

Chapter 17.42
Downtown Overlay District

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17.42.010 Purpose and intent.

The purpose of the Downtown Overlay District (DOD) is to establish architectural, landscaping, design, building, and use and site development regulations that encourage compatible land uses, ensure higher quality development and function in order to protect property values and provide safe and efficient pedestrian and automobile access. These architectural, landscaping, design, building, use and site development criteria can encourage quality development through the use of a variety of design and site techniques while continuing to provide for a wide range of economic development opportunities. The term Board as used in this Chapter shall mean the Design Review Board, as established under Section 17.42.090.

17.42.020 Certain regulations inapplicable.

The DOD is intended to encourage mixed-use within the same structure or block and/or high intensity commercial development. Accordingly, a structure or development within the DOD that interfaces with another structure or development within the DOD shall not be required to comply with the provisions of Chapter 17.50, Residential/Non-Residential Interface Regulations; however, such regulations shall be applied to structures or development within the DOD which interface with structures or development outside the DOD.

17.42.030 Relationship to underlying zoning district/sign code/planned development.

A. In the event of a conflict between the entitlements, regulations or standards established in this Chapter and the equivalent provisions in the underlying Zoning Districts, the provisions of this Chapter shall govern. Except in the event such preemption by this Chapter, the underlying Zoning District provisions and all other provisions of the CRMC shall be applicable and enforced within the DOD.

B. For the purpose of applying the Sign Code regulations under Title 19, CRMC in the DOD, the underlying Zoning District classification shall be utilized within the DOD to differentiate between residential and business area regulations.

C. The DOD shall have no application to those properties zoned PD until and unless such properties are rezoned.

17.42.040 Permitted uses.

The uses permitted in the DOD are outlined in Section 17.28.030. These permitted uses shall be allowed on all properties within the DOD in addition to the permitted and accessory uses allowed in the underlying Zoning District:

17.42.050 Prohibited uses.

A. The following uses are not permitted in the DOD even if permitted in the underlying Zoning District:

1. Freestanding radio, television and cell antenna towers. (Such facilities may be incorporated into the design of a building if approved by the Board.)
2. Towing services, trash removal operations, wrecked, junked or abandoned vehicle storage or similar uses.
3. Vehicle, RV, boat and equipment sales and leasing.
4. Automobile body shop/Vehicle, RV, boat and equipment service.
5. No new single-family residential construction is permitted. Existing single-family detached homes are classified as legal nonconforming uses. Structures that were originally constructed as single-family residential units may convert back to single-family residential use.
6. Outdoor storage of merchandise as defined in Section 17.52.150.
7. Uses that involve hazardous processes or emit noxious noise, odors, fumes, or particulates.

17.42.060 Development standards.

The following development standards shall apply within the DOD:

- A. Maximum lot coverage: 100% of lot area.
- B. Minimum side yard: zero feet.
- C. Minimum front yard: zero feet.
- D. Minimum rear yard: zero feet.
- E. Maximum building setback: A minimum of 25% percent of a building's linear footage facing a public roadway must have a setback of zero- to 20-feet with a direct pedestrian connection.

F. Maximum fence height: 10-feet.

G. Multifamily residential units must each be a minimum of 500-square feet in size and must each have an individual kitchen and individual bathroom.

