

ORDINANCE NO. _____

An ordinance to amend Title 17 of the Metropolitan Code of Laws, the Zoning Ordinance of the Metropolitan Government of Nashville and Davidson County, to modify Title 17 relative to the creation of a new zoning district called the “Downtown Code” (DTC) (Proposal No. 2009Z-035TX-001), all of which is more particularly described herein.

WHEREAS, the Metropolitan Nashville-Davidson County Planning Commission, on February 22, 2007, unanimously approved the adoption of the *Downtown Community Plan: 2007 Update*, the culmination of numerous meetings engaging community members to create a vision of a walkable, mixed use, sustainably-developed Downtown of the future; and

WHEREAS, the *Downtown Community Plan: 2007 Update* provides the following goals: to ensure that Downtown remains the civic, commercial and entertainment center for Nashville, Middle Tennessee and the Southeast, to provide opportunities for continued growth while preserving and enhancing the character that inspires residents and businesses to move Downtown, to create strategic mixed use to facilitate Downtown’s transformation into a 24/7 community, to create and nurture urban neighborhoods, to create active, attractive streets and streetscapes, to protect and reuse historic structures and districts, to create environmentally sustainable and energy efficient developments, to create “great spaces” throughout Downtown for the enjoyment of citizens and visitors, and to provide for improved mobility in and through Downtown to support other principles for healthy growth in Downtown; and

WHEREAS, from October 2007 to October 2009, the Metropolitan Planning Department staff worked extensively with residents, Councilmembers, property owners, and civic and business interests to prepare a new zoning district for Downtown, to implement the vision of Downtown adopted in the Downtown Community Plan; and

WHEREAS, the Metropolitan Government recognizes the importance of encouraging the continued revitalization of Nashville's Downtown and the importance of refining and updating the community’s design standards to encourage high-quality, sustainable urban development;

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. Modify the Metro Zoning Code as shown in Exhibits A, B, and C.

Section 2. That this Ordinance shall take effect immediately after its passage and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Section 3. That this Ordinance shall take effect immediately after its passage and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

SPONSORED BY:

Councilmember Jim Gotto

Councilmember Mike Jameson

Councilmember Erika Gilmore

Councilmember

Councilmember

jr/mpc

EXHIBIT A

Chapter 17.04: General Provisions and Definitions

Table of Contents

1. **Insert** on Table of Contents, “Chapter 17.37” in numerical order and name it “Downtown Code (DTC)”

Title and Purpose: Section 17.04.010

2. **Insert** in Section 17.04.010.D (Existing Development) at the end of sentence the phrase “, except as provided in the Downtown Code, Chapter 17.37”.

Definitions of General Terms: Section 17.040.060

3. **Insert** and **modify** the following definitions:
 - "Accessory or ancillary structure" means a structure detached from a principal building located on the same lot that is customarily incidental and subordinate to the principal building.
 - **“Active Use” means a habitable space occupied by retail, office, residential, institutional, recreational or similar use, specifically excluding parking and mechanical uses.**
 - "Alley" means a public or private right-of-way primarily designed ~~to serve as secondary~~ **for service** access to the side or rear of properties.
 - **“Attachment” means a building element permitted beyond the front of the “Build-to Zone”, but not into the right-of-way.**
 - **“Awning” means a structural extension over the exterior of a door or window which provides protection from the elements.**
 - **“Balcony” means an unenclosed habitable structure cantilevered or recessed from a façade.**
 - **“Bike Lane” means a section of a roadway which has been designated by striping, signing and pavement markings for the exclusive use of bicyclists.**
 - **“Bikeway” is a generic term for any road, street, path, or way that in some manner is specifically designated for bicycle travel, it may be for the exclusive use of bicycles or to be shared with other transportation modes.**
 - **“Buffer” means an area of land, including landscaping, berms, wall and fences, which is located between specified uses or rights-of-way.**

