ARTICLE IV. ZONE DISTRICTS

DIVISION 1. RS-4 AND R-X DISTRICTS

Sec. 59-101. Generally.

The provisions of this division apply to all lands, uses and structures in RS-4 R-X districts. (Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-102. Description of the R-X district.

The R-X district is intended to provide for and encourage the appropriate residential use of the land included. A diversification of the municipal zoning plan will be permitted without in any way jeopardizing or reducing zoning standards promoting the public safety, convenience, health, general welfare and the preservation of the comprehensive plan. The limitations imposed on the district are designed to protect and maintain the integrity and character of the established adjacent neighborhood, at the same time conserving and enhancing property values. An integral requirement of the R-X district is the submission of a complete development plan delineating precisely the proposed and permitted development.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-103. Uses allowed in these districts.

The following is a list of uses with notations as to whether they are permitted, or limited, or have other requirements as listed in the matrix and the sections which follow. Permitted uses are uses by right. Uses not listed are not allowed in either district. Uses left blank are not allowed in that district.

*KEY: P = Permitted L = Uses permitted with limitations * = Need not be enclosed (blank) = not permitted*		
Use	RS-4	R-X
Residential		
Dwelling, multiple unit		L9
Dwelling, single unit	P	P
Residential, institutional/ special	L13	
Industrial, wholesale, transportation, utilities		
Railway right-of-way*	P	
Utility, major impact	L115*	
Utility, minor impact	L117	
Arts, entertainment, recreation, institutions		
Church, religious institution	P	
Parks, public, open space, associated buildings*	P	

*KEY: P = Permitted L = Uses permitted with limitations * = Need not be enclosed (blank) = not permitted*		
School, elementary or secondary	L153	
Uses allowed in all districts unless restricted by special limitations (See chapter 59, article III, division 2)		
Residential care uses (See § 59-82)		
Uses allowed by temporary permit (See § 59-86)		

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-104. Limitations.

The following define the limitations enumerated in the use chart in section 59-103:

L9 Limited to cluster multiple unit.

L13 Limited parish house.

L115 Limited to water reservoir, need not be enclosed.

L117 Electric substation excluded.

L153 Meeting all requirements of the compulsory education laws of the state and not providing residential accommodations.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-105. Limitations on external effects of uses.

External effects of uses, as regulated by section 59-92 and parking of vehicles on private property, as regulated by section 59-93(b).

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-106. Permitted structures in the RS-4 district.

(a) *Zone lot for structures in the RS-4 district.* A separate ground area, herein called the zone lot, shall be designated, provided and continuously maintained for each structure containing a use by right. Each zone lot shall have at least one (1) front line and shall be occupied only by the structure containing a use by right and a subordinate structure or structures containing only accessory uses. The zone lot for each structure designed or used, either wholly or partly, for residential occupancy shall be not less than seventy-five (75) feet wide at the front setback line for structures and shall contain not less than twelve thousand (12,000) square feet; provided, however, that the minimum width may be reduced to fifty-six (56) feet and/or the requirement as to minimum size may be waived altogether on a zone lot for a structure used as a single unit dwelling if such zone lot is adjoined on both sides by zone lots with structures thereon or adjoined on one (1) side by a street and on the other side by a

zone lot with a structure or structures thereon. Upon application to and approval by the department of zoning administration, the boundaries and area of a designated zone lot may be amended if full compliance with all requirements of this chapter can be maintained.

(b) *Location of structures in the RS-4 district.* All structures shall be set in a distance of not less than twenty (20) feet from each front line of the zone lot, not less than ten (10) feet from each side line of the zone lot and not less than five (5) feet from each rear line of the zone lot. The space resulting from the foregoing setbacks shall be open and unobstructed except as follows:

(1) Belt courses, sills, lintels and pilasters may project eighteen (18) inches into front, rear and side setback spaces.

(2) Cornices, eaves and gutters may project three (3) feet into front setback space, five (5) feet into rear setback space and three (3) feet into side setback space.

(3) Outside stairways may project five (5) feet into front setback space, five (5) feet into rear setback space and three (3) feet into side setback space; access ramps for the handicapped may encroach into any required building setback space, providing no alternative location is available and providing the ramp construction is compatible with the character of the structure.

(4) Unwalled porches, terraces and balconies may extend five (5) feet into front and rear setback spaces.

(5) Chimneys not to exceed six (6) feet in width may project eighteen (18) inches into front, rear and side setback space.

(6) Building accessories designed and intended to control light entering a building and being a permanent part of such building may project five (5) feet into front setback space, five (5) feet into rear setback space and three (3) feet into side setback space.

(7) Building accessories designed and intended to control light entering a building and not being a permanent part of such building, by being removable therefrom and by not being attached to a load-bearing member thereof, may project any distance into any setback space.

(8) Any structure or part thereof which is below the grade of any setback space may project any distance into such setback space. Utility pedestals, transformers or other similar equipment may be installed in any setback area providing they do not exceed a height of three (3) feet.

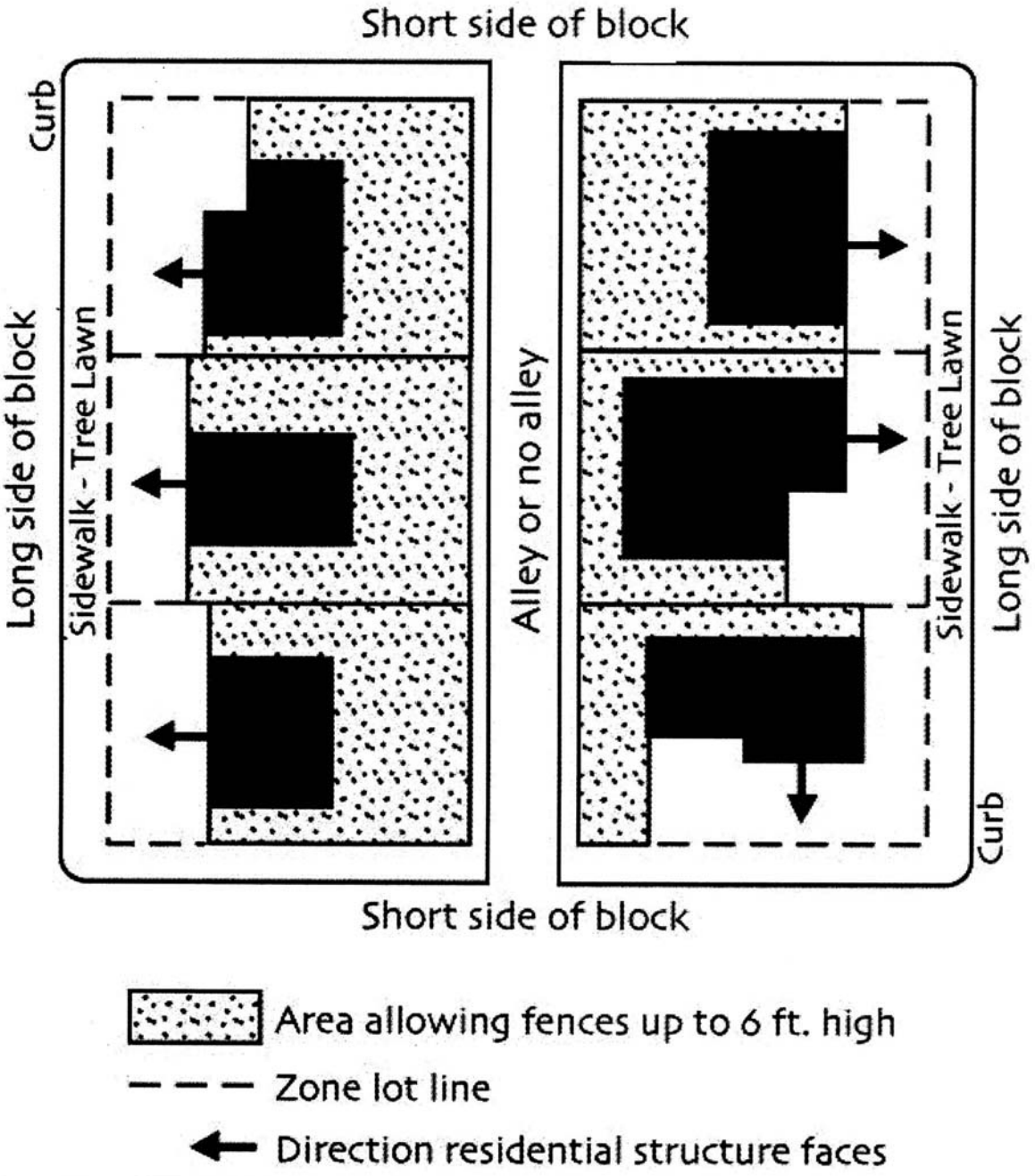
(9) Fences and walls not exceeding four (4) feet in height (see 59-2(112.1) fence and wall height measurement) may be erected on any part of the zone lot. Fences not exceeding six (6) feet in height may be built anywhere on the zone lot except forward of any adjacent front wall or walls of a residential structure (see illustration).

a. Retaining walls in the front setback may be built to a height of four (4) feet and successive walls may be built provided that they are separated by at least four (4) feet. In any area of the zone lot other than the front setback, retaining walls may be built to any height;

b. Fences located on top of retaining walls in the front set back must be fifty (50) percent or more open for any portion of the fence that is more than four (4) feet above the lowest grade at the base of the retaining wall;

c. Fences not exceeding six (6) feet in height on a corner lot where a residential structure is oriented to the short dimension of an oblong block may be built to the zone lot line along the short dimension of the block except along the zone lot line or area in front of any wall of a residential structure. Fences exceeding four (4) feet in height but not exceeding six (6) feet in height may only be placed in the areas described in this section 59-106(b)(9) and the accompanying illustration;

Oblong Block



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d. Schools, public parks and/or playgrounds may erect open-mesh fences to any height on any part of the zone lot; and

e. The materials used for fences or walls shall consist of wood, brick, masonry, wire mesh, metal bars not exceeding one and one-half (1.5) inches in diameter or other materials which may be approved by the zoning administrator. Salvaged doors and corrugated or sheet metal shall not be allowed. Notwithstanding the provisions of section 59-632, nonconforming structures, of the Revised Municipal Code, existing fences and walls which have been constructed of the prohibited materials listed above or other materials not approved by the zoning administrator may not be maintained and any such fences and walls shall be immediately reconstructed of approved materials or removed.

(Ord. No. 363-06, § 4, eff. 6-16-06; Ord. No. 605-06, § 2, eff. 9-22-06)

(10) Ground mounted evaporative coolers may project three (3) feet into the side setback, provided:

a. The equipment is located behind the front of the residential structure and screened from adjacent properties and public rights-of-way; and

b. The noise standards of section 36-6 of the Denver Revised Municipal Code are not exceeded.

(Ord. No. 695-07, § 2, eff. 11-30-07)

(11) Flush mounted solar panels may encroach any distance into the setback space.

(Ord. No. 53-08, § 6, eff. 2-8-08)

(c) *Bulk of structures in the RS-4 district.* No part of any structure (except church spires, church towers, flagpoles, antennas, chimneys, flues, vents, flush mounted solar panels, evaporative coolers or accessory water tanks) shall project up through bulk limits which are defined by planes starting at horizontal lines which are co-directional to the front, rear and side lines of the zone lot and pass through points ten (10) feet above the midpoint of each such front, rear and side line and which planes extend up over the zone lot at an angle of forty-five (45) degrees with respect to the horizontal (a pitch of one (1) foot additional rise for each foot additional setback). In addition to the above limitations, no part of any nonresidential structures, except the bracketed items listed in the first sentence above, shall be constructed higher than thirty-five (35) feet.

(Ord. No. 695-07, § 3, eff. 11-30-07; Ord. No. 53-08, § 7, eff. 2-8-08)

(d) *Minimum size of single unit dwellings in the RS-4 district.* Each single unit dwelling shall contain a gross floor area of not less than six hundred (600) square feet.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-107. Permitted development in the R-X district.

(a) *Limitations in the R-X district.* No land shall be used or occupied and no structure shall be erected, altered, used or occupied in the R-X district until there has been submitted to the city council a plan for the development and use of the land and for the erection, alteration, use or occupancy of structures thereon and the plan has been approved by the city council. Each and every plan filed hereunder shall provide the following:

(1) A separate outside entrance for each dwelling unit, which entrance shall be at or within three (3) feet of grade level.

(2) A minimum of one thousand (1,000) square feet of gross floor area for each dwelling unit.

(3) A minimum of seven thousand five hundred (7,500) square feet of land area for each existing and each proposed dwelling unit; provided that upon qualifying under the provisions of article IV, chapter 27 (affordable housing), a minimum of six thousand seven hundred and fifty (6,750) square feet of land area for each dwelling unit shall be provided.

(b) *Filing.* The plan shall be filed by the owner or owners of the land area included, the owner or owners of all structures then existing thereon and all holders of encumbrances of both the land area and structures, hereinafter jointly called the applicants, accompanied by sufficient evidence to establish that the applicants are all the owners and all holders of encumbrances of the designated land and structures.

(c) *Contents.* The plan shall be certified by the applicants, shall include all land area owned by the applicants in the same segment of the R-X district and shall show in exact and final detail the following details drawn to scale:

(1) The land area included in the plan, the land area of all abutting districts and the zoning classification thereof, all public and private rights-of-way and easements bounding and intersecting the district and the abutting districts which are proposed to be continued, created, relocated and/or abandoned;

(2) The proposed finished grade of the district, shown to contour intervals of not to exceed two (2) feet;

(3) A description of the proposed zone lot or zone lots;

(4) The location of each existing and each proposed structure in the district, the use or uses to be contained therein, the number of stories, gross floor area and the location of entrances and loading points therefor;

(5) The location of all outside facilities for waste disposal;

(6) All curb cuts, driving lanes, parking areas, loading areas, public transportation points and illumination facilities for the same;

(7) All pedestrian walks, malls and open areas for use by tenants or members of the public;

(8) The location and height of all walls, fences and screen planting;

(9) The location, size, height, orientation and illumination of all signs;

(10) The types of surfacing, such as paving, turfing or gravel, to be used at the various locations;

(11) The location of fire hydrants.

(d) *Review.* No plan filed hereunder shall be adopted or approved by the city council until the plan has been examined by the planning office or planning board and the recommendations of the office or board have been received by the city council; provided, however, that the city council may use the advice and assistance of any other municipal agency or any other source deemed desirable.

(e) *Disposition.* After completing its review of a plan, the city council shall either adopt and approve such plan by an appropriate ordinance or shall disapprove such plan by any procedure deemed suitable; provided, however, that no plan submitted hereunder shall be adopted or approved unless the city council finds that the plan is in accordance with the municipal comprehensive plan, is designed to lessen congestion in the street, to promote the health and general welfare, to provide adequate light and air and to prevent the overcrowding of land.

(f) *Registration and recording.* All approved plans shall be registered and recorded by the city council and a copy of the plan shall be transmitted to the department of zoning administration.

(g) *Effect of registration and recording.* All plans registered and recorded hereunder shall be binding upon the applicants therefor, their successors and assigns, either with or without notice thereof, shall limit and control the issuance and validity of all zoning permits and zoning certificates and shall restrict and limit the construction, location, use and operation of all land and structures included within such plans to all conditions and limitations set forth in such plans; provided, however, that upon application to and approval by the department of zoning administration, based only and strictly upon a showing of engineering and/or architectural necessity therefor, minor changes in the location of structures or accessory facilities may be permitted if such minor changes will not cause any of the following circumstances to occur:

(1) A change in the character of the development;

(2) An increase in the ratio of the gross floor area in structures to the area of any zone lot;

(3) An increase in the intensity of use;

(4) A reduction in the originally approved separations between buildings;

(5) A change causing problems of circulation, safety and utility;

(6) An increase in the external effects on adjacent property;

(7) A reduction in the originally approved setbacks from property lines;

(8) An increase in ground coverage by structures;

(9) A change in the subject, size, lighting, flashing, animation or orientation of originally approved signs.

(h) *Amendment.* All plans registered and recorded hereunder may be amended pursuant to the same procedure and subject to the same limitations and requirements by which such plans were approved, registered and recorded.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-108. Permitted signs.

The provisions of article V of this chapter on permitted signs shall be in full force and effect in these districts.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-109. Off-street parking requirements.

The provisions of article VI of this chapter on off-street parking requirements shall be in full force and effect in these districts.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-110. Off-street loading requirements.

The provisions of article VII of this chapter on off-street loading requirements shall be in full force and effect in the RS-4 district, but shall be of no force and effect in the R-X district.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-111. Special zone lot plan for planned building groups.

The provisions of article VIII of this chapter on special zone lot plan for planned building groups shall be of no force and effect in these districts.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Secs. 59-112—59-115. Reserved.

DIVISION 2. R-0, R-1, R-2, R-2-A AND R-2-B DISTRICTS

Sec. 59-116. Generally.

The provisions of this division apply to all lands, uses and structures in the R-0, R-1, R-2, R-2-A and R-2-B districts.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-117. Uses allowed in these districts.

The following is a list of uses with notations as to whether they are permitted, conditional, limited, require short review or have other requirements as listed in the matrix and the sections which follow. Uses not listed are not allowed in any of these districts. Uses left blank are not allowed in that district. Permitted uses are uses by right.

Key: *P = Permitted* *L = Uses permitted with limitations* *SR = Uses permitted after special review* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone District*			
Use	*R-0*	*R-1*	*R-2* *R-2-B*	*R-2-A*
Residential				
Dwelling, multiple unit	L200	L200	P	P
Dwelling, single unit	P	P	P	P
Nursing home, hospice				SR
Residence for older adults				L12
Residential, institutional/special	L13	L13	L13	L13
Industrial, wholesale, transportation, utilities				
Helipad, helistop, heliport*		L98	L98	L98
Parking of vehicles*			L103	L103
Railway right-of-way*	P	P	P	P
Terminal, public transportation, local*		P	P	P
Utility, major impact	L115*	L115*	L115*	L115*
Utility, minor impact	L117	L117	L117	P
Arts, entertainment, recreation, institutions				
Child care center	L130	L131	P	P
Church, religious institution	P	P	P	P
Community or senior center or recreational facility		L137	L137	P
Fire station	P	P	P	P
Library	P	P	P	P

Key: *P = Permitted* *L = Uses permitted with limitations* *SR = Uses permitted after special review* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone District*			
Use	*R-0*	*R-1*	*R-2* *R-2-B*	*R-2-A*
Museums, other special purpose cultural institutions		L141	L141	L141
Parks, public, open space, associated buildings*	P	P	P	P
Police station	P	P	P	P
School, elementary or secondary	L153	L153	L153	L153
Uses allowed in all districts unless restricted by special limitations (See chapter 59, article III, division 2)				
Residential care uses (See § 59-82)				
Uses allowed by temporary permit (See § 59-86)				
Accessory uses (See § 59-87)				
Home occupations (See § 59-89)				

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 340-06, § 5, eff. 6-9-06; Ord. No. 137-08, § 1, eff. 3-21-08)

Sec. 59-118. Limitations.

The following define the limitations enumerated in the use chart in section 117:

L12 Such residence shall have a minimum of seven hundred fifty (750) square feet of land area for each dwelling unit or rental room, and shall provide an unobstructed open space area at least one-half of the total area of the zone lot.

L13 Limited to parish house.

L98 Limited to landing and take off area for police rotorcraft, not including maintenance, repair, fueling or hangar facilities, not permitted in the R-2-B.

L103 Parking of vehicles for parish house, school and, in the R-2-A district only, historic structures when the board of adjustment has granted an exception under section 59-54(3)f.; shall not be enclosed and provided that all portions of said use shall comply with all specifications for maintenance hereinafter required for off-street parking space.

L115 Limited to water reservoir, need not be enclosed.

L117 Electric substation excluded.

L130 Limited to a child care center:

a. Located within a structure operated by and used as a church or within an existing non-residential structure which meets all of the requirements of section 59-120 for a school, or a structure used or formerly used as an elementary and/or secondary school meeting all the requirements of the compulsory education laws of the state;

b. That allows children on site for care only from 6:00 a.m. to 7:00 p.m. Parent/teacher/staff meetings may continue until 10:00 p.m. Staff may be present at other hours. May have up to three (3) special events a year later in the evening than above limitations; and

c. That does not have as its primary population children being treated for substance abuse, sexual behavior problems or children who are convicted felons.

L131 Limited to a child care center:

a. Located in a structure operated by and used as a church; or

b. Located within an existing non-residential structure which meets all of the requirements of section 59-120 for a school, or a structure used or formerly used as an elementary and/or secondary school meeting all the requirements of the compulsory education laws of the state.

L137 Community center must be owned or operated by a governmental agency. Senior center not allowed, except in R-2 and R-2-B districts, provided that such center is located within a church or school facility as permitted in the district or in a structure which was formerly used as a church or school as permitted in the district. In either situation such facility must have been operated as a church or school prior to December 31, 1965. Proposed centers shall be reviewed by the zoning administrator who shall examine the proposed use for possible negative effects on adjoining residential properties.

L141 Limited to art museum, public.

L153 Not providing residential accommodations.

L200 Multiple-unit dwelling uses that were legally established and are legally maintained on a zone lot prior to the lot being zoned R-0 or R-1, shall be considered conforming uses in these districts. A structure containing such a multiple-unit dwelling use may be modified or demolished and rebuilt in conformity with the R-2 zone district standards in this Code, provided: (a) the zone lot shall not be expanded and (b) the number of dwelling units on the zone lot shall not be increased above the number of dwelling units that were legally established and maintained prior to the lot being zoned R-0 or R-1. Variances may be granted in conformity with section 59-54(2) provided, however, no variance may be granted to the requirement for three thousand (3,000) square feet of zone lot area per dwelling unit. (Ord. No. 137-08, § 2, eff. 3-21-08; Ord. No. 467-08, § 1, eff. 9-12-08)

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 340-06, §§ 6, 7, eff. 6-9-06)

Sec. 59-119. Limitations on external effects of uses.

External effects of uses shall be regulated by section 59-92.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-120. Permitted structures.

(a) *Zone lot for structures*:

(1) *Zone lot requirements.* A separate ground area, herein called the zone lot, shall be designated, provided and continuously maintained for each structure containing a use or uses by right. Each zone lot shall have at least one (1) front line and shall be occupied only by the structure containing a use or uses by right and a subordinate structure or structures containing only accessory uses; provided, however, in the R-2, R-2-A and R-2-B districts, one (1) subordinate structure containing more than one (1) habitable story and which structure was erected prior to November 8, 1956, as a carriage house, may be used in its entirety as a single unit dwelling.

(2) *Lot width and area requirements.* Except as regulated below, the zone lot for each structure designed or used, either wholly or partly, for residential occupancy shall be not less than fifty (50) feet wide at the front setback line for structures and shall contain not less than six thousand (6,000) square feet.

a. In the R-2 and R-2-B districts, the zone lot shall contain an additional area of three thousand (3,000) square feet for each dwelling unit in excess of the two (2) dwelling units allowed on a six thousand (6,000) square feet lot.

b. In the R-2-A district the zone lot shall contain an additional area of two thousand (2,000) square feet for each dwelling unit in excess of the three (3) dwelling units allowed on a six thousand (6,000) square feet lot, provided, however, that in a planned building group, conforming to the provisions of section 59-120(a)(5) and to the provisions of article VIII of this chapter, the land area may be reduced to one thousand five hundred (1,500) square feet per dwelling unit.

c. "Flag" lots allowed in the R-0 and R-1: The required lot width may be reduced to twenty (20) feet at the front property line of a zone lot containing a width of fifty (50) feet or more for a depth of at least forty (40) feet but the required six thousand (6,000) square feet of area shall not include any portion of the lot less than thirty (30) feet in width. Before any lot that is in excess of one hundred fifty (150) feet in depth is approved pursuant to this paragraph 1, it must be approved by the city fire department, which may impose conditions upon its approval.

d. Exception for certain zone lots. The minimum lot width may be reduced to thirty-seven (37) feet on a zone lot for a structure used as a single unit dwelling if such zone lot is adjoined on both sides by zone lots with structures thereon or adjoined on one (1) side by a street and on the other side by a zone lot with a structure or structures thereon. In this situation the minimum lot area require-

ment may be reduced to four thousand (4,000) square feet, provided, however, in the R-2-A district, the requirement as to minimum size may be waived altogether.

e. For corner lots, the shorter dimension of the lot shall be the width of the lot.

(3) *Limitation on the subdivision of large lots in the R-0 and the R-1 zones.*

a. In the R-0 zone, where a zone lot as designated as of January 23, 1984 has any existing structures located on the zone lot and has both an area greater than twenty-three thousand (23,000) square feet but no more than forty-three thousand five hundred sixty (43,560) square feet and a depth of greater than one hundred eighty (180) feet, then said zone lot may not be amended into more than three (3) zone lots, either by one (1) amendment or by a series of amendments, without the approval of the board of adjustment. Where a zone lot as designated as of the above date has any existing structures located on the zone lot and has both an area greater than forty-three thousand five hundred sixty (43,560) square feet and a depth greater than one hundred eighty (180) feet, then said

zone lot may not be amended into more than four (4) zone lots, either by one (1) amendment or by a series of amendments, without the approval of the board of adjustment.

b. In an R-1 zone, where a zone lot as designated as of October 1, 2001 has both an area equal to or greater than eighteen thousand (18,000) square feet, but no more than thirty six thousand (36,000) square feet and a depth of greater than one hundred seventy five (175) feet, then said zone lot may not be amended into more than two (2) zone lots, either by one amendment or by a series of amendments, without the approval of the board of adjustment. Where a zone lot as designated on October 1, 2001 has both an area greater than thirty-six thousand (36,000) square feet and a depth of greater than one hundred seventy five (175) feet then said zone lot may not be amended into more than four (4) zone lots, either by one (1) amendment or by a series of amendments without the approval of the board of adjustment.

c. Application to the board of adjustment.

1. Any application to the board of adjustment for review shall include a conceptual plan drawn to scale that identifies the land use arrangements, the open space, setbacks, building locations and landscaping scheme.

2. All applications under this paragraph c. shall be reviewed for completeness by the department of zoning administration, and, if found to be complete, shall be transmitted to the planning office and to any other city agency which might be affected by approvals of such applications. Any such agency may transmit a recommendation to the board of adjustment. The board shall schedule a hearing neither earlier than sixty (60) days nor later than ninety (90) days after an application is filed, unless it has received a written recommendation from the planning office. Any approval by the board may establish necessary conditions and limitations and any approvals shall be based upon the following standards.

(i) Approval will not adversely affect the essential character of the neighborhood in which the subject property is located.

(ii) Approval will not substantially or permanently injure the appropriate use of adjacent property.

(iii) Adequate provision has been made for design of safe and convenient pedestrian circulation, driveways, and roadways, including the requirement that a minimum of two (2) off-street parking spaces be provided for each single unit dwelling.

(iv) Adequate arrangement of buildings and access is provided within the site and with regard to adjacent zone lots to reduce the impact on adjoining properties.

(v) The application has been reviewed and approved by the Denver Fire Department and the applicant agrees to any conditions imposed by the Fire Department.

d. Demolition of an existing structure subsequent to January 23, 1984 will not exempt a zone lot from the requirements of this paragraph c.

e. Any amendment of an existing zone lot pursuant to this paragraph c. which does not require board of adjustment approval must otherwise comply with all requirements and standards of the R-0 or R-1 district, whichever is applicable.

(4) *Required open space in the R-0, R-1 and R-2 districts.*

a. *Zone lot requirements.* The zone lot for the following structures shall contain at least the following amounts of unobstructed open space; except for a single unit dwelling on a zone lot containing less than three thousand five hundred (3,500) square feet, in which case the open space requirement shall be fifty (50) percent of the area of the zone lot:

1. Single unit dwelling or multiple unit dwelling, sixty-two and one-half (62.5) percent of the area of the zone lot.

2. Child care center, three thousand (3,000) square feet.

b. *Requirement for rear portion of zone lot.* Area B, as defined in section 59-120(a)(4)c, of any zone lot occupied by a single unit dwelling or a multiple unit dwelling shall contain at least the following amounts of unobstructed open space:

1. For zone lots containing five thousand (5,000) square feet or more, sixty (60) percent rear open space.

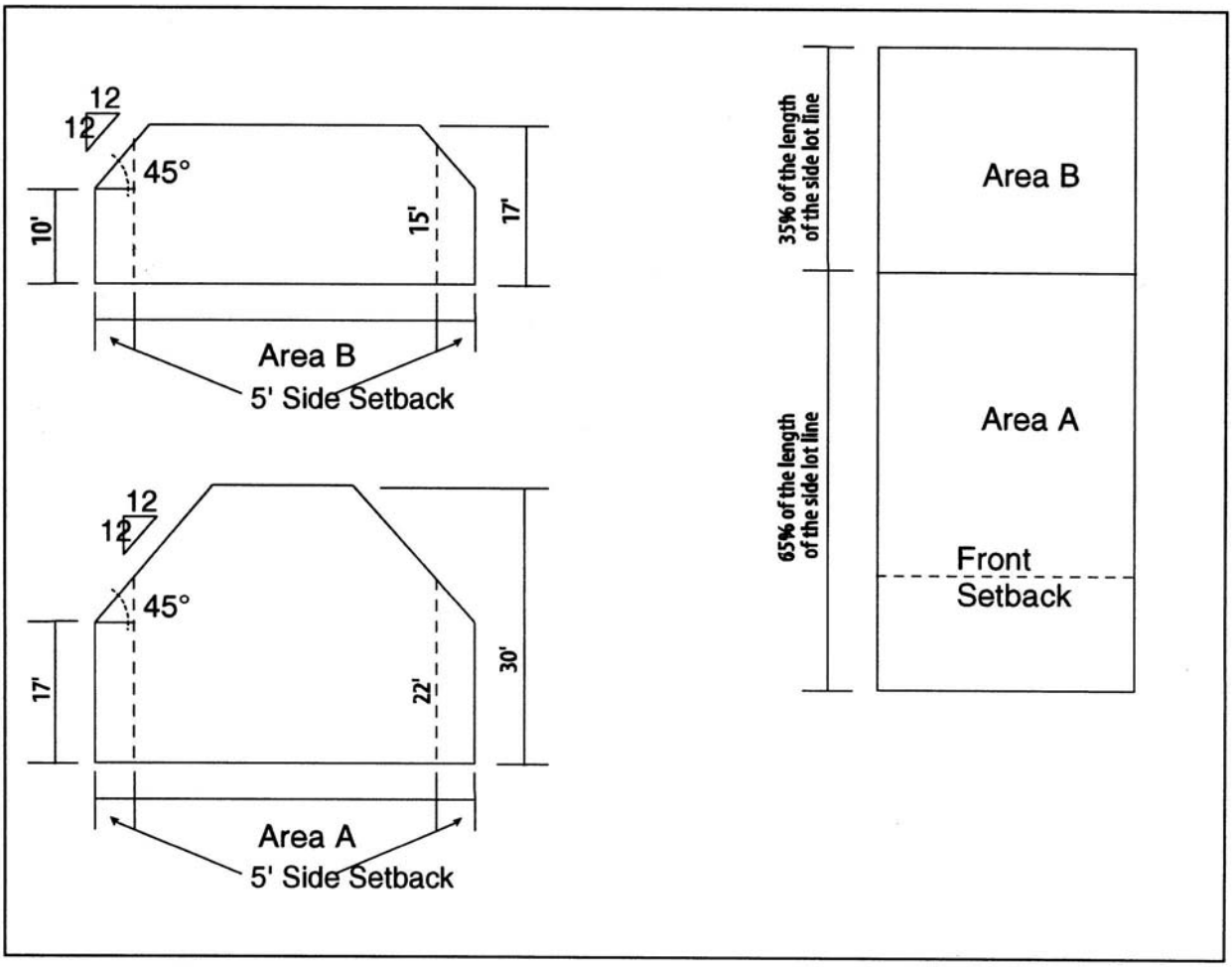
2. For zone lots containing less than five thousand (5,000) square feet, fifty (50) percent rear open space.

c. *Determination of rear portion of zone lot.* For purposes of determining the open space requirement set forth in sections 59-120(a)(4)a and b, Area B of the zone shall mean the area bounded by the rear line of the zone lot, the two side lines of the zone lot, and an imaginary line connecting two points on the side lines, each point representing sixty-five (65) percent of the length of the side line as measured from the front line of the zone lot. (See "Area B" as depicted in Illustration 1.) For corner zone lots, the zoning administrator shall determine the front, rear, and side lines of the zone lot as provided in section 59-2(126). For flag lots as provided in section 59-120(a)(2)c., the calculation of the length of the side lot line shall not include any portion of the flag lot that is less than thirty (30) feet in width. For other irregularly shaped lots, Area B of the zone lot shall be established by the zoning administrator, consistent with the purpose of this requirement to promote the preservation of open space in the rear portion of zone lots, the centering of residential structures in relation to the depth of zone lots, and the harmonious location of new residential construction in relation to existing, adjacent residential structures. The remainder of the lot shall be termed

"Area A". For purposes of determining and applying the open space requirements set forth in this section 59-120(a)(4), if the front setback requirement on the zone lot is more than thirty (30) feet, then the depth of Area A as depicted in Illustration 1 shall be increased one (1) foot for every one (1) foot the required setback exceeds thirty (30) feet, and the depth of Area B shall be correspondingly decreased.

d. *Incentive for detached garages.* A credit toward the amount of unobstructed open space required by paragraphs 59-120(a)(4)a. and b. shall be given for a portion of the area of the zone lot occupied by any detached garage. The credit shall be in the amount of one-half of the area of the zone lot occupied by the detached garage, up to a maximum credit of five hundred (500) square feet. In order to qualify for the credit, the detached garage shall be separated by at least fifteen (15) linear feet from the dwelling on the zone lot and shall be located as close to the rear line of the zone lot as may be permitted by applicable laws or regulations.
(Ord. No. 625-05, § 7, eff. 9-2-05)

e. *Incentive for front porches.* Except as otherwise provided in this subparagraph e, a credit toward the amount of unobstructed open space required by section 59-120(a)(4)a. shall be given for all or a portion of the area of the zone lot occupied by any unenclosed porch facing the front line of the zone lot, regardless of whether the porch is covered by a roof. The credit shall be in the amount of the actual area of the zone lot occupied by the porch, up to a maximum credit of four hundred (400) square feet. No credit shall be given for any portion of a porch located directly beneath any enclosed habitable room or story of the dwelling, nor shall any credit be given for any portion of the porch that qualifies as unobstructed open space.