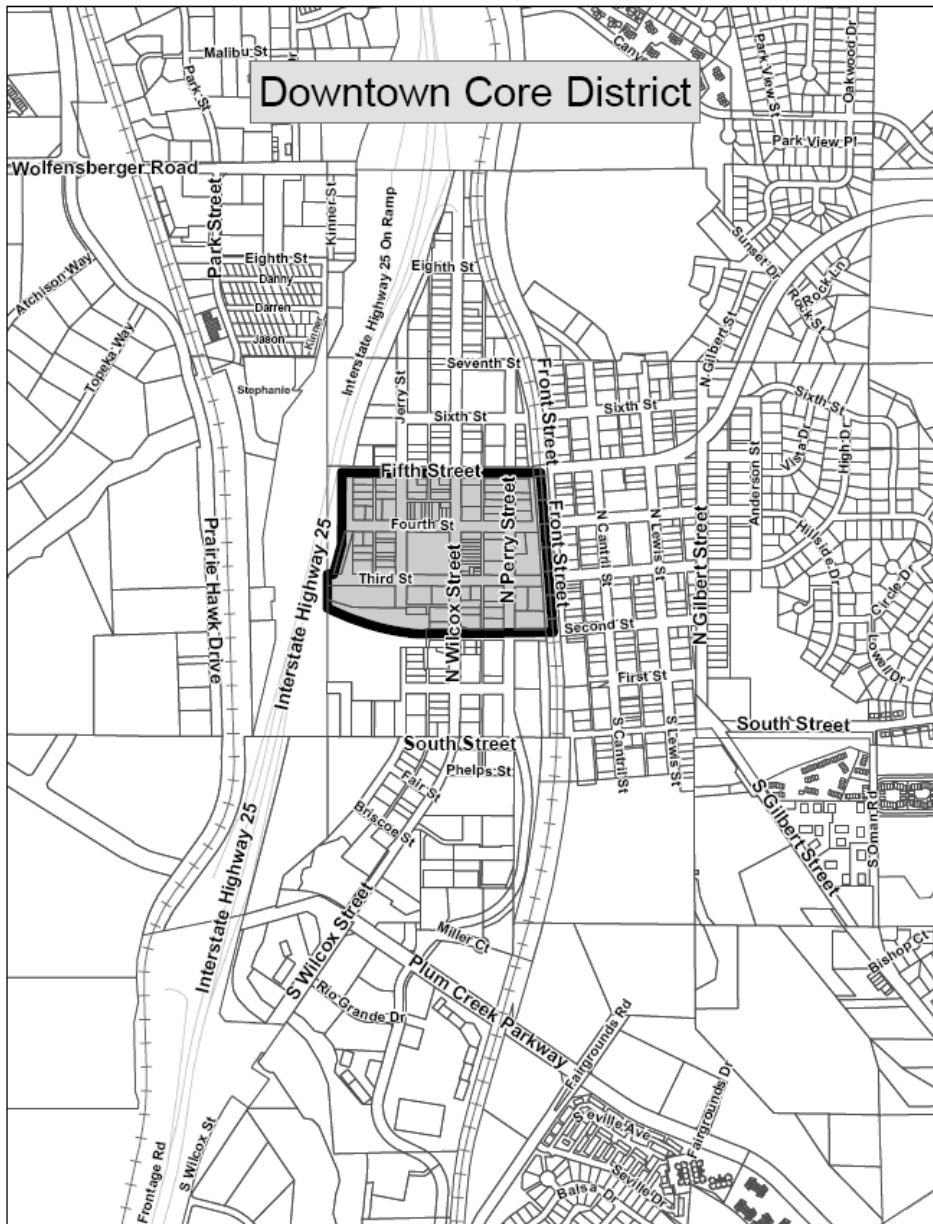
17.42.070 Crown design and building height.

A. A building's crown design shall be reviewed by and is subject to approval of the Board based aesthetic design, conformity with the Downtown Master Plan, and the need to maintain appropriate view sheds. The crown of a building is defined as the area of the structure that is above the top floor, and may include angled roofs, decorative elements, towers and other similar construction.

B. Maximum building heights within the DOD are regulated as follows:

1. Downtown Core District: The Downtown Core District is defined as that area depicted on Figure 1 below.

Figure 1



a. Building height in the Downtown Core District is limited to four stories, with a maximum height of 60-feet. A building's crown cannot exceed the sixty-foot building height limitation.

2. North and South Districts: The North District is defined as the area depicted on Figure 2 below. The South District is defined as the area depicted on Figure 3 below.

