure and does not include areas under the eave lines of buildings. While this has been the practice in building permit review, it is not expressly clear in the code. This change would make it clear. The allowable 30-inch overhang language for setback encroachments, as expressed in Section 9-7, is used as a limitation. Portions of eaves that go over 30 inches would be included in building coverage.

48

Remove the term “modify” with respect to variances in the definition of building envelope and update the figure showing what is included in the building envelope.

Chapter 9-16, “Definitions,” B.R.C. 1981, should be amended as follows:

Building envelope means that area on a lot on which a structure can be erected consistent with existing setback requirements that is defined by the setback lines applicable to that lot consistent with the underlying zoning district, or **as modified** pursuant to a variance, a site review, or prior city approval. (See Figure 16-2 of this section.)



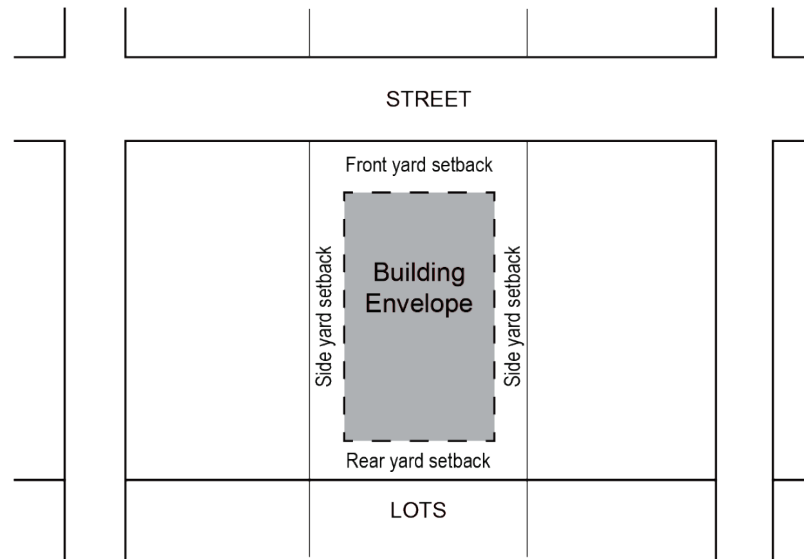


Figure 16-2: Building Envelope (General)

Reason for change: Variances are hardship based and subject to criteria that “vary” standards. Site Reviews are not hardship based and are based on “modifications” to standards based on meeting the qualitative criteria of the Site Review section. Using the word modification as applied to variances and Site Review is thus, inconsistent with other usage in the code and is suggested for removal. An update to the graphic clarifying building envelope is also included.

49 Clarify that carports can only be one-story.

Chapter 9-16, “Definitions,” B.R.C. 1981, should be amended as follows:

Carport means a **single-story** covered building for the shelter of vehicles that is not enclosed on more than two sides.

Reason for change: Car ports are intended to be small, one-story structures that are not fully enclosed that do not substantially add to the mass and bulk of a site. These aspects enable it to be located closer to the street than other enclosed structures. Requiring that it not be more than one-story would further reduce any visual impact of carports in their allowable location near the street.

50 Amend the definition of “setback, landscaped” to explicitly prohibit below-grade construction that conflicts with the purpose of the landscape setback.

Chapter 9-16, “Definitions,” B.R.C. 1981, should be amended as follows:

Setback, landscaped means **the minimum distance in linear feet measured on a horizontal plane between the outer perimeter of a structure, above and below grade, a required setback- and its lot lines** that is intended to be used exclusively for landscaping purposes.

Reason to change: Currently, setbacks only apply to above-grade structures, which allows below grade construction including parking garages and living space to be built to the property line. Such below-grade construction inhibits the growth of healthy trees and plant material in front yards by eliminating necessary soil volume, resulting in poor quality streetscapes and frequent tree replacements. The proposed change would make clear that below grade construction is not permitted in the landscape setback (the setback along public streets).

51 Clarify that tap room and tasting room areas of breweries include outdoor seating areas.

Chapter 9-16, "Definitions," B.R.C. 1981, should be amended as follows:

Taproom means a use associated with and on the same premises as a brewery, including any outdoor seating areas, at which where guests may sample the manufacturer's products and consume other nonalcoholic beverages.