- **“Build-to Zone”** means an area established within a given lot indicating where the building frontage must be located. Depending on particular circumstances, the Build-to Zone may be measured from the property line, the back of an easement, or the back of the sidewalk.
- **“Canopy”** means a roof projection over a door, entrance into a building, a drive thru window or other business-related uses, including automatic teller machines (ATM), bank by car facilities, fuel pumps and the like, which is supported only by an attachment to the main building or by posts or columns, and is without walls.
- **“First Floor Elevation ”** means the height of the first floor of a building above the ground.
- **“Frontage”** means any portion of a lot that abuts a public street (excluding alleys) and **“Open Space”**.
- **“Frontage, Minor”** means the Frontage with lesser pedestrian importance.
- **“Frontage, Principal”** means the Frontage of highest pedestrian importance.
- **“Grade”** means in the DTC zoning district the elevation of the sidewalk across a lot frontage measured in the build-to-zone.
- **“Habitable space”** means building space the use of which involves human presence with direct view of the fronting street, or public or private open space, but excluding parking garages, self-service storage facilities, warehouses, or similar.
- **“Mezzanine”** means in the DTC zoning district a portion of a story. Mezzanine floors that cover more than fifty percent (50%) of the story below shall be counted as a full story.
- **“Open Space”** means public or privately held land used for active or passive recreation, including, but not limited to parks, plazas, courtyards, playing fields, trails, greenways, and golf courses.
- **“Parking Garage”** means a **“Parking Structure”**.
- **“Parking structure”** means a parking facility consisting of two or more stories which requires ramp access. This does not include a single-story garage, carport or other covered parking area that is otherwise a surface parking lot. A parking structure may be part of a mixed-use building or be a stand alone building.
- **“Pedestrian Passage”** means a pedestrian connection between or through buildings or lots, accessible to the public.

- **“Porch”** means an open air room appended to the mass of a building with floor and roof.
- **“Principal Pedestrian Entrance”** means the main point of pedestrian access to a building.
- **“Screening”** means visually shielding or obscuring a structure, use or equipment from public view by a liner building, fencing, wall, or densely planted vegetation.
- Add in alphabetical order the following sign definitions beneath the “Sign” definition and the phrase “These terms regarding signs are referenced:”
 - **“Awning sign”** means the application of words, lettering and/or logos to an awning.
 - **“Canopy sign”** means the application of words, lettering and/or logos to a canopy.
 - **“Hanging sign”** means a ground sign with one vertical post and one or two arms from which a sign hangs. The sign is intended for buildings with a deep build-to zone and is placed perpendicular to the sidewalk.
 - **“Major sign”** means a building-mounted sign indicating the name of a building and/or the primary building tenant. The sign is intended for building identification.
 - **“Marquee sign”** means a canopy sign that includes a section with changeable copy that relates to the principal use on the premises.
 - **“Minor sign”** means a sign that advertises individual tenants in a multi-tenant building. The sign may be building-mounted or projecting.
 - **“Monument sign”** means a permanent ground sign where the bottom of the display surface area, along its entire length, is attached to the ground or a continuous pedestal, not support poles.
 - **“Multi-tenant sign”** means a sign on which the names and locations of occupants in a multi-tenant building are identified along the street.
 - **“Parking sign”** means a sign indicating the location of parking facilities to both drivers and pedestrians.
 - **“Window sign”** means any sign attached to or directly applied on a window or glass door; intended for viewing from the exterior.