Figure 2

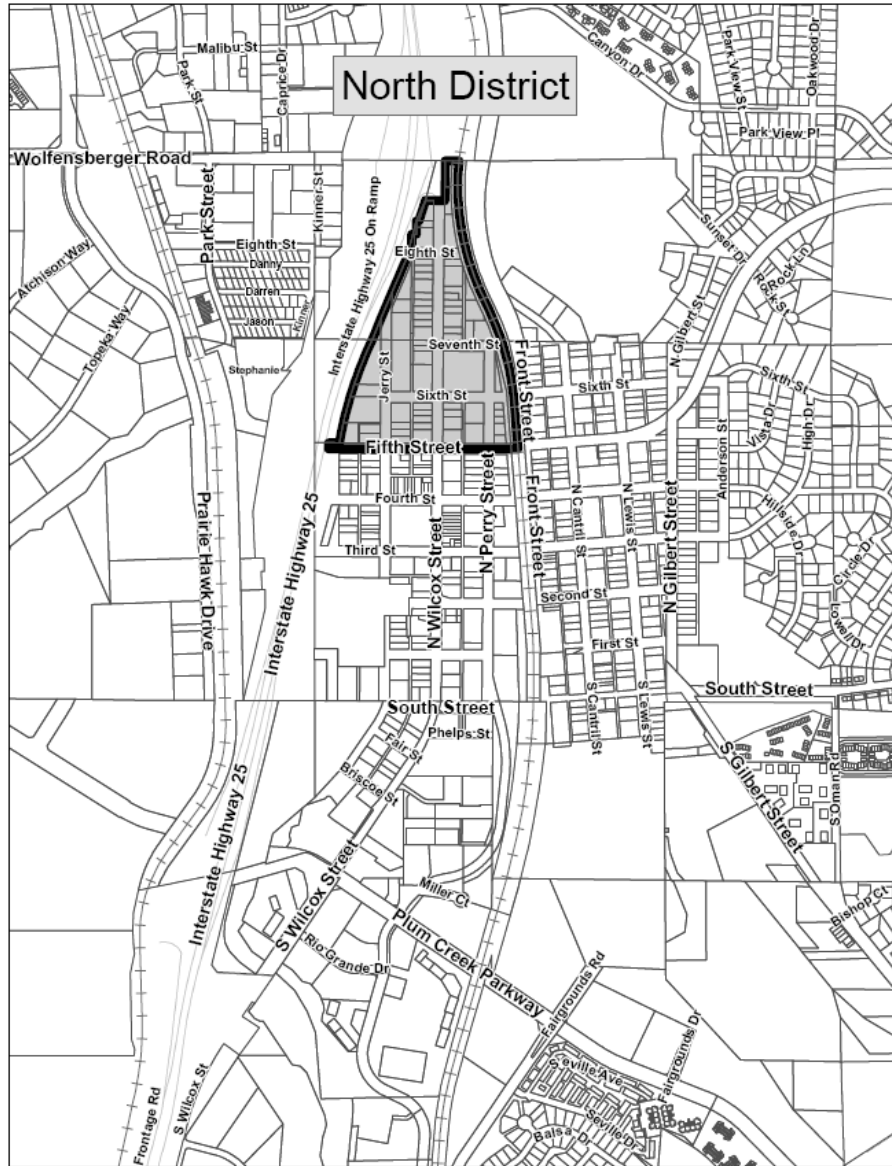
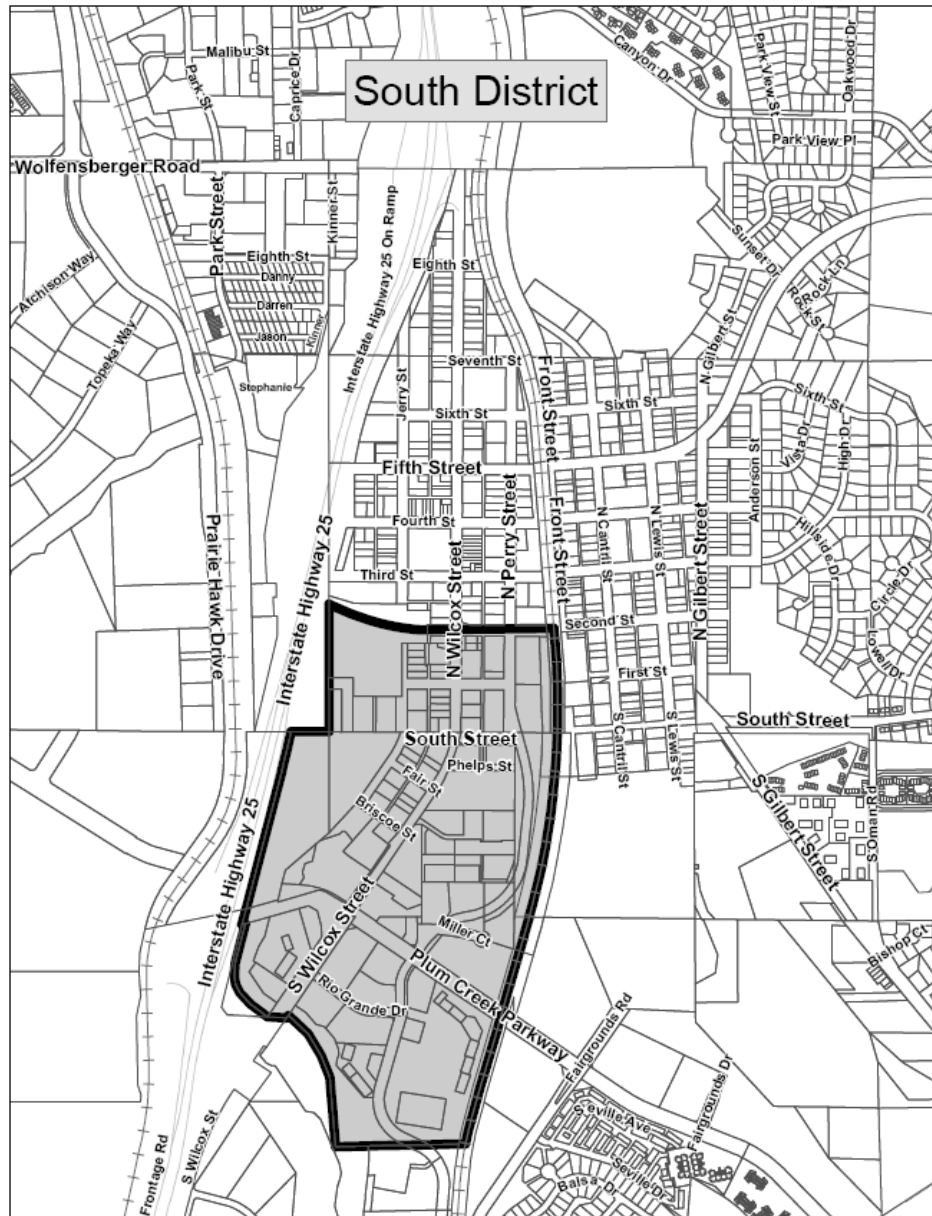