Tasting room means a use associated with and on the same premises as a winery or distillery, including any outdoor seating areas, at which where guests may sample the manufacturer's products and consume other nonalcoholic beverages.

Other relevant sections:

Chapter 9-16, "Definitions," B.R.C. 1981-

Brewery means a use with a manufacturer or wholesaler license issued under § 44-3-401, et seq., C.R.S., and does not include any retail type liquor license under § 44-3-309, et seq., C.R.S., on the lot or parcel, that is primarily a manufacturing facility, where malt liquors are manufactured on the premises, that may include a tap room that is less than or equal to thirty percent of the total floor area of the facility or one thousand square feet, whichever is greater.

Chapter 9-6-6(b)(3-54), "Use Standards," B.R.C. 1981-

(3-54) Restaurants in Breweries, Distilleries, and Wineries: The following criteria will apply to any restaurant use located in a brewery, distillery, or winery in an industrial district:

- (A) The restaurant shall be limited to a maximum size of thirty percent of the total floor area of the facility, or one thousand square feet, whichever is greater, including any outdoor seating areas or accessory sales areas;
- (B) Parking for the restaurant shall meet the parking requirements for restaurants, brewpubs, or taverns in Section 9-9-6, "Parking Standards," B.R.C. 1981;
- (C) The use may operate daily between the hours of 5 a.m. and 11 p.m.; unless the extended hours are approved through a use review process; and
- (D) If the restaurant requires a use review, the applicant shall demonstrate that it meets use review criteria in Paragraphs 9-2-15(e)(1), (3), (4), and (5) "Use Review," B.R.C. 1981, as well as the use standards in Paragraph (b)(4) for outdoor seating areas within 500 feet of a residential use module.

(45) Restaurants, Brewpubs, and Taverns With Outdoor Seating Within 500 Feet of a Residential Use Module:

....

...

Table 6-1 Use Table

Use Modules	Additional References
Breweries, distilleries or wineries	9-6-6(b)(3-54)