- **“Stoop” means a landing and its associated stair or ramp connecting a building entrance to the ground.**
- **“Story” means a portion of a building between the surface of any floor and the surface of the floor above it, or, if there is no floor above it, the space between such floor and the ceiling above it. A basement or cellar shall not be deemed a story if the finished floor level directly above is not more than six feet above the average elevation of the adjacent finished grade. In the DTC zoning district “Story” also means a level within a building by which height is measured.**
- **“Street” means a publicly maintained right-of-way, other than an alley, that affords a means of vehicular access to abutting property. The following are Street, Functional Classifications:**
- **“Street, Frontage Classifications” refers to the character of the street and adjacent buildings, and is applied in conjunction with the Street, Functional Classifications.**
 1. **“Street, Neighborhood” means a smaller street of neighborhood-scale and character with limited connectivity within an area and little or no connectivity to the city. A neighborhood street is typically more residential than other streets within the subdistrict.**
 2. **“Street, Other” means an atypical street with limited lot access and limited pedestrian activity such as, but not limited to, interstate entrance and exit ramps and similar streets.**
 3. **“Street, Primary” means a street with significance within the neighborhood, the area, and perhaps the city and has high pedestrian and vehicular activity. Vehicular access to properties is significantly limited. In all aspects of building design, frontages, sidewalks, and open spaces, pedestrian safety, comfort, and accessibility are of highest importance.**
 4. **“Street, Secondary” means a support street. In comparison to a primary street, a secondary street has less significance within the neighborhood and the area. Vehicular access to properties is permitted and shall sufficiently accommodate pedestrian safety, comfort and accessibility.**
 5. **“Street, Tertiary” means a street of lesser importance than primary, secondary, or neighborhood streets and with little or no connectivity to the city. A tertiary street may function as “back of house” for a building with multiple street frontages.**

Chapter 17.08: Zoning District and Land Uses

Zoning Districts Established: Section 17.08.010

4. **Delete** “F.6 CC Commercial Core” wherein it appears.
5. **Insert** “G. DTC Downtown Code” and revise the other sections, respectively.

Zoning Districts Described: Section 17.08.020

6. **Delete** “F.6 CC Commercial Core” in its entirety.
7. **Insert** “G. DTC Downtown Code” as follows, and revise the other sections respectively:

DTC, Downtown Code District. The DTC district is designed for a broad range of residential and non-residential activities associated with an economically healthy, socially vibrant, and sustainable Downtown. Included among the common goals for the DTC district is the efficient use of land capitalizing on a high level of services, reduced reliance on the automobile with enhanced usage of mass transit, and the creation of a vibrant and safe pedestrian streetscape. The DTC district is intended to implement the policies of the general plan.

The purpose of the DTC district is to provide for and encourage a mix of compatible land uses that provide opportunities to live, work and shop within the neighborhoods of Downtown. In order to create a more sustainable Downtown, the DTC emphasizes regulating the height, bulk and location of a building and the context of the building in relationship to its surroundings or other nearby buildings.

Zoning District Land Use Table: Section 17.08.030.D

8. **Delete** the “CC” column in its entirety for all land uses shown in table.
9. **Insert** after “Commercial” and before “Shopping Center”, the zoning district column heading “Downtown” and place “DTC-North”, “DTC-South”, “DTC-West”, and “DTC-East” in the column headings beneath “Downtown”, as shown in Exhibit B.

Chapter 17.12: District Bulk Regulations

District Bulk Tables: Section 17.12.020

10. **Modify** the second sentence of the introductory paragraph wherein “(PC) or” appears to “(PC),” and **insert** after the phrase “Section 17.08.030” the words “or as provided in the Downtown Code (Chapter 17.37),”.

11. **Insert** “DTC” into Table 17.12.020.A (Single-Family and Two-Family Dwellings) as the last row in table as shown below, and **insert** a new sentence to the end of Note 1 stating “This note shall not apply to the DTC district.”

Table 17.12.020.A
Single-Family and Two-Family Dwellings

Zoning District	Minimum lot area (in sq ft)	Maximum building coverage	Minimum rear setback (in ft)	Minimum side setback (in ft)	Maximum height
DTC	See Chapter 17.37	See Chapter 17.37	See Chapter 17.37	See Chapter 17.37	See Chapter 17.37

12. **Insert** “DTC” into Table 17.12.020.B (Multi-Family, Mobile Homes, and Non-Residential Uses) as the last row in table as shown below, and **insert** a new sentence to the end of both Note 3 and Note 6 stating “This note shall not apply to the DTC district.”