Figure 3



- a. Building height in the North or South Districts is limited to six stories, with no maximum height limitation.

C. A landowner may request one additional floor (with the corresponding increase in building height) in the Downtown Core District, or two additional floors in the North and South Districts through the Board. The Board, at its discretion, may grant an additional floor request after considering the following criteria:

1. Whether the project developer has committed to restore or fund the restoration of a Landmarked structure (as defined in Section 15.64.060, CRMC).
2. The project will incorporate a Landmarked structure into its design.
3. The impacts of the increased building height on adjacent properties are taken into consideration.

17.42.080 Design standards.

A. Prior to the issuance of a structural building permit within the DOD, all projects must be reviewed by the Board for compliance with the standards set forth in this Section.

B. All project design should be based on the Castle Rock Design (see Resolution No. 2003-64) and the Downtown Master Plan (see Resolution No. 2008-38).

1. Window or transparency. The main front elevation shall provide at least 35% percent window or transparency at the pedestrian level. Side elevations that face a public roadway shall provide at least 30% window or transparency at the pedestrian level. The window or transparency is measured in lineal fashion. (For example, a 100-foot long building elevation shall have at least 35% transparency in length.) The height of the glass or Plexiglas must be a minimum height of 5-feet.

2. Accessory structures. The design of accessory structures should incorporate design elements of the primary structure and should not become a dominant feature on the property.