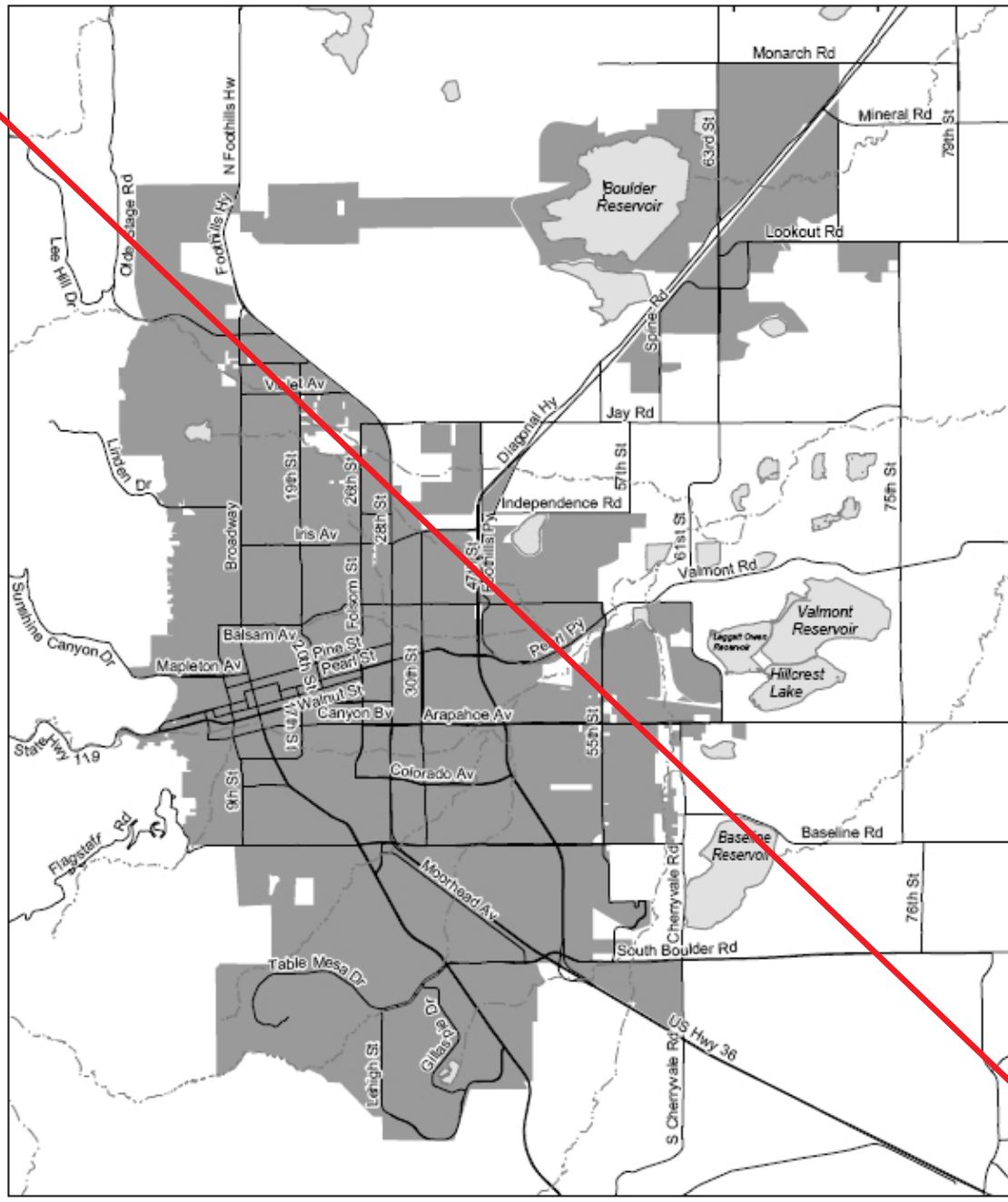
Table 6-3 Use Limitations

L 7	Allowed by right for 15,000 square feet or less of floor area per use and without a restaurant. If the use exceeds 15,000 square feet in floor area, the use may be approved pursuant to a conditional use review if it meets the criteria of Paragraph 9-6-6(b)(3-54), B.R.C. 1981.
L 8	Allowed by right for 15,000 square feet or less of floor area per use and without a restaurant. If the use is less than or equal to 15,000 square feet in floor area and has a restaurant, the use may be approved pursuant to a conditional use review if it meets the criteria of Paragraph 9-6-6(b)(3-54), B.R.C. 1981. If the use exceeds 15,000 square feet in floor area, it requires use review.
L 9	Allowed by right for 15,000 square feet or less of floor area per use and without a restaurant. If the use is less than or equal to 15,000 square feet in floor area and has a restaurant, the use may be approved pursuant to a conditional use review if it meets the criteria of Paragraph 9-6-6(b)(3-54), B.R.C. 1981. The use is prohibited to exceed 15,000 square feet.

Reason for change: The size of taprooms within breweries, distilleries and wineries are limited to no more than 30% of a facilities floor area in order to ensure the use remains predominantly industrial. The current definition assumes enclosed floor area and does not include outdoor seating areas which under current code, are effectively unlimited and could significantly exceed the floor area of what is intended as a primarily industrial use. This change will clarify through changes to the *taproom* and *tasting room* definitions that *outdoor seating* are included in the floor area for tap rooms. This is consistent with the interpretation applied to restaurants in the same uses which include outdoor seating as enumerated above. Accessory sales areas is proposed to be removed from the limitations for Restaurants in breweries, wineries, distilleries - as accessory sales are already regulated as accessory use to the principal brewery, winery, or distillery use, and therefore should not be counted against the secondary restaurant use.