(5) *Required open space in the R-2-A district.* In the R-2-A district the zone lot for the following structures shall provide at least the following amount of unobstructed open space:

a. Single unit dwelling, three thousand (3,000) square feet unless the zone lot contains less than six thousand (6,000) square feet, in which event an area equal to at least one-half the area of the zone lot;

b. Pre-school, three thousand (3,000) square feet;

c. For each dwelling unit in a multiple unit dwelling not part of a planned building group as provided in article VIII of this chapter, one thousand (1,000) square feet;

d. Planned building groups meeting the requirements of article VIII of this chapter and having two thousand (2,000) square feet or more of land area for each dwelling unit shall have a minimum of one thousand (1,000) square feet of unobstructed open space for each dwelling unit;

e. Planned building groups meeting the requirements of article VIII of this chapter and having less than two thousand (2,000) square feet of land area for each dwelling unit shall have a minimum of one thousand (1,000) square feet of unobstructed open space for each dwelling unit, provided, however, that for each parking space that is enclosed within or under residential structures the total required unobstructed open space for the site may be reduced by one hundred (100) square feet. A minimum of seven hundred fifty (750) square feet of the unobstructed open space for each dwelling unit shall be landscaped; provided, however, that the minimum landscaped area may be reduced to six hundred fifty (650) square feet for each dwelling unit when agreed to by the applicant only if at least fifty (50) percent of the total dwelling units in the development, but not necessarily in each phase of the development, are sold and/or rented to low and moderate income and/or lower-middle income individuals or families. Lower-middle income is defined as being one hundred thirty (130) percent of the median family income officially established for the metropolitan area. The landscaped area herein required shall consist of any combination of living plant materials such as trees, shrubs, vines, ground covers, flowers and lawn, and may include natural features such as rock, stone and structures such as fences, walls and benches. At least fifty (50) percent of the required landscaped area shall be composed of living plant materials and/or water features; and

f. Nursing home, one-half of the total area of the zone lot.

(6) *Required open space in the R-2-B district.* In the R-2-B district the zone lot for the following structures shall provide at least the following amount of unobstructed open space:

a. Single unit dwelling or multiple unit dwelling, fifty (50) percent of the area of the zone lot.

b. Child care center, three thousand (3,000) square feet.

c. *Incentive for front porches.* Except as otherwise provided in this paragraph 3, a credit toward the amount of unobstructed open space required by paragraph 1 shall be given for all or a portion of the area of the zone lot occupied by any unenclosed porch facing the front line of the zone lot, regardless of whether the porch is covered by a roof. The credit shall be in the amount of the actual area of the zone lot occupied by the porch, up to a maximum credit of four hundred (400) square feet. No credit shall be given for any portion of a porch located directly beneath any enclosed habitable room or story of the dwelling.

(7) *Amending zone lot boundaries.* Upon application to and approval by the department of zoning administration, the boundaries and area of a designated zone lot may be amended if full compliance with all requirements of this chapter can be maintained.

(b) *Location of structures.* Except as hereinafter provided, the space resulting from the following setbacks shall be open and unobstructed:

(1) *Front setback.*

a. *In the R-0, R-1, R-2 and R-2-B districts.* For situations not covered by the following two (2) paragraphs, the zoning administrator shall establish the front setback requirement. Also the administrator shall establish the front setback requirement in historic districts designated for preservation according to chapter 30 where the majority of structures were built with less than a twenty-foot setback.

1. Long dimension of the block: All structures shall be set in a distance of not less than twenty (20) feet from each front line of the zone lot facing the long dimension of any block oblong in shape; provided, however, that if the front setbacks of the residential structures abutting on either side of the proposed structure are greater than twenty (20) feet, the minimum front setback of the proposed structure shall be the average of the front setbacks of those abutting structures. If a proposed structure is to be located on a corner lot and the residential structure abutting the proposed structure is greater than twenty (20) feet, the minimum front setback of the proposed structure shall be the average of the setbacks of the abutting structure and the residential structure located on the next zone lot to the abutting structure on the same face block as the subject zone lots. In calculating the front setback, the following shall be disregarded: structures located in the rear one-half (1/2) of the lot, structures with zero (0) setbacks, structures with illegal front additions or porch enclosures, and structures for which front setback variances have been obtained.

2. Shorter dimension of the block: On the two (2) shorter dimensions of any block oblong in shape, the front setback may be reduced to five (5) feet for structures which face on the longer dimension of the block and to ten (10) feet for structures which face on the shorter dimension of the block.

b. *In the R-2-A district.* All structures shall be set in a distance of not less than twenty (20) feet from each front line of the zone lot; provided, however:

1. That on the two (2) shorter dimensions of any block oblong in shape, the front setback may be reduced to five (5) feet for structures which face on either longer dimension and to ten (10) feet for structures which face on either shorter dimension; and provided further,

2. That detached accessory structures, except those detached accessory structures used as garages or for recreational or outdoor cooking and eating purposes or gas-fired incinerators shall be set in a sufficient distance from each front line of the zone lot so that such structures are located only on the rear part of the zone lot which is adjacent to and corresponding with the rear

one-fourth of abutting interior zone lots and no closer to the side street right-of-way than one-half the dimension of the corner zone lot, measured perpendicularly from the side street right-of-way; and provided further,

3. That in a planned building group conforming to the provisions of article VIII of this chapter, the average front setback of structures shall not be less than fifteen (15) feet, but in no case shall any structure have less than a ten-foot front setback.

4. The space resulting from the foregoing setbacks shall be used for landscaping and access ways to the use by right but shall not be used for the parking of vehicles.

(2) *Rear setback.* If a zone lot has more than one (1) rear line by reason of abutting alleys, the setbacks listed below shall be required for only one (1) rear line, and the other rear line or lines shall, for the purposes of setbacks, be deemed side lines of the zone lot:

1.	Use by right structure with no rear alley	20 feet
	With an alley, setback measured to alley centerline	20 feet
2.	Attached or detached garage or carport with no alley	5 feet
	With an alley and doors opening directly onto the alley	5 feet
	With an alley but with no doors opening directly onto the alley	0 feet
3.	Detached accessory structures and fixtures with no alley	5 feet
	With an alley but with no doors opening directly onto the alley	0 feet
	Fixtures for the disposal of trash and garbage	0 feet
4.	Electric substations, gas regulator stations and utility pumping stations which do not have a rear entrance	0 feet
	Such substations and stations which have a rear entrance	5 feet

(3) *Side setback.* The following are minimum requirements: Note: An attached garage shall be considered detached for the purpose of compliance with side and rear setback requirements: See definition section 59-2(90).

a.	On narrow lots under 30 ft. in width, all structures, except for detached accessory structures as regulated below, shall be set back	3 feet
b.	On lots 30 ft. or greater in width, all structures, except for detached accessory structures as regulated below, shall be set back according to their use as follows:	
1.	Structures designed or used, either wholly or partly, for residential occupancy	5 feet
2.	Electric substations, gas regulator station	5 feet
3.	Any structure occupied as a church or school in the R-0 or R-1 district if the abutting zone lot contains a residential use	50 feet
	If the abutting zone lot contains no residential use	10 feet

4. Any structure containing any permitted use other than that listed in (3)b.1., 2. or 3. above . . . . . 10 feet

5. Any structure containing an accessory use . . . . . 5 feet

c. Regardless of lot width, detached accessory structures, however in the R-2-A district this includes only detached garages or carports, may be located as follows:

1. On lots 125 feet or less in depth with the accessory structure located entirely on the rear one-third of the lot and no part of such structure is more than 40 feet from the rear line . . . . . 0 feet

2. On lots more than 125 feet in depth with the accessory structure located entirely on the rear one-third of the lot and no part of such structure is less than 85 feet from any front line of the zone lot . . . . . 0 feet

d. In the R-2-A district the above side setbacks shall be used for landscaping and access ways but shall not be used for the parking of vehicles; provided, however, if the distance from the building to the side line of the zone lot measures twenty-one (21) feet or more, that setback space may be used for the parking of vehicles.

(4) *Permitted encroachment on setback space*:

a. Belt courses, sills, lintels and pilasters may project eighteen (18) inches into front, rear and side setback spaces.

b. Cornices, eaves and gutters may project three (3) feet into front setback space, five (5) feet into rear setback space and thirty-six (36) inches into side setback space; provided, however, that if the side setback space is less than five (5) feet in width then such projection shall not exceed one-half the width of the side setback space.

c. Outside stairways may project five (5) feet into front setback space, ten (10) feet into rear setback space and three (3) feet into side setback space; access ramps for the handicapped may encroach into any required building setback space, providing no alternative location is available and providing the ramp construction is compatible with the character of the structure.

d. Unwalled porches, terraces and balconies may extend five (5) feet into front and rear setback spaces.

e. Chimneys not to exceed six (6) feet in width may project eighteen (18) inches into front, rear and side setback space.

f. Building accessories designed and intended to control light entering a building and being a permanent part of such building may project five (5) feet into front setback space, ten (10) feet into rear setback space and three (3) feet into side setback space. In the R-0, R-1, R-2 and R-2-B districts, projecting windows may not project into the setback spaces.

g. In the R-2-A district, building accessories designed and intended to control light entering a building and not being a permanent part of such building by being removable therefrom and by not being attached to a load-bearing member thereof, may project any distance into any setback space.

h. Any structure or part thereof which is below the grade of any setback space may project any distance into such setback space.

i. Gas and electric meters may project eighteen (18) inches into any setback space. Utility pedestals, transformers or other similar equipment excluding mechanical equipment may be installed in any setback area providing they do not exceed a height of three (3) feet.

j. Basketball goals on a fixed post may encroach any distance into the setback spaces.

k. Ground mounted air conditioning units or other similar mechanical equipment, except evaporative coolers, may be permitted in a required side or rear setback subject to administrative review and approval by the zoning administrator as provided in subsection 59-38(14).

(Ord. No. 695-07, § 4, eff. 11-30-07)

l. Ground mounted air conditioning units or other similar mechanical equipment, except ground mounted evaporative coolers, may be permitted in a required side or rear setback subject to administrative review and approval by the zoning administrator as provided in subsection 59-38(14). Ground mounted evaporative coolers may project three (3) feet into side setback space; provided:

1. The equipment is located behind the front of the residential structure and screened from adjacent properties and public rights-of-way; and

2. The noise standards of section 36-6 of the Denver Revised Municipal Code are not exceeded.

2 (Ord. No. 695-07, § 5, eff. 11-30-07)

m. Flush mounted solar panels may encroach any distance into the setback space.

(Ord. No. 53-08, § 8, eff. 2-8-08)

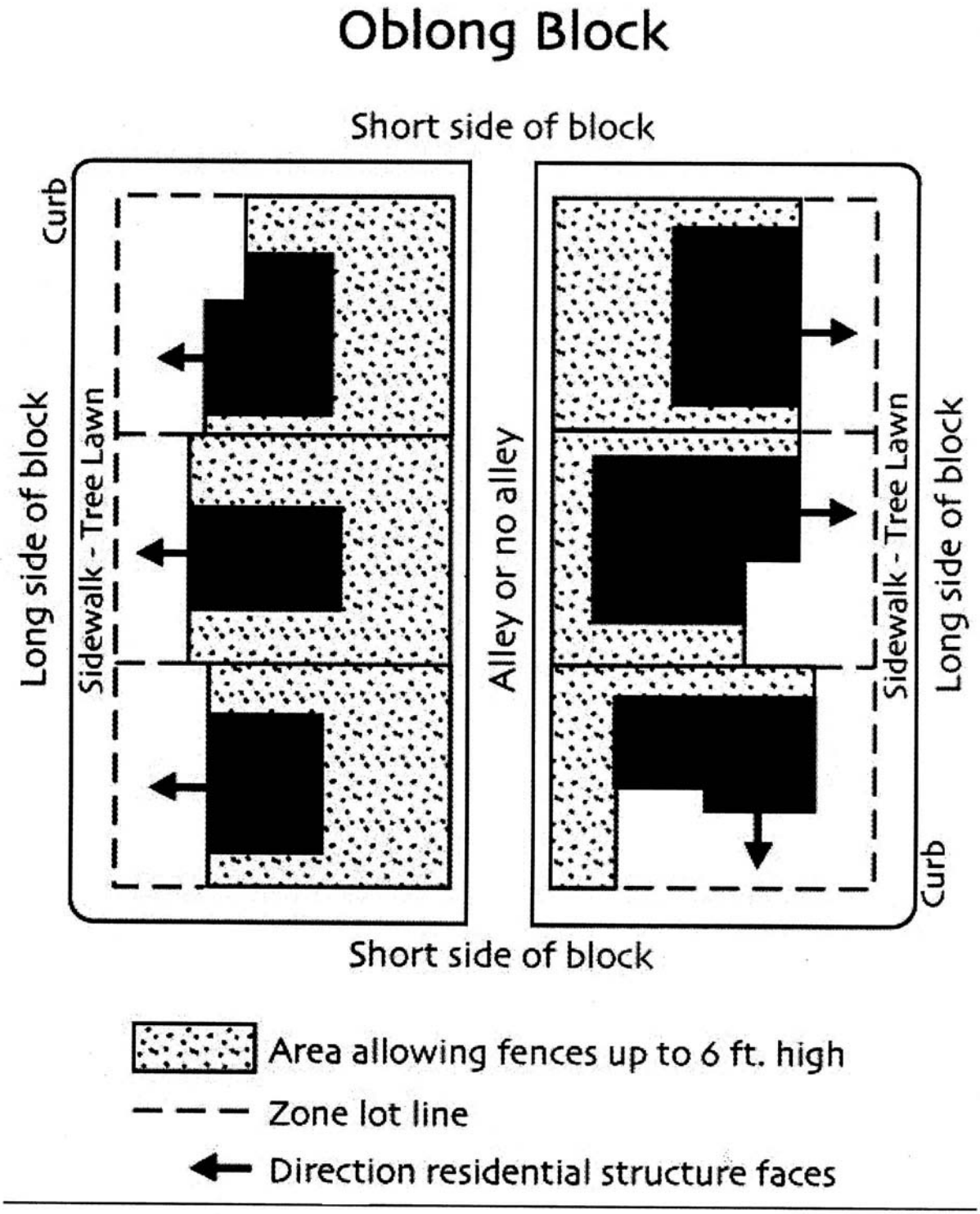
(5) *Fences, walls and retaining walls.*

a. *Determination of height.* See section 59-2(112.1) fence and wall height measurement.

b. *Permitted height and location.* Fences and walls not exceeding four (4) feet in height may be erected on any part of the zone lot. Fences not exceeding six (6) feet in height may be built anywhere on the zone lot except forward of any adjacent front wall or walls of a residential structure (see illustration).

1. Retaining walls in the front setback may be built to a height of four (4) feet and successive walls may be built provided that they are separated by at least four (4) feet. In any area of the zone lot other than the front setback, retaining walls may be built to any height;

2. Fences located on top of retaining walls in the front set back must be fifty (50) percent or more open for any portion of the fence that is more than four (4) feet above the lowest grade at the base of the retaining wall;
3. Fences not exceeding six (6) feet in height on a corner lot where a residential structure is oriented to the short dimension of an oblong block may be built to the zone lot line along the short dimension of the block except along the zone lot line or area in front of any wall of a residential structure. Fences over four (4) feet in height but not exceeding six (6) feet in height may only be placed in the areas described in this section 59-120(b)(5) and the accompanying illustration;


Oblong Block
Short side of block
Curb
Long side of block
Sidewalk - Tree Lawn
Alley or no alley
Sidewalk - Tree Lawn
Long side of block
Curb
Short side of block
Area allowing fences up to 6 ft. high
Zone lot line
Direction residential structure faces

1

4. Schools, public parks and/or playgrounds may erect open-mesh fences to any height on any part of the zone lot; and

c. *Materials.* The materials used for fences or walls shall consist of wood, brick, masonry, wire mesh, metal bars not exceeding one and one-half (1.5) inches in diameter or other materials which may be approved by the zoning administrator. Salvaged doors, corrugated or sheet metal, and other materials designated by the administrator shall not be allowed. Notwithstanding the provisions of section 59-632, nonconforming structures, of the Revised Municipal Code, existing fences and walls which have been constructed of the prohibited materials listed above or other materials not approved by the zoning administrator may not be maintained and any such fences and walls shall be immediately reconstructed of approved materials or removed.

(Ord. No. 363-06, § 5, eff. 6-16-06; Ord. No. 605-06, § 3, eff. 9-22-06)

(c) *Bulk of structures.* With the exception of eaves, church spires, church towers, flag poles, antennas, chimneys, flues, vents, flush mounted solar panels and evaporative coolers, no part of any structure including elevator penthouses, air conditioners, and other mechanical equipment shall project through bulk planes which shall be applied as follows:
(Ord. No. 695-07, § 6, eff. 11-30-07; Ord. No. 53-08, § 9, eff. 2-8-08)

(1) *Ground-level point.* The starting point for locating the bulk plane shall be the midpoint of a specific lot line, street center line or alley center line adjoining the lot. The elevation of the ground at the midpoint shall be used as the first measuring point for the bulk plane. In case a retaining wall is located on the lot line, the midpoint elevation shall be taken from the base of the wall. The midpoint elevation shall be established at the original grade, prior to any grading or construction, and said original grade shall be documented by the applicant in a form satisfactory to the zoning administrator.

(2) *In the R-0, R-1, and R-2 districts*:

a. Within Area A of the zone lot, the bulk plane shall begin at a horizontal line which is located directly above the side lot line and which passes through a point seventeen (17) feet above the midpoint of such lot line. (See Illustration 1.)

b. Within Area B, the bulk plane shall begin at a horizontal line which is located directly above the side lot line and which passes through a point ten (10) feet above the midpoint of such lot line. (See Illustration 1), provided, however, for a detached garage that is located as close to the rear line of the zone lot as may be permitted by applicable laws or regulations, the bulk plane shall begin at a horizontal line which is located directly above the side lot line and which passes through a point ten (10) feet above the midpoint of that portion of said side lot line between the lines of the front and rear of the garage extended to said side lot line.

(3) *In the R-2-A district the starting line for bulk planes shall be as follows (see Illustration 3):*

a. For the side area of a zone lot: at a horizontal line which is located directly above the side lot line and passes through a point ten (10) feet above the midpoint elevation of such side lot line;

b. For the front area of the zone lot: at a horizontal line which is located directly above the center lines of all streets abutting the lot and which passes through a point ten (10) feet above the midpoint of such center lines between the boundary lines of the lot extended; and

c. For the rear area of the zone lot:

1. With no abutting alley: at a horizontal line which is located directly above the rear lot line and which passes through a point ten (10) feet above the midpoint elevation of such rear lot line; or

2. With an abutting alley: at a horizontal line which is located directly above the center line of the abutting alley or alleys and passes through a point ten (10) feet above the midpoint elevation of such center line between the boundary lines of the zone extended.

(3.5) In the R-2-B districts:

a. Within the front eighty (80) percent of the zone lot (Area A), the bulk plane shall begin at a horizontal line which is located directly above the side lot line and which passes through a point fourteen (14) feet above the midpoint of such lot line. (As shown in Illustration 2.)

b. Within the rear twenty (20) percent of the zone lot (Area B), the bulk plane shall begin at a horizontal line which is located directly above the side lot line and which passes through a point ten (10) feet above the midpoint of such lot line. (As shown in Illustration 2.)

(4) All of the above bulk planes shall extend from the above described horizontal lines over the zone lot at an angle of forty-five (45) degrees with respect to the horizontal (a pitch of one (1) foot additional rise for each one (1) foot additional setback).

(5) For purposes of determining the bulk planes as required by this subsection, Area A shall mean the area bounded by the front line of the zone lot, the two side lines of the zone lot, and an imaginary line connecting two points on the side lines, each point representing sixty-five (65) percent or, in the R-2-B district, eighty (80) percent of the length of the side line as measured from the front line of the zone lot. (See "Area A" as depicted in Illustrations 1 and 2.) Area B shall mean the area bounded by the rear line of the zone lot, the two side lines of the zone lot, and an imaginary line connecting two points on the side lines, each point representing sixty-five (65) percent or eighty (80) percent of the length of the side line as measured from the front line of the zone lot. (See "Area B" as depicted in Illustrations 1 and 2.) For corner zone lots, the zoning administrator shall determine the front, rear, and side lines of the zone lot as provided in section 59-2(126). For flag lots as provided in section 59-120(a)(2)c, the length of the side lot lines shall not include any portion of the flag lot that is less than thirty (30) feet in width. For other irregularly shaped lots in the R-0, R-1, and R-2 districts, Areas A and B shall be established by the zoning administrator, consistent with the purpose of this requirement to promote the preservation of open space in the rear portion of lots, the centering of residential structures in relation to the depth of zone lots, and the

harmonious location of new residential construction in relation to existing, adjacent residential structures. For irregularly shaped lots in the R-2-B district, Areas A and B shall be established by the zoning administrator, consistent with the purpose of this requirement to promote the harmonious location of new residential construction in relation to existing, adjacent residential structures.

(6) For purposes of determining and applying the bulk plane requirements set forth in this section 59-120(c) as they pertain to the R-0, R-1, and R-2 districts, if the front setback requirement on the zone lot is more than thirty (30) feet, then the depth of "Area A" as depicted in Illustration 1 shall be increased one (1) foot for every one (1) foot the required setback exceeds thirty (30) feet and the depth of Area B correspondingly reduced.

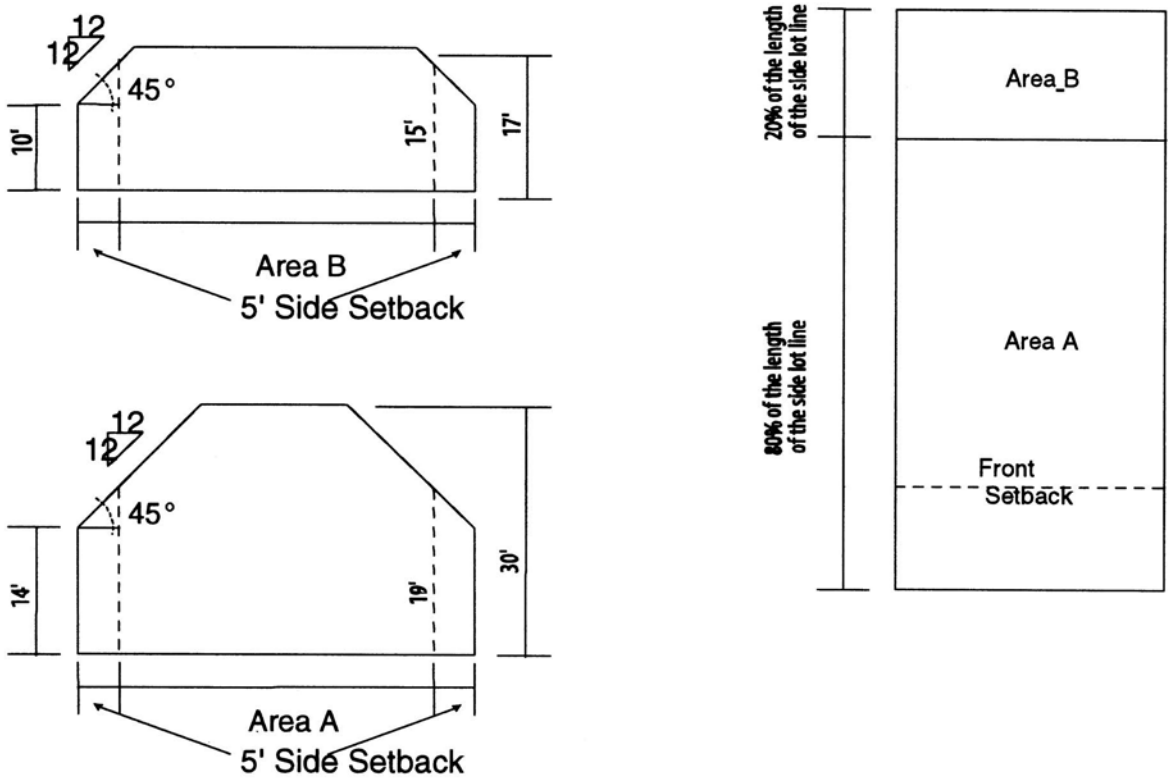


Illustration 2. Determining Front and Rear Portion of Zone Lot and Bulk Plane in the R-2-B District

(d) *Minimum size of dwellings.* Each single unit dwelling and any other structure occupied in whole or in part for residential purposes shall contain a gross floor area of not less than six hundred (600) square feet.

(e) *Height of structures in the R-0, R-1 and R-2 districts.*

(1) Area A, no part of any residential structure (except eaves, flagpoles, antennas, chimneys, flues, vents, flush mounted solar panels, or evaporative coolers) shall exceed

thirty (30) feet in height on zone lots having a width of fifty (50) feet or less. On zone lots wider than fifty (50) feet, the height of the residential structure may exceed thirty (30) feet by one (1) foot for every five foot increase in lot width over fifty (50) feet up to a maximum height of thirty-five (35) feet. For purposes of this section 59-120(e)(1) only, the height of the structure shall be the vertical distance measured from the highest point of the building as described in section 59-2(52) to the average elevation of the corners of the building located in Area A at the finished grade.

(2) In Area B, no part of any residential structure (except eaves, flagpoles, antennas, chimneys, flues, vents, flush mounted solar panels or evaporative coolers) shall exceed seventeen (17) feet in height; provided, however, that the permitted height shall be increased an additional one foot, to a maximum of nineteen (19) feet, for every additional three (3) feet the residential structure is located away from any side lot line in excess of the standard side setback requirement. For purposes of this section 59-120(e)(1) only, the height of the structure shall be the vertical distance measured from the highest point of the building as described in section 59-2(52) to the average elevation of the corners of the building located in Area B at the finished grade. Within Area B, no residential structure shall exceed one story above ground level and no deck, patio, terrace, porch or balcony shall be located upon any roof.

(3) No part of any nonresidential structure (except church spires, church towers, flagpoles, chimneys, antennas, flues, vents, flush mounted solar panels or evaporative coolers) shall be constructed higher than thirty-five (35) feet except that no part of any detached garage shall be constructed higher than fifteen (15) feet. The height of a detached garage that is located as close to the rear line of the zone lot as may be permitted by applicable laws or regulations shall be the vertical distance measured from the highest point of the garage as the highest point is described in section 59-2(52), to the average elevation of the alley or, if there is no alley, the rear line of the zone lot immediately adjacent to the garage.

(4) For purposes of applying the height limitations set forth in this section 59-120(e), Areas A and B shall be determined as provided in section 59-120(c)(5), subject to the adjustment provided in section 59-120(c)(6). (See Illustration 1.)

(Ord. No. 695-07, § 7, eff. 11-30-07; Ord. No. 53-08, § 10, eff. 2-8-08)

(f) *Height of structures in the R-2-A district.* In the R-2-A district no part of any structure shall be constructed higher than one hundred ten (110) feet.

(g) *Height of structures in the R-2-B district.*

(1) In Area A, no part of any residential structure (except eaves, flagpoles, antennas, chimneys, flues, vents, flush mounted solar panels or evaporative coolers) shall exceed thirty (30) feet in height on zone lots having a width of fifty (50) feet or less. On zone lots wider than fifty (50) feet, the height of the residential structure may exceed thirty (30) feet by one (1) foot for every five foot increase in lot width over fifty (50) feet up to a maximum height of thirty-five (35) feet. For purposes of this section 59-120(g)(1)

only, the height of the structure shall be the vertical distance measured from the highest point of the building as described in section 59-2(52) to the average elevation of the corners of the building located in Area A at the finished grade.

(2) In Area B, no part of any residential structure (except eaves, flagpoles, antennas, chimneys, flues, vents, flush mounted solar panels or evaporative coolers) shall exceed seventeen (17) feet in height; provided, however, that the permitted height shall be increased an additional one foot, to a maximum of nineteen (19) feet, for every additional three (3) feet the residential structure is located away from any side lot line in excess of the standard side setback requirement. For purposes of this section 59-120(g)(2) only, the height of the structure shall be the vertical distance measured from the highest point of the building as described in section 59-2(52) to the average elevation of the corners of the building located in Area B at the finished grade. In Area B, no residential structure shall exceed one story above ground level.

(3) No part of any nonresidential structure (except church spires, church towers, flagpoles, chimneys, antennas, flues, vents, flush mounted solar panels and evaporative coolers) shall be constructed higher than thirty-five (35) feet except that no part of any detached garage shall be constructed higher than fifteen (15) feet.

(4) For purposes of applying the height limitations set forth in this subsection (4), Areas A and B shall be determined as provided in section 59-120(c)(6). (See Illustration 2.)

(Ord. No. 695-07, § 8, eff. 11-30-07; Ord. No. 53-08, § 11, eff. 2-8-08)
(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 895-03, §§ 14—17, eff. 12-2-03; Ord. No. 580-04, §§ 2—13, eff. 8-30-04)

Sec. 59-121. Permitted signs.

The provisions of article V of this chapter on permitted signs shall be in full force and effect in these districts.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-122. Vehicular access and parking in the R-0, R-1, R-2 and R-2-B districts.

(a) *In general.* In addition to the requirements set forth in this section, vehicular access to zone lots, parking of vehicles, and requirements for garages in the R-0, R-1, R-2 and R-2 B districts shall be governed by the applicable provisions of section 59-88, section 59-93 and article VI of this chapter. In the event of any conflict between the requirements of this section and any requirement set forth elsewhere in this chapter, the stricter provision shall control.

(b) *Vehicular access from alley required; exceptions.* On and after January 1, 2002, any newly constructed driveway, driving aisle, garage, carport, or other parking facility accessory to a single unit dwelling or multiple unit dwelling shall be accessed solely from an alley if the zone lot is bounded by an alley, unless:

(1) The alley is not provided with an all weather surface of asphalt, asphaltic concrete, concrete, or any equivalent material;

(2) The alley is less than twelve (12) feet in width;

(3) At least sixty (60) percent of the existing dwelling units on the same face block are served by driveways, driving aisles, or other parking facilities accessed directly from a street; or

(4) The department of public works prohibits the use of the alley for vehicular access to the zone lot based upon a determination that the alley cannot safely accommodate additional vehicular traffic.

(c) *Front garage width.* On and after January 1, 2002, the width of the doors on any newly constructed garage accessory to a single unit dwelling or a multiple unit dwelling and accessed directly from a street shall not exceed thirty-five (35) percent of the entire width of the facade of the dwelling or sixteen (16) feet, whichever is greater. This subsection shall not apply if the garage is located entirely in the rear one-half of the zone lot.

(d) *Front garage projection.* On and after January 1, 2002, any newly constructed garage accessory to a single unit dwelling or a multiple unit dwelling and accessed directly from a street shall not project closer to the front line of the zone lot than does any other part of the facade of the dwelling. This subsection shall not apply if at least sixty (60) percent of the existing dwelling units on the same face block are served by garages that are accessed directly from a street and project closer to the front line of the zone lot than do any other part of the facades of the dwellings to which they are accessory.

(e) *Limitations on vehicular uses in front setback.* On and after January 1, 2002, any newly constructed driveways, driving aisles, or unenclosed parking spaces accessory to a single unit dwelling or multiple unit dwelling shall not occupy more than one-third (1/3) of the front setback area of the zone lot, as determined pursuant to section 59-120(b)(1).

(f) *Definition of facade.* For purposes of this section, the term "facade" shall mean any exterior wall surface located at the ground level of a dwelling that faces the front line of the zone lot and encloses the interior of the dwelling.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-123. Of street parking requirements in the R-2-A district.

The provisions of article VI of this chapter on off-street parking requirements shall be in full force and effect in the R-2-A district.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-124. Off-street loading requirements.

The provisions of article VII of this chapter on off-street loading requirements shall be in full force and effect in these districts.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-125. Special zone lot plan for planned building groups.

(a) *R-0 zone.* The provisions of article VIII of this chapter on special zone lot plan for planned building groups shall be of no force and effect in this district.