Table 17.12.020.B
Multi-Family, Mobile Homes, and Non-Residential Uses

Zoning Districts	Min. Lot Area (sq. ft)	Max. Density (units per acre)	Max. FAR	Max. ISR	Min. Rear Setback (in ft)	Min. Side Setback (in ft)	Max. Height at Setback Line (in ft)	Slope of Height Control Plane (V to H)
DTC	See Chapter 17.37	See Chapter 17.37	See Chapter 17.37	See Chapter 17.37	See Chapter 17.37	See Chapter 17.37	See Chapter 17.37	See Chapter 17.37

13. **Insert** “DTC” into Table 17.12.020.B.1 (Minimum Lot Size and Setbacks for Attached Housing) as the last row in table as shown below.

Table 17.12.020.B.1
Minimum Lot Size and Setbacks for Attached Housing

Zoning District	Minimum Lot Area (sq. ft.)	Minimum Rear Setback (ft.)	Minimum Side Setback (ft.)	Maximum Height
DTC	See Chapter 17.37	See Chapter 17.37	See Chapter 17.37	See Chapter 17.37

14. **Delete** in Table 17.12.020.C (Mixed-Use and Non-Residential Districts) the row labeled “CC” and all standards pertaining to the CC district in table and **insert** “DTC” in its place as shown below, and **delete** the phrase “and CC” from Note 2 located below the table.

Table 17.12.020.C
Mixed-Use and Non-Residential Districts

Zoning District	Min. lot area	Max. FAR	Max. ISR	Min. rear setback (in ft.)	Min. side setback (in ft.)	Max. height at setback line (in ft. or stories)	Slope of height control plane (V to H)
CC	None	15.00 See Note 4	1.00	None req.	None req.	No max. applies	Doesn't apply
DTC	See Chapter 17.37	See Chapter 17.37	See Chapter 17.37	See Chapter 17.37	See Chapter 17.37	See Chapter 17.37	See Chapter 17.37

15. **Insert** “DTC” into Table 17.12.030.A (Street Setbacks for Single and Two-Family Structures) as the last row in table as shown below:

Table 17.12.030.A
Street Setbacks for Single and Two-Family Structures

Zoning Districts	Minor-Local and Local Streets	All (2) Other Streets
DTC	See Chapter 17.37	

16. **Insert** “DTC” into Table 17.12.030.B (Street Setbacks for Multi-Family and Non-Residential Districts; and Non-Residential Uses in AG, AR2a, R and RS Districts) after the row labeled “CS, CL, CA” and before the row labeled “IR, IG, IWD” as shown below, **insert** a new sentence to the end of Notes 1, 5 and 6 stating “This note shall not apply to the DTC district.”, and **delete** the phrase “CC,” from Note 3 located below the table.

Table 17.12.030.B
Street Setbacks for Multi-Family and Non-Residential Districts; and
Non-Residential Uses in AG, AR2a, R and RS Districts

		Arterial Streets			
Zoning Districts	Nonarterial Streets	U2, S2 OW2, OW6	U4, S4	U6, S6	U8, S8
DTC	See Chapter 17.37				