APPENDIX A- MAJOR STREETS

52 Update Appendix A Major Streets map to be more legible.

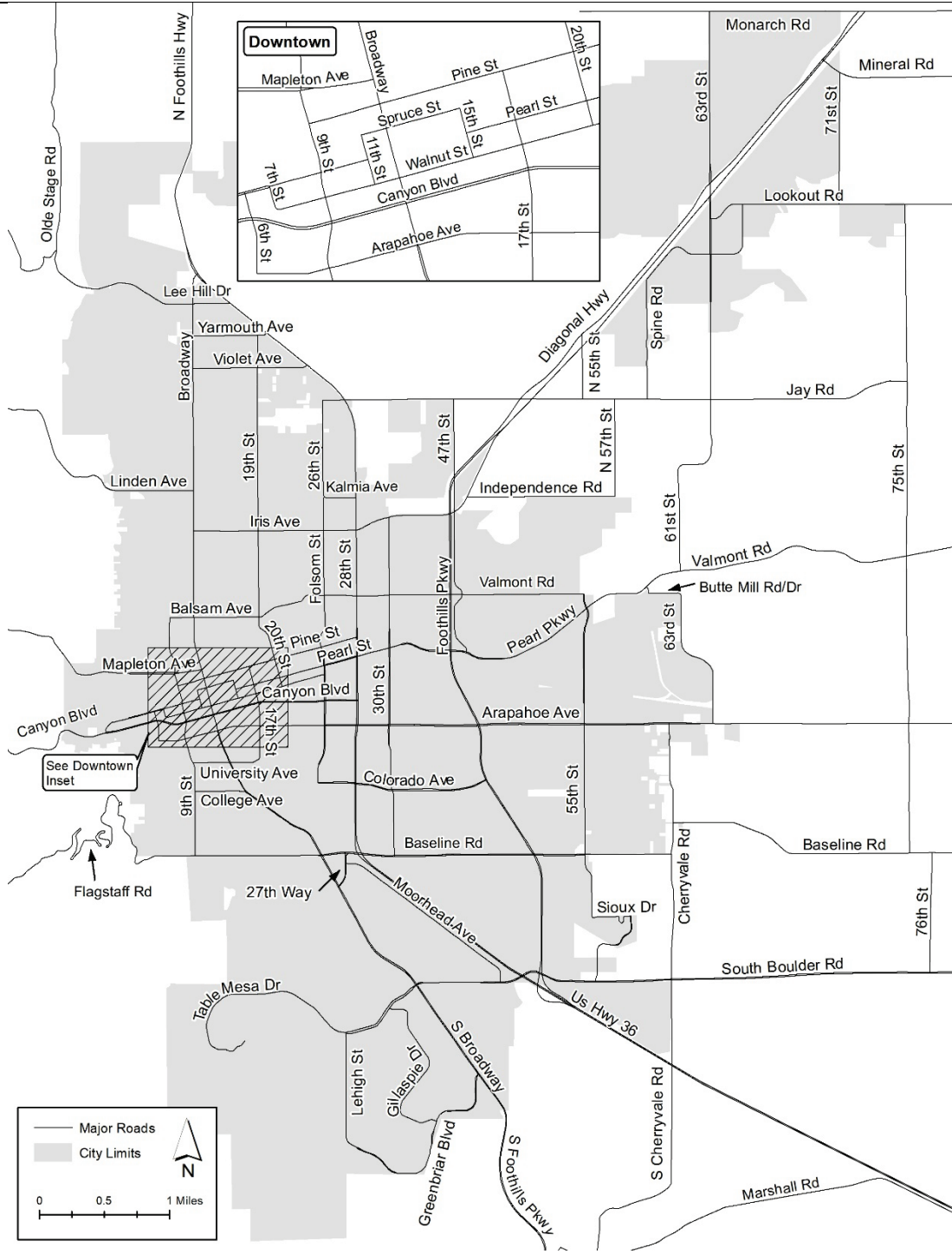


Legend

- Boulder, City Limits
- Roads
- Creeks
- Major Lakes

0 0.5 1 Miles





APPENDIX M. – FORM-BASED CODE

SUGGESTED CHANGE

53 Clarify the scope and allowed minor modifications to Form-Based Code Reviews.

Section 9-2-16(j), B.R.C. 1981, should be amended as follows:

- (j) Minor Modifications to Approved Form-Based Code Reviews: ~~Up to a total of five cumulative m~~Modifications to the site plan, building s plans, landscaping and parking plans previously approved through a form-based code review application may be approved by the city manager without requiring an amendment to the approved form-based code review if such changes are minor. All minor modifications shall be noted, signed, and dated on the approved form-based code review plans. For proposed minor modification of form-based code review projects that are partially or totally developed, the applicant shall provide notice to any owners of property within the development that might be affected, as determined by the manager. ~~The following standards apply to minor modifications: In determining whether a proposed is a minor modification, the following standards shall apply:~~
- (1) ~~On a street facing façade, the following shall be met:~~
- ~~i) Window sizes, types, and dimensions are not shifted by more than 10 feet in either direction per floor, transparency requirements are not reduced by more than 10 percent of the approved percentage and required minimum transparency per floor is maintained, and the general pattern of the windows is not substantially altered from the form-based code review approval;~~
 - ~~ii) The approved total percentage of major materials is not reduced; and~~
 - ~~iii) Building bay configurations may be shifted or transposed, if otherwise consistent with these criteria.;~~
- (2) ~~The No~~ modification ~~does not~~ or cumulative modifications from the form-based code review approval results in an expansion or shifting of floor area by more than ten percent ~~of the floor area of the project.;~~
- (3) ~~The sum of all cumulative modifications to the site plan, building plans, landscaping and parking plans approved under this subsection (j) does not exceed ten modifications per building and may be considered under one or more minor modification applications so long as ten modifications per building is not exceeded. For the purposes of this subsection, one modification shall mean one aspect of the design that is changing in respect to an Appendix M standard and not every individual change (For example, one particular dimensional change applied to ten windows shall count as one modification, not ten modifications.); and~~
- (34) ~~The All~~ modifications ~~is are~~ consistent with the requirements of Appendix M, "Form-Based Code," and ~~does~~ not include ~~any exception requests. for an exception.~~

Reason for change: The current criteria are too rigid and unclear. The proposed change would make the criteria more explicit about what can be changed and also adds more flexibility by allow up to 10 changes from the FBC Review approval, where it was only 5.

53 Amend the allowable impervious percentage of 65% to 70% for the General Building Type.

Section M-1-17, B.R.C. 1981, "General Building Type", B.R.C. 1981, should be amended as follows:
 Refer to M-1-6 Regulating Plans for the locations of buildings in the form-based code areas.

		BOULDER JUNCTION PHASE I	REFERENCES/ADDITIONAL REQUIREMENTS
BUILDING SITING Refer to FIGURE M-1 (21).			
1	Minimum Type A Frontage Build-to Zone Coverage	90% required	One courtyard, maximum of 30% of facade width or 30 feet wide, whichever is less, may count towards Type A frontage build-to zone coverage.
2	Type A Frontage Build-to Zone	5' to 10' from minimum streetscape, see note right	Build-to zones are measured from the outside edge of any public access easement for sidewalk or the right-of-way, if no public access easement for sidewalk is required or exists. Refer to M-1-20(b) for additional information.
3	Type B Frontage Build-to Zone	5' to 10' from minimum streetscape, see note right	
4	Minimum Side Setback	5'; 0' required at paseo or multi-use path	For paseos and multi-use paths, refer to the regulating plans and the Transit Village Connections Plan for locations and details.
5	Minimum Rear Setback	10'; 25' required if no alley; 0' required at paseo or multi-use path	
6	Maximum Building Length along any Public Way	150'	Refer to section M-1-28 for building massing requirements.
7	Maximum Site Impervious Coverage Additional Semi-Pervious Coverage	65% 70% 25%	Refer to Section M-1-8, "Definitions," B.R.C. 1981, for semi-pervious coverage.

Reason for change: The impervious surface percentage maximum was originally set at 65%. However, prior to adoption of the ordinance staff felt the provision was too restrictive in that pervious or semi-pervious surfaces would be roughly 35% which is substantially high and greater than many open space requirements in zones. Staff updated the ordinance to allow 70% impervious which still requires a high amount of pervious and semi-pervious at 30%. Despite this, the change did not translate into the final ordinance. Since adoption, the city has received requests for exceptions to this provision in recent FBC Reviews, and therefore, staff continues to find that the 70% would be appropriate.