(b) *R-1, R-2, R-2-A, and R-2-B zones.* The provisions of article VIII of this chapter on special zone lot plan for planned building groups shall be in full force and effect in these districts.

(c) *Special provisions for planned building groups in R-1, R-2 and R-2-B zones.* Notwithstanding any other provision of this division 2 or of article VIII of this chapter, planned building groups in the R-1, R-2 and R-2-B zone districts shall be subject to the following requirements:

(1) *Bulk of structures.* With the exception of eaves, church spires, church towers, flag poles, antennas, chimneys, flues, and vents, no part of any structure including elevator penthouses, air conditioners, and other mechanical equipment shall project through bulk planes which start as follows:

a. The elevation at the midpoint of a specific zone lot line shall be as close as possible to the original grade of the midpoint, and in case a retaining wall is located on the lot line, the midpoint elevation shall be taken from the base of the wall. The midpoint elevation shall be established prior to any grading or construction;

b. For the side area of the zone lot: at a horizontal line which is located directly above the side lot line and which passes through a point ten (10) feet above the midpoint of such side lot line;

c. For zone lots on the corner of oblong blocks: at a horizontal line which is located directly above the front lot line facing the shorter dimension of any block oblong in shape and which passes through a point fifteen (15) feet above the midpoint of such lot line; and

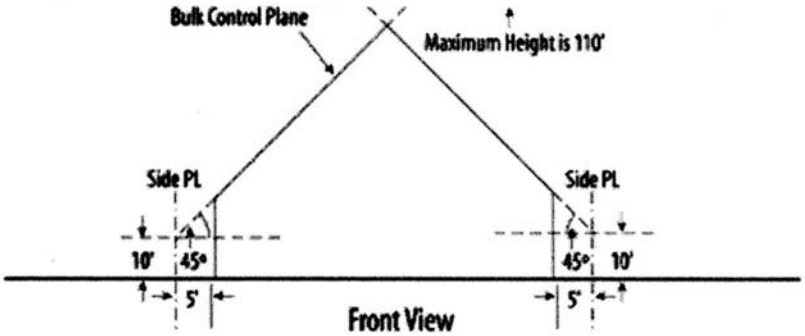
d. For the rear area of the zone lot:

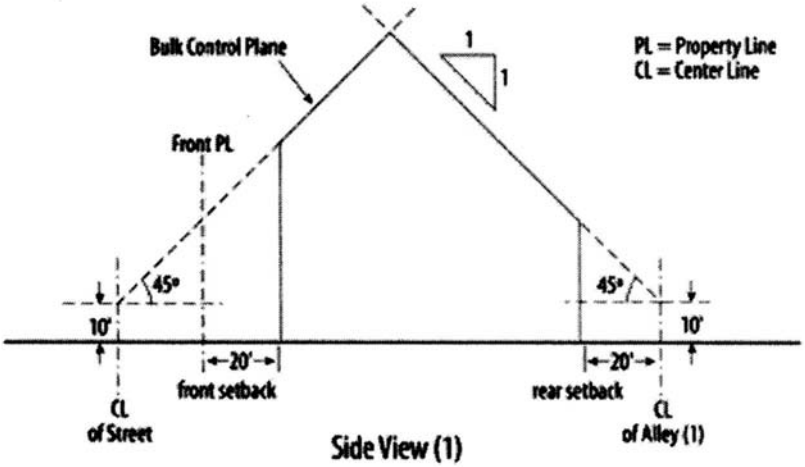
1. With no abutting alley: at a horizontal line which is located directly above the rear lot line and which passes through a point ten (10) feet above the midpoint of such rear lot line; or

2. With an abutting alley: at a horizontal line which is located directly above the center line of the abutting alley or alleys and pass through a point ten (10) feet above the midpoint elevation of such center line.

e. These bulk planes shall extend over the zone lot at an angle of forty-five (45) degrees with respect to the horizontal (a pitch of one (1) foot additional rise for each foot additional setback); provided, however, that where the side lot is located on the northerly side of the zone lot, the bulk plane angle shall change from forty-five (45) degrees at a point thirteen (13) feet in from the side line to twenty-six (26) degrees thirty-four (34) minutes with respect to the horizontal (a pitch of six (6) inches additional rise for each additional foot of distance from the side line). For a zone lot with a side line located on the map north/south axis, the bulk plane shall extend over the westerly side of the zone lot in the same manner as described above for the northerly side. (See Illustration No. 4.) For lot

arrangements not covered by the provisions of this subsection, the administrator shall determine the appropriate side to apply this lower pitch or solar access bulk plane.



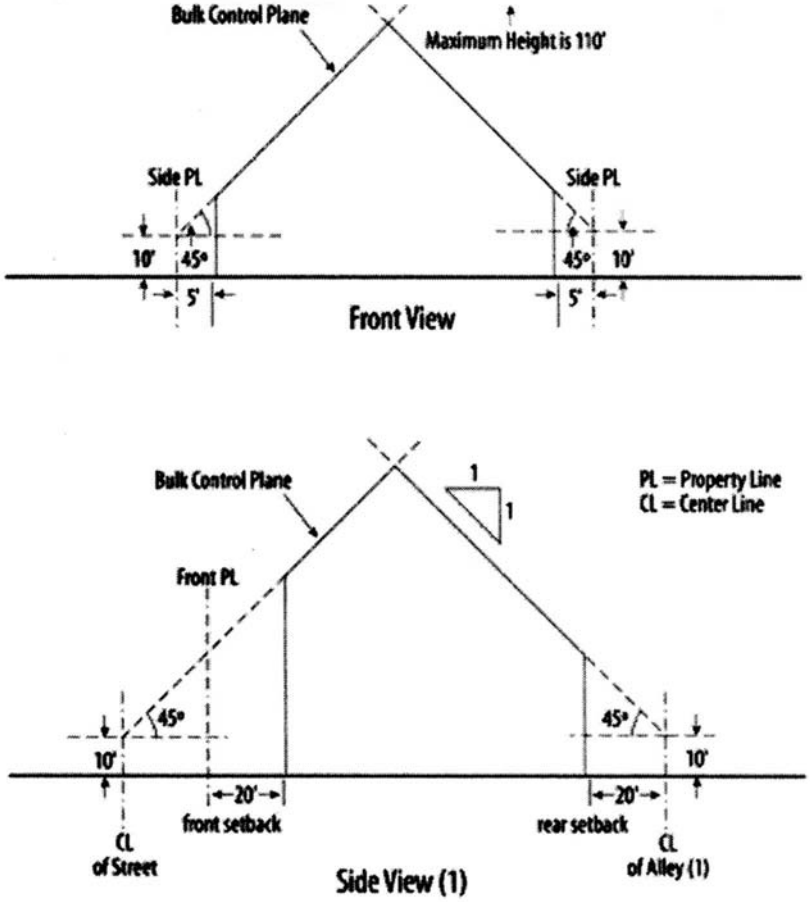


(1) If no alley exists, the setback is 20' from the rear property line. The bulk control plane, then, passes through a point 10' above the rear property line.

R-2-A Bulk Plane

Note: The sketch above generally illustrates the Setback and Bulk Regulations for most buildings containing a use by right. However, for specific applications to individual properties, interested parties are advised to contact the Zoning Administration office.

Illustration 3, R-2-A Bulk Plane



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R-2-A Bulk Plane

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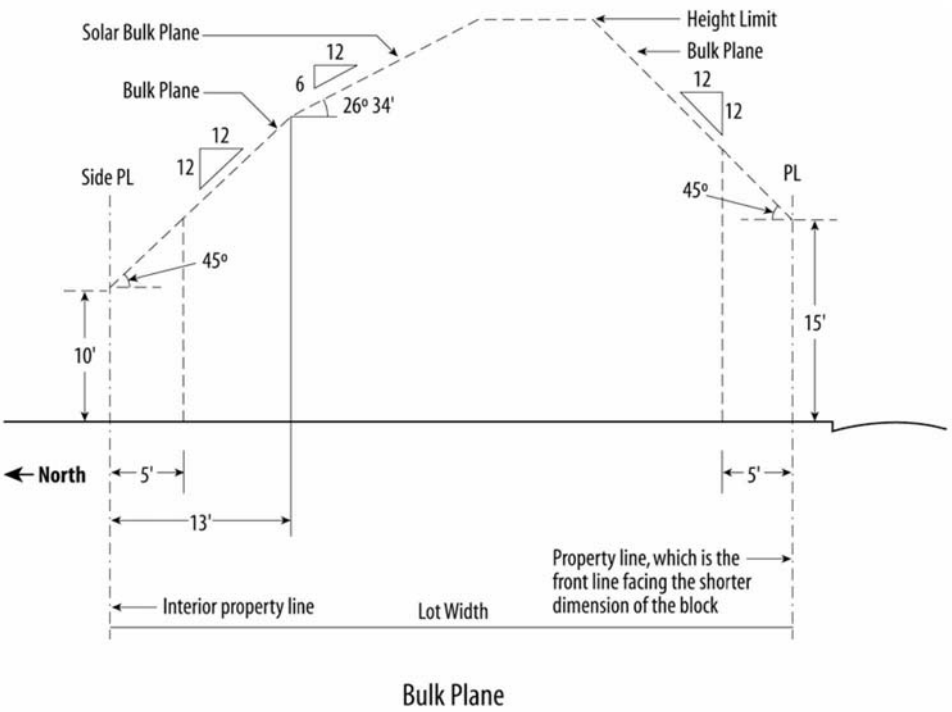


Illustration 4, Bulk Limits for R-1 and R-2 PBG'S

Note: The sketch above generally illustrates the setback and bulk regulations for most buildings containing a use by right. However, for specific applications to individual properties, interested parties are advised to contact the zoning administration office.

(Ord. No. 895-03, § 18, eff. 12-2-03)

(2) *Required open space.* The zone lot for the following structures shall provide at least the following amounts of unobstructed open space:

a. R-1 District: Three thousand (3,000) square feet for each single unit dwelling.

b. R-2 District: Fifty five (55) percent of the zone lot; provided, however, that for zone lots that have multiple unit dwellings, the land area used for open parking spaces shall not count as unobstructed open space.

c. R-2-B District: Fifty (50) percent of the zone lot; provided, however, that for zone lots that have multiple unit dwellings, the land area used for open parking spaces shall not count as unobstructed open space.

d. Incentive for front porches. Except as otherwise provided in this subparagraph d, a credit toward the amount of unobstructed open space required by subsection 59-125(c)(2) shall be given for all or a portion of the area of the zone lot occupied by any unenclosed porch on the front elevation of the dwelling, regardless of whether the porch is covered by a roof. The credit shall be in the amount of the

actual area of the zone lot occupied by the porch, up to a maximum credit of four hundred (400) square feet. No credit shall be given for any portion of a porch located directly beneath any enclosed habitable room or story of the dwelling, nor shall any credit be given for any portion of the porch that qualifies as unobstructed open space.

(Ord. No. 471, § 1, eff. 9-14-07)

(3) *Building height.* No part of any structure (except church spires, church towers, flag poles, antennas, chimneys, flues, and vents) shall be constructed higher than thirty-five (35) feet, except that no part of any detached accessory structure shall be constructed higher than fifteen (15) feet.

(Ord. No. 459-06, § 7, eff. 7-21-06)
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-126. Preservation of certain trees during demolition or new construction.

(a) *Duty to preserve established trees in front setback.* As a condition of any permit to demolish or construct any single unit dwelling or multiple unit dwelling in the R-0, R-1, R-2 or R-2-B district, the owner of the zone lot shall be required to preserve any established tree within the front setback area of the zone lot as determined according to section 59-120(b)(1)a.

(b) *Preservation measures required.* In order to protect an established tree from damage or destruction and to enhance the tree's chance of survival after construction activities on the zone lot are completed, the owner shall take and maintain throughout the course of demolition or construction the following measures:

(1) Erect and maintain temporary fencing surrounding the area beneath the tree in order to mitigate the chance of impact injuries to the tree during demolition or construction;

(2) Refrain from operating construction equipment or storing construction materials beneath the canopy of the tree or engaging in other activities that would cause the undue compaction of the soil in the tree's root zone; and

(3) Refrain from any excavation beneath the canopy of the tree that would cause undue destruction of the tree's roots.

(c) *Permit for tree removal.* The owner may be relieved from the requirements of this section only upon obtaining a permit for tree removal from the city forester according to the provisions of sections 57-20(b) and 57-25.

(d) *Definition of "established tree."* For purposes of this section, "established tree" shall mean any live, self-supporting woody perennial plant which has a trunk diameter of six (6) inches or more measured at a point four and one half (4 ½) feet above ground level and which normally obtains a height of at least ten (10) feet at maturity, usually with one main stem or trunk and many branches.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-127. Nursing homes, hospices in the R-2-A districts.

In the R-2-A districts, nursing homes, hospices are allowed subject to the criteria listed below and provided the provisions of section 59-41(b) are followed.

The zoning administrator shall determine if the proposed use will generate any traffic problems, will create any undue concentration of such uses or will in any way be incompatible with adjoining uses.

The zoning administrator may approve the application providing a finding is made that the proposed use will not adversely affect the appropriate use of adjacent property or create an undue concentration of such uses within a specific neighborhood area. Nursing homes existing on March 7, 1994 shall be considered to be legal, conforming uses. Additions to existing nursing homes need not comply with this section.
(Ord. No. 895-03, § 19, eff. 12-2-03; Ord. No. 468-05, § 10, eff. 7-15-05; Ord. No. 57-09, § 3, eff. 1-30-09)

Secs. 59-128—59-130. Reserved

DIVISION 3. R-3, R-3-X, R-4 and R-4-X DISTRICTS

Sec. 59-131. Generally.

The provisions of this division apply to all lands, uses and structures in the R-3, R-3-X, R-4 and R-4-X districts.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-132. Uses allowed in these districts.

The following is a list of uses with notations as to whether they are permitted, conditional, limited, or have other requirements as listed in the matrix and the sections which follow. Uses not listed are not allowed in any of these districts. Uses left blank are not allowed in that district. Permitted uses are uses by right.

Key: *P = Permitted* *L = Uses permitted with limitations* *C = Uses permitted with conditions* *SR = Uses permitted after special review* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone District*			
Use	*R-3-X*	*R-3*	*R-4*	*R-4-X*
Residential				
Assisted living facility	SR	SR	SR	SR
Dwelling, multiple unit	P	P	P	P
Dwelling, single unit	P	P	P	P
Nursing home, hospice	SR	SR	SR	C
Residence for older adults	P	P	P	P
Residential, institutional/special	L13	P	L13	L13
Rooming and/or boarding house		P	P	P
Retail, service, office				
Animal sales, service, care, household pets only				L36/C
Banking and financial services			P	P
Bed and breakfast			P	P
Bookstore			L37	L37/C
Eating place				L1/C
Food sales or market, small				C
Hotel		L60	P	P
Motel			P	P
Office: nondental, nonmedical			L63	L63
Printing service, publishing, business support				C/L67

Key: *P = Permitted* *L = Uses permitted with limitations* *C = Uses permitted with conditions* *SR = Uses permitted after special review* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone District*			
Use	*R-3-X*	*R-3*	*R-4*	*R-4-X*
Retail, service, repair, consumer, small scale			L74	L74/C/L75
Industrial, wholesale, transportation, utilities				
Helipad, helistop, heliport*	L98	L98	L98	L98
Parking of vehicles*	L104	L105	L105	C
Railway right-of-way*	P	P	P	P
Terminal, public transportation, local*	P	P	P	P
Utility, major impact		L115*	L115*	L115*
Utility, minor impact	P	P	P	P
Arts, entertainment, recreation, institutions				
Child care center	P	P	P	P
Church, religious institution	P	P	P	P
Clinic, office, laboratory, dental or medical			L133/C	P
Club or lodge		L136	P	P
Community or senior center or recreational facility		P	P	P
Fire station	P	P	P	P
Library	P	P	P	P
Mortuary			P	P
Museums, other special purpose cultural institutions	L141	L141	L141	L141
Parks, public, open space, associated buildings*	P	P	P	P
Police station	P	P	P	P
Postal facility, neighborhood			P	P
Recreation services, indoor			L144	L144/C
School, elementary or secondary	P	P	L153	L153
School, vocational or professional			L154	L154
Studio, professional			P	P
Theater, indoor			L161	L161
University or college		L163	L163	L163
Uses allowed in all districts unless restricted by special limitations (See chapter 59, article III, division 2)				

Key: *P = Permitted* *L = Uses permitted with limitations* *C = Uses permitted with conditions* *SR = Uses permitted after special review* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone District*			
Use	*R-3-X*	*R-3*	*R-4*	*R-4-X*
Construction, temporary structures (See § 59-81)				
Residential care uses (See § 59-82)				
Uses allowed by temporary permit (See § 59-86)				
Accessory uses (See § 59-87)				
Home occupations (See § 59-89)				

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 228-05, § 3, eff. 4-15-05; Ord. No. 340-06, § 8, eff. 6-9-06; Ord. No. 836-06, § 3, eff. 12-26-06; Ord. No. 57-09, § 4, eff. 1-30-09)

Sec. 59-133. Limitations.

The following define the limitations enumerated in the use chart in section 59-132:

L1 Eating place: providing that upon application to and issuance by the department of zoning administration of a permit therefor the aforesaid use need not be enclosed to the extent that tables and seats may be placed out of doors, and food served thereat provided further that:

a. If such an outdoor eating area is fifty (50) feet or more from the nearest boundary of any RS-4, R-0, R-1, R-X, R-2, R-2-A, R-2-B, R-3-X or R-3 districts, it shall be subject to the following conditions:

   1. The outdoor eating area shall be contiguous to the eating place to which it is accessory; and

   2. The outdoor eating area shall be clearly delimited by fences, walls or plant materials.

   3. No required off-street parking spaces shall be used for the outdoor eating area.

   4. Where the outdoor eating area lies between fifty (50) and one hundred (100) feet of any of the residential districts listed above the use of the outdoor eating area and all activities therein shall cease by 10:00 p.m. except on Friday and Saturday nights when the use of the outdoor eating area and all activities therein shall cease by 11:00 p.m.;

   5. Each permit shall be valid for a period of not more than one (1) year but, upon application, may be renewed. Failure to comply with all of the above conditions shall be cause for revocation of the permit.

b. If such an outdoor eating area is less than fifty (50) feet from the nearest boundary of any RS-4, R-0, R-1, R-X, R-2, R-2-A, R-2-B, R-3-X or R-3 district, it shall be subject to the approval of the board of adjustment under the provisions of section 59-54(3)u.

(Ord. No. 228-05, § 4, eff. 4-15-05)

L13 In the R-3 district, limited to parish house. In the R-3-X district, limited to parish house and consular residence. In the R-4 and R-4-X districts, limited to parish house, monastery, convent or similar institution of religious training.

L36 The use must be completely enclosed and the facilities must be constructed, maintained and operated at all times so that neither sound nor smell of any animals boarded or kept on the premises can be discerned off of the zone lot, or in other units of the building in which the use is situated.

(Ord. No. 836-06, § 4, eff. 12-26-06)

L37 Limited to reading room except that in the R-4-X district a bookstore is a conditional use.

L60 Limited to hostel.

L63 Any office in which chattels or goods, wares or merchandise are not commercially created, displayed, exchanged or sold.

L67 Limited to blueprinting, desktop publishing or print shop, conditional use.

L74 Use by right limited to: art gallery; apothecary (limited to sale of pharmaceuticals and medical supplies); hearing aid store; optical goods store/optician; orthopedic and prosthetic devices and appliances fabrication, repair and sale, limited to prescription work only.

L75 Conditional uses: apparel and accessories store; barber or beauty shop; camera, photographic supply and photo processing store; drugstore, retail sales only; dry cleaner or laundry, collection and distribution station only; floral shop, retail sales only; furniture, office furniture, household furnishings, home electronics and appliance store; hardware store; health studio; jewelry, retail sales only; music, musical instruments and recorded music store; paint and wallpaper store; specialty store; sporting goods store; tobacco store; variety store.

L98 Limited to landing and take off area for police rotorcraft, not including maintenance, repair, fueling or hangar facilities.

L104 Parking of vehicles; need not be enclosed, provided that any part of such use conducted outside a completely enclosed structure shall comply with all specifications for maintenance hereinafter required for off-street parking space, and provided that such use shall comply with all specifications for maintenance hereinafter required for off-street parking space and provided such use shall comply with the district setback requirements for structures.

L105 Limited to parking of vehicles, only to serve any other use by right permitted in the district, need not be enclosed and provided that any part of such use conducted outside a completely enclosed structure shall comply with all specifications for maintenance hereinafter required for off street parking space. Also includes parking of vehicles for historic

structures when the board of adjustment has granted an exception under section 59-54(3)f; provided that such parking shall comply with the provisions of section 59-587 on special plan for location of off-street parking space, regardless of whether the parking is required or in addition to the required amount.

L115 Limited to water reservoir, need not be enclosed.

L133 Clinic or office, dental or medical; provided, however, that such use which expands to create a gross floor area exceeding ten thousand (10,000) square feet shall be subject to the neighborhood notification and special review process as outlined in section 59-134(2) for nursing homes. Any such use which contains a gross floor area in excess of ten thousand (10,000) square feet and which exists at the time of adoption of this subject section shall be considered to be a legal, conforming use. Additions to such existing facilities need not comply with the notification and review procedure. This limitation does not apply to rehabilitation center for handicapped persons.

L136 Limited to a lodge for a religious or quasi-religious order; private and operated for the benefit of members and not for gain.

L141 Limited to art museum, public.

L144 Limited to fitness center offering classes only in aerobic and other forms of dance exercise, but not including a commercial gymnasium. In the R-4-X district only, health studio is a conditional use. Health studio is not permitted in the R-4 district.

L153 Meeting all requirements of the compulsory education laws of the state and not providing residential accommodations.

L154 Any school not permitting the use of machinery; other than office machines and mechanical or machinery parts of household appliances used for instruction of or practice by the student. Repair as a service or the sale of repaired appliances prohibited. Classes or other school activities not permitted after 11:00 p.m.

L161 Limited to theater, studio.

L163 Limited to university or college which furnishes residential accommodations to at least twenty (20) percent of its student body or fifty (50) students, whichever is less.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 340-06, § 9, eff. 6-9-06)

Sec. 59-134. Conditional uses in the R-4-X district, special review of nursing homes, hospices and assisted living facilities in all these districts.

The following define the conditional uses enumerated and special reviews required in the use chart in section 59-132:

(1) Neighborhood service uses. The following uses may be operated as conditional uses in the R-4-X district, provided that each such use is located on the ground floor of a building of two (2) or more floors that contains a use by right; does not have surface parking spaces located between the building and any public street; occupies no more than five thousand (5,000) square feet of gross floor area; does not create adverse

traffic impacts on the surrounding neighborhood, and does not operate during business hours that inconvenience the surrounding neighborhood, and meets any limitations of section 59-133:

a. Animal sales, service, care, household pets only;

b. Bookstore;

c. Eating place;

d. Food sales or market, small;

e. Printing service, publishing, business support;

f. Recreation services, indoor;

g. Retail, service, repair, consumer, small scale;

h. Or any other similar use not in this list.

Notwithstanding the limitation of five thousand (5,000) square feet of gross floor area, separate proposals for each conditional use not exceeding ten thousand (10,000) square feet of gross floor area may be allowed subject to the criteria listed above and provided the provisions of section 59-41(b) are followed.
(Ord. No. 895-03, § 20, eff. 12-2-03; Ord. No. 468-05, § 11, eff. 7-15-05)

(2) In the R-3, R-3-X, R-4, and R-4-X, nursing homes, hospices and assisted living facilities shall be permitted subject to the criteria listed below and provided the provisions of section 59-41(b) are followed.

The zoning administrator shall determine if the proposed use will generate any traffic problems, will create any undue concentration of nursing homes, hospices or assisted living facilities or will in any way be incompatible with adjoining uses. The zoning administrator may approve the application, providing a finding is made that the proposed use will not adversely affect the appropriate use of adjacent property or create an undue concentration of such uses within a specific neighborhood area. Nursing homes, hospices existing on March 7, 1994 shall be considered to be legal, conforming uses. Additions to nursing homes need not comply with this section.
(Ord. No. 468-05, § 12, eff. 7-15-05; Ord. No. 57-09, § 6, eff. 1-30-09)

(3) Parking of vehicles, need not be enclosed, in the R-4-X district. Surface parking lots and structures may be allowed only as conditional uses, and shall only be approved provided that:

a. Such lot or structure serves a specific, identified business or residential facility that is a use by right or conditional use then permitted and operating in the R-4-X district.

b. Any parking lot or structure that is not located on the same zone lot as the use it serves, and that provides amounts of parking beyond those required to meet the minimum off-street parking requirements for such use pursuant to chapter 59, article VI of the Revised Municipal Code:

1. Shall have some portion of such parking lot or structure located within two hundred (200) feet of the zone lot containing the use it serves; and

2. Shall not be separated from the use it serves by an intervening zone lot with a residential use; and
3. Shall not offer parking to the public in return for a fee; and
4. Shall include signage stating that parking is available only for the specific, identified business or residential facility that it serves and that public parking is not permitted.

(4) In the R-4-X, any parking lot or structure that is not located on the same zone lot as the use it serves, and that provides parking to nonresidential uses in amounts beyond those required to meet the minimum off-street parking requirements for such use pursuant to chapter 59, article VI of the Revised Municipal Code, shall not be located on any zone lot that contains a residential structure on January 1, 1994.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-135. Limitations on external effects of uses.

External effects of uses, as regulated by section 59-92.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 57-09, § 5, eff. 1-30-09)

Sec. 59-136. Permitted structures.

(a) *Zone lot for structures.* A separate ground area, herein called the zone lot, shall be designated, provided and continuously maintained for each structure containing a use or uses by right. Each zone lot shall have at least one (1) front line and shall be occupied only by the structure containing a use or uses by right and a subordinate structure or structures containing only accessory uses; provided, however, that in the R-3, R-4, and R-4-X districts only, one (1) subordinate structure containing more than one (1) habitable story and which structure was erected prior to November 8, 1956, as a carriage house, may be used in its entirety as a single unit dwelling. Upon application to and approval by the department of zoning administration, the boundaries and area of a designated zone lot may be amended if full compliance with all requirements of this chapter can be maintained.

(1) In the R-3, R-4 and R-4-X districts the zone lot for each structure designed or used either wholly or partly for residential occupancy shall be not less than fifty (50) feet wide at the front setback line for structures and shall contain not less than six thousand (6,000) square feet provided, however, that on a zone lot for a structure used as a single unit dwelling, the minimum width may be reduced to thirty-seven (37) feet and/or the requirement as to minimum size may be waived altogether on a zone lot adjoined on both sides by zone lots with structures thereon or on a zone lot adjoined on one (1) side by a street and on the other side by a zone lot with a structure or structures thereon.

(2) In the R-3-X district: the zone lot for each structure designed or used, either wholly or partly, for residential occupancy shall be not less than one hundred (100) feet wide at the front setback line for structures and shall contain no less than twelve thousand (12,000) square feet; provided, however, that the minimum width may be reduced to

fifty (50) feet wide at the front setback line and the minimum lot area may be reduced to six thousand (6,000) on a zone lot for a structure containing not more than three (3) dwelling units, if such zone lot is adjoined on both sides by zone lots with structures thereon or adjoined on one (1) side by a street and on the other side by a zone lot with a structure or structures thereon.

(b) *Open space requirements.* The zone lot for the following structures shall provide at least the following amounts of unobstructed open space which shall not include space provided for off-street parking:

(1) In the R-3 district:

a. Each residential structure of one (1) to three (3) habitable stories, twenty (20) percent of the area of the zone lot;

b. Each residential structure of four (4) or more habitable stories, thirty (30) percent of the area of the zone lot.

c. Unobstructed open space may be located on the ground and on roof decks having an average height of not more than six (6) feet above grade and shall be utilized only for landscaping and/or recreational facilities.

(2) In the R-3-X district for each structure designed, used or occupied there shall be provided a minimum of thirty (30) percent of the area of the zone lot for unobstructed open space; such unobstructed open space may be located on the ground or on safe usable roofs.

(3) In the R-4 district, if more than fifty (50) percent of the gross floor area of the structure is designated for permanent (not transient) residential occupancy, then the provisions of (b)(1), above, apply.

(4) In the R-4-X district each zone lot shall provide at least fifteen (15) percent of the zone lot in unobstructed open space. Unobstructed open space may be located on the ground and on roof decks having an average height of not more than six (6) feet above grade and shall be utilized only for landscaping and/or recreational facilities.

(c) *Location of structures.* Except as otherwise hereinafter provided, the space resulting from the following setbacks shall be open and unobstructed:

(1) *Front setback.*

a. In the R-3, R-3-X and R-4 districts. All structures shall be set in a distance of not less than ten (10) feet from each front line of the zone lot; provided, however, that in the R-3 and R-4 districts, that on the two (2) shorter dimensions of any block oblong in shape, the front setback may be reduced to five (5) feet for structures which face on either longer dimension; and provided further, in both districts, that detached accessory structures, except those detached accessory structures used as garages or for recreational or outdoor cooking and eating purposes or, in the R-3 and R-4 districts, gas-fired incinerators, shall be set in a sufficient distance from each front line of the zone lot so that such structures are located only on the rear one-fourth of interior zone lots and on corner zone lots are located only on the rear part of the zone lot which is adjacent to and corresponding with the rear one-fourth of abutting interior zone lots and no closer to the side street right-of-way than thirty (30) feet or one-half the dimensions of the corner zone lot, measured perpendicularly from the side street right-of-way, whichever distance is greater. The space resulting from the foregoing setbacks shall be used for landscaping and access ways to the use by right but shall not be used for the parking of vehicles.

b. In the R-4-X district. Front setback shall be from 0 to 10 feet as determined by section 59-141.

(2) *Rear setback.*

a. In the R-3 and R-4 districts if no alley abuts the rear line of the zone lot, all detached accessory structures and fixtures shall be set in a distance of not less than five (5) feet and all other structures shall be set in a distance of not less than twenty (20) feet from each rear line of the zone lot. If an alley abuts the rear line of the zone lot, detached garages and carports opening directly on the alley shall be set in a distance of not less than five (5) feet from the alley line; detached accessory structures (including garages and carports which do not open directly on the alley) and fixtures for the disposal of trash and garbage may be located on the alley line and all other structures shall be set in a distance of not less than twenty (20) feet from the center line of the abutting alley; provided, however, that if a zone lot has more than one (1) rear line by reason of abutting alleys, the aforesaid setbacks shall be required from only one (1) rear line and the other rear line or lines shall, for the purposes of setbacks, be deemed side lines of the zone lot. Whether or not an alley abuts the rear line of the zone lot, electric

substations, gas regulator stations and utility pumping stations which do not have a rear entrance may be located on the rear line of the zone lot; if such structures do have a rear entrance they shall be set in a distance of not less than five (5) feet from the rear line of the zone lot.

b. In the R-3-X and R-4-X districts all structures shall be set in a distance of five (5) feet from the rear line of the zone lot.

(3) *Side setback in the R-3 and R-4 districts*:

a. On zone lots less than thirty (30) feet in width, all structures, except detached garages or carports as set forth in subsection (b)(3)c., hereof, shall be set in a distance of not less than three (3) feet from each side line of the zone lot.

b. On zone lots thirty (30) or more feet in width, electric substations, gas regulator stations, single unit dwellings and multiple unit dwellings containing not more than two (2) dwelling units shall be set in a distance of not less than five (5) feet and all other structures, except detached garages or carports as set forth in subsection (b)(3)c., hereof, shall be set in a distance of not less than seven (7) feet and six (6) inches from each side line of the zone lot.

c. Regardless of the width of the zone lot, detached garages or carports need not be set in from any side line of the zone lot if such garages or carports meet the following conditions:

1. On zone lots one hundred twenty-five (125) or less feet in depth, are located in their entirety on the rear one-third of the zone lot and no part of such structures is more than forty (40) feet from the rear line of the zone lot;

2. On zone lots more than one hundred twenty-five (125) feet in depth, are located in their entirety on the rear one-third of the zone lot and no part of such structures is less than eighty-five (85) feet from one (1) or more front lines of the zone lot.

d. The space resulting from the foregoing setbacks shall be used for landscaping and access ways but shall not be used for the parking of vehicles; provided, however, if the distance from the building to the side line of the zone lot measures twenty-one (21) feet or more, that setback space may be used for the parking of vehicles.

(4) *Side setback in the R-4-X district.* All structures shall be set in a distance of five (5) feet from any side line of the zone lot.