17. **Insert** into Section 17.12.040 (Other Setbacks) as an introductory sentence beneath the heading and before “A. Railroads” the following: “Within the DTC zoning district, see Chapter 17.37 for permitted encroachments into setback areas.”
18. **Delete** in Section 17.12.070.A. (Special floor area ratio (FAR) provisions) in the very first sentence the phrase “CC and MUI districts”, and **insert** “MUI district” in its place.
19. **Delete** in Section 17.12.070.A.1 (Design Plan Plaza/Arcade Bonus) “CC” and the corresponding text under Bonus Floor Area that corresponds to the CC zoning district.
20. **Delete** in Section 17.12.070.A.2.a (Standard Plaza/Arcade Bonus) “CC” and the corresponding text under Bonus Floor Area that corresponds to the CC zoning district.
21. **Delete** in Section 17.12.070.B (Residential Bonus in Mixed Use, ORI, CF and CC Districts) the phrase “and CC”, and **insert** the word “and” before the phrase “CF”.
22. **Delete** in Section 17.12.070.B.1 (Residential Bonus in Mixed Use, ORI, CF and CC Districts) the phrase “or CC”, and **insert** the word “or” before the phrase “CF”.
23. **Delete** in Section 17.12.070.C (Exemption in MUI and CC Districts) the phrase “and CC Districts”, and **insert** in its place “District”.
24. **Delete** in Section 17.12.070.E (Street Level Parking Decks in the MUI and CC Districts) the phrase “and CC Districts”, and **insert** in its place “District”.
25. **Delete** in Section 17.12.070.F (Parking Garage Liner Buildings) the phrase “CC”.
26. **Insert** in Section 17.12.100.A (Single-family cottage developments) the following to the end of the sentence “; see Chapter 17.37 for applicability in the DTC zoning district.”

27. **Delete** in Section 17.12.110 (Alternative minimum lot size and setbacks for attached housing) in the introductory paragraph the phrase “uses,” and **insert** “uses (except in the DTC zoning district),”.

Chapter 17.16: Land Use Development Standards

Article I. General Provisions

28. **Insert** in Section 17.16.010.C (Purpose and Intent) in the first sentence after the phrase “zoning district land use table” and before the word “unless” the phrase “or the DTC zoning district land use table”, and **insert** in the second sentence after the word “regulations” and before the phrase “the more restrictive standard shall apply” the phrase “of Chapters 17.12 or 17.37”.

Article II. Uses Permitted with Conditions (PC)

29. **Insert** in Section 17.16.020 (Applicability) at the end of the sentence “or in Chapter 17.37.”
30. **Delete** in Section 17.16.030.E.12 (Adaptive Residential Use: Exemptions) the phrase “CC and” in the first sentence.
31. **Modify** in Section 17.16.070.P (Vehicular Rental/Leasing) as follows: “This use shall be allowed as provided in the DTC zoning district or in an adopted Specific Plan district by the metro council.
32. **Delete** in Section 17.16.080.C.6 (Telephone Service) the phrase “CC” in the second sentence.

Article III. Uses Permitted by Special Exception (SE)

33. **Delete** in Section 17.16.180.B.5 (Radio/TV/Satellite Tower) the phrase “CC” and replace it with “DTC”.
34. **Delete** in Section 17.16.180.B.2 (Telephone Service) the phrase “CC” and replace it with “DTC”.

Chapter 17.20: Parking Loading and Access

Article I. General Provisions

35. **Insert** in Section 17.20.020 (Applicability) “C. Downtown Code. For properties zoned DTC district, see Chapter 17.37, Downtown Code (DTC) for parking, loading and access management provisions.”

Article II. Parking and Loading Requirements

36. **Delete** in Section 17.20.040.A (Adjustments to required parking) the phrase “CC” and replacing it with “DTC”.

Chapter 17.24: Landscaping, Buffering and Tree Replacement

Article I. General Provisions

37. **Insert** in Section 17.24.010 (Purpose and Intent) at the end of the first sentence the phrase “, including properties zoned DTC district as set forth in Chapter 17.37.”

Article III. Parking Area Screening and Landscaping

38. **Delete** in Section 17.24.160.A.1 (Interior planting requirements) the phrase “CC and” wherein it appears.
39. **Delete** Section 17.24.190.C (Exemptions) in its entirety, and renumber sub-section “D” to “C”.