3. Rooftop equipment. All rooftop equipment shall be screened from view on all sides visible to the general public, by building parapet walls or other building elements that appear as integral elements of the overall building.

4. Service station. All service stations will be required to develop the site following a backwards service station design. This will require the convenience store to be located along the sidewalk/public roadway with pedestrian connectivity. The gas pump facilities shall be located on the side or rear of the project.

5. Outdoor storage, repair, rental and servicing areas shall be:

a. Set back 15-feet from the front lot line;

b. Screened by an opaque wall or fence with a height of 10-feet. An opaque wall or fence must completely screen the property beyond the fence and can include stockade fences or walls. Chain-link fences with slat, cloth or other similar measures are not considered to be opaque fences. An opaque berm and/or landscaping that provide the equivalent screening as a required opaque fence may be used.

6. Landscaping. All developments shall adhere to the following landscaping requirements with a focus on the pedestrian space and sidewalk areas. A Landscaping Plan will be required with all site plans, showing the proposed landscaping for the site. One (1) large canopy tree will be required for every twenty-two (22) linear feet (on center) or one (1) small canopy tree will be required for every fifteen (15) linear feet (on center) of property fronting along a public roadway. Seventy-five percent (75%) of the tree plantings must be large canopy trees. The landscaping plan is subject to approval by the Utilities and Public Works Departments. Routine tree maintenance, such as trimming, thinning, watering and, if necessary, tree replacement, may be needed to ensure the quality of the streetscape. The following landscaping provisions include a ratio relationship between the number of plantings required, based upon the number of trees required. All shrubs plants must be a minimum size of five (5) gallons at planting and all flowering perennial plants must be a minimum of one (1) gallon at planting. For every required tree, a corresponding number of plantings or trees, from either Subparagraph a., b. or c. below, will be required for each site plan:

- a. Shrubs: five (5) per required tree.
- b. Perennial plants: seven (7) per required tree.
- c. Trees: one (1) per required tree.

7. Parking requirements:

- a. No parking space requirements.
- b. Parking lots located along public roadways will be required to provide a landscaping buffer that is four (4) feet or greater in width, between the parking area and the public sidewalk.
- c. No on-site parking is allowed in front of any structure. All parking must be on the side or rear of a structure.

8. Sidewalk requirements: All sidewalks must be designed and built to meet the Town's sidewalk construction and design regulations with a minimum width of eight (8) feet.

- a. All buildings will be required to have a minimum of one sidewalk connection from a sidewalk located along a public roadway to the entrance of the primary structure.

17.42.090 Design Review Board.

A. The Board shall consist of seven members appointed by the Town Council, one member from the Planning Commission, two members from the Downtown Development Authority Board, two members from the Historic Preservation Board, and two from owners of property within the Downtown Development Authority boundary that are not members of the aforementioned boards and commission. If at any time a Board member loses his or her qualification for appointment, such Board member shall concurrently lose his or her seat on the Board.

B. The members of the Board shall serve without compensation. Board terms of office are three years with staggered terms. Appointments made in 2010 to fill the terms to expire in 2013 shall begin on September 1, 2010, and shall end August 31, 2013. Terms scheduled to expire in 2012 shall end July 31, 2012. Thereafter, all terms shall run from September 1 through August 31 of the third year. Members of the Board shall serve at the pleasure of the Town Council, and may be removed with or without cause by a majority vote of the Town Council.

C. Prior to filling a vacancy for the property owner positions on the Board, public notice shall be given regarding the selection process in the same manner as other Town boards and commissions. Representatives from the Planning Commission shall be residents of the Town. Representatives from the Historic Preservation Board and the Downtown Development Authority shall be residents of the County. The Planning Commission, Downtown Development Authority and Historic Preservation Board shall recommend to the Town Council their respective candidates for Board appointments; however, appointments to the Board will be at the discretion of Town Council.