(5) *Permitted encroachments on setback space, except R-4-X district:*

a. Belt courses, sills, lintels and pilasters may project eighteen (18) inches into front, rear and side setback spaces.

b. Cornices, eaves and gutters may project three (3) feet into front setback space. In the R-3 and R-4 districts, cornices, eaves and gutters may project five (5) feet into

rear setback space and thirty-six (36) inches into side setback space; provided, however, that if the side setback space is less than five (5) feet in width, then such projection shall not exceed one-half the width of the side setback space.

c. Outside stairways may project five (5) feet into front setback space; access ramps for the handicapped may encroach into any required building setback space, providing no alternative location is available and providing the ramp construction is compatible with the character of the structure. In the R-3 and R-4 districts, outside stairways may project ten (10) feet into rear setback space and three (3) feet into side setback space.

d. Unwalled porches, terraces and balconies may extend five (5) feet into front and, in the R-3 and R-4 districts, rear setback spaces.

e. Chimneys not to exceed six (6) feet in width may project eighteen (18) inches into front, and, in the R-3 and R-4 districts, rear and side setback spaces.

f. Building accessories designed and intended to control light entering a building and being a permanent part of such building may project five (5) feet into front setback space, and, in the R-3 and R-4 districts, ten (10) feet into rear setback space and three (3) feet into side setback space.

g. Building accessories designed and intended to control light entering a building and not being a permanent part of such building, by being removable therefrom and by not being attached to a load-bearing member thereof, may project any distance into the front setback space in the R-3-X district and may project any distance into any setback space in the R-3 and R-4 districts.

h. Canopies may project any distance into the front setback space.

i. Any structure or part thereof which is below the grade of any front setback space in the R-3-X district, or any setback space in the R-3 and R-4 districts, may project any distance into such setback space.

j. Gas and electric meters may project three (3) feet into any setback space if screened on all sides by a masonry wall. Utility pedestals, transformers or other similar equipment may be installed in any setback providing they do not exceed a height of three (3) feet.

k. In the R-3 and R-4 districts, basketball goals on a fixed post may project any distance into the setback spaces.

l. Ground mounted evaporative coolers may project three (3) feet into side setback space; provided:

   1. The equipment is located behind the front of the residential structure and screened from adjacent properties and public rights-of-way; and

   2. The noise standards of section 36-6 of the Denver Revised Municipal Code are not exceeded.

(Ord. No. 695-07, § 9, eff. 11-30-07)

m. Flush mounted solar panels may encroach any distance into the setback space. subsection 59-136(c)(6).

(Ord. No. 53-08, § 12, eff. 2-8-08)

(6) *Permitted encroachments on setback space, R-4-X district:*

Architectural feature	*Permitted encroachment into side setback*	*Permitted encroachment into rear setback*
1. Belt courses, sills, lintels, and pilasters	18 inches	18 inches
2. Cornices, eaves and gutters	5 feet	5 feet
3. Outside stairways	5 feet	3 feet
4. Access ramps for the handicapped	May encroach into any required building setback space, providing no alternative location is available and providing the ramp construction is compatible with the character of the structure	May encroach into any required building setback space, providing no alternative location is available and providing the ramp construction is compatible with the character of the structure
5. Unwalled porches, terraces and balconies	5 feet	5 feet
6. Chimneys not to exceed six (6) feet in width	18 inches	18 inches
7. Building accessories designed and intended to control light entering a building and being a permanent part of such building	5 feet	5 feet
8. Building accessories designed and intended to control light entering a building and not being a permanent part of such building, by being removable therefrom and by not being attached to a loadbearing member thereof	May project any distance into any setback space.	May project any distance into any setback space.
9. Any structure or part thereof which is below the grade of any setback space	May project any distance into any setback space.	May project any distance into any setback space.
10. Gas and electric meters if screened on all sides by a masonry wall	3 feet	3 feet

Architectural feature	*Permitted encroachment into side setback*	*Permitted encroachment into rear setback*
11. Utility pedestals, transformers or other similar equipment providing they do not exceed a height of four (4) feet.	May project any distance into any setback space.	May project any distance into any setback space.
12. Ground mounted evaporative coolers	3 feet provided: 1. The equipment is located behind the front of the residential structure and screened from adjacent properties and public rights-of-way 2. The noise standards of section 36-6 of the Denver Revised Municipal Code are not exceeded.	
13. Flush mounted solar panels	May project any distance into any setback space.	May project any distance into any setback space.

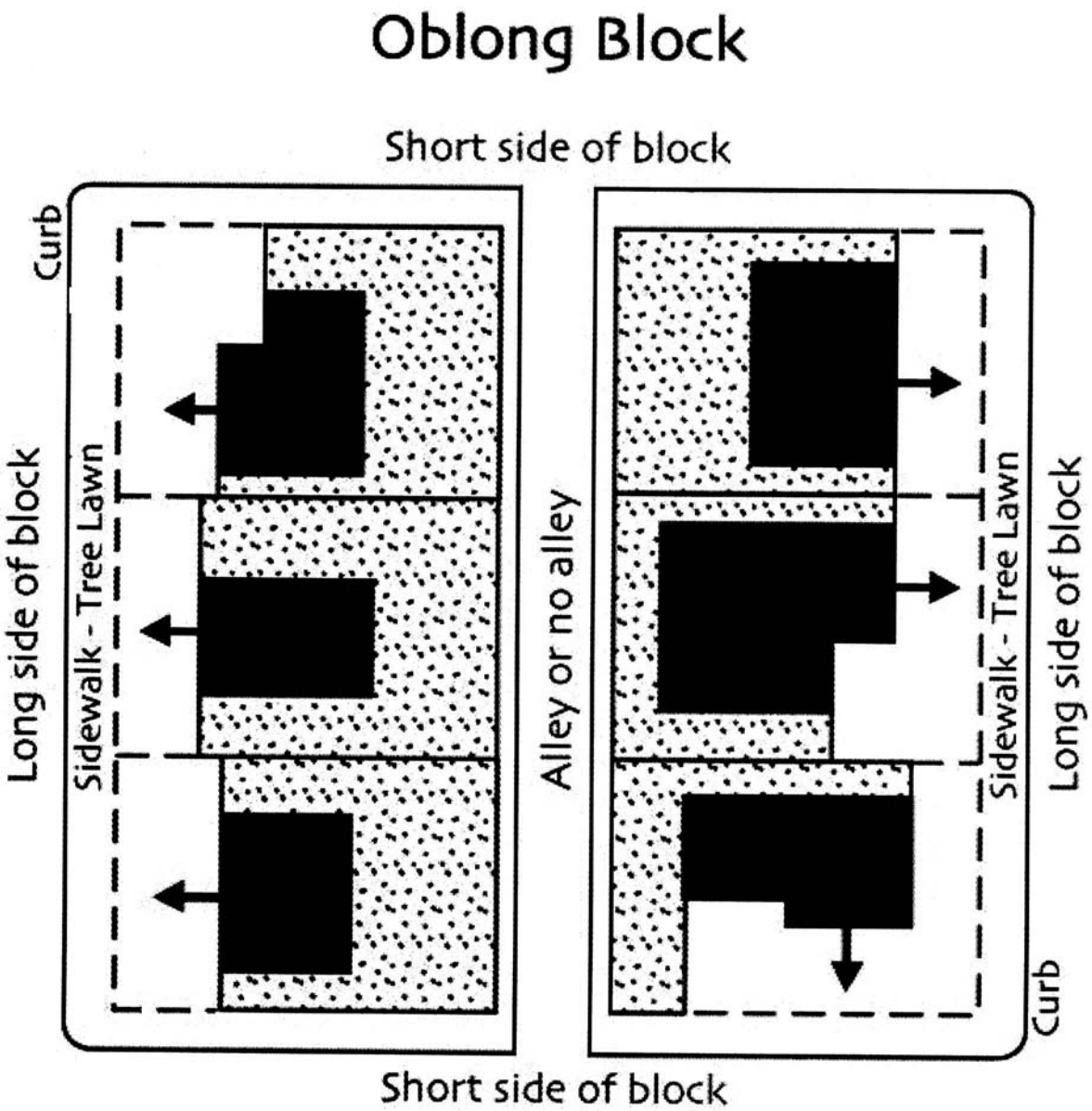
(Ord. No. 695-07, § 10, eff. 11-30-07; Ord. No. 53-08, § 13, eff. 2-8-08)

(7) *Fences, walls and retaining walls.* Fences and walls not exceeding four (4) feet in height may be erected on any part of the zone lot. Fences not exceeding six (6) feet in height may be built anywhere on the zone lot except forward of any adjacent front wall or walls of a residential structure (see illustration) in the R-3, R-3-X, R-4 and R-4-X districts:

a. Retaining walls in the front setback may be built to a height of four (4) feet and successive walls may be built provided that they are separated by at least four (4) feet. In any area of the zone lot other than the front setback, retaining walls may be built to any height;

b. Fences located on top of retaining walls in the front set back must be fifty (50) percent or more open for any portion of the fence that is more than four (4) feet above the lowest grade at the base of the retaining wall;

c. Fences not exceeding six (6) feet in height on a corner lot where a single or two unit residential structure is oriented to the short dimension of an oblong block may be built to the zone lot line along the short dimension of the block except along the zone lot line or area in front of any wall of a residential structure. Fences over four (4) feet in height but not exceeding six (6) feet in height may only be placed in the areas described in this section 59-136(c)(7) and the accompanying illustration;


Oblong Block
Short side of block
Curb
Long side of block
Sidewalk - Tree Lawn
Alley or no alley
Sidewalk - Tree Lawn
Long side of block
Curb
Short side of block
Area allowing fences up to 6 ft. high
Zone lot line
Direction residential structure faces

1

d. Schools, public parks and/or playgrounds may erect open-mesh fences to any height on any part of the zone lot;

e. In the R-3-X district, fences and walls not exceeding six (6) feet in height may be erected on that portion of a side zone lot line between the front zone lot line and the front setback line for structures if said side lot line abuts a surface parking lot or parking structure

f. The materials used for fences or walls shall consist of wood, brick, masonry, wire mesh, metal bars not exceeding one and one-half (1.5) inches in diameter or other materials which may be approved by the zoning administrator. Salvaged doors and corrugated or sheet metal will not be allowed. Notwithstanding the provisions of section 59-632, nonconforming structures, of the Revised Municipal Code, existing fences and walls which have been constructed of the prohibited materials listed above or other materials not approved by the zoning administrator may not be maintained and any such fences and walls shall be immediately reconstructed of approved materials or removed.

g. Determination of height. See section 59-2(112.1) fence and wall height measurement.

(Ord. No. 363-06, § 6, eff. 6-16-06; Ord. No. 605-06, § 4, eff. 9-22-06)

(d) *Maximum bulk of structures.* The R-3, R-3-X and R-4 districts are controlled districts within the meaning of section 59-96, which section must be checked to determine if there are special limitations on bulk planes or building height in addition to those set forth in this section. With the exception of eaves, church spires, church towers, flagpoles, antennas, chimneys, flues, vents, flush mounted solar panels and evaporative coolers, no part of any structure, including elevator penthouses, air conditioners and any other mechanical equipment, shall project through bulk planes which are located as follows:
(Ord. No. 695-07, § 11, eff. 11-30-07; Ord. No. 53-08, § 14, eff. 2-8-08)

(1) *Ground-level point.* The starting point for locating the bulk plane shall be the midpoint of a specific lot line or alley center line adjoining the lot. The elevation of the ground at the midpoint shall be used as the first measuring point for the bulk plane. In case a retaining wall is located on the lot line, the midpoint elevation shall be taken from the base of the wall. The midpoint elevation shall be established prior to any grading or construction.

(2) *Above-ground horizontal line.* The starting line for bulk planes shall be as follows:

a. For the side area of a zone lot: at a horizontal line which is located directly above the side lot line and passes through a point a specified distance above the midpoint elevation of such side lot line. Said specified distance is twenty (20) feet in the R-3 district, thirty (30) feet in the R-4 districts, thirty-five (35) feet in the R-4-X district and ten (10) feet in the R-3-X district;

b. In the R-3-X district only, for the front area of the zone lot; at a horizontal line which is located directly above the center lines of all streets abutting the lot and which passes through a point ten (10) feet above the midpoint of such center lines between the boundary lines of the lot extended; and

c. For the rear area of the zone lot:

1. With no abutting alley: at a horizontal line which is located directly above the rear lot line and which passes through a point a specified distance above the midpoint elevation of such rear lot line. Said specified distance is twenty (20) feet in the R-3, thirty (30) feet in the R-4 districts, thirty-five (35) feet in the R-4-X district and ten (10) feet in the R-3-X district; or

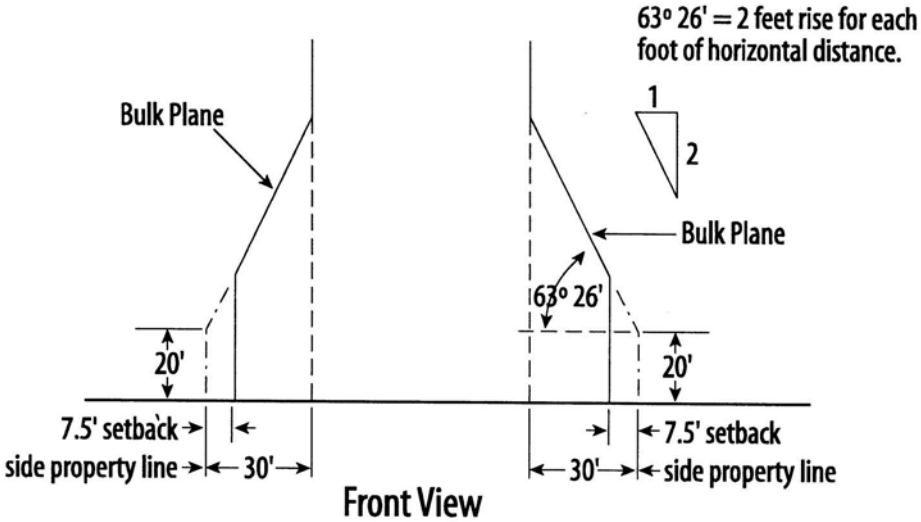
2. With an abutting alley: at a horizontal line which is located directly above the center line of the abutting alley or alleys and passes through a point a specified distance above the midpoint elevation of such center line between the boundary lines of the zone lot extended. Said specified distance is twenty (20) feet in the R-3, thirty (30) feet in the R-4 districts, thirty-five (35) feet in the R-4-X district and ten (10) feet in the R-3-X district.

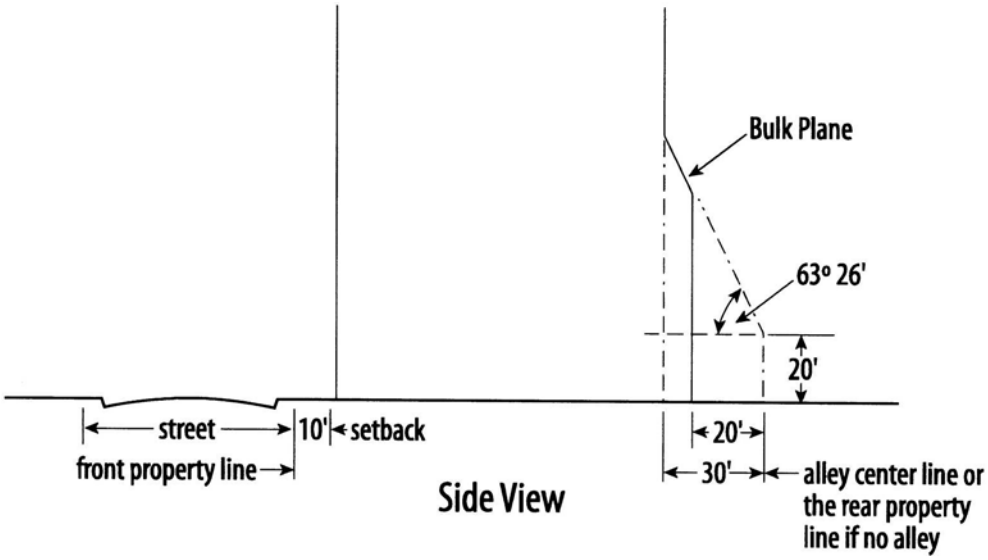
(3) *Sloping plane for the R-3, R-4 and R-4-X districts.* The bulk planes for the R-3, R-4 and R-4-X districts start at the horizontal lines described above and extend upwards over the zone lot at an angle of sixty-three (63) degrees twenty-six (26) minutes with respect to the horizontal (a pitch of two (2) feet additional rise for each additional foot of setback from the horizontal line) until such planes intersect a vertical line thirty (30) feet horizontally distant from the horizontal starting lines described above, at which intersect the bulk planes extend upward vertically. See the following illustrations for an explanation of these setback and bulk regulations.

The sketches below generally describe the setback and bulk regulations for most buildings. However, for specific applications to individual properties, interested

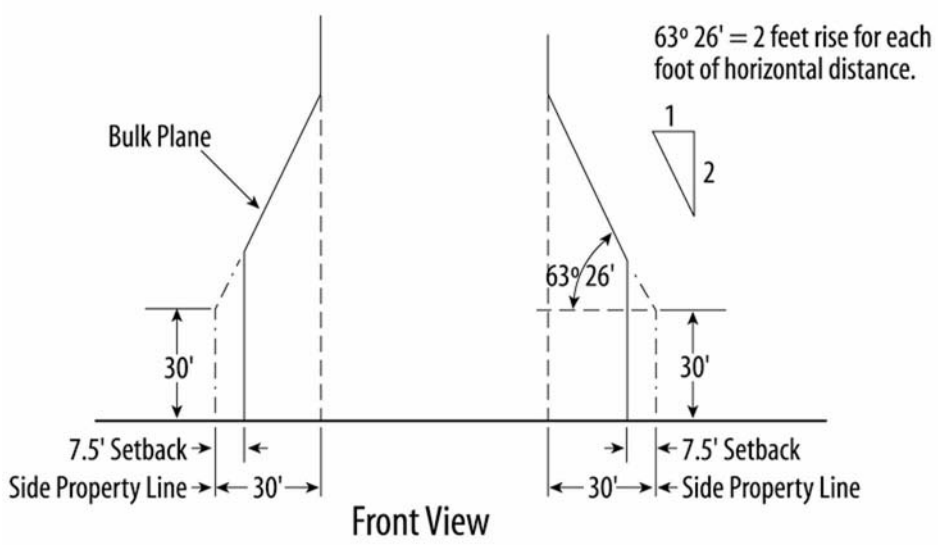
parties are advised to contact the zoning office. Actual building height may be affected by the special height limitations of section 59-96, the view planes as prescribed in chapter 10 of the Revised Municipal Code, or other height limits.

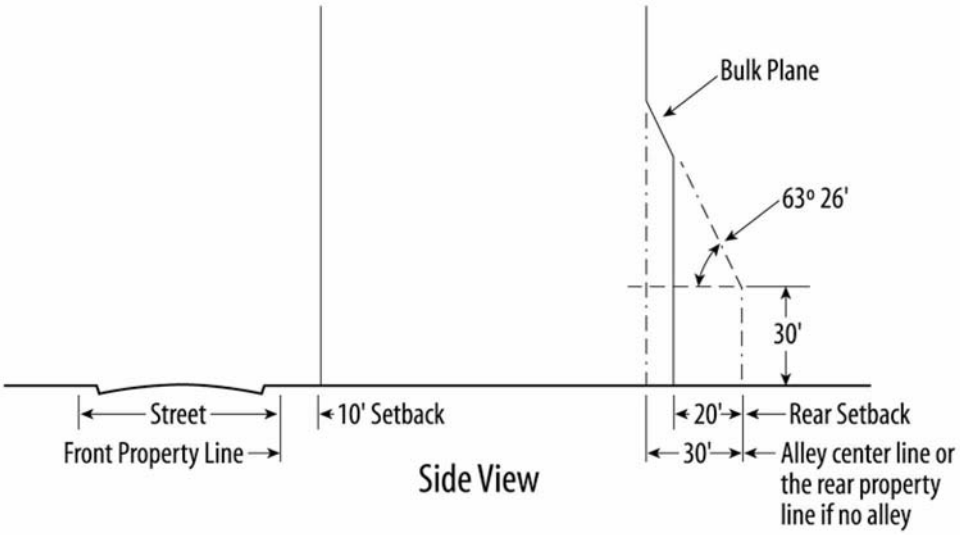
The explanation and illustration of setback and bulk regulations for structures in the R-3 zone district is shown below.



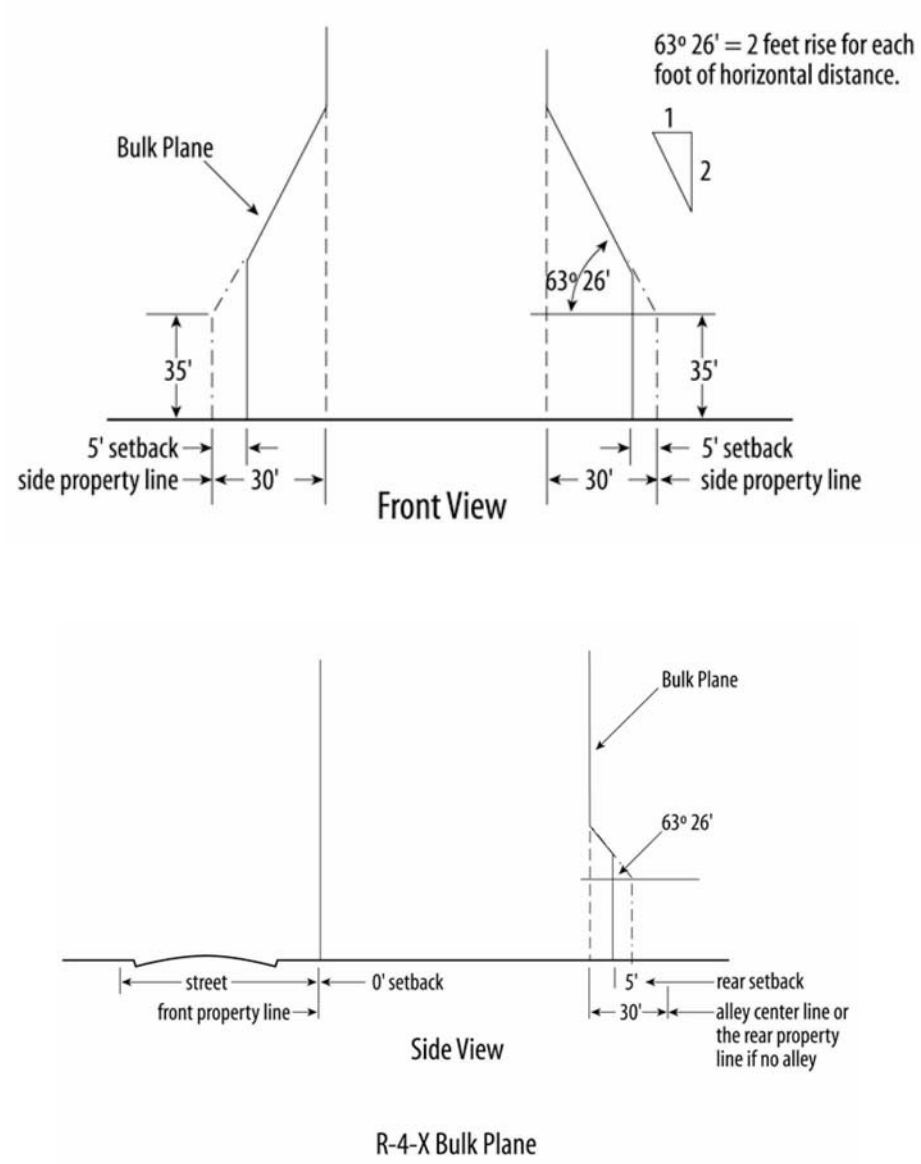


The explanation and illustration of setback and bulk regulations for structures in the R-4 zone district is shown below.





The explanation and illustration of setback and bulk regulations for structures in the R-4-X zone district is shown below.

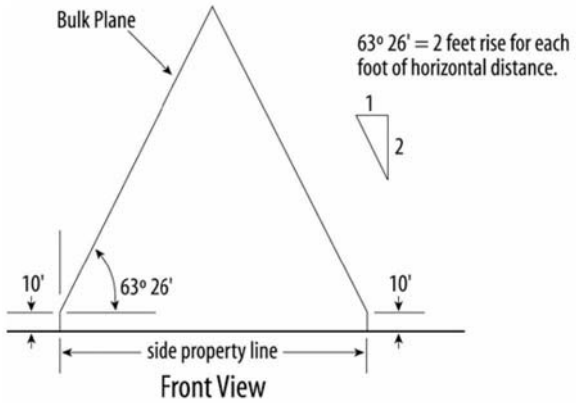


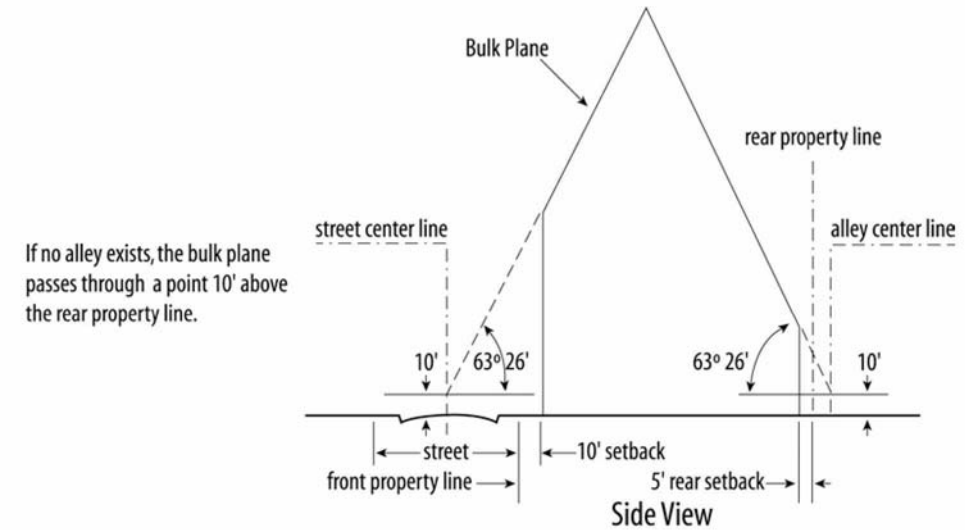
R-4-X Bulk Plane

(4) *Sloping plane for the R-3-X district.* The bulk planes for the R-3-X district start at the horizontal lines described above and extend upwards over the lot at an angle of

sixty-three (63) degrees twenty-six (26) minutes with respect to the horizontal (a pitch of two (2) feet additional rise for each additional foot of setback from the horizontal line) until such planes intersect the bulk plane from the opposite lot line.

The sketch below generally describes the setback and bulk regulations for most buildings. However, for specific applications to individual properties, interested parties are advised to contact the zoning office. Actual building height may be affected by the special height limitations of section 59-96, the view planes as prescribed in chapter 10 of the Revised Municipal Code, or other height limits. The explanation and illustration of setback and bulk regulations for structures in the R-3-X zone district is shown below.





(Ord. No. 625-05, §§ 8—10, eff. 9-2-05)

(e) *Maximum gross floor area in structures in the R-3, R-3-X and R-4 districts.* The sum total of the gross floor area of all structures on a zone lot shall not be greater than three (3) times the area of the zone lot on which the structures are located in the R-3 district, two (2) times the area of the zone lot on which the structures are located in the R-3-X district or four (4) times the area of the zone lot on which the structures are located in the R-4 district. Provided that, upon qualifying under the provisions of article IV, chapter 27 (affordable housing), the sum total of the gross floor area of all structures on a zone lot shall not be greater than: three and three-tenths (3.3) times the area of the zone lot on which the structures are located in the R-3 district, two and two tenths (2.2) times the area of the zone lot on which the structures are located in the R-3-X district or four and four-tenths (4.4) times the area of the zone lot on which the structures are located in the R-4 district; provided further that all of the extra floor area in excess of: three (3) times the area of the zone lot in the R-3 district, two (2) times the area of the zone lot in the R-3-X district, or four (4) times the area of the zone lot in the R-4 district shall be dedicated to residential uses.

(f) *Maximum gross floor area in structures in the R-4-X district.* The sum total of the gross floor area of all structures on a zone lot shall not be greater than four (4) times the area of the zone lot on which the structures are located, provided, however, that in any structure in which fifty (50) percent or more of the gross floor area is occupied by residential uses, the sum total of the gross floor area of all structures on a zone lot shall not be greater than five (5) times the area of the zone lot on which the structure is located. In addition, undeveloped floor area from designated historic structures within the area shown on exhibit A attached hereto and incorporated herein may be transferred to properties within the R-4-X district pursuant to the procedures for transfer of undeveloped floor area from historic structures in the B-5 district set forth in section 59-223(b)(3), provided, however, that no such transfer of undeveloped floor area shall have the effect of increasing the sum total of the gross floor area of all structures on a zone lot to more than five (5) times the area of the zone lot on which the undeveloped floor area is used. Provided that, upon qualifying under the provisions of article IV, chapter 27 (affordable housing), the sum total of the gross floor area of all structures on a zone lot shall not be greater than four and four-tenths (4.4) times the area of the zone lot on which the structures are located, provided further that all of the extra floor area in excess of four (4) times the area of the zone lot shall be dedicated to residential uses. Provided further, however, that in any structure in which fifty (50) percent or more of the gross floor area is occupied by residential uses and which qualifies under the provisions of article IV, chapter 27 (affordable housing), the sum total of the gross floor area of all structures on a zone lot shall not be greater than five and five-tenths (5.5) times the area of the zone lot on which the structures are located, provided further that all of the extra floor area in excess of five (5) times the area of the zone lot shall be dedicated to residential uses.

(g) *Minimum size of dwellings.* In the R-3 and R-3-X districts, each single unit dwelling and any other structure occupied in whole or in part for residential purposes shall contain a gross floor area of not less than six hundred (600) square feet.
(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 895-03, §§ 21—23, eff. 12-2-03)

Sec. 59-137. Permitted signs.

The provisions of article V of this chapter on permitted signs shall be in full force and effect in these districts.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-138. Off-street parking requirements.

(a) The provisions of article VI of this chapter on off-street parking requirements shall be in full force and effect in the R-3, R-3-X, and the R-4 districts.

(b) The provisions of article VI of this chapter on off-street parking requirements shall be in full force and effect in the R-4-X district with the following modifications:

(1) There shall be provided one (1) space for each three hundred (300) square feet of gross floor area (1/300) contained in any structure containing neighborhood service uses enumerated in section 59-134(1).

(2) Shared parking. The zoning administrator may reduce the total number of off-street parking spaces required upon a finding that the parking for two (2) or more uses occurs at alternating time periods. Required parking shall be determined based upon parking demand for the peak parking period, as determined by a parking analysis.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-139. Off-street loading requirements.

The provisions of article VII of this chapter on off-street loading requirements shall be in full force and effect in these districts.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-140. Special zone lot plan for planned building groups.

The provisions of article VIII of this chapter on special zone lot plan for planned building groups shall be in full force and effect in these districts.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-141. Design standards in the R-4-X district.

(a) All new structures and all structures renovated where (i) the renovation is valued at more than fifty (50) percent of the replacement cost of the existing building excluding land costs, and (ii) the renovation includes alterations to the exterior of the building other than restoration of original design features with original materials, shall be subject to the design standards and design review procedures set forth below; provided, however, that if property is subject to the design standards or design review procedures of any overlay district, or is a designated historic structure, or is a contributing structure in a designated historic district, such property shall not be subject to the design standards and design review procedures set

forth below. Design review procedures, where applicable, shall be conducted by the planning office staff. The zoning administrator shall not issue permits for building use until the planning director certifies that any applicable requirements have been met.

(1) *Lower floor design standards.* All new structures and all renovated structures, where the renovation meets the requirements set forth in section 59-141(a), shall be subject to rules and regulations establishing design standards applicable to the lower eighty (80) feet of the building above street level, unless the applicant elects to participate in the design review process set forth in subsection (2) below. Rules and regulations establishing design standards shall be prepared by the planning office and adopted by the planning board. The design standards are intended to promote consistent, continuous and active street frontages, to reflect Denver's history of primarily solid and masonry building material, and shall address the following:

a. The percentage of the building that must be built within a short distance of property lines along public streets and sidewalks;

b. Building and building entry orientation;

c. Appearance of parking garages;

d. The percentage of glass to solid materials;

e. The required use of scaling elements, insets, and projections to break up flat or monotonous facades, to emphasize entries, and to respond to older buildings nearby;

f. Building and glazing materials;

g. Location and appearance of access ramps for the handicapped;

h. Location of adjacent structures; and

i. Fence height, appearance and materials.