Chapter 17.28: Environmental and Operational Performance Standards

Article I. Environmental Performance Standards

40. **Delete** in Section 17.28.030.B.1 (Hillside Development Standards: Non-Residential Sites) the phrase “CC,” wherein it appears.
41. **Delete** in Section 17.28.040.E (Floodplain/Floodway Development Standards) the phrase “CC,” wherein it appears.

Chapter 17.32: Sign Regulations

42. **Delete** in the list of subsections for Section 17.32.140 (On-Premise Signs – CC District) the phrase “CC” and replace it with DTC.
43. **Delete** in Section 17.32.140 (On-Premise Signs – CC District) the phrase “CC” and replace it with DTC.

Chapter 17.36: Overlay Districts

44. **Insert** in Section 17.36.440 (Applicability) to the end of the first sentence “and properties zoned DTC district.”
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Chapter 17.37 Downtown Code (DTC)

45. **Insert** Exhibit C as “Section 17.37, Downtown Code” with the following language:

“Chapter 17.37 Downtown Code (DTC) adopted

The metropolitan government adopts the DTC to be applicable throughout the metropolitan government. A copy of such DTC is attached to the ordinance codified in this section and made a part hereof, the same as if copied verbatim herein.”

Chapter 17.40: Administration and Procedures

Article V. Site Plan Review and Approval

46. **Delete** in Section 17.40.170.B (Final Site Plan: Final Approval by the Planning Commission) the introductory paragraph in its entirety and **insert** in its place the following:

“B. Final Approval by the Planning Commission. Planning Commission approval shall be required for a final site plan within a SP district, DTC district, or within the overlay districts known as planned unit development (PUD), urban design, and institutional.”

47. **Delete** in Section 17.40.170.C (Final Site Plan: Development Under a Unified Plat of Subdivision) the introductory paragraph in its entirety and **insert** in its place the following:

"C. Development Under a Unified Plat of Subdivision. Applicants seeking design flexibility may use a unified plat of subdivision to identify and delineate the boundary of all properties to be considered as one "unified" piece of property for purposes of complying with certain floor area ratio (FAR), impervious surface ratio (ISR), landscaping, parking, sign, and street setback standards. Such plat shall be reviewed and approved by the planning commission via the Subdivision Regulations final plat procedures. Once the unified plat is approved and recorded by the planning commission, a final site plan can be approved. Properties eligible for a unified plat are those located in any zoning district (except R and RS) or within a planned unit development, institutional, or urban design overlay district. The zoning administrator and/or the planning commission may authorize the following design flexibility on the final site plan, provided that all standards of this title are satisfied within the boundary

of the unified plat of subdivision as approved by the planning commission, and suitably noted both on the final site plan and the recorded unified plat."

Article VIII. Variances

48. **Delete** in Section 17.40.340 (Limits to Jurisdiction) in its entirety and **insert** in its place the following:

“Section 17.40.340 (Limits to Jurisdiction)

A. The board shall not grant variances to the following sections and tables:”

Sections/Tables

- Section 17.08.030 (land uses)
- Tables 17.12.020.B (density)
- Table 17.12.020.C (floor area ratio [FAR])
- Section 17.12.080 (lot averaging)
- Section 17.12.090 (cluster lot option)
- Section 17.16.030.E (adaptive residential use)
- Section 17.36.070.C (PUD minimum lot size).

“B. The board shall not grant variances within the following sections, tables, zoning districts, or overlay districts without first considering a recommendation from the planning commission.”

Sections/Tables

Section 17.28.103 (underground utilities)

DTC district¹

Overlay Districts

PUD

UDO

Zoning Districts

SP district

Institutional

Note 1: Within the DTC district, however, no variance shall be granted for building height at the street and overall building height.”

Article XII. Permits and Certificates of Compliance

49. **Delete** Section 17.40.530.A (Zoning Permit Application) in its entirety and insert the following:

“Prior to approval of a final site plan by the planning commission for properties requiring the commission’s approval under Section 17.40.170.B.”