D. To ensure the orderly conduct of business, member attendance is vital. Except for emergency absences, medical condition absences and absences resulting from military leave of less than two (2) continuous months, no Board member shall miss more than two (2) meetings in any twelve-month period. Upon any third absence within twelve (12) months, other than for an emergency, medical condition or military leave of less than two (2) months, as determined by the Chair, the Board member shall be deemed to have resigned from the Board, and the Town Council shall appoint a replacement. Nothing herein prohibits the Town Council from reappointing the resigning member under this Subsection. Vacancies shall be filled for the unexpired term in the same manner as in the case of original appointments.

E. The members of the Board shall select a Chair. The Board shall adopt such rules and regulations necessary to carry into effect the provisions of this Title. Meetings shall be held at such times as may be necessary and shall be open to the public and held in compliance with the Colorado Open Meetings Act, as amended. The Board shall keep minutes of its proceedings. Board members shall be subject to the same code of conduct and ethics as other Town boards and commissions.

17.42.100 Powers and duties of Design Review Board.

The Board shall have the following powers and duties, all of which shall be exercised consistent with the purpose and intent of this Chapter:

A. Review all development applications that require a Site Development Plan — Downtown under Chapter 17.38 for compliance with this Chapter, including but not limited to setbacks (Section 17.42.060), building height and crown (Section 17.42.070), design standards (Section 17.42.080), outdoor display of merchandise in Section 17.52.150, accessory structures and uses, and variance requests.

B. Upon a written finding that, by reason of exceptional shape or topography of a lot or other exceptional situation or condition of the building or land, practical difficulty or unnecessary hardship would result to the owners of the property from a strict enforcement of this Chapter, or an effort to achieve the overall vision and goals of the Downtown Master Plan and/or the Historic Preservation Plan, the Board may grant a variance for the following:

1. Minimum width of lot;

2. Minimum front yard;
3. Minimum side yard;
4. Minimum rear yard;
5. Minimum landscape requirements;
6. Design standards in Section 17.42.080 above;
7. Maximum front yard;
8. Maximum fence height;
9. Outdoor display of merchandise in Section 17.52.150; and
10. Accessory structures and uses.

C. The process for consideration of a variance is prescribed in Section 17.42.110, subject to the following requirements:

1. Before any variance is granted or denied, the Board shall include a written finding in its minutes as part of the record in each case, stating specifically the exceptional conditions, the practical difficulties or unnecessary hardship involved and why there is or is not any adverse effect on public health, safety and welfare.

2. Unless otherwise stated in the Board resolution, the applicant shall have six months to apply for a building permit in accordance with the approved variance, and all new construction shall be completed within two years from the date such building permit is issued.

3. If the Board, or the Town Council on appeal, determines that a variance should be approved or approved with conditions, it shall grant only such relief as is necessary to carry out the intent of this Chapter, and may grant a different form of variance than that requested by the applicant.

17.42.110 Procedure for Board review, approval and appeals.

A. A Site Development Plan – Downtown shall be submitted in compliance with the Development Procedures Manual and application fees as defined in the Development Services Fee Schedule.

B. The Board shall hold a public hearing on all applications submitted under this Chapter. The public notice for such hearing shall be governed by Chapter 17.04 of this.

C. The Board shall approve, approve with conditions or deny an application based on the criteria in this Chapter and the review and approval criteria set forth in Section 17.38.040.

D. The applicant for a Site Development Plan – Downtown that is denied by the Design Review Board may appeal to the Town Council within 30 days of the Board’s action. The Town Council shall review and consider the Site Development Plan – Downtown following the notice and public hearing procedures in Chapter 17.04, CRMC and the review and approval criteria set forth in Section 17.38.040 and Chapter 17.42.

17.42.120 Demolition requirement, process and removal of landmarking status.

Any application for a demolition permit within the DOD shall comply with the provisions and criteria set forth in Section 15.64.090, CRMC.

17.42.130 Violation and penalties.

A. No person shall violate any of the provisions of the ordinances of the Town, including the provisions of this Chapter. Except in cases where a different punishment is prescribed by any ordinance of the Town, any person who violates any of the provisions of the ordinances of the Town or this Chapter shall be punished by a fine of not more than \$1,000.00 or by imprisonment not to exceed one year, or by both such fine and imprisonment.

B. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation is committed, continued or permitted by any such person, and he or she shall be punished accordingly.