(2) *Optional lower floor design review.* As an alternative to compliance with specific design standards adopted pursuant to subsection (1) above, any new structure or any renovated structure meeting the conditions set forth in section 59-141(a) may elect to have the lower eighty (80) feet of the building above street level reviewed by planning staff through a design review process guided by the following standards:

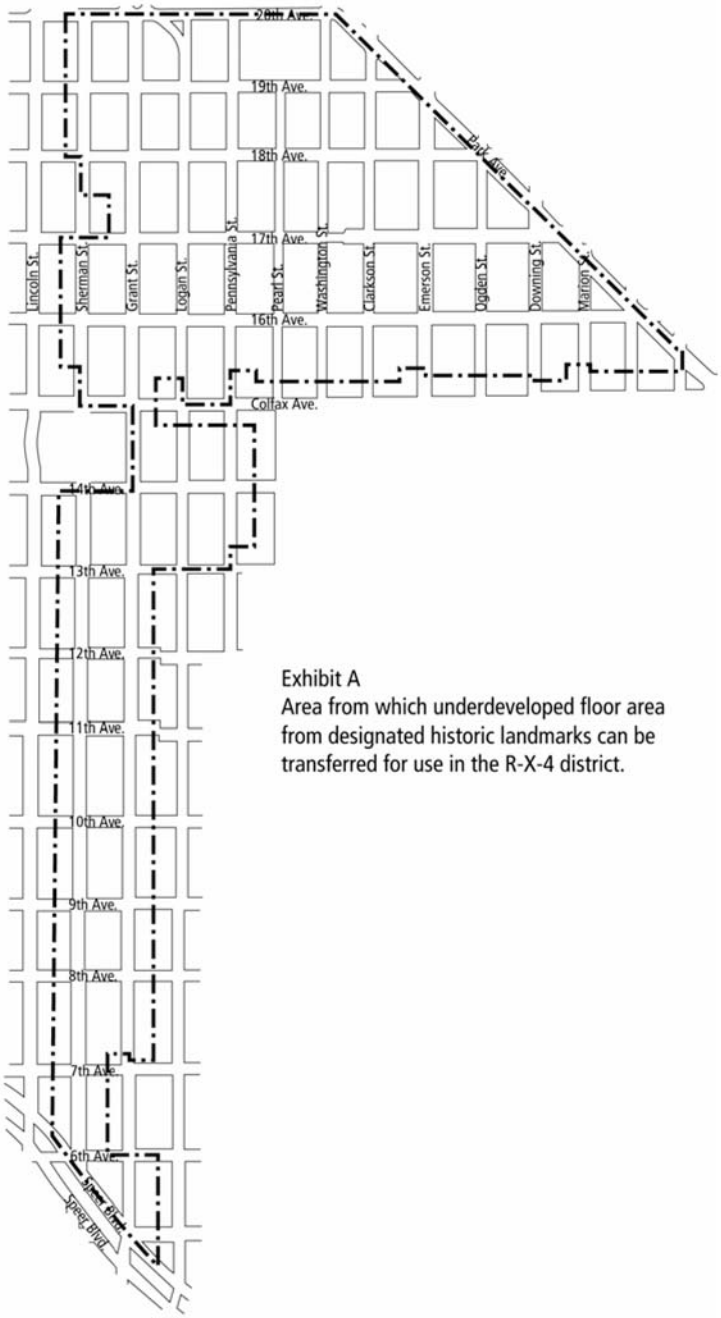
a. To allow more variation and architectural creativity than the design standards described in subsection 59-141(a)(1);

b. To provide human scale through change, contrast, and intricacy in facade form, color and/or material where lower levels of buildings face public streets and sidewalks;

c. To spatially define the street space in order to promote pedestrian activity; and

d. To require building facades to respond to existing building types in the area.

(b) Design review shall be completed within thirty (30) days of the submission of a completed application to the zoning administration, or the facade design shall be considered approved. Such thirty-day review period shall be extended by an amount of time equal to any delay caused by the applicant, and may also be extended with the applicant's consent.



R-4-X Zoning Overlay Districts

(Ord. No. 03-361, § 3, eff. 5-23-03)

Secs. 59-142—59-145. Reserved.

DIVISION 4. R-5 DISTRICT

Sec. 59-146. Generally.

The provisions of this division apply to all land, uses and structures in R-5 districts. (Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-147. Uses allowed in this district.

The following is a list of uses with notations as to whether they are permitted, limited, or have other requirements as listed in the matrix and the sections which follow. Uses not listed are not allowed in this district. Permitted uses are uses by right.

Key: *P = Permitted* *L = Uses permitted with limitations* *SR = Uses permitted after special review* ** = Need not be enclosed*	
Use	*R-5*
Residential	
Assisted living facility	P
Nursing home, hospice	L11/SR
Residence for older adults	P
Residential, institutional/special	L13
Retail, service, office	
Office: nondental, nonmedical	L64
Industrial, wholesale, transportation, utilities	
Helipad, helistop, heliport*	L98
Parking of vehicles*	L105
Railway right of way	P
Arts, entertainment, recreation, institutions	
Child care center	P
Church, religious institution	P
Clinic, office, laboratory, dental or medical	L134
Community or senior center or recreational facility	P
Conference center, meeting hall	L138
Fire station	P
Library	P
Museums, other special purpose cultural institutions	L141
Parks, public, open space, associated buildings*	P
Police station	P
School, elementary or secondary	P
School, vocational or professional	L154
University or college	P

Key: *P = Permitted* *L = Uses permitted with limitations* *SR = Uses permitted after special review* ** = Need not be enclosed*	
Use	*R-5*
Uses allowed in all districts unless restricted by special limitations (See chapter 59, article III, division 2)	
Residential care uses (See § 59-82)	
Uses allowed by temporary permit (See § 59-86)	

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 57-09, § 7, eff. 1-30-09)

Sec. 59-148. Use chart limitations.

The following define the limitations enumerated in the use chart in section 59-147:

L11 Limited to nursing home, hospice with a capacity of twenty-five (25) or fewer residents. Special Review: Nursing home, hospice with a capacity of greater than twenty-five (25) residents; subject to the requirements for neighborhood notification and special review as set forth in the B-2 district.
(Ord. No. 57-09, § 8, eff. 1-30-09)

L13 Except consular residence.

L64 Limited to offices for the administration of churches, religious or charitable organizations, and related nonprofit corporations or associations.

L98 Limited to landing and take off area for police rotorcraft, not including maintenance, repair, fueling or hangar facilities.

L105 Limited to parking of vehicles for art museum, church, governmental offices, institutions, libraries, schools and universities or colleges.

L134 Limited to a health care center operated by the department of environmental health or the Denver Health and Hospital Authority as a community facility providing service but not a commodity.

L138 Limited to retreat center.

L141 Limited to art museum, public.

L154 Any school not permitting the use of machinery; other than office machines and mechanical or machinery parts of household appliances used for instruction of or practice by the student. Classes or other school activities not permitted after 11:00 p.m.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-149. Limitations on external effects of uses.

External effects of uses, as regulated by section 59-92.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-150. Permitted structures.

(a) *Zone lot for structures.* A separate ground area, herein called the zone lot, shall be designated, provided and continuously maintained for each structure containing a use or uses by right. Each zone lot shall have at least one (1) front line and shall be occupied only by that structure containing a use or uses by right and a subordinate structure or structures containing only accessory uses. The zone lot for each structure shall be not less than one hundred (100) feet wide at the front setback line for structures and shall contain not less than twelve thousand five hundred (12,500) square feet. Upon application to and approval by the department of zoning administration, the boundaries and area of a designated zone lot may be amended if full compliance with all requirements of this chapter can be maintained.

(b) *Location of structures.* Except as otherwise hereinafter provided, the space resulting from the following setbacks shall be open and unobstructed:

(1) *Front setback.* All structures shall be set in a distance of not less than twenty (20) feet from each front line of the zone lot; provided, however, that on the two (2) shorter dimensions of any block oblong in shape, the front setback may be reduced to ten (10) feet for structures which face on either longer dimension; and provided further, that detached accessory structures, except those detached accessory structures used as garages or for recreational or outdoor cooking and eating purposes or gas-fired incinerators, shall be set in a sufficient distance from each front line of the zone lot so that such structures are located only on the rear one-fourth of interior zone lots and on corner zone lots are located only on the rear part of the zone lot which is adjacent to and corresponding with the rear one-fourth of abutting interior zone lots and no closer to the side street right-of-way than thirty (30) feet or one-half the dimension of the corner zone lot, measured perpendicularly from the side street right-of-way, whichever distance is greater.

(2) *Rear setback.* If no alley abuts the rear line of the zone lot, all detached accessory structures and fixtures shall be set in a distance of not less than five (5) feet and all other structures shall be set in a distance of not less than twenty (20) feet from each rear line of the zone lot. If an alley abuts the rear line of the zone lot, detached garages and carports opening directly on the alley shall be set in a distance of not less than five (5) feet from the alley line; detached accessory structures (including garages and carports which do not open directly on the alley) and fixtures for the disposal of trash and garbage may be located on the alley line and all other structures shall be set in a distance of not less than twenty (20) feet from the center line of the abutting alley.

(3) *Side setback.* All structures shall be set in a distance of not less than seven (7) feet and six (6) inches from each side line of the zone lot.

(4) *Permitted encroachments on setback space*:

a. Belt courses, sills, lintels and pilasters may project eighteen (18) inches into front, rear and side setback spaces.

b. Cornices, eaves and gutters may project three (3) feet into front setback space, five (5) feet into rear setback space and thirty-six (36) inches into side setback space; provided, however, that if the side setback space is less than five (5) feet in width then such projection shall not exceed one-half the width of the side setback space.

c. Outside stairways may project five (5) feet into front setback space, ten (10) feet into rear setback space and three (3) feet into side setback space; access ramps for the handicapped may encroach into any required building setback space, providing no alternative location is available and providing the ramp construction is compatible with the character of the structure.

d. Unwalled porches, terraces and balconies may extend five (5) feet into front and rear setback spaces.

e. Chimneys not to exceed six (6) feet in width may project eighteen (18) inches into front, rear and side setback spaces.

f. Building accessories designed and intended to control light entering a building and being a permanent part of such building may project five (5) feet into front setback space, ten (10) feet into rear setback space and three (3) feet into side setback space.

g. Building accessories designed and intended to control light entering a building and not being a permanent part of such building, by being removable therefrom and by not being attached to a load-bearing member thereof, may project any distance into any setback space.

h. Canopies may project any distance into the front setback space.

i. Any structure or part thereof which is below the grade of any setback space may project any distance into such setback space.

j. Gas and electric meters may project three (3) feet into any setback space if screened on all sides by a masonry wall. Utility pedestals, transformers or other similar equipment may be installed in any setback area providing they do not exceed a height of three (3) feet.

k. Flush mounted solar panels may encroach any distance into the setback space. (Ord. No. 53-08, § 15, eff. 2-8-08)

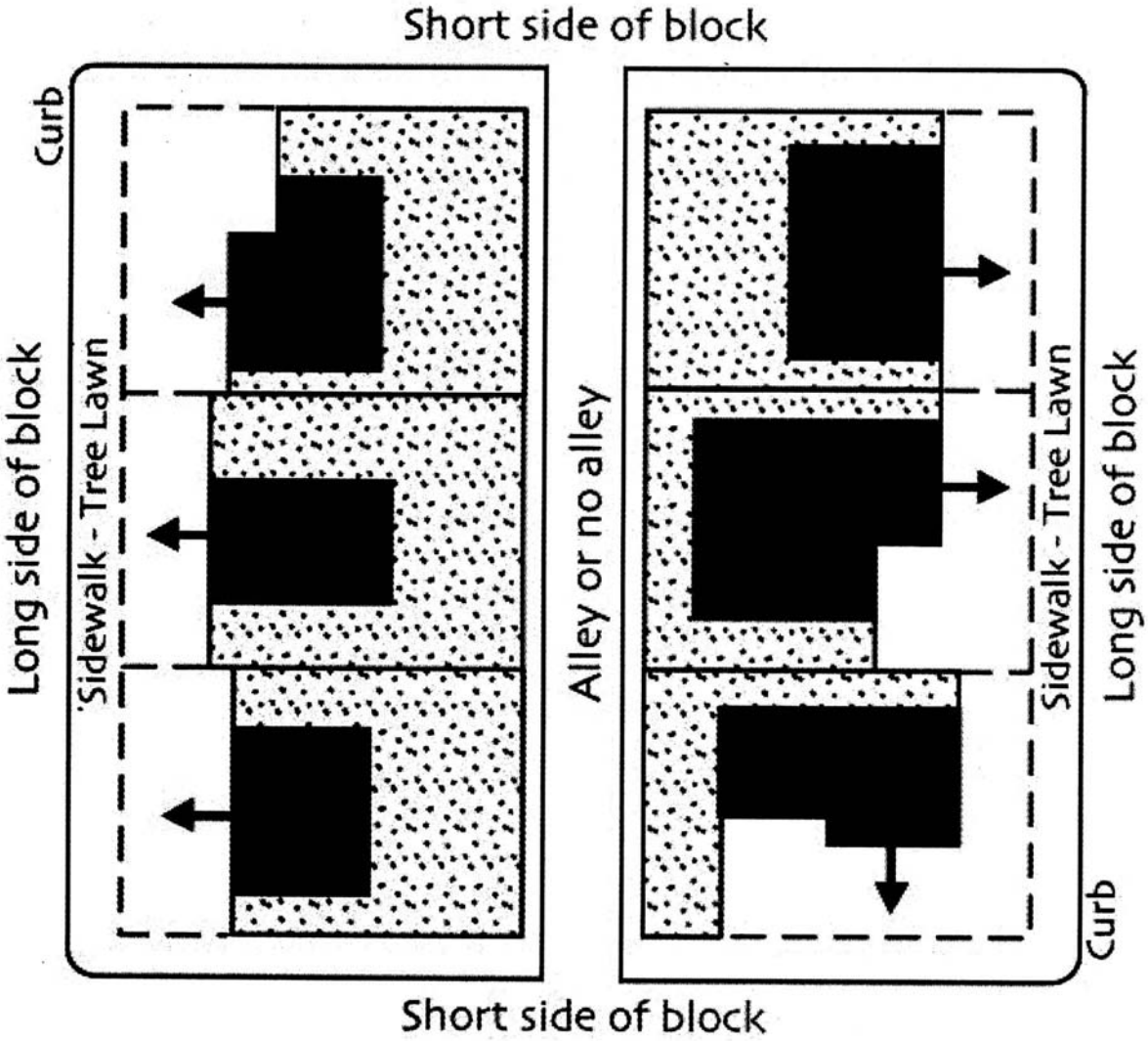
(5) *Fences, walls and retaining walls.* Fences and walls not exceeding four (4) feet in height may be erected on any part of the zone lot. Fences not exceeding six (6) feet in height may be built anywhere on the zone lot except forward of any adjacent front wall or walls of a residential structure (see illustration).

a. Retaining walls in the front setback may be built to a height of four (4) feet and successive walls may be built provided that they are separated by at least four (4) feet. In any area of the zone lot other than the front setback, retaining walls may be built to any height;

b. Fences located on top of retaining walls in the front set back must be fifty (50) percent or more open for any portion of the fence that is more than four (4) feet above the lowest grade at the base of the retaining wall;

c. Fences not exceeding six (6) feet in height on a corner lot where a single or two unit residential structure is oriented to the short dimension of an oblong block may be built to the zone lot line along the short dimension of the block except along the zone lot line or area in front of any wall of a residential structure. Fences over four (4) feet in height but not exceeding six (6) feet in height may only be placed in the areas described in this section 59-150(b)(5) and the accompanying illustration;

Oblong Block



Area allowing fences up to 6 ft. high

Zone lot line

Direction residential structure faces

1

d. Schools, public parks and/or playgrounds may erect open-mesh fences to any height on any part of the zone lot; and

e. The materials used for fences or walls shall consist of wood, brick, masonry, wire mesh, metal bars not exceeding one and one-half (1.5) inches in diameter or other materials which may be approved by the zoning administrator. Salvaged doors and corrugated or sheet metal will not be allowed. Notwithstanding the provisions of section 59-632, nonconforming structures, of the Revised Municipal Code, existing fences and walls which have been constructed of the prohibited materials listed above or other materials not approved by the zoning administrator may not be maintained and any such fences and walls shall be immediately reconstructed of approved materials or removed.

f. Determination of height. See section 59-2(112.1) fence and wall height measurement.

(Ord. No. 363-06, § 7, eff. 6-16-06; Ord. No. 605-06, § 5, eff. 9-22-06)

(c) *Bulk of structures.* The R-5 district is a controlled district within the meaning of section 59-96, which section must be checked to determine if there are special limitations on bulk planes or building height in addition to those set forth in this section. Except for eaves, church spires, church towers, flagpoles, antennas, chimneys, flues, flush mounted solar panels or vents, no part of any structure, including elevator penthouses, air conditioners and other mechanical equipment, shall project through bulk planes which are located as follows:
(Ord. No. 53-08, § 16, eff. 2-8-08)

(1) *Ground-level point.* The starting point for locating the bulk plane shall be the midpoint of a specific lot line, street center line or alley center line adjoining the lot. The elevation of the ground at the midpoint shall be used as the first measuring point for the bulk plane. In case a retaining wall is located on the lot line, the midpoint elevation shall be taken from the base of the wall. The midpoint elevation shall be established prior to any grading or construction.

(2) *Above-ground horizontal line.* The starting line for bulk planes shall be as follows:

a. For the side area of a zone lot: at a horizontal line which is located directly above the side lot line and passes through a point ten (10) feet above the midpoint elevation of such side lot line;

b. For the front area of the zone lot: at a horizontal line which is located directly above the center lines of all streets abutting the lot and which passes through a point ten (10) feet above the midpoint of such center lines between the boundary lines of the lot extended; and

c. For the rear area of the zone lot:

1. With no abutting alley: at a horizontal line which is located directly above the rear lot line and which passes through a point ten (10) feet above the midpoint elevation of such rear lot line; or

2. With an abutting alley: at a horizontal line which is located directly above the center line of the abutting alley or alleys and passes through a point ten (10) feet above the midpoint elevation of such center line between the boundary lines of the zone lot extended.

(3) *Sloping plane.* The bulk planes start at the horizontal lines described above and extend upwards over the lot at an angle of forty-five (45) degrees with respect to the horizontal (a pitch of one (1) foot additional rise for each additional foot of setback from the horizontal line) until such planes intersect the bulk plane from the opposite lot line.

(d) *Maximum zone lot coverage.* The sum total of the ground area covered by all structures, on a zone lot, shall not exceed sixty (60) percent of the area of the zone lot on which the structures are located.

(e) *Minimum size of dwellings.* Any structure to be occupied in whole or in part for residential purposes shall contain a gross floor area of not less than six hundred (600) square feet.

(f) *Limitations on office uses.* The sum total of the gross floor area of all structures on a zone lot that are used primarily for offices shall not exceed twenty-five (25) percent of the area of the zone lot on which such structures are located, provided that the use or construction of more than one hundred fifty thousand (150,000) square feet of office space on any zone lot shall be subject to the procedures of section 59-41(b) and special review as outlined in this subsection 59-150(f). The zoning administrator may approve the application provided a finding is made that:

(1) The architectural design of the proposed increased office use is not substantially inconsistent with the character of the surrounding neighborhood (only if the increased office use contemplates new construction);

(2) The proposed increased office use will not unreasonably interfere with the appropriate use of adjacent property or create an undue concentration of office uses within the zone lot.

(3) The development plan adequately addresses any increased traffic generated by the proposed increased office use.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 895-03, §§ 24, 25, eff. 12-2-03; Ord. No. 468-05, § 13, eff. 7-15-05)

Sec. 59-151. Permitted signs.

The provisions of article V of this chapter on permitted signs shall be in full force and effect in this district.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-152. Off-street parking requirements.

The provisions of article VI of this chapter on off-street parking requirements shall be in full force and effect in this district.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-153. Off-street loading requirements.

The provisions of article VII of this chapter on off-street loading requirements shall be in full force and effect in this district.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-154. Special zone lot plan for planned building groups.

The provisions of article VIII of this chapter on special zone lot plan for planned building groups shall be in full force and effect in this district.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Secs. 59-155—59-160. Reserved.

DIVISION 5. RESERVED

[The next page is 221]

DIVISION 6. HOSPITAL DISTRICTS

Sec. 59-161. H-1-A, H-1-B, and H-2 districts—Generally.

The provisions of these districts shall apply to all lands, uses and structures in the H-1-A, H-1-B and H-2 districts.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-162. Description of districts.

(a) The H-1-A and H-1-B districts are intended to promote and encourage the maintenance and concentration of existing and proposed healthcare facilities and their related uses. The districts are intended to include primarily the principal structures and related facilities of each healthcare institution.

(b) The H-2 district is intended to promote and encourage the maintenance of existing and proposed healthcare facilities and their related uses in a manner that will establish and maintain reasonable balance between the need for orderly growth of healthcare facilities and the preservation and buffering of nearby residential areas. The district is intended to include generally the peripheral area of each healthcare facility where there is abutment or close proximity to nonhealthcare uses.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-163. Uses allowed in these districts.

The following is a list of uses with notations as to whether they are permitted, limited, or have other requirements as listed in the matrix and the sections which follow. Uses not listed are not allowed in any of these districts. Permitted uses are uses by right.

Key: *P = Permitted* *L = Uses permitted with limitations* *SR = uses permitted with special review* ** = Need not be enclosed*	*H-1-A, H-1-B, H-2*
Use	
Residential	
Assisted living facility	P
Dwelling, multiple unit	P
Dwelling, single unit	P
Nursing home, hospice	P
Residence for older adults	P
Residential, institutional/special	L13
Rooming and/or boarding house	L14
Retail, service, office	
Bed and breakfast	P

Key: *P = Permitted* *L = Uses permitted with limitations* *SR = uses permitted with special review* ** = Need not be enclosed*	*H-1-A, H-1-B, H-2*
Use	
Hotel	P
Motel	P
Office: nondental, nonmedical	L63
Retail, service, repair, consumer, small scale	L74
Industrial, wholesale, transportation, utilities	
Helipad, helistop, heliport*	SR/L96
Parking of vehicles*	L105
Arts, entertainment, recreation, institutions	
Ambulance service	P
Child care center	P
Church, religious institution	P
Clinic, office, laboratory, dental or medical	P
Hospital	P
School, elementary or secondary	P
School, vocational or professional	L154
University or college	L154
Uses allowed in all districts unless restricted by special limitations (See chapter 59, article III, division 2)	
Residential care uses (See § 59-82)	
Parking lot designated for special event (See § 59-85 except H-2)	
Uses allowed by temporary permit (See § 59-86 except H-2)	
Accessory uses (See § 59-87)	
Home occupations (See § 59-89 as for R-4 district)	

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 340-06, § 10, eff. 6-9-06; Ord. No. 57-09, § 9, eff. 1-30-09)

Sec. 59-164. Limitations.

The following define the limitations enumerated in the use chart in section 59-163:

L13 Limited to parish house, monastery, convent or similar institution of religious training.

L14 Fraternity, sorority house not permitted.

L63 Any office in which chattels or goods, wares or merchandise are not commercially created, displayed, exchanged or sold.

L74 Use by right limited to apothecary (limited to sale of pharmaceuticals and medical supplies); hearing aid store; optical goods store/optician; orthopedic and prosthetic devices and appliances fabrication, repair and sale, limited to prescription work only.

L96 Landing take-off area for police and/or emergency rotorcraft, not including maintenance, repair, fueling or hangar facilities; need not be enclosed; subject to special review under section 59-173.

L105 Limited to parking of vehicles to serve any other use by right permitted in the district, need not be enclosed.

L154 Any school not permitting the use of machinery, other than office machines, machines used in the practice of medicine, and mechanical or machinery parts of household appliances used for practice by the student. Repair as a service or the sale of repaired appliances is prohibited. Classes or other school activities not permitted after 11:00 p.m.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 340-06, § 11, eff. 6-9-06)

Sec. 59-165. Limitations on external effects of uses.

External effects of uses, as regulated by section 59-92.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-166. H-1-A district—Permitted structures.

(a) *Zone lot for structures.* A separate ground area, herein called the zone lot, shall be designated, provided and continuously maintained for each structure containing a use or uses by right. Each zone lot shall have at least one (1) front line and shall be occupied only by the structure containing a use or uses by right and a subordinate structure or structures containing only accessory uses; provided, however, one (1) subordinate structure containing more than one (1) habitable story and which structure was erected prior to November 8, 1956, as a carriage house, may be used in its entirety as a single unit dwelling. The zone lot for each structure designed or used either wholly or partly for residential occupancy shall be not less than fifty (50) feet wide at the front setback line for structures and shall contain not less than six thousand (6,000) square feet; provided, however, that on a zone lot for a structure used as a single unit dwelling, the minimum width may be reduced to thirty-seven (37) feet and/or the requirement as to minimum size may be waived altogether on a zone lot adjoined on both sides by zone lots with structures thereon or on a zone lot adjoined on one (1) side by a street and on the other side by a zone lot with a structure or structures thereon. The zone lot for the following structures shall provide at least the following amounts of unobstructed open space which shall not include space provided for off-street parking:

(1) Each residential structure of one (1) to three (3) habitable stories, twenty (20) percent of the area of the zone lot;

(2) Each residential structure of four (4) or more habitable stories, thirty (30) percent of the area of the zone lot.

Unobstructed open space may be located on the ground and on roof decks having an average height of not more than six (6) feet above grade and shall be utilized only for landscaping

and/or recreational facilities. Upon application to and approval by the department of zoning administration, the boundaries and area of a designated zone lot may be amended if full compliance with all requirements of this chapter can be maintained.

(b) *Location of structures.* Except as otherwise hereinafter provided, the space resulting from the following setbacks shall be open and unobstructed:

(1) *Front setback.* All structures shall be set in a distance of not less than ten (10) feet from each front line of the zone lot; provided, however, that on the two (2) shorter dimensions of any block oblong in shape, the front setback may be reduced to five (5) feet for structures which face on either longer dimension; and provided further, that detached accessory structures, except those detached accessory structures used as garages or for recreational or outdoor cooking and eating purposes or gas-fired incinerators, shall be set in a sufficient distance from each front line of the zone lot so that such structures are located only on the rear one-fourth of interior zone lots and on corner zone lots are located only on the rear part of the zone lot which is adjacent to and corresponding with the rear one-fourth of abutting interior zone lots and no closer to the side street right-of-way than thirty (30) feet or one-half the dimensions of the corner zone lot, measured perpendicularly from the side street right-of-way, whichever distance is greater. The space resulting from the foregoing setbacks shall be used for landscaping and access ways to the use by right but shall not be used for the parking of vehicles.

(2) *Rear setback.* If no alley abuts the rear line of the zone lot, all detached accessory structures and fixtures shall be set in a distance of not less than five (5) feet and all other structures shall be set in a distance of not less than twenty (20) feet from each rear line of the zone lot. If an alley abuts the rear line of the zone lot, detached garages and carports opening directly on the alley shall be set in a distance of not less than five (5) feet from the alley line; detached accessory structures (including garages and carports which do not open directly on the alley) and fixtures for the disposal of trash and garbage may be located on the alley line and all other structures shall be set in a distance of not less than twenty (20) feet from the center line of the abutting alley; provided, however, that if a zone lot has more than one (1) rear line by reason of abutting alleys, the aforesaid setbacks shall be required from only one (1) rear line and the other rear line or lines shall, for the purposes of setbacks, be deemed side lines of the zone lot. Whether or not an alley abuts the rear line of the zone lot, electric substations, gas regulator stations and utility pumping stations which do not have a rear entrance may be located on the rear line of the zone lot; if such structures do have a rear entrance they shall be set in a distance of not less than five (5) feet from the rear line of the zone lot.

(3) *Side setback:*

a. On zone lots less than thirty (30) feet in width, all structures, except detached garages or carports as set forth in subsection (b)(3)c., hereof, shall be set in a distance of not less than three (3) feet from each side line of the zone lot.

b. On zone lots thirty (30) or more feet in width, electric substations, gas regulator stations, single unit dwellings and multiple unit dwellings containing not more than two (2) dwelling units shall be set in a distance of not less than five (5) feet and all other structures, except detached garages or carports as set forth in subsection (b)(3)c., hereof, shall be set in a distance of not less than seven (7) feet and six (6) inches from each side line of the zone lot.

c. Regardless of the width of the zone lot, detached garages or carports need not be set in from any side line of the zone lot if such garages or carports meet the following conditions:

1. On zone lots one hundred twenty-five (125) or less feet in depth, are located in their entirety on the rear one-third of the zone lot and no part of such structures is more than forty (40) feet from the rear line of the zone lot;

2. On zone lots more than one hundred twenty-five (125) feet in depth, are located in their entirety on the rear one-third of the zone lot and no part of such structures is less than eighty-five (85) feet from one (1) or more front lines of the zone lot.

d. The space resulting from the foregoing setbacks shall be used for landscaping and access ways but shall not be used for the parking of vehicles; provided, however, if the distance from the building to the side line of the zone lot measures twenty-one (21) feet or more, that setback space may be used for the parking of vehicles.

(4) *Permitted encroachments on setback space*:

a. Belt courses, sills, lintels and pilasters may project eighteen (18) inches into front, rear and side setback spaces.

b. Cornices, eaves and gutters may project three (3) feet into front setback space, five (5) feet into rear setback space and thirty-six (36) inches into side setback space; provided, however, that if the side setback space is less than five (5) feet in width, then such projection shall not exceed one-half the width of the side setback space.

c. Outside stairways may project five (5) feet into front setback space, ten (10) feet into rear setback space and three (3) feet into side setback space; access ramps for the handicapped may encroach into any required building setback space, providing no alternative location is available and providing the ramp construction is compatible with the character of the structure.

d. Unwalled porches, terraces and balconies may extend five (5) feet into front and rear setback spaces.

e. Chimneys not to exceed six (6) feet in width may project eighteen (18) inches into front, rear and side setback spaces.

f. Building accessories designed and intended to control light entering a building and being a permanent part of such building may project five (5) feet into front setback space, ten (10) feet into rear setback space and three (3) feet into side setback space.

g. Building accessories designed and intended to control light entering a building and not being a permanent part of such building, by being removable therefrom and by not being attached to a load-bearing member thereof, may project any distance into any setback space.

h. Canopies may project any distance into the front setback space.

i. Any structure or part thereof which is below the grade of any setback space may project any distance into such setback space.

j. Gas and electric meters may project three (3) feet into any setback space if screened on all sides by a masonry wall. Utility pedestals, transformers or other similar equipment may be installed in any setback providing they do not exceed a height of three (3) feet.

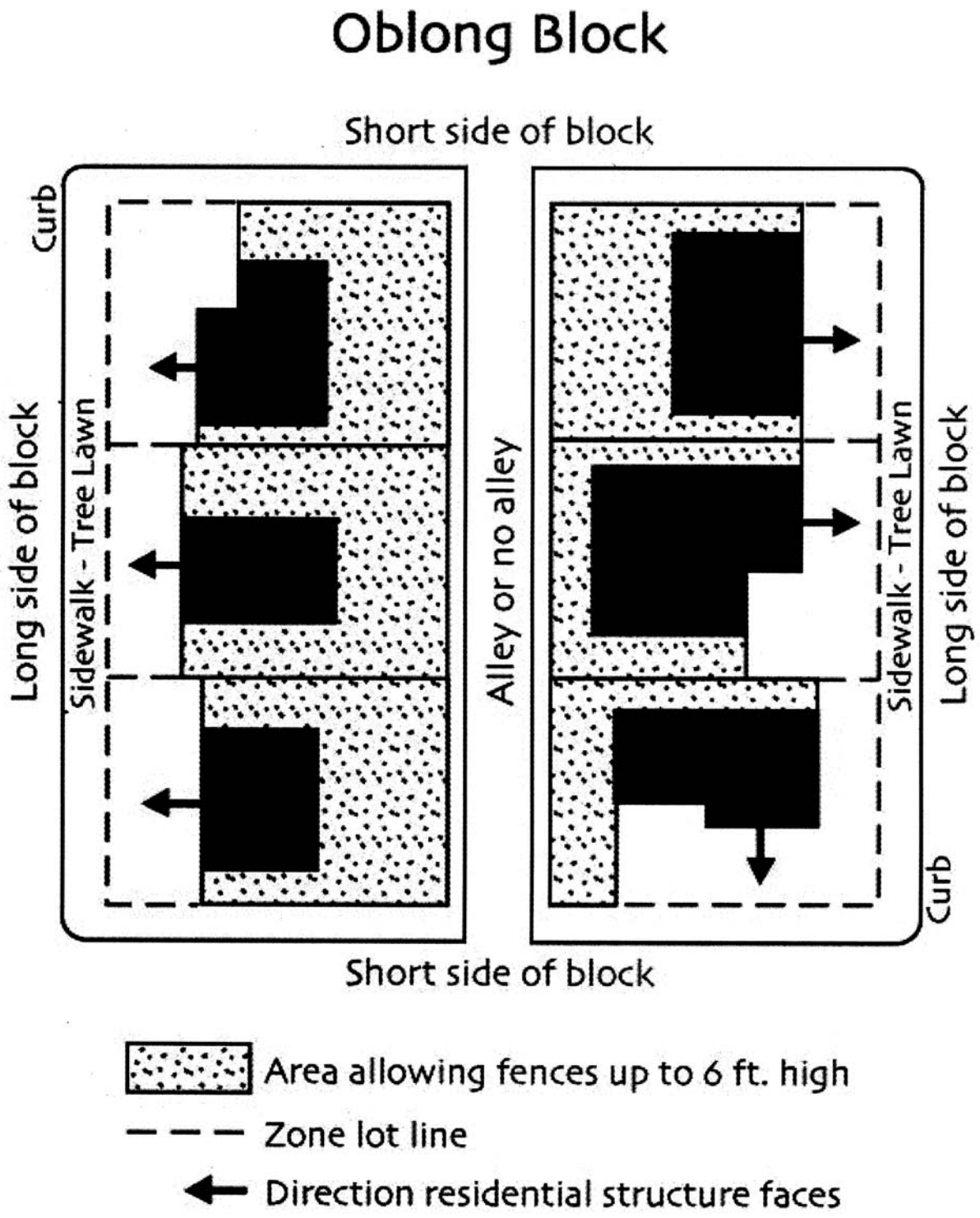
k. Basketball goals on a fixed post may project any distance into the setback spaces.

(5) *Fences, walls and retaining walls.* Fences and walls not exceeding four (4) feet in height may be erected on any part of the zone lot. Fences not exceeding six (6) feet in height may be built anywhere on the zone lot except forward of any adjacent front wall or walls of a residential structure (see illustration).

a. Retaining walls in the front setback may be built to a height of four (4) feet and successive walls may be built provided that they are separated by at least four (4) feet. In any area of the zone lot other than the front setback, retaining walls may be built to any height;

b. Fences located on top of retaining walls in the front set back must be fifty (50) percent or more open for any portion of the fence that is more than four (4) feet above the lowest grade at the base of the retaining wall;

c. Fences not exceeding six (6) feet in height on a corner lot where a single or two unit residential structure is oriented to the short dimension of an oblong block may be built to the zone lot line along the short dimension of the block except along the zone lot line or area in front of any wall of a residential structure. Fences over four (4) feet in height but not exceeding six (6) feet in height may only be placed in the areas described in this section 59-166(b)(5) and the accompanying illustration;



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Oblong Block

d. Schools, public parks and/or playgrounds may erect open-mesh fences to any height on any part of the zone lot; and

e. The materials used for fences or walls shall consist of wood, brick, masonry, wire mesh, metal bars not exceeding one and one-half (1.5) inches in diameter or other materials which may be approved by the zoning administrator. Salvaged doors and corrugated or sheet metal will not be allowed. Notwithstanding the provisions of section 59-632, nonconforming structures, of the Revised Municipal Code, existing fences and walls which have been constructed of the prohibited materials listed above or other materials not approved by the zoning administrator may not be maintained and any such fences and walls shall be immediately reconstructed of approved materials or removed.

f. Determination of height. See section 59-2(112.1) fence and wall height measurement.

(Ord. No. 363-06, § 8, eff. 6-16-06; Ord. No. 605-06, § 6, eff. 9-22-06)

(c) *Maximum bulk of structures.* The H-1-A district is a controlled district within the meaning of section 59-96, which section must be checked to determine if there are special limitations on bulk planes or building height in addition to those set forth in this section. With the exception of eaves, church spires, church towers, flagpoles, antennas, chimneys, flues and vents, no part of any structure, including elevator penthouses, air conditioners and other mechanical equipment, shall project through bulk planes which are located as follows:

(1) *Ground-level point.* The starting point for locating the bulk plane shall be the midpoint of a specific lot line or alley center line adjoining the lot. The elevation of the ground at the midpoint shall be used as the first measuring point for the bulk plane. In case a retaining wall is located on the lot line, the midpoint elevation shall be taken from the base of the wall. The midpoint elevation shall be established prior to any grading or construction.

(2) *Above-ground horizontal line.* The starting line for bulk planes shall be as follows:

a. *For the side area of a zone lot*: At a horizontal line which is located directly above the side lot line and passes through a point twenty (20) feet above the midpoint elevation of such side lot line; and

b. *For the rear area of the zone lot:*

1. *With no abutting alley*: At a horizontal line which is located directly above the rear lot line and which passes through a point twenty (20) feet above the midpoint elevation of such rear lot line; or

2. *With an abutting alley*: At a horizontal line which is located directly above the center line of the abutting alley or alleys and passes through a point twenty (20) feet above the midpoint elevation of such center line between the boundary lines of the zone lot extended.

(3) *Sloping plane.* The bulk planes start at the horizontal lines described above and extend upwards over the zone lot at an angle of sixty-three (63) degrees

twenty-six (26) minutes with respect to the horizontal (a pitch of two (2) feet additional rise for each additional foot of setback from the horizontal line) until such planes intersect a vertical line thirty (30) feet horizontally distant from the horizontal starting lines described above, at which intersect the bulk planes extend upward vertically. See the following illustration for an explanation of these setback and bulk regulations.

(d) *Maximum gross floor area in structures.* The sum total of the gross floor area of all structures on a zone lot shall not be greater than three (3) times the area of the zone lot on which the structures are located. Provided that, upon qualifying under the provisions of article IV, chapter 27 (affordable housing), the sum total of the gross floor area of all structures on a zone lot shall not be greater than three and three-tenths (3.3) times the area of the zone lot on which the structures are located, provided further that all of the extra floor area in excess of three (3) lines the area of the zone lot shall be dedicated to residential uses.

(e) *Minimum size of dwellings.* Each single unit dwelling and any other structure occupied in whole or in part for residential purposes shall contain a gross floor area of not less than six hundred (600) square feet.
(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 895-03, §§ 26, 27, eff. 12-2-03)

Sec. 59-167. H-1-B district—Permitted structures.

(a) *Zone lot for structures.* A separate ground area, herein called the zone lot, shall be designated, provided and continuously maintained for each structure containing a use or uses by right. Each zone lot shall have at least one (1) front line and shall be occupied only by that structure containing a use or uses by right and a subordinate structure or structures containing only accessory uses. The zone lot for each structure shall be not less than one hundred (100) feet wide at the front setback line for structures and shall contain not less than twelve thousand five hundred (12,500) square feet; provided that upon qualifying under the provisions of article IV, chapter 27 (affordable housing), each zone lot containing only residential uses shall contain not less than eleven thousand two hundred and fifty (11,250) square feet. Upon application to and approval by the department of zoning administration, the boundaries and area of a designated zone lot may be amended if full compliance with all requirements of this chapter can be maintained.

(b) *Location of structures.* Except as otherwise hereinafter provided, the space resulting from the following setbacks shall be open and unobstructed:

(1) *Front setback.* All structures shall be set in a distance of not less than twenty (20) feet from each front line of the zone lot; provided, however, that on the two (2) shorter dimensions of any block oblong in shape, the front setback may be reduced to ten (10) feet for structures which face on either longer dimension; and provided further, that detached accessory structures, except those detached accessory structures used as garages or for recreational or outdoor cooking and eating purposes or gas-fired incinerators, shall be set in a sufficient distance from each front line of the zone lot so that such structures are located only on the rear one-fourth of interior zone lots and on

corner zone lots are located only on the rear part of the zone lot which is adjacent to and corresponding with the rear one-fourth of abutting interior zone lots and no closer to the side street right-of-way than thirty (30) feet or one-half the dimension of the corner zone lot, measured perpendicularly from the side street right-of-way, whichever distance is greater.

(2) *Rear setback.* If no alley abuts the rear line of the zone lot, all detached accessory structures and fixtures shall be set in a distance of not less than five (5) feet and all other structures shall be set in a distance of not less than twenty (20) feet from each rear line of the zone lot. If an alley abuts the rear line of the zone lot, detached garages and carports opening directly on the alley shall be set in a distance of not less than five (5) feet from the alley line; attached accessory structures (including garages and carports which do not open directly on the alley) and fixtures for the disposal of trash and garbage may be located on the alley line and all other structures shall be set in a distance of not less than twenty (20) feet from the center line of the abutting alley.

(3) *Side setback.* All structures shall be set in a distance of not less than seven (7) feet and six (6) inches from each side line of the zone lot.

(4) *Permitted encroachments on setback space:*

a. Belt courses, sills, lintels and pilasters may project eighteen (18) inches into front, rear and side setback spaces.

b. Cornices, eaves and gutters may project three (3) feet into front setback space, five (5) feet into rear setback space and thirty-six (36) inches into side setback space; provided, however, that if the side setback space is less than five (5) feet in width then such projection shall not exceed one-half the width of the side setback space.

c. Outside stairways may project five (5) feet into front setback space, ten (10) feet into rear setback space and three (3) feet into side setback space; access ramps for the handicapped may encroach into any required building setback space, providing no alternative location is available and providing the ramp construction is compatible with the character of the structure.

d. Unwalled porches, terraces and balconies may extend five (5) feet into front and rear setback spaces.

e. Chimneys not to exceed six (6) feet in width may project eighteen (18) inches into front, rear and side setback spaces.

f. Building accessories designed and intended to control light entering a building and being a permanent part of such building may project five (5) feet into front setback space, ten (10) feet into rear setback space and three (3) feet into side setback space.

g. Building accessories designed and intended to control light entering a building and not being a permanent part of such building, by being removable therefrom and by not being attached to a load-bearing member thereof, may project any distance into any setback space.

h. Canopies may project any distance into the front setback space.

i. Any structure or part thereof which is below the grade of any setback space may project any distance into such setback space.

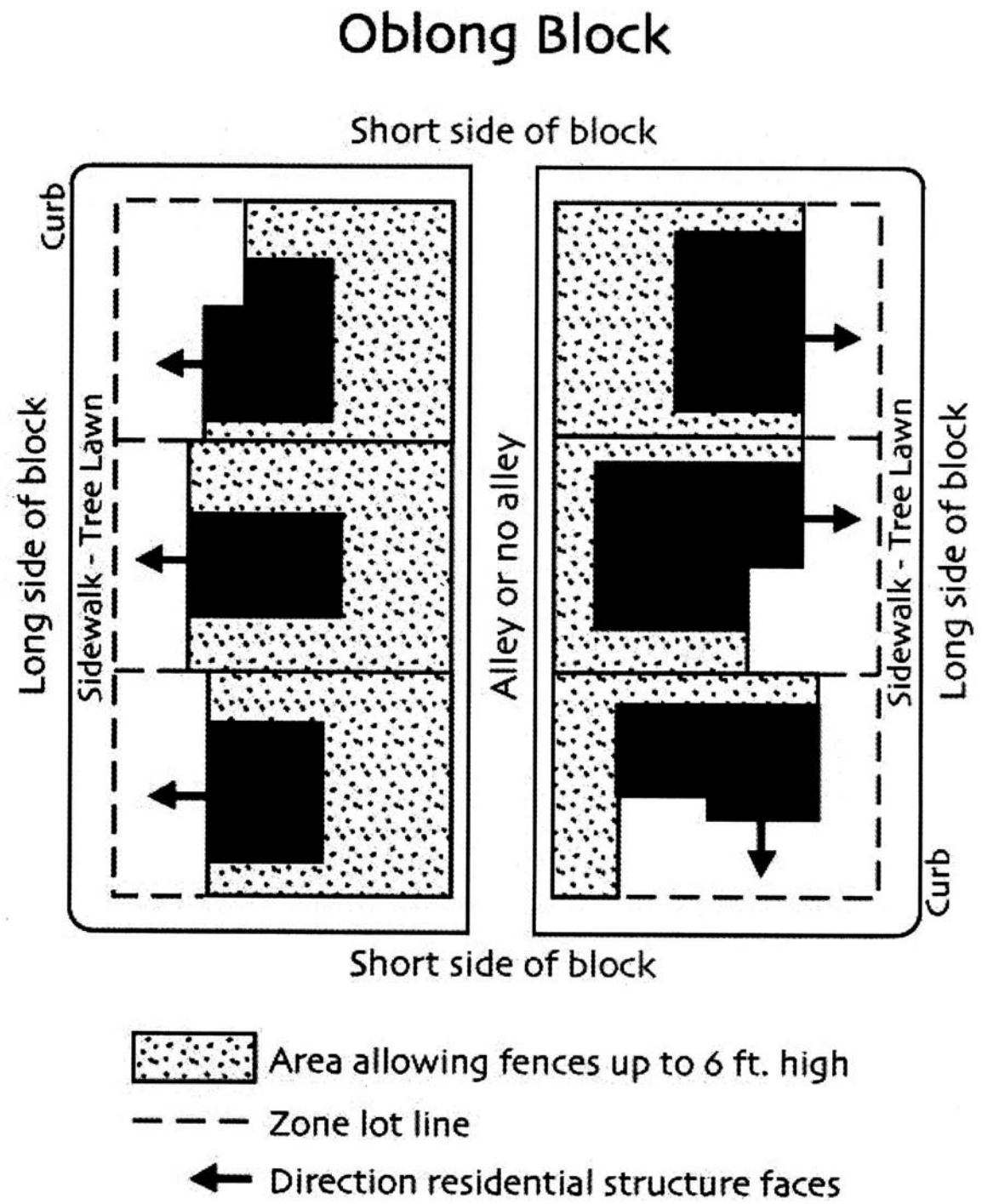
j. Gas and electric meters may project three (3) feet into any setback space if screened on all sides by a masonry wall. Utility pedestals, transformers or other similar equipment may be installed in any setback area providing they do not exceed a height of three (3) feet.

(5) *Fences, walls and retaining walls.* Fences and walls not exceeding four (4) feet in height may be erected on any part of the zone lot. Fences not exceeding six (6) feet in height may be built anywhere on the zone lot except forward of any adjacent front wall or walls of a residential structure (see illustration).

a. Retaining walls in the front setback may be built to a height of four (4) feet and successive walls may be built provided that they are separated by at least four (4) feet. In any area of the zone lot other than the front setback, retaining walls may be built to any height;

b. Fences located on top of retaining walls in the front set back must be fifty (50) percent or more open for any portion of the fence that is more than four (4) feet above the lowest grade at the base of the retaining wall;

c. Fences not exceeding six (6) feet in height on a corner lot where a residential structure is oriented to the short dimension of an oblong block may be built to the zone lot line along the short dimension of the block except along the zone lot line or area in front of any wall of a residential structure. Fences over four (4) feet in height but not exceeding six (6) feet in height may only be placed in the areas described in this section 59-167(b)(5) and the accompanying illustration;



1

Oblong Block

d. Schools, public parks and/or playgrounds may erect open-mesh fences to any height on any part of the zone lot; and

e. The materials used for fences or walls shall consist of wood, brick, masonry, wire mesh, metal bars not exceeding one and one-half (1.5) inches in diameter or other materials which may be approved by the zoning administrator. Salvaged doors and corrugated or sheet metal will not be allowed. Notwithstanding the provisions of section 59-632, nonconforming structures, of the Revised Municipal Code, existing fences and walls which have been constructed of the prohibited materials listed above or other materials not approved by the zoning administrator may not be maintained and any such fences and walls shall be immediately reconstructed of approved materials or removed.

f. Determination of height. See section 59-2(112.1) fence and wall height measurement.

(Ord. No. 363-06, § 9, eff. 6-16-06; Ord. No. 605-06, § 7, eff. 9-22-06)

(c) *Bulk of structure.* The H-1-B district is a controlled district within the meaning of section 59-96, which section must be checked to determine if there are special limitations on bulk planes or building height in addition to those set forth in this section. Except for eaves, church spires, church towers, flagpoles, antennas, chimneys, flues or vents, no part of any structure, including elevator penthouses, air conditioners and other mechanical equipment, shall project through bulk planes which are located as follows:

(1) *Ground-level point.* The starting point for locating the bulk plane shall be the midpoint of a specific lot line, street center line or alley center line adjoining the lot. The elevation of the ground at the midpoint shall be used as the first measuring point for the bulk plane. In case a retaining wall is located on the lot line, the midpoint elevation shall be taken from the base of the wall. The midpoint elevation shall be established prior to any grading or construction.

(2) *Above-ground horizontal line.* The starting line for bulk planes shall be as follows:

a. For the side area of a zone lot: At a horizontal line which is located directly above the side lot line and passes through a point ten (10) feet above the midpoint elevation of such side lot line;

b. For the front area of the zone lot: At a horizontal line which is located directly above the center lines of all streets abutting the lot and which passes through a point ten (10) feet above the midpoint of such center lines between the boundary lines of the lot extended; and

c. *For the rear area of the zone lot*:

1. *With no abutting alley*: At a horizontal line which is located directly above the rear lot line and which passes through a point ten (10) feet above the midpoint elevation of such rear lot line; or

2. *With an abutting alley*: At a horizontal line which is located directly above the center line of the abutting alley or alleys and passes through a point ten (10) feet above the midpoint elevation of such center line between the boundary lines of the zone lot extended.

(3) *Sloping plane.* The bulk planes start at the horizontal lines described above and extend upwards over the lot at an angle of forty-five (45) degrees with respect to the horizontal (a pitch of one (1) foot additional rise for each additional foot of setback from the horizontal line) until such planes intersect the bulk plane from the opposite lot line.

(4) Refer to the illustration of the R-2-A bulk plane. The bulk regulations of these two (2) zones are identical except for some setback requirements.

(d) *Maximum zone lot coverage.* The sum total of the ground area covered by all structures, on a zone lot, shall not exceed sixty (60) percent of the area of the zone lot on which the structures are located.

(e) *Minimum size of dwellings.* Any structure to be occupied in whole or in part for residential purposes shall contain a gross floor area of not less than six hundred (600) square feet.

(f) *Limitations on office uses.* The sum total of the gross floor area of all structures on a zone lot that are used primarily for offices shall not exceed twenty-five (25) percent of the area of the zone lot on which such structures are located, provided that the use or construction of more than one hundred fifty thousand (150,000) square feet of office space on any zone lot shall be subject to the procedures of section 59-41(b) and special review as outlined in this subsection 59-167(f). The zoning administrator may approve the application provided a finding is made that:

(1) The architectural design of the proposed increased office use is not substantially inconsistent with the character of the surrounding neighborhood (only if the increased office use contemplates new construction);

(2) The proposed increased office use will not unreasonably interfere with the appropriate use of adjacent property or create an undue concentration of office uses within the zone lot.

(3) The development plan adequately addresses any increased traffic generated by the proposed increased office use.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 895-03, §§ 28, 29, eff. 12-2-03; Ord. No. 468-05, § 14, eff. 7-15-05)

Sec. 59-168. H-2 district—Permitted structures.

(a) *Zone lot for structures.* The provisions of section 59-166(a) on zone lot for structures shall be in full force and effect in this district.

(b) *Location of structures not adjacent to residential uses.* The provisions of section 59-166(b) on location of structures shall be in full force and effect in this district on any side of a zone lot that does not adjoin any zone lot line of property used for residential purposes.

(c) *Location of structures adjacent to residential uses, except certain residential uses owned by a healthcare facility.* The provisions of section 59-167(b) on location of structures shall be in full force and effect in this district on any side of a zone lot that adjoins any zone lot line of property used for residential purposes; provided, however, the provisions of section 59-166(b) on location of structures shall be in full force and effect in this district where structures are adjacent to residential uses owned by, or subject to a written offer to purchase made by, a healthcare facility as of August 10, 1991, provided that the closing on that written offer took place by December 31, 1991.

(d) *Maximum bulk of structures not adjacent to residential uses.* The provisions of section 59-166(c) on maximum bulk of structure shall be in full force and effect in this district on any side of a zone lot that does not adjoin any zone lot line of property used for residential purposes.

(e) *Maximum bulk of structures adjacent to residential uses, except certain residential uses owned by a healthcare facility.* The provisions of section 59-167(c) on maximum bulk of structures shall be in full force and effect in this district on any side of a zone lot that adjoins any zone lot line of property used for residential purposes; provided, however, the provisions of section 59-166(c) on maximum bulk of structures shall be in full force and effect in this district where structures are adjacent to residential uses owned by, or subject to a written offer to purchase made by, a healthcare facility as of August 10, 1991, provided that closing on that written offer took place by December 31, 1991.

(f) *Maximum gross floor area in structures.* The provisions of section 59-166(d) of maximum gross floor area in structures shall be in full force and effect in this district.

(g) *Maximum zone lot coverage.* The sum total of the ground area covered by structures, on a zone lot, shall not exceed sixty (60) percent of the area of the zone lot on which the structures are located.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-169. Permitted signs.

The provisions of article V of this chapter on permitted signs shall be in full force and effect in these districts.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-170. Off-street parking requirements.

The provisions of article VI of this chapter on off-street parking requirements shall be in full force and effect in these districts.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-171. Off-street loading requirements.

The provisions of article VII of this chapter on off-street loading requirements shall be in full force and effect in these districts.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-172. Special zone lot plan for planned building groups.

The provisions of article VIII of this chapter on special zone lot plan for planned building groups shall be in full force and effect in these districts.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-173. Construction subject to special review.

(a) Zoning permit application proposing construction of the following uses in the H-1-A, H-1-B or H-2 districts shall be subject to a special review procedure as described below:

(1) A new or modified rotorcraft landing or take-off area; or

(2) A new or substantial increase in use of:

a. An emergency vehicle access point; or

b. Principal points of access for pedestrians or vehicles.

(b) Upon receipt of an application for zoning permit for construction and use which proposes construction of any of the uses described in section 59-173(a), the department of zoning administration shall transmit a copy of such application to the planning office, city council office, public works, affected registered neighborhood organizations as provided in section 12-96 of the Revised Municipal Code, and to other such agencies, either public or private, as may be deemed by the department to have an interest.
(Ord. No. 459-06, § 8, eff. 7-21-06)

(c) Upon request of the applicant and upon a joint finding by the chairman of the planning board and the director of planning that there is sufficient evidence to demonstrate that all issues pertaining to the zoning permit application have been identified and responsibly addressed, a planning board committee meeting, at which parties and interested citizens shall have an opportunity to be heard, may be held within thirty (30) days following the date that the completed zoning permit application was received from the department of zoning administration. The area relating to the zoning permit application shall be posted for at least fifteen (15) days prior to the planning board committee meeting. The posted notices shall be in number, size and location as prescribed by the department of zoning administration and shall indicate that there shall be a public meeting regarding an application for zoning permit for construction and use, the time and place of the planning board committee public meeting, and other information prescribed by the department of zoning administration. Posted notices shall be removed by the applicant from the subject area within fifteen (15) days after said public meeting has been held. Failure to do so will constitute a violation of this chapter. All reviewing agencies, both public and private, shall transmit to the planning office their recommendations or comments no later than three (3) working days prior to the planning board committee

meeting. The failure of the reviewing agencies to act within the time period herein described shall not be deemed a recommendation of or comment on the zoning permit application as submitted.

(d) If a planning board committee meeting is not first held, a full planning board meeting, at which parties and interested citizens shall have an opportunity to be heard, shall be held within forty-five (45) days following the date that the completed zoning permit application was received from the department of zoning administration. The area relating to the zoning permit application shall be posted consistent with requirements set forth in section 59-173(c). All reviewing agencies, both public and private, shall transmit to the planning office their recommendations or comments no later than three (3) working days prior to the planning board meeting. The failure of the reviewing agencies to act within the time period herein described shall not be deemed a recommendation of or comment on the zoning permit application as submitted.

(e) In reviewing the zoning permit application, the planning board or a committee thereof shall evaluate the project based on the following criteria:

(1) Whether the project is generally compatible with the comprehensive, area-wide, and neighborhood plans, and with the healthcare facility's plans for future development;

(2) Whether there has been demonstrated neighborhood involvement in reviewing the project and its potential impacts, and whether neighborhood concerns have been appropriately addressed;

(3) Whether the project has a significant adverse impact on surrounding land uses;

(4) Whether vehicular traffic patterns, site access, parking, and rotorcraft landing pads are designed so that they do not have a significant adverse impact on the surrounding neighborhood;

(5) Whether the project addresses public safety concerns;

(6) Whether the project has a significant adverse impact on historically designed or architecturally significant buildings; and

(7) Whether the project is consistent with the zoning district in which it is proposed to be located.

(f) In applying the foregoing criteria, the planning board or a committee thereof shall consider the growth needs and viability of the healthcare facilities with respect to the project, and balance those considerations with the impact of the project on the surrounding neighborhood. If the planning board or a committee thereof determines that the foregoing criteria have been met, or the balance of the foregoing considerations favor the healthcare facilities, the planning board or a committee thereof shall approve the project. In order to achieve reasonable balance, the planning board or a committee thereof may attach appropriate conditions to the approval of the project. If the criteria have not been met, or the balance of the foregoing considerations favor the surrounding neighborhood, the planning board or a committee thereof shall not approve the project.

(g) The decision of the planning board or a committee thereof shall be issued within sixty (60) days following the date on which the completed zoning permit application was received from the department of zoning administration. If the planning board or a committee thereof does not act on the project within said sixty (60) day period, the project shall be deemed approved. The zoning permit shall be issued, issued with conditions, or denied by the zoning administrator based on the decision of the planning board or committee thereof and compliance with the other requirements of the zoning code, including landscaping. The permit, if issued, shall be recorded with the clerk and recorder of the City and County of Denver by the department of zoning administration.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-174. H-2 district—Landscaping requirements.

Landscaping in setback areas adjacent to property used for residential purposes in the H-2 district. All setback areas for structures adjacent to property used for residential purposes shall be landscaped where possible. When applicable, a landscaping plan shall be submitted to the department of zoning administration concurrently with and as part of the submittal of an application for zoning permit for construction and use. The department shall transmit a copy of such landscaping plan to the planning office and to other city agencies as may be deemed by the department to have an interest. The landscaping plan must be approved by the planning office prior to the zoning administrator's issuance of the permit for construction and use. In making its decision, the planning office shall solicit written comments from all reviewing agencies. The zoning permit including the approved landscaping plan shall be recorded with the clerk and recorder of the City and County of Denver by the department of zoning administration.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Secs. 59-175—59-180. Reserved.

DIVISION 7. B-1, B-2, B-3, B-4 AND B-8 DISTRICTS

Sec. 59-181. Generally.

The provisions of this division apply to all lands, uses and structures in B-1, B-2, B-3, B-4 and B-8 districts.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-182. Uses allowed in these districts.

The following is a list of uses with notations as to whether they are permitted, conditional, limited, or have other requirements as listed in the matrix and the sections which follow. Uses not listed are not allowed in any of these districts. Uses left blank are not allowed in that district. Permitted uses are uses by right.

Key: *P = Permitted* *L = Uses permitted with limitations* *C = Uses permitted with conditions* *SR = Uses permitted after special review* *D = Uses permitted with distance requirements* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone District*				
Use	*B-1*	*B-2*	*B-3*	*B-4*	*B-8*
Residential					
Assisted living facility		SR	P	P	P
Dwelling, multiple unit	P	P	P	P	P
Dwelling, single unit	P	P	P	P	P
Nursing home, hospice		SR			
Residence for older adults		P	P	P	P
Residential, institutional/special	L13	L13	L13	L13	L13
Rooming and/or boarding house				L14	
Retail, service, office					
Adult establishment as follows:					
Adult amusement or entertainment				D1	D1
Bookstore, adult				D1	D1
Eating place with adult amusement				D1	D1
Photo studio, adult				D1	D1
Sexually oriented commercial enterprise				D1	
Theater, adult				D1	D1
Animal sales, service, care, household pets only		L16	L16	P	P
Auto pawn lot, auctioneer for automobiles, large vehicles or heavy equipment				L21	P

Key: *P = Permitted* *L = Uses permitted with limitations* *C = Uses permitted with conditions* *SR = Uses permitted after special review* *D = Uses permitted with distance requirements* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone District*				
Use	*B-1*	*B-2*	*B-3*	*B-4*	*B-8*
Automobile gasoline filling station, emissions inspection		L4	L23	P	P
Automobile repair garage				L5	P
Automobile wash, laundry and/or polishing shop*		L28	L29	L30	L31
Automobile, motorcycle, light truck sales, leasing, rental*			L3	P	P
Banking and financial services	P	P	P	P	P
Bed and breakfast				P	P
Body art establishment				D4	D4
Bookstore		P	P	P	P
Brewpub				P	P
Communications service				L41	L41
Eating place		L1/ L192	L1/ L192	L43/ L192	L43
Food preparation and sales, commercial		L48	L44	P	P
Food sales or market, large		P	P	L50	L50
Food sales or market, small		P	P	L50	L50
Furniture, furnishings, retail sale, large scale			P	P	P
Garden supply store		L55*	P*	P*	P*
Home building materials and supplies, sales, or rental			P	P	P
Hotel			L61	P	P
Laboratory, research, development, technological service					P
Liquor store		D7	D7	D7	D7
Motel			L61	P	P
Office: nondental, nonmedical	L63	P	P	P	P
Pawn shop					P
Printing service, publishing, business support		L68	L68	P	P
Retail, service, repair, consumer, large scale		L73	P	L51	P
Retail, service, repair, consumer, medium scale		P	P	L51	P
Retail, service, repair, consumer, small scale	L74	P	P	L51	P
Retail, service, repair, consumer, special				P	L78

Key: *P = Permitted* *L = Uses permitted with limitations* *C = Uses permitted with conditions* *SR = Uses permitted after special review* *D = Uses permitted with distance requirements* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone District*				
Use	*B-1*	*B-2*	*B-3*	*B-4*	*B-8*
Service, repair, commercial				L84	P
Vehicle, equipment sales, leasing, service, rental*				L90	L90
Industrial, wholesale, transportation, utilities					
Assembly, without fabrication				L94	L94
Helipad, helistop, heliport*	L98	L98	L98	L98	D12
Manufacturing, fabrication, and assembly, custom				P	P
Manufacturing, fabrication, and assembly, general				L93	L6
Manufacturing, fabrication, and assembly, heavy					L100
Manufacturing, fabrication, and assembly, light				P	L6
Parking of vehicles*	P	P	P	P	P
Railway right-of-way*	P	P	P	P	P
Terminal and service facility for bus system*					L114
Terminal, freight and air courier services*				L143	P
Terminal, public transportation, local*	P	P	P	P	P
Utility, major impact	L115*	L115*	L115*	L115*	L115*
Utility, minor impact	P	P	P	L117	P
Vehicle storage, commercial*				L122	L122
Wholesale trade, general, and/or storage of toxic and/or hazardous materials				L121	L122
Wholesale trade, light, and/or storage of nontoxic, nonhazardous materials	L126	L126	L126	P	P
Arts, entertainment, recreation, institutions					
Ambulance service				P	P
Child care center	P	P	P	P	P
Church, religious institution	P	P	P	P	P
Clinic, office, laboratory, dental or medical	L133/C	P	P	P	P
Club or lodge	L136	L136	P	P	P
Community or senior center or recreational facility		P	P	P	P
Conference center, meeting hall				P	P
Fire station	P	P	P		P
Library	P	P	P	P	P
Mortuary			P	P	P

Key: *P = Permitted* *L = Uses permitted with limitations* *C = Uses permitted with conditions* *SR = Uses permitted after special review* *D = Uses permitted with distance requirements* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone District*				
Use	*B-1*	*B-2*	*B-3*	*B-4*	*B-8*
Museums, other special purpose cultural institutions	P	P	P	P	P
Police station	P	P	P	P	P
Postal facility, neighborhood	P	P	P	P	P
Recreation services, indoor		L145	P	P	P
Recreation services, outdoor*		L148	L149	L140	P
School, elementary or secondary	L154	L155	L156	P	P
School, vocational or professional	L154	L155	L156	P	P
Studio, professional		L160	L160	P	
Theater, indoor		L161	L162	P	P
University or college	L154	L155	L156	P	P
Construction, mining, agriculture					
Aquaculture		L164			L164
Contractors, special trade, general				P	P
Contractors, special trade, heavy, contractor yard*					L166
Uses allowed in all districts unless restricted by special limitations. (See chapter 59, article III, division 2)					
Residential care uses (See § 59-82)					
Uses allowed by temporary permit (See § 59-86)					
Accessory uses (See § 59-87)					

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 895-03, § 30, eff. 12-2-03; Ord. No. 909-05, § 1, eff. 12-16-05; Ord. No. 326-06, § 3, eff. 5-26-06; Ord. No. 340-06, § 12, eff. 6-9-06; Ord. No. 57-09, § 10, eff. 1-30-09; Ord. No. 34-09, § 1, eff. 1-23-09; Ord. No. 586-09, § 1, eff. 10-23-09)

Sec. 59-183. Distance requirements.

The following define the distance requirements enumerated in the use chart in section 59-182:

D1

a. The following permitted uses shall not be established, operated or maintained within five hundred (500) feet of a residential district, a dwelling unit (single or multiple), a single unit dwelling, a church, a school meeting all the requirements

of the compulsory education laws of the state, an arts education center, a learning center, an amusement/special interest park, a child care center, or a children's indoor play center:

1. Adult amusement or entertainment;

2. Bookstore, adult;

3. Eating place with adult amusement or entertainment;

4. Photo studio, adult;

5. Theater, adult.

b. For the purposes of this distance limitation D1 only:

1. Learning center shall mean a commercial business that regularly provides on site, specialized or intensive educational services or tutoring to persons under eighteen (18) years of age;

2. Arts education center shall mean a place where instruction is regularly provided to persons under eighteen (18) years of age in the fields of painting, drawing, sculpture, etching, craft work, fine arts, dance, drama, photography, music, martial arts, or other similar fields of art.

c. Not more than two (2) of the following permitted uses may be established, operated or maintained within one thousand (1,000) feet of each other:

1. Amusement center;

2. Amusement or entertainment on payment of a fee or admission charge, adult;

3. Body art establishment;

4. Bookstore, adult;

5. Eating place with adult amusement or entertainment;

6. Photo studio, adult;

7. Theater, adult.

D4 Not more than two (2) of the following permitted uses may be established, operated or maintained within one thousand (1,000) feet of each other: Body art establishment.

D7 No liquor store or drugstore licensed to sell package liquors, not existing or operating on August 31, 1997, shall be established, operated, or maintained within one thousand (1,000) feet of another liquor store or drugstore licensed to sell package liquors. No liquor store or drugstore licensed to sell package liquors, not existing or operating on July 31, 2000, shall be established, operated, or maintained within one thousand (1,000) feet of a community corrections facility.

D12 Helipad or helistop, not including maintenance, repair, fueling or hangar facilities, must be a minimum of one thousand (1,000) feet from a residential district or a PUD district which allows residential uses.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-184. Limitations.

The following define the limitations enumerated in the use chart in section 59-182:

L1 Eating place: providing that upon application to and issuance by the department of zoning administration of a permit therefor the aforesaid use need not be enclosed to the extent that tables and seats may be placed out of doors, and food served thereat, provided further that:

a. If such an outdoor eating area is fifty (50) feet or more from the nearest boundary of any RS-4, R-0, R-1, R-X, R-2, R-2-A, R-2-B, R-3-X or R-3 districts, it shall be subject to the following conditions:

1. The outdoor eating area shall be contiguous to the eating place to which it is accessory; and

2. The outdoor eating area shall be clearly delimited by fences, walls or plant materials.

3. No required off-street parking spaces shall be used for the outdoor eating area.

4. In the B-2 district, where the outdoor eating area lies between fifty (50) and one hundred (100) feet of any of the residential districts listed above the use of the outdoor eating area and all activities therein shall cease by 10:00 p.m. except on Friday and Saturday nights when the use of the outdoor eating area and all activities therein shall cease by 11:00 p.m.;

5. Each permit shall be valid for a period of not more than one (1) year but, upon application, may be renewed. Failure to comply with all of the above conditions shall be cause for revocation of the permit.

b. If such an outdoor eating area is less than fifty (50) feet from the nearest boundary of any RS-4, R-0, R-1, R-X, R-2, R-2-A, R-2-B, R-3-X or R-3 district, it shall be subject to the approval of the board of adjustment under the provisions of section 59-54(3)u.

(Ord. No. 228-05, § 5, eff. 4-15-05)

L3 Automobile sales room: an automobile sales room, including services and accessories, which complies with all of the following conditions (the term "vehicle" in the following six (6) paragraphs means automobiles, pickup trucks having a capacity of not more than three-fourths ton, and vans and recreational vehicles not exceeding twenty-two (22) feet in length):

a. Is operated, as its primary function, for the sale at retail of new automobiles and, as secondary functions, may sell at retail other vehicles as defined above, used vehicles, vehicle accessories, oil, grease, antifreeze, tires and batteries and render services to the extent of installing the foregoing items, making minor mechanical adjustment, washing and polishing vehicles;

b. Does not display or service any vehicles other than those defined hereinabove;

c. Does not rebuild or overhaul engines, repair or repaint vehicle bodies, recap tires, steam-clean vehicles or motors, conduct dismantling or collision repair;

d. Display areas need not be enclosed but all display areas shall be screened from any adjacent residential area by a sight-obscuring fence or wall at least five (5) feet high;

e. Vehicles being displayed, serviced or stored are not parked on streets, alleys, public sidewalks or public park strips;

f. Vehicles displayed outside a completely enclosed structure have individual signs only within such vehicles;

L4 Automobile gasoline filling station: an automobile gasoline filling station which complies with all of the following conditions:

a. Is contained in a structure the gross floor area of which may not exceed one-fourth the area of the zone lot on which the structure is located;

b. Does not rent or sell motor vehicles;

c. Does none of the following: overhaul engines or transmissions, body or fender work, auto glass work, painting, welding, tire recapping or auto dismantling;

d. All discarded parts and materials are deposited into a completely enclosed container concealed from adjacent properties;

e. Parks no vehicles being serviced or stored for customers, on streets, alleys, public sidewalks or public park strips;

f. Is provided with barriers of such dimensions that occupants of adjacent structures are not unreasonably disturbed, either by day or night, by the movement of vehicles and light facilities are so arranged that they neither unreasonably disturb occupants of adjacent residential properties nor interfere with traffic;

g. Extinguishes all flood lights at close of business or 11:00 p.m., whichever is earlier;

h. Trailer rentals permitted as an accessory use subject to the following limitations: (1) one (1) trailer permitted on the zone lot for each four thousand (4,000) square feet of land area in the zone lot, not, however, exceeding five (5) trailers at any one (1) time and (2) each trailer not to exceed eight (8) feet in height, length and width;

i. Fuel pumps and trailer storage need not be enclosed;

j. A single bay carwash containing either manual or automatic equipment is permitted as an accessory use subject to the following conditions:

1. The carwash bay is limited in size to a single vehicle.

2. Adequate landscaping and solid fencing shall be installed to control the effects of noise where such bay is located adjacent to a residential use or a residential district.

3. Sufficient space on the same zone lot shall be provided to accommodate three (3) waiting vehicles in addition to the required off-street parking.
4. A site plan showing all improvements on the zone lot shall be submitted to the planning office for review.
5. The provisions of section 59-41(b) shall be followed.
(Ord. No. 468-05, § 15, eff. 7-15-05)
6. The hours of operation shall be limited to the period between 7:00 a.m. and 8:00 p.m.
7. In deciding to approve or disapprove the application, the zoning administrator shall consider the written comments of all interested parties. In approving an application the zoning administrator may attach conditions in order to protect adjoining properties and must find that the proposed use will not adversely affect the appropriate use of adjoining properties;

L5 Automobile repair garage excluding commercial wrecking, dismantling, junkyard, tire recapping and truck-tractor repair; the zone lot for such use shall be enclosed with a solid fence or wall except for the following excluded areas:

1. The front line of the zone lot directly in front of the front building wall or main entrance of the principal structure, and in no case shall such fence or wall be required along more than forty (40) percent of the length of the front line of the zone lot described in this subsection 1;
2. The front line of the zone lot directly in front of an automobile retail display area;
3. Any portion of a zone lot line containing a building wall; and
4. Any zone lot line adjacent to an area of the zone lot which is maintained in an attractive condition as determined by the zoning administrator.

Such fence or wall shall be constructed to a height adequate to conceal any vehicles, equipment or parts located on the zone lot; provided, however, that within fifty (50) feet of the intersection of the right-of-way lines of intersecting streets, the height and location of such wall or fence shall be determined by the director of transportation engineering. Fence or wall materials shall consist of wood, brick, masonry or other materials as approved by the zoning administrator; however, salvaged doors and corrugated or sheet metal shall not be allowed. The use of the public right-of-way for the parking of vehicles awaiting repair is prohibited. Automobile repair garages established prior to the adoption of the ordinance from which this subsection is derived shall comply with this screening requirement within eighteen (18) months following the effective date of this subsection;

L6 Fabrication: the fabrication only of the following articles: art goods, including church art goods, needlework and mannequins and figurines; awnings; bakery products; beverage bottling; bottling or packaging of prepared specialty food products, excluding processing of ingredients; brooms, brushes; buttons; cameras; cigars, custom; clocks; clothing, custom;

cosmetics, excluding the manufacture of pigments and other basic raw materials, but including the compounding of the final product by mixing; costumes, custom; costume jewelry; dyeing, custom; engraving; fishing tackle; fur dyeing, finishing and apparel (no tanning); furniture, custom; glass products from glass stock; in mixing and packaging (no pigment manufacture); instruments, professional, scientific controlling, musical and similar precision, and instrument equipment and parts; jewelry; millinery, custom; needlework; newspaper publishing; optical goods and equipment; orthopedic appliances; photographic supplies (no film); plastic products, but not involving casting or molding processes; religious art goods; taxidermy; toys; umbrellas; upholstery, custom; venetian blinds or window shades, except preliminary milling of the wood or metal slats; watches;

L13 Limited to parish house.

L14 Fraternity, sorority house not permitted.

L16 Limited to

a. Veterinarian clinic for the diagnosis and treatment of household pets; including observation kennels contained within a completely enclosed structure;

b. Pet grooming shop for household pets only and employing not more than five (5) persons; no animals kept on the premises after 8:00 p.m.;

c. Pet supply store, including sale of fish, canaries, parakeets and puppies as an accessory use; however, in the B-2 district sale of puppies is not permitted, and in the B-3 district not more than ten (10) puppies shall be kept on the premises at one (1) time;

L21 Limited to auctioneer for automobiles.

L23 Automobile gasoline filling station, not including rental of motor vehicles, overhauling of engines or transmissions, body or fender work, auto glass work, painting, welding, tire recapping or auto dismantling. All discarded parts and materials shall be deposited in a completely enclosed container concealed from adjacent properties. Trailer rentals permitted as an accessory use subject to the following limitations:

a. One trailer permitted on the zone lot for each four thousand (4,000) square feet of land area in the zone lot, not, however, exceeding five (5) trailers at any one (1) time; and

b. Each trailer not to exceed eight (8) feet in height, length and width; fuel pumps and trailer storage need not be enclosed.

L28 Limited to auto polishing shop, provided, however, that no automobile shall be washed therein except such automobiles as also are polished.

L29 Automobile laundry and/or polishing shop, need not have doors: must comply with the following conditions:

a. If customer self-service operated shall provide, in addition to any other required off-street parking, sufficient space on the same zone lot to accommodate three (3) vehicles waiting to be washed for each washing stall; and

b. Parks no vehicles being serviced or stored for customers on streets, alleys, public sidewalks or public park strips;

L30 Automobile wash, excluding truck tractors and steam cleaning. Shall include space for three (3) vehicles in the entrance lane of each washing bay, shall comply with the requirements of section 59-585, use and maintenance of parking space, and shall meet all the requirements of wastewater management division of public works.

L31 Automobile laundry, including steam cleaning, if visible steam is not discharged directly into outside air. Need not have doors. Must comply with the following conditions:

a. A minimum of five (5) parking spaces is provided on the same zone lot for each washing stall;

b. All off-street parking areas shall be hard-surfaced and dust-free;

c. All lights used to illuminate the area shall be directed away from adjacent residential properties.

L41 Limited to radio and television broadcasting, including transmitter.

L43 Need not be enclosed to the extent that tables and seats may be placed out of doors, and food served thereat, subject to all of the following conditions:

a. The outdoor eating area shall be contiguous to the eating place to which it is accessory; and

b. The eating area shall be clearly delimited.

c. Any part of the serving area located outside of the completely enclosed structure shall have a hard, all weather surface.

L44 Must be operated primarily at retail with no more than twenty-five (25) percent of the total volume of the operation being wholesale uses.
(Ord. No. 895-03, § 31, eff. 12-2-03)

L48 Limited to caterer, limited to three (3) trucks.

L50 Fruit or vegetable store need not be enclosed to the extent that the unenclosed portion shall not exceed in area one-fourth the gross floor area of the structure containing the use by right.

L51 Flower store need not be enclosed to the extent that the unenclosed portion shall not exceed in area one-fourth the gross floor area of the structure containing the use by right.

L55 Handling packaged fertilizer and no other type of fertilizer.

L61 Limited to extended stay facility.

L63 Any office in which chattels or goods, wares or merchandise are not commercially created, displayed, exchanged or sold.

L68 Limited to printing and duplicating shop employing not more than five (5) persons in the B-3, or three (3) persons in the B-2.

L73 Limited to those parcels over 45,000 square feet as of April 1, 2003 with frontage on arterial streets, as said streets are defined in Blueprint Denver, filed at city clerk file number 02-125.

L74 Use by right limited to art gallery; apothecary (limited to sale of pharmaceuticals and medical supplies); hearing aid store; optical goods store/optician; orthopedic and prosthetic devices and appliances fabrication, repair and sale, limited to prescription work only; photographic studio, including processing and developing, but not including sales of photographic equipment or supplies.

L78 Monuments and tombstone sales at retail: need not be enclosed; provided, however, that if the zone lot on which the use is conducted abuts a residential district or is separated from the residential district only by an alley, any outdoor display shall be screened from the residential district by means of some planting, a fence or wall.

L84 Limited to metal sharpening, mirror silvering.

L90 Limited to:

a. Boat sales or repair, not including dismantling or wrecking; need not be enclosed, provided that the unenclosed part of such use shall comply with all specifications for maintenance of off-street parking space except the limitation against sales;

b. Automobile trailers, house trailers and recreation vehicles but no commercial wrecking, dismantling or junkyard; need not be enclosed, provided that the unenclosed part of such use shall comply with all specifications for maintenance of off-street parking space except the limitation against sale.

L93 Limited to the fabrication of the following articles: art goods; awnings; bakery products; bottling and/or packaging of prepared specialty food products, excluding processing ingredients; brooms; brushes; cameras; clocks; clothing, costumes or millinery; cosmetics, excluding the manufacture of pigments and other basic, raw materials, but including the final product by mixing; craftwork; engraving; fishing tackle; fur dyeing, finishing and apparel (no tanning); furniture; glass products; ink mixing and packaging (no pigment manufacture); instruments, precision and musical; jewelry; optical goods and equipment; orthopedic appliances; photographic supplies; plastic products; taxidermy shop; toys; umbrellas; upholstering; window shades; Any other similar article.

L94 Excluding the assembly of automobiles, trucks, trailer and mobile homes.

L98 Limited to landing and take off area for police rotorcraft, not including maintenance, repair, fueling or hangar facilities.

L100 Limited to tire recapping shop.

L114 Limited to terminal for movement of persons or freight, no services. All parking, loading and unloading of buses, except for buses owned or operated by governmental or quasi-governmental entities, shall occur upon the same zone lot containing the use by right.

L115 Limited to water reservoir, need not be enclosed.

L117 Electric substation excluded.

L121 Limited to: mail order house; sale at wholesale and warehousing of any commodity the fabrication or assembly of which is a permitted use in the district; any other similar commodity not listed elsewhere.

L122 Sale at wholesale and warehousing: the sale at retail, the sale at wholesale or the warehousing of any commodity the fabrication or assembly of which is a permitted use in this district, plus automobiles; automobile trailers; house trailers; recreation vehicles, boats, trucks having a capacity of not more than one and one-half (1½) tons; automobile and truck parts, accessories, tires and tubes; beauty shop equipment and supplies; drugs; flowers; household furniture, furnishing and equipment; medical and hospital equipment and supplies; tobacco products; (automobile, truck and trailer sales need not be enclosed).

L126 Limited to newspaper distribution station.

L133 Clinic or office, dental or medical; provided, however, that such use which expands to create a gross floor area exceeding ten thousand (10,000) square feet shall be subject to the neighborhood notification and special review process as outlined in section 59-134(2) (nursing home in the R-4 district). Any such use which contains a gross floor area in excess of ten thousand (10,000) square feet and which exists at the time of adoption of this subsection shall be considered to be a legal, conforming use. Additions to such existing facilities need not comply with the notification and review procedure.

L136 Limited to a lodge for a religious or quasi-religious order, a charitable, nonprofit organization or a veterans organization; private and operated for the benefit of members and not for gain.

L140 No outdoor public address system nor any such type of amplified music device.

L143 Limited to terminal for intra-city rubber-tired vehicles.

L145 Limited to bridge studio, children's indoor play center, health studio, music studio.

L148 Limited to tennis, racquet ball and/or handball club: shall provide not less than two (2) standard tennis courts or two (2) standard racquet ball or handball courts, all exterior flood lights shall be extinguished when courts are not in use or by 9:00 p.m., whichever is earlier, no portion of any court which is not in a completely enclosed structure shall be located nearer than fifty (50) feet from an existing residential structure; need.

L149 Limited to:

a. Tennis, racquet ball and/or handball club: shall provide not less than two (2) standard tennis courts or two (2) standard racquet ball or handball courts, all exterior flood lights shall be extinguished when courts are not in use or by 9:00 p.m., whichever is earlier, no portion of any court which is not in a completely enclosed structure shall be located nearer than fifty (50) feet from an existing residential structure.

b. Skateboard center: shall have no outdoor public address system or any type of amplified music device.

c. Miniature golf or putting course.

L154 Any school not permitting the use of machinery other than office machines for instructions of or practice by the student, and not permitting classes or other school activities after 11:00 p.m.

L155 Any school not permitting the use of machinery; other than office machines and mechanical or machinery parts of household appliances used for instruction of or practice by the student.

L156

a. School charging a regular tuition for instruction in ballet, tap, ballroom, square, modern and acrobatic dancing; not including public dancing or a public dance hall as defined in chapter 7, section 7-51; provided, however, that the premises on which such use is operated shall be soundproofed to that the sounds created by such use are not audible beyond the boundaries of the zone lot on which the use is operated;

b. Any school not permitting the use of machinery; other than office machines and mechanical or machinery parts of household appliances used for instruction of or practice by the student.

L160 Limited to fine arts studio.

L161 Limited to theater, studio. In the B-2 district only, limited to theater, studio, or children's puppet theater, not including any form of motion picture projection; seating capacity limited to one hundred (100).

L162 Theater; provided that upon application to and issuance by the department of zoning administration of a permit therefor, amusement devices may be operated and maintained as a part of the theater under the following limitations:

a. Shall be operated within the same structure and under the same management as the theater;

b. Shall occupy a floor area not exceeding ten (10) percent of the lobby area or shall contain no more than ten (10) amusement devices, whichever is more restrictive;

c. Shall be used by theater customers who have purchased a ticket and shall not be made available to the general public; and

d. Shall be operated in compliance with all other applicable ordinances of the city.

L164 In the B-2 district, limited to greenhouse structures existing as of September 1, 2009, must be enclosed, no fish processing on site. In the B-8 district, limited to tropical fish hatchery.
(Ord. No. 586-09, § 2, eff. 10-23-09)

L166 Special trades contractor: a contractor specializing in one (1) or more trades of which the following are examples; plumbing, heating, refrigerator and air conditioning; painting, paper hanging and decorating; wiring and electrical work; glass and glazing work; damp

proofing; fire proofing; tile, linoleum floor laying and other floor work; insulation, asbestos and acoustical work; carpentry and cabinet making; excavating; well drilling; masonry and stone work; ornamental iron work. Trucks having a manufacturer's capacity of more than two (2) tons shall not remain on the premises except as necessary to load and discharge contents.

L192 Any drive-through facility on a zone lot that is adjacent to a residentially zoned zone lot shall be limited by all of the following criteria.

a. If the facility is visible from a public street or a residential district, an opaque screen shall be provided along the visible portion of the drive through queuing and operating lane. Such screen shall at least meet the requirements for screening found in the rules and regulations for the landscaping of parking areas.

b. There shall be no glare from permanent lighting or vehicle headlights projected onto residential uses. To ensure glare is controlled, all external lights shall have fully shielded fixtures. Light trespass onto residential uses shall not exceed three-tenths (0.3) of a foot candle.

c. The manager of public works shall only approve curb cuts providing access to the site that do not unreasonably interfere with automobile or pedestrian traffic and shall only approve queuing lanes if they are adequate to prevent backups onto public streets.

d. No device that amplifies sound shall be so designed or operated that the amplified sound can be perceived on any residentially zoned lot.

e. All parts of any drive-through facility shall be separate from parking circulation aisles.

f. Any drive-through facility located on a zone lot that is adjacent to a residentially zoned zone lot and which has any portion of the facility located eighty-five (85) feet or less from the residentially zoned zone lot may only be open during the hours of 5:30 am to 11:00 pm, Sunday through Thursday and 5:30 am to midnight Friday and Saturday.

g. This limitation L192 applies only to drive through facilities that commence operations after June 1, 2006.

(Ord. No. 326-06, § 4, eff. 5-26-06)

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 340-06, § 13, eff. 6-9-06)

Sec. 59-185. Limitations on external effects of uses.

External effects of uses, as regulated by section 59-92.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-186. Permitted structures.

(a) *Zone lot for structures.* A separate ground area, herein called the zone lot, shall be designated, provided and continuously maintained for each structure containing a use or uses by right. Each zone lot shall have at least one (1) front line and shall be occupied only by the structure containing a use or uses by right and one (1) subordinate structure containing only

accessory uses. Upon application to and approval by the department of zoning administration, the boundaries and area of a designated zone lot may be amended if full compliance with all requirements of this chapter can be maintained.

(b) *Location of structures in the B-1, B-2, B-3 districts.*

(1) B-1 district. All structures in the B-1 district shall be set in a distance of not less than ten (10) feet from each front and rear line of the zone lot.

(2) B-2 district. All structures in the B-2 district shall be set in a distance of not less than five (5) feet from each front and ten (10) feet from each rear line of the zone lot.

(3) B-3 district. All structures in the B-3 district shall be set in a distance of not less than five (5) feet from each front and rear line of the zone lot and a distance of not less than five (5) feet from each side line of the zone lot which abuts a street or alley right-of-way.

(4) Provided, however, that electric substations, gas regulator stations, utility pumping stations, detached structures and fixtures for the disposal of trash or garbage may be located within five (5) feet of the rear line of the zone lot; and provided further, that if a zone lot has more than one (1) rear line by reason of abutting alleys, the aforesaid setbacks shall be required from only one (1) rear line. The space resulting from the foregoing setbacks shall be open and unobstructed, except that the rear setback space, and, in the case of the B-2 district only, the front setback space, may be utilized for the parking of vehicles; provided, however:

a. Belt courses, sills and lintels may project eighteen (18) inches into front and rear setback spaces;

b. Cornices, eaves and gutters may project three (3) feet into front setback space and five (5) feet into rear setback space;

c. Outside stairways may project five (5) feet into front setback space and ten (10) feet into rear setback space; access ramps for the handicapped may encroach into any required building setback space, providing no alternative location is available and providing the ramp construction is compatible with the character of the structure;

d. Unwalled porches, terraces and balconies may extend five (5) feet into front and rear setback spaces;

e. Fences or walls not exceeding four (4) feet in height may be erected on any part of the zone lot between the front line of the zone lot and the front setback line for structures, and on any other part of the zone lot may be erected to a height of not to exceed six (6) feet. The height of such walls or fences shall be determined as stated in section 59-2(112.1) fence and wall height measurement;
(Ord. No. 363-06, § 10, eff. 6-16-06)

f. In the B-1 district only, building accessories designed and intended to control light entering a building and being a permanent part of such building may project five (5) feet into front setback space and ten (10) feet into rear setback space;

g. In the B-1 district only, building accessories designed and intended to control light entering a building and not being a permanent part of such building, by being removable therefrom and by not being attached to a load-bearing member thereof, may project any distance into any setback space;

h. Any structure or part thereof which is below the grade of any setback space may project any distance into such setback space.

i. Canopies may project any distance into the front setback space.

j. Flush mounted solar panels may encroach any distance into the setback space. (Ord. No. 53-08, § 17, eff. 2-8-08)

(c) *Open space required in the B-8 district.* For each structure in the B-8 district designed, used or occupied either in whole or in part as a multiple unit dwelling, there shall be provided a minimum of fifty (50) square feet of unobstructed open space for each dwelling unit; such unobstructed open space may be located on the ground or on safe usable roofs, but shall not include space provided for off-street parking.

(d) *Bulk of structures in the B-1, B-2 and B-3 districts.* The B-1, B-2 and B-3 districts are controlled districts within the meaning of section 59-96, which section must be checked to determine if there are special limitations on bulk planes or building height in addition to those set forth in this section. No part of any structure (except church spires, church towers, flagpoles, antennas, chimneys, flues, vents, flush mounted solar panels or accessory water tanks) shall project up through bulk limits which are defined by planes extending up over the zone lot at an angle of forty-five (45) degrees with respect to the horizontal (a pitch of one (1) foot additional rise for each foot additional setback) and which planes start:
(Ord. No. 53-08, § 18, eff. 2-8-08)

(1) At horizontal lines which are co-directional to the center lines of all streets abutting the zone lot and pass through points ten (10) feet above the midpoint of such center lines between the boundary lines of the zone lot extended; and

(2) At, if no alley abuts the zone lot, a horizontal line which is co-directional to the rear line of the zone lot and passes through a point ten (10) feet above the midpoint of such rear line of the zone lot; and if the rear line or lines of the zone lot are established by an abutting alley or alleys, such planes shall start at horizontal lines which are co-directional to the center lines of such abutting alley or alleys and pass through points ten (10) feet above the midpoint of such center lines between the boundary lines of the zone lot extended.

(e) *Special limitations on bulk and height of structures in the B-4 and B-8 districts.* The B-4 and B-8 districts are controlled districts within the meaning of section 59-96, which section must be checked to determine if there are special limitations on bulk planes or building height.

(f) *Maximum gross floor area in structures in the B-1, B-2, B-3 and B-4 districts.*

(1) In the B-1, B-2, and B-3 districts, the sum total of the gross floor area of all structures on a zone lot shall not exceed the area of the zone lot on which the structures are

located; provided that upon qualifying under the provisions of article IV, chapter 27 (affordable housing), the sum total of the gross floor area of all structures on a zone lot

shall not be greater than one and one-tenth (1.1) times the area of the zone lot on which the structures are located, provided further that all of the extra floor area in excess of one (1) times the area of the zone lot shall be dedicated to residential uses.

(2) In the B-1 district, and notwithstanding paragraph (1) above, the sum total of the gross floor area of all structures on a zone lot may be as much as two (2) times the area of the zone lot on which the structures are located or two and two-tenths (2.2) times the area of the zone lot on which the structures are located if qualifying under the provisions of article IV, chapter 27 (affordable housing), provided that all of the extra floor area in excess of two (2) times the area of the zone lot shall be dedicated to residential uses and provided further that all of the following conditions are met:

a. The zone lot is at least one (1) acre in size and is at least two hundred (200) feet wide at the front setback line for structures;

b. All structures are set in at least twenty (20) feet from each side line and set in from the front and rear lines as provided in subsection (b);

c. Not more than ten (10) percent of the zone lot area is used for surface parking and roads; and

d. All structures on the zone lot cover not more than thirty (30) percent of the ground area.

(3) In the B-4 district the sum total of the gross floor area of all structures on a zone lot shall not be greater than twice the area of the zone lot on which the structures are located. Provided that, upon qualifying under the provisions of article IV, chapter 27 (affordable housing), the sum total of the gross floor area of all structures on a zone lot shall not be greater than two and two-tenths (2.2) times the area of the zone lot on which the structures are located, provided further that all of the extra floor area in excess of two (2) times the area of the zone lot shall be dedicated to residential uses.

(g) *Maximum gross floor area in structures in the B-8 district:*

(1) *Basic maximum gross floor area.* The sum total of the gross floor area of all structures on a zone lot shall not be greater than four (4) times the area of the zone lot on which the structures are located.

(2) *Floor area premiums.* In addition to the basic maximum gross floor area permitted under subsection (1) above, a premium of additional floor area may be constructed under the following circumstances:

a. *Premium for unenclosed plaza.* Six (6) square feet of floor area for each square foot of unenclosed plaza area continuously open to the street.

b. *Premium for enclosed plaza.* Six (6) square feet of floor area for each square foot of enclosed plaza if at least one (1) entrance has a width of forty (40) feet. Three (3) square feet of floor area for each square foot of enclosed plaza area if at least one (1) entrance has a width of less than forty (40) feet but not less than twenty (20) feet. No premium if all entrances are less than twenty (20) feet wide. The

entrance may be directly upon a street or through an arcade of at least twenty (20) feet clear height, opening directly upon the street, but if the latter is the case, the dimension for the width of the entrance shall be the minimum distance between the bounding building walls.

c. *Premium for unenclosed arcade.* Three (3) square feet of floor area for each square foot of unenclosed arcade area continuously open to the street, provided that the following requirements are met:

1. If the arcade has a depth of twelve (12) feet or less, average height is not less than twelve (12) feet;

2. If the arcade is deeper than twelve (12) feet, but not more than twenty (20) feet, the average height equals or exceeds the depth;

3. If the arcade is deeper than twenty (20) feet, the average height is twenty (20) feet or more.

One and one-half (1½) square feet of floor area for each square foot of unenclosed arcade area not meeting these requirements.

d. *Premium for enclosed arcade.* Two (2) square feet of floor space for each square foot of enclosed arcade area, provided that all of the following requirements are met:

1. It has at least two (2) entrances opening directly to the street or to a plaza at two (2) different locations;

2. The minimum width of each of at least two (2) entrances is twenty (20) feet;

3. The minimum width between all bounding walls is twenty (20) feet;

4. The average minimum height is twelve (12) feet.

If any one (1) of these requirements is not met, no premium shall be given.

e. *Premium for low level light area.* Two (2) square feet of floor space for each square foot of low level light area occurring between zero (0) and forty (40) feet above ground level and having at least twenty-five (25) percent of its perimeter open and unobstructed to the street or plaza. One (1) square foot of floor space for each square foot of low level light area occurring more than forty (40) feet but not more than eighty (80) feet above ground level, and having at least twenty-five (25) percent of its perimeter open and unobstructed to the street or plaza. No premium credit for any setback area occurring more than eighty (80) feet above ground level. Two (2) or more contiguous low level light areas occurring at different heights may be combined for the purpose of perimeter computation. No low level light area premium shall be given to any area for which a plaza premium or another low level light area premium has been given.

f. *Premium for moderately priced dwelling units.* A floor area premium equal to forty (40) percent of the zone lot area if the structure qualifies under the provisions of article IV, chapter 27 (affordable housing), provided all of said floor area premium is dedicated to residential uses.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-187. Permitted signs.

The provisions of article V of this chapter on permitted signs shall be in full force and effect in these districts.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-188. Off-street parking requirements.

The provisions of article VI of this chapter on off-street parking requirements shall be in full force and effect in these districts.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-189. Off-street loading requirements.

The provisions of article VII of this chapter on off-street loading requirements shall be in full force and effect in these districts.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-190. Special zone lot plan for planned building groups.

The provisions of article VIII of this chapter on special zone lot plan for planned building groups shall be in full force and effect in these districts.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-191. Effect of B-2 or B-3 district designation.

The designation of an area as a segment of the B-2 or B-3 districts shall cause the conditions and requirements set forth in section 59-192 to come into full force and effect unless the area so designated is less than one (1) acre in size. Such designation shall not create any right to erect or alter any structures or to apply for a permit therefor, nor shall such right exist until the filing, approval, registration and recording of a district development plan as hereinafter set forth. Whenever a failure to comply with the provisions of section 59-192 occurs, no permits shall be issued for the erection or alteration of any structures in the applicable district segment and all issued permits therefor shall be terminated and canceled until the area designated as a segment of the B-2 or B-3 district has been examined by council and zoned or rezoned for its most appropriate use. Any applicant for the designation of an area as a segment of the B-2 or B-3 districts and any person who applies for a permit to alter or erect a structure in such area, whether under disability or otherwise and including the successors and assigns thereof, shall be deemed conclusively to have assented to all of these conditions. Whenever deemed advisable by the department of zoning administration, the department may file in the office of the city clerk an appropriate notice indicating that an area has been designated as a segment of the B-2 or B-3 district.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-192. Development plan.

(a) *Filing.* Following the passage of an ordinance designating an area as a B-2 or B-3 district, a complete B-2 or B-3 district development plan covering the entire district or any portion thereof shall be filed with the department of zoning administration by the owner or owners of the area to be developed. Such development plan may be based, in whole or in part, on the provisions of article VIII of this chapter on special zone lot plan for planned building groups and if so based, shall comply with all the requirements of this article; in any event, such development plan must comply with the requirements set forth in section 59-619(2). Upon, but not before, the approval, registration and recording of the development plan as hereinafter set forth, the applicants for such plan shall be entitled to apply for such permits and certificates as are made necessary by such plan.

(b) *Contents.* The development plan shall be certified by the applicants and shall show in exact and final detail the following details drawn to scale:

(1) The land area included within the district, the land area of all abutting districts and the zoning classification thereof, all public and private rights-of-way and easements bounding and intersecting the district and the abutting districts which are proposed to be continued, created, relocated and/or abandoned;

(2) The proposed finished grade of the district, shown in contour intervals of not to exceed two (2) feet;

(3) A description of the proposed zone lot or zone lots and the boundaries thereof;

(4) The location of each existing and each proposed structure in the district, the use or uses to be contained therein, the number of stories, gross floor area and location of entrances and loading points therefor;

(5) The location of all outside facilities for waste disposal;

(6) All curb cuts, driving lanes, parking areas, loading areas, public transportation points and illumination facilities for the same;

(7) All pedestrian walks, malls and open areas for use by tenants or members of the public;

(8) The location and height of all walls, fences and screen planting;

(9) The location, size, height and orientation of all signs other than signs flat on building facades;

(10) The types of surfacing, such as paving, turfing or gravel, to be used at the various locations;

(11) The location of fire hydrants.

(c) *Review.* All development plans filed hereunder shall be reviewed for completeness by the department. If such plans are found to be incomplete they shall be rejected. The department shall review the plans for compliance with the standards hereinbefore set forth in sections 59-287 to 59-253, inclusive. If such plans are found to comply, they shall be transmitted to the

planning office for further review. Such review shall be based upon the provisions of section 59-619(2) on site facilities, and upon the other provisions of article VII of this chapter on special zone lot plan for planned building groups, whenever such additional provisions are applicable, and no development plan hereunder shall be approved unless in full compliance with such section and article. Within not more than sixty (60) days from the date on which a B-2 district development plan is filed with department of zoning administration, or within not more than six (6) months from the date on which a B-3 development plan is filed with department of zoning administration, the reviewing department shall approve or disapprove such plan in writing, stating, in the case of a disapproval, the reasons for such disapproval, and in all cases giving due notice to the applicants. Within not more than thirty (30) days after a disapproval of a B-2 development plan, or within not more than forty-five (45) days after a disapproval of a B-3 development plan, as aforesaid, the applicants filing a development plan which has been disapproved may file with the reviewing department which disapproved the plan an amendment to such plan or an amended plan which amendment or amended plan shall be limited exclusively to changes made necessary to accomplish compliance with the grounds for disapproval stated by the reviewing department. An amendment or amended plan for a B-2 district shall be approved or disapproved within not more than thirty (30) days after filing thereof. An amendment or amended plan for a B-3 district shall be approved or disapproved within not more than forty-five (45) days after filing thereof. Due notice shall be given to the applicants.

(d) *Disposition.* After completing its review of a development plan, the planning office shall return such plan and all pertinent data, together with a notice of recommendation, to the department of zoning administration. All approved development plans shall be registered and recorded as hereinafter set forth.

(e) *Registration and recording.* Upon receipt of an approved development plan from the planning office, the department of zoning administration shall register a copy thereof among its records and shall record a copy thereof, or such other record thereof as deemed proper by the department, in the office of the city clerk.

(f) *Effect of registration and recording.* All development plans registered and recorded hereunder shall be binding upon the applicants therefor, their successors and assigns, shall limit and control the issuance and validity of all zoning permits and zoning certificates and shall restrict and limit the construction, location, use and operation of all land and structures included within such plans to all conditions and limitations set forth in such plans; provided, however, that upon application to and approval by the department of zoning administration and the planning office, minor changes in location or floor area of structures may be permitted if such minor changes will not cause any of the following circumstances to occur:

(1) A change in the character of the development;

(2) An increase in the intensity of use;

(3) An increase in the problems of circulation, safety and utilities;

(4) An increase in the external effects on adjacent property;

(5) A reduction in the required setbacks from property lines;

(6) A reduction in the required ratio of off-street parking and loading space to gross floor area in structures;

(7) A change in the subject, size, lighting, flashing, animation or orientation of originally approved signs.

(g) *Amendment.* All development plans registered and recorded hereunder may be amended pursuant to the same procedure and subject to the same limitations and requirements by which such plans were approved, registered and recorded.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-193. Nursing homes, hospices and assisted living facilities in the B-2 districts.

In the B-2 districts, nursing homes, hospices and assisted living facilities are allowed subject to the criteria listed below and provided the provisions of section 59-41(b) are followed.

The zoning administrator shall determine if the proposed use will generate any traffic problems, will create any undue concentration of such uses or will in any way be incompatible with adjoining uses.

The zoning administrator may approve the application providing a finding is made that the proposed use will not adversely affect the appropriate use of adjacent property or create an undue concentration of such uses within a specific neighborhood area. Nursing homes existing on March 7, 1994 shall be considered to be legal, conforming uses. Additions to existing nursing homes need not comply with this section.
(Ord. No. 895-03, § 35, eff. 12-2-03; Ord. No. 468-05, § 16, eff. 7-15-05; Ord. No. 57-09, § 11, eff. 1-30-09)

Secs. 59-194—59-200. Reserved.

DIVISION 8. B-8-G AND B-8-A DISTRICTS

Sec. 59-201. Generally.

The provisions of this division apply to all lands, uses and structures in B-8-G and B-8-A districts.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-202. Uses allowed in these districts.

The following is a list of uses with notations as to whether they are permitted, conditional, limited, require short review or have other requirements as listed in the matrix and the sections which follow. Uses not listed are not allowed in either of these districts. Uses left blank are not allowed in that district. Permitted uses are uses by right.

Key: *P = Permitted* *L = Uses permitted with limitations* *C = Uses permitted with conditions* *D = Uses permitted with distance requirements* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone district*	
Use	*B-8-A*	*B-8-G*
Residential		
Dwelling, multiple unit	P	P
Dwelling, single unit	P	P
Residential, institutional/special		L13
Retail, service, office		
Animal sales, service, care, household pets only	P	P
Auto pawn lot, auctioneer for automobiles, large vehicles or heavy equipment	C/L21*	C/L21
Automobile gasoline filling station, emissions inspection	C	C
Automobile wash, laundry and/or polishing shop*	L31	C/L31
Automobile, motorcycle, light truck sales, leasing, rental*	C	C
Banking and financial services	P	L35
Bed and breakfast	C	C
Body art establishment	C/D4	
Bookstore	P	P
Brewpub	C	P
Communications service	L41/C	L41/C
Eating place	L43	L43/L192
Food preparation and sales, commercial	P	P

Key: *P = Permitted* *L = Uses permitted with limitations* *C = Uses permitted with conditions* *D = Uses permitted with distance requirements* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone district*	
Use	*B-8-A*	*B-8-G*
Food sales or market, large	L52/C	L50
Food sales or market, small	L52/C	L50
Furniture, furnishings, retail sale, large scale	P	C
Garden supply store	P*	P*
Home building materials and supplies, sales, or rental	L57/C	L58/C
Hotel	C	C
Laboratory, research, development, technological service	P	P
Liquor store		C/D7
Motel	C	C
Office: nondental, nonmedical	P	P
Pawn shop	C	C
Printing service, publishing, business support	P	L68/C
Retail, service, repair, consumer, large scale	P	C
Retail, service, repair, consumer, medium scale	P	L35
Retail, service, repair, consumer, small scale	P	L35
Retail, service, repair, consumer, special	L79/C	L80/C
Service, repair, commercial	L85	L85/C
Vehicle, equipment sales, leasing, service, rental*	C/L90	C/L90
Industrial, wholesale, transportation, utilities		
Assembly, without fabrication	L57/C	C
Helipad, helistop, heliport*	L97/C/D12	L97/C/D12
Manufacturing, fabrication, and assembly, custom	L57/C	L8/C
Manufacturing, fabrication, and assembly, general	L6/L57/C	L8/C
Manufacturing, fabrication, and assembly, heavy		C/L100
Manufacturing, fabrication, and assembly, light	L57/C	L8/C
Parking of vehicles*	L107/C	L107/C
Railroad facilities*	L106/C	L106/C
Railway right-of-way*	C/L111	C/L111
Terminal, freight, air courier services	C	C
Terminal, public transportation, local*	C	C
Utility, major impact		L115*
Utility, minor impact	P	P

Key: *P = Permitted* *L = Uses permitted with limitations* *C = Uses permitted with conditions* *D = Uses permitted with distance requirements* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone district*	
Use	*B-8-A*	*B-8-G*
Vehicle storage, commercial*	L107/C	L107/C
Wholesale trade, general, and/or storage of toxic and/or hazardous materials	L123	L124
Wholesale trade, light, and/or storage of nontoxic, nonhazardous materials	L123/C	L124/C
Arts, entertainment, recreation, institutions		
Ambulance service	C	C
Child care center	P	P
Church, religious institution	P	P
Clinic, office, laboratory, dental or medical	P	P
Club or lodge	P	P
Community or senior center or recreational facility	C	C
Conference center, meeting hall	P	P
Fire station	P	P
Golf course*	C	C
Library	P	P
Mortuary	P	P
Museums, other special purpose cultural institutions	P	P
Parks, public, open space, associated buildings*	C	C
Police station	P	P
Postal facility, neighborhood	P	P
Recreation services, indoor	L147/C	L147/C
Recreation services, outdoor*	L150/C	L150/C
School, elementary or secondary	P	P
School, vocational or professional	L154/C	P
Studio, professional	P	
Theater, indoor	P	P
University or college	C	P
Construction, mining, agriculture		
Aquaculture	L164	L164
Contractors, special trade, general	P	P
Contractors, special trade, heavy, contractor yard*	L166	L166/C

Key: *P = Permitted* *L = Uses permitted with limitations* *C = Uses permitted with conditions* *D = Uses permitted with distance requirements* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone district*	
Use	*B-8-A*	*B-8-G*
Uses allowed in all districts unless restricted by special limitations (See chapter 59, article III, division 2)		
Residential care uses (See § 59-82)		
Uses allowed by temporary permit (See § 59-86)		

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 909-05, § 2, eff. 12-16-05; Ord. No. 326-06, § 5, eff. 5-26-06; Ord. No. 459-06, § 9, eff. 7-21-06; Ord. No. 836-06, § 5, eff. 12-26-06)

Sec. 59-203. Distance requirements.

The following define the distance requirements enumerated in the use chart in section 59-202:

D4 Not more than two (2) of the following permitted uses may be established, operated or maintained within one thousand (1,000) feet of each other: Body art establishment.

D7

a. No liquor store or drugstore licensed to sell package liquors, not existing or operating on August 31, 1997, shall be established, operated, or maintained within one thousand (1,000) feet of another liquor store or drugstore licensed to sell package liquors.

b. No liquor store or drugstore licensed to sell package liquors, not existing or operating on July 31, 2000, shall be established, operated, or maintained within one thousand (1,000) feet of a community corrections facility.

D12 Helipad or helistop must be a minimum of one thousand (1,000) feet from a residential district or a PUD district which allows residential uses, provided, however, that helipads or helistops in the B-8-G district located south of 8th Avenue shall not be subject to the review requirements of section 59-205, or the requirement that such facility must be a minimum of one thousand (1,000) feet from a residential district or a PUD district that allows residential uses.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-204. Limitations and conditions.

The following define the limitations enumerated in the use chart in section 59-202:

L6 Fabrication: the fabrication only of the following articles: art goods, including church art goods, needlework and mannequins and figurines; awnings; bakery products; beverage

bottling; bottling or packaging of prepared specialty food products, excluding processing of ingredients; brooms, brushes; buttons; cameras; cigars, custom; clocks; clothing, custom; cosmetics, excluding the manufacture of pigments and other basic raw materials, but including the compounding of the final product by mixing; costumes, custom; costume jewelry; dyeing, custom; engraving; fishing tackle; fur dyeing, finishing and apparel (no tanning); furniture, custom; glass products from glass stock; ink mixing and packaging (no pigment manufacture); instruments, professional, scientific controlling, musical and similar precision, and instrument equipment and parts; jewelry; millinery, custom; needlework; newspaper publishing; optical goods and equipment; orthopedic appliances; photographic supplies (no film); plastic products, but not involving casting or molding processes; religious art goods; taxidermy; toys; umbrellas; upholstery, custom; venetian blinds or window shades, except preliminary milling of the wood or metal slats; watches.

L8

a. Fabrication only of the following articles, and only in facilities of seven thousand five hundred (7,500) gross square feet or less; the fabrication only of the following articles: art goods, including church art goods, needlework and mannequins and figurines; clothing, custom; costumes, custom; costume jewelry; glass products from glass stock; jewelry; lithography; millinery, custom; needlework; religious art goods.

b. Conditional uses:

1. Fabrication only of the articles listed in L8.a. above in facilities of more than seven thousand five hundred (7,500) gross square feet.

2. Fabrication only of the following articles; awnings; bakery products; beverage bottling; bottling or packaging of prepared specialty food products, excluding processing of ingredients; brooms; brushes; buttons; cameras; cigars, custom; clocks; cosmetics, excluding the manufacture of pigments and other basic raw materials, but including the compounding of the final product by mixing; dyeing, custom; engraving; fishing tackle; fur dyeing, finishing apparel (no tanning); furniture, custom; ink mixing and packaging (no pigment manufacture); instruments, professional, scientific controlling, musical and similar precision, and instrument equipment and parts; newspaper publishing, optical goods and equipment; orthopedic appliances; photographic supplies (no film); plastic products, but not involving casting or molding processes; taxidermy; umbrellas; upholstery, custom; venetian blinds or window shades, except preliminary milling of the wood or metal slats; watches.

L13 Limited to parish house.

L17 [Limitation L17 was deleted by Ordinance 836-06, § 6, effective Dec. 26, 2006.]

L21 Limited to auctioneer for automobiles.

L31 Automobile laundry, including steam cleaning, if visible steam is not discharged directly into outside air. Need not have doors. Must comply with the following conditions:

a. A minimum of five (5) parking spaces is provided on the same zone lot for each washing stall;

b. All off-street parking areas shall be hard-surfaced and dust-free;

c. All lights used to illuminate the area shall be directed away from adjacent residential properties.

L35 Drive through service facility is a conditional use.

L41 Limited to radio and television broadcasting, including transmitter. Transmitter is a conditional use.

L43 Need not be enclosed to the extent that tables and seats may be placed out of doors, and food served thereat, subject to all of the following conditions:

a. The outdoor eating area shall be contiguous to the eating place to which it is accessory; and

b. The eating area shall be clearly delimited.

c. Any part of the serving area located outside of the completely enclosed structure shall have a hard, all weather surface.

L50 Fruit or vegetable store need not be enclosed to the extent that the unenclosed portion shall not exceed in area one-fourth the gross floor area of the structure containing the use by right.

L52 Conditional uses; farmer's market.

L57 Conditional use if on a zone lot greater than twenty five thousand (25,000) square feet or operating between 10:00 p.m. and 5:00 a.m.

L58 Limited to retail sales with indoor storage only; becomes a conditional use if operated with outdoor storage. All outdoor storage shall be enclosed by a fence or wall adequate to conceal such storage from adjacent property.

L68 Limited to 10 employees, becomes conditional use with more than 10 employees.

L79 Limited to the sale at retail, service or repair of any commodity the fabrication or assembly of which is permitted in the district. Conditional uses: auctioneer, firearms, LP gas, public bath. Monuments and tombstone sales at retail is a conditional use: need not be enclosed; provided, however, that if the zone lot on which the use is conducted abuts a residential district or is separated from the residential district only by an alley, any outdoor display shall be screened from the residential district by means of some planting, a fence or wall.

L80 Conditional uses: auctioneer, firearms, LP gas, public bath. Excluded: coal, monuments and tombstones.

L85 Limited to: use by right: diaper service, linen supply, laundry. Metal sharpening, conditional use in the B-8-G only.

L90 Conditional and limited to:

a. Boat sales or repair, not including dismantling or wrecking; need not be enclosed, provided that the unenclosed part of such use shall comply with all specifications for maintenance of off-street parking space except the limitation against sales;

b. Automobile trailers, house trailers and recreation vehicles but no commercial wrecking, dismantling or junkyard; need not be enclosed, provided that the unenclosed part of such use shall comply with all specifications for maintenance of off-street parking space except the limitation against sale.

L97 Helipad or helistop, not including maintenance, repair, fueling or hangar facilities, conditional unless in the B-8-G south of Eighth Avenue.

L100 Conditional and limited to koshering of poultry sold at retail on the premises, with no slaughtering, eviscerating or dressing of poultry conducted outside an enclosed structure and with all wastes deposited outdoors to be in completely enclosed containers.

L106 Conditional use limited to passenger terminal.

L107 Limited to enclosed structures, or structures which are enclosed except for portions of the parking structure over forty-five (45) feet above grade, provided that any unenclosed parking deck must have screening walls at least four (4) feet in height and further provided that all lighting on the unenclosed parking deck shall be provided with fully shielded fixtures, none of which exceed six thousand five hundred (6,500) lumens per fixture and which are designed and installed so that they do not project glare off of the zone lot. Conditional if unenclosed and does not meet the criteria of the previous sentence. In the B-8-G district surface parking lots constructed after July 1, 1994, and not required to meet the requirements of chapter 59, article VI of the Revised Municipal Code shall be allowed only as conditional uses, and shall only be approved provided that the following conditions are met:

a. Such parking lot shall serve a specific, identified business or residential facility that is a use by right or conditional use then permitted and operating in the B-8-G district.

b. Any parking lot that is not located on the same zone lot as the use it serves, and that provides amounts of parking beyond those required to meet the minimum off-street parking requirements for such use pursuant to chapter 59, article VI of the Revised Municipal Code:

1. Shall have some portion of such parking lot located within two hundred (200) feet of the zone lot containing the use it serves; and

2. Shall not offer parking to the public in return for a fee; and

3. Shall include signage stating that parking is available only for the specific, identified business or residential facility that it serves and that public parking is not permitted.

(Ord. No. 280-06, § 1, eff. 5-5-06)

L111 Limited to light rail right-of-way.

L114 [Limitation L114 was deleted by Ordinance 459-06, § 10, effective July 21, 2006.]

L115 Limited to water reservoir, need not be enclosed.

L123 Limited to

a. Mail order house;

b. Wholesale trade or warehousing of any commodity the fabrication or assembly of which is a permitted use in this district;

c. Crating service and newspaper distribution station; become conditional uses if on a zone lot greater than twenty-five thousand (25,000) square feet or operate between 10:00 p.m. and 5:00 a.m.

L124 Limited to

a. Mail order house;

b. Wholesale trade or warehousing of any commodity the fabrication or assembly of which is a permitted use in this district, plus automobile and truck parts, accessories, tires and tubes; beauty shop equipment and supplies, drugs; flowers; household furniture, furnishing and equipment; medical and hospital equipment and supplies; tobacco products; provided however, that buildings with warehouse uses shall have one (1) or more of the uses listed in section 59-202 as an accessory use occupying at least twenty-five (25) percent of the building.

c. Crating service and newspaper distribution station are conditional uses.

L147 Conditional uses:

1. Recreational facility not including a sports arena; provided, however, that twelve (12) related professional sporting events may be conducted in a calendar year; need not be enclosed;

2. Billiard parlor in the B-8 A district.

L150 Only swimming pool is a use by right, all others conditional.

L154 Any school is a conditional use, except that any school: not permitting the use of machinery, other than office machines and mechanical or machinery parts of household appliances used for instruction or practice by the student; not allowing repair as a service or the sale of repaired appliances; not conducting classes or other school activities after 11:00 p.m. is a use by right.

L164 Limited to tropical fish hatchery.

L166 Special trades contractor: a contractor specializing in one (1) or more trades of which the following are examples: plumbing, heating, refrigerator and air conditioning; painting, paper hanging and decorating; wiring and electrical work; glass and glazing work; damp proofing; fire proofing; tile, linoleum floor laying and other floor work; insulation, asbestos and acoustical work; carpentry and cabinet making; excavating; well drilling; masonry and stone work; ornamental iron work. Trucks having a manufacturer's capacity of more than two (2) tons shall not remain on the premises except as necessary to load and discharge contents. Becomes a conditional use in the B-8-G district with outdoor storage areas.

L192 Any drive-through facility on a zone lot that is adjacent to a residentially zoned zone lot shall be limited by all of the following criteria.

a. If the facility is visible from a public street or a residential district, an opaque screen shall be provided along the visible portion of the drive through queuing and operating lane. Such screen shall at least meet the requirements for screening found in the rules and regulations for the landscaping of parking areas.

b. There shall be no glare from permanent lighting or vehicle headlights projected onto residential uses. To ensure glare is controlled, all external lights shall have fully shielded fixtures. Light trespass onto residential uses shall not exceed three-tenths (0.3) of a foot candle.

c. The manager of public works shall only approve curb cuts providing access to the site that do not unreasonably interfere with automobile or pedestrian traffic and shall only approve queuing lanes if they are adequate to prevent backups onto public streets.

d. No device that amplifies sound shall be so designed or operated that the amplified sound can be perceived on any residentially zoned lot.

e. All parts of any drive-through facility shall be separate from parking circulation aisles.

f. Any drive-through facility located on a zone lot that is adjacent to a residentially zoned zone lot and which has any portion of the facility located eighty-five (85) feet or less from the residentially zoned zone lot may only be open during the hours of 5:30 am to 11:00 pm, Sunday through Thursday and 5:30 am to midnight Friday and Saturday.

g. This limitation L192 applies only to drive through facilities that commence operations after June 1, 2006.

(Ord. No. 326-06, § 6, eff. 5-26-06)

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-205. Procedure for the review of conditional uses.

Conditional uses may be permitted upon the completion of the review procedure described below:

(1) *Referral to public agencies and others.* Within seven (7) days after receipt of a complete permit application for a conditional use, the zoning administrator shall forward a copy of the application to:

a. The planning office;

b. All registered neighborhood organizations within two hundred (200) feet of the site for which the conditional use is proposed. The notice to registered neighborhood organizations shall advise them of their rights to request a public meeting on the application for conditional use pursuant to section 59-205(3);

c. Other agencies as deemed appropriate by the zoning administrator;

d. The property owner, if the property owner is not the applicant for the conditional use;

e. The review committee referred to in subsections (5) and (6) below.

(2) *Posting the property.* In addition, the property where the conditional use would be located shall be posted for at least twenty-one (21) consecutive days during the thirty-day period after the completed application is received. The posted notices shall:

a. Be in number, size and location as required by the zoning administrator;

b. Indicate the boundaries of the property included in the application;

c. Describe the conditional use requested;

d. State the deadline by which any request for a public meeting on the conditional use must be delivered to the zoning administrator; and

e. Have any other information required by the zoning administrator. Posted notices shall be removed by the applicant from the subject area within thirty (30) days after the completed application is received, and failure to remove such notices in a timely manner shall constitute a violation of this chapter.

(3) *Standard for review.* All proposed conditional uses shall be reviewed on the basis of whether such use, as proposed:

a. Would have adverse effects on a stable mixed use neighborhood with residential uses; and

b. Is substantially consistent with the Denver comprehensive plan, including any applicable, adopted neighborhood plan.

(4) *Request for public meeting and notification of public meeting.* A public meeting on the proposed conditional use may be requested by:

a. Any registered neighborhood organization within two hundred (200) feet of the subject zone lot, after a majority vote of the executive committee, board of directors, or membership of such registered neighborhood group in favor of such request;

b. Any three (3) property owners that own property within two hundred (200) feet of the subject zone lot, provided, however, that if there are less than three (3) property owners within two hundred (200) feet of said zone lot, then a request by all property owners within two hundred (200) feet of said zone lot shall be sufficient.

c. The director of planning.

d. The zoning administrator.

e. The applicant for conditional use.

Such request must be submitted to the zoning administrator in writing and received no later than thirty (30) days after the date on the notices delivered pursuant to section 59-205(1). Within seven (7) days after the receipt of such request, the zoning

administrator shall set a date for a public meeting and shall send a notice to the parties listed in section 59-205(1) and to any property owners who have requested a public meeting pursuant to section 59-205(4)b. The meeting date shall be no less than twenty-one (21) days and no more than thirty-five (35) days from the date on the notice of such meeting.

(5) *Decision without public meeting.* If no timely request for a public meeting in accordance with the requirements of this section 59-205 is received, then the application for conditional use shall be reviewed by a review committee consisting of the zoning administrator, the manager of community planning and development, and the chairperson of the planning board or their designated representatives. The decision of such review committee shall take into account any comments received from any affected party, and shall be based on that standard for review set forth in section 59-205(3). Such review committee shall recommend approval, approval with conditions, or denial of the application within forty-five (45) days after receipt of the completed application by the zoning administrator. The zoning administrator shall consider the recommendation of the review committee and make a final decision within seven (7) days of receiving the recommendation of the review committee.

(6) *Decision after a public meeting.* If one (1) or more timely requests for a public meeting in accordance with the requirements of section 59-205 are received, then a public meeting shall be held by that review committee described in section 59-205(5). The review by that committee shall take into account any statements or written materials presented at such meeting and any written comments received from any affected party and shall be based on that standard for review set forth in section 59-205(3). The review committee shall recommend approval, approval with conditions, or denial of the application within fifteen (15) days after the public meeting. The zoning administrator shall consider the recommendation of the review committee and make a final decision within seven (7) days of receiving the recommendation of the review committee.

(7) *Application of procedure to existing uses.* Uses listed as conditional uses in section 59-202 and existing at the time of adoption of this division shall not be enlarged more than fifteen (15) percent of the existing floor area or site area unless the addition meets the requirements of this section 59-205 and the procedures of said section are followed.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-206. Limitations on external effects of uses.

External effects of uses, as regulated by section 59-92.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-207. Permitted structures.

(a) *Zone lot for structures.* A separate ground area, herein called the zone lot, shall be designated, provided, and continuously maintained for a structure or structures containing one or more uses by right and/or conditional uses. Each zone lot shall have at least one (1) front line and shall be occupied only by the structure or structures containing a use or uses by right or conditional use or uses and one (1) or more subordinate structures containing only an accessory use or uses.
(Ord. No. 625-05, § 11, eff. 9-2-05)

(1) *Open space required.* For each structure designed, used or occupied either in whole or in part as a multiple unit dwelling there shall be provided in the B-8-A district a minimum of thirty (30) square feet of unobstructed open space and in the B-8-G district a minimum of twenty-five (25) square feet of unobstructed open space, for each dwelling unit; such unobstructed open space may be located on the ground or on several usable roofs or balconies but shall not include space provided for off-street parking. Such requirement shall not apply to the construction of multiple unit dwellings through the conversion of buildings originally designed for nonresidential uses.

(2) *Setbacks from Speer Boulevard.* All structures on zone lots contiguous with Speer Boulevard shall be set back from Speer Boulevard a distance of at least ten (10) feet. In addition, any structure over one hundred (100) feet tall that is located on a zone lot containing at least fifteen thousand (15,000) square feet of area shall have that portion of the structure that is more than one hundred (100) feet above ground level set back at least twenty (20) feet from the right-of-way of Speer Boulevard; provided, however, that in lieu of such additional setback, the owner of such property may choose to have the design of such structure reviewed and approved by the planning office to avoid overshadowing of the Speer Boulevard right-of-way. Such design review shall be conducted pursuant to section 59-213 below.

(b) *Floor area in structures:*

(1) *Basic maximum gross floor area.* The sum total of the gross floor area of all structures on a zone lot shall not exceed four (4) times the area of the zone lot on which the structures are located.

(2) *Floor area premiums.* In addition to the basic maximum gross floor area permitted under subsection (b)(1) above, a premium of additional floor area may be constructed according to the following formulas:

a. One (1) square foot of floor area premium shall be awarded for each square foot of the following uses constructed in a new structure or through conversion of all or a part of an existing structure from other uses:

1. Construction of residential uses;

2. Construction of residential support uses defined as grocery store, hardware store, drug store, variety store, elementary or secondary school meeting all

requirements of the compulsory education laws o the state, or similar residential support use, as determined by the zoning administrator, within a new structure or through conversion of all or a portion of an existing structure from other uses, provided that each such use is located on the ground floor of a structure of two (2) or more floors that contains a use by right or a conditional use and does not have surface parking spaces located between the structure and any public street. No area awarded a premium under this subsection shall receive a floor area premium for a child care facility.

3. Construction of child care facility. No area awarded a premium under this subsection shall receive a floor area premium for a residential support use.

4. Construction of arts, entertainment, or cultural facility defined as amusement or entertainment on payment of a fee, art gallery, museum, theater, or other similar uses as determined by the zoning administrator.

5. Rehabilitation of a designated historic building defined as a structure designated for preservation or a structure located in a district for preservation rehabilitated to the standards for historic preservation as set by the U.S. secretary of the interior or to the standards of the landmark preservation commission.

b. A floor area premium equal to twenty-five (25) percent of the zone lot area for public art constructed in a new structure or through conversion of all or a part of an existing structure from other uses with the following conditions:

1. Valuation of construction of a new structure or the renovation of an existing structure must exceed fifty (50) percent of the replacement cost of the existing structure excluding land costs; and

2. The public art must cost at least one (1) percent of the valuation of construction of the new structure or one (1) percent of the valuation of construction of the structure renovation or five hundred thousand dollars ($500,000.00), whichever is less; and

3. The public art is displayed outside or on the exterior surface of the new or renovated structure and is visible from at least one (1) public street.

c. A floor area premium equal to forty (40) percent of the zone lot area if the structure qualifies under the provisions of article IV, chapter 27 (affordable housing), provided all of said floor area premium is dedicated to residential uses.

d. All areas for which a floor area premium has been granted shall continue to be occupied by those same uses or by other uses eligible for at least an equal amount of premium space and no change of use permit shall be approved except in compliance with the aforementioned requirement.

(3) *Maximum gross floor area in structures.* Notwithstanding the provisions of section 59-207(b)(2), the sum total of the gross floor area of all structures on a zone lot shall

not be greater than six (6) times the area of the zone lot on which the structures are located, provided, however, that if an applicant submits the design of the entire project to the design review process described in section 59-212 or 59-213 as appropriate, the sum total of the gross floor area of all structures on a zone lot shall not be greater than seven (7) times the area of the zone lot on which the structures are located. In addition, undeveloped floor area from designated historic structures within the B-8-A zone district may be transferred to other properties within the B-8-A district and undeveloped floor area from designated historic structures within the B-8-G zone district may be transferred to other properties within the B-8-G district pursuant to the procedures for transfer of undeveloped floor area from historic structures in the B-5 district set forth in section 59-223(b)(3), provided, however, that no receiving zone lot may increase its maximum gross floor area by more than one (1) times the area of the receiving zone lot through such a transfer, and that no such transfer of undeveloped floor area shall have the effect of increasing the sum total of the gross floor area of all structures on a zone lot to more than those limits set forth in the preceding sentence.

(c) *Bulk and maximum height of structures.* The B-4 and B-8 districts are controlled districts within the meaning of section 59-96, which section must be checked to determine if there are special limitations on bulk planes or building height in addition to those set forth in this section.

a. In the B-8-A district, the maximum height of structures shall not exceed two hundred (200) feet, but shall not affect any area subject to a mountain view preservation ordinance.

b. In the B-8-G district, in no event shall the maximum height of structures exceed one hundred seventy-five (175) feet above the elevation of Broadway Street as measured at the highest point on Broadway directly east or west of the subject property, as the case may be, as determined by the city engineer. No such height limit shall affect any area subject to a mountain view restriction defined in chapter 10 of the Revised Municipal Code. Upon request by the applicant, a review committee consisting of the zoning administrator, the director of planning and development, and the chairperson of the planning board or their designated representatives shall have authority to increase the maximum heights by up to twenty-five (25) feet in order to compensate for design constraints imposed by unusually high water tables, irregularly shaped parcels not caused by the property owner, and other unusual site conditions not caused by the property owner.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 895-03, §§ 36, 37, eff. 12-2-03)

Sec. 59-208. Permitted signs.

The provisions of article V of this chapter on permitted signs shall be in full force and effect in these districts

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-209. Off-street parking requirements.

(a) The provisions of article VI of this chapter on off-street parking requirements shall be in full force and effect in these districts except: (a) The number of off-street parking spaces required for uses located within one-fourth (1/4) mile of the outer boundary of a rail transit station or a regional or urban ten-minute bus corridor shall be reduced by twenty-five (25) percent; and

(b) In the B-8-G district only, the following uses when located on the first floor of multi-story mixed use buildings and totaling in the aggregate no more than five thousand (5,000) square feet of gross floor area per building, shall require no off-street parking:

(1) Retail, service, repair, consumer, small-scale;

(2) Food sales or market, small; or

(3) Eating place, small, with no live entertainment.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 655-06, § 1, eff. 10-13-06; Ord. No. 397-07, § 1, 8-6-07)

Sec. 59-210. Off-street loading requirements.

The provisions of article VII of this chapter on off-street loading requirements shall be in full force and effect in these districts.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-211. Special zone lot plan for planned building groups.

The provisions of article VIII of this chapter on special zone lot plan for planned building groups shall be in full force and effect in these districts.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-212. Design review procedure in the B-8-A.

(a) *Design review applicability.* Design standards and review procedures shall apply to the following:

(1) The floor area premium described in section 59-207(b)(3): all structures, and all site improvements or alterations constructed or renovated after September 1, 1996, where the renovation site improvements or alterations are valued at more than fifty (50) percent of the replacement cost of the existing structure excluding land costs, and the renovation includes alterations to the exterior of the building other than restoration of original design features with original materials; and

(2) The lower eighty (80) feet of a building: constructed or renovated, and all site improvements or alterations constructed or renovated after September 1, 1996, where the renovation site improvements or alterations are valued at more than fifty (50)

percent of the replacement cost of the existing structure excluding land costs, and the renovation includes alterations to the exterior of the building other than restoration of original design features with original materials.

(b) *Design review procedures.* Design review shall be conducted by the planning office staff. Design review shall be completed within thirty (30) days after the submission of a complete application to the zoning administration, except that the thirty-day review period may be extended by an amount of time equal to any delay caused by the applicant, or with the applicant's consent, and no permits for construction and use shall be issued until design review has been completed.

(c) *Design review shall be based on the following criteria:*

(1) Premium floor area review. The project shall be designed to promote the following objectives:

a. Be consistent with the pertinent elements of the Denver comprehensive plan, particularly any adopted neighborhood plan;

b. Provide human scale through change, contrast, intricacy in facade form, color and/or materials;

c. Spatially define the street space; and

d. Respect the character of the neighborhood as defined by its older, pre-World War II masonry industrial and commercial buildings;

e. Provide step backs in the building form to:

1. Create pedestrian scale along the street;

2. Deflect wind patterns created by taller buildings away, as much as is practicable, from the street level;

3. Increase sky and daylight exposure to the street; and

4. Increase sunlight exposure to the street, particularly along "numbered" streets;

f. Locate the building, or buildings, on the site to:

1. Increase sky and daylight exposure to the street;

2. Increase sunlight exposure to the street, particularly along "numbered" streets;

3. Create usable open space accessible to the public along the street, particularly along view corridors; and

4. Avoid intrusions on residential privacy as much as possible;

g. Locate pedestrian active uses, wherever possible, along the street;

h. Provide at street level as much as possible, transparent facades, and frequent pedestrian access to the buildings;

i. Provide finished, architecturally designed and detailed facades for all exposures of the building, particularly those exposures above the first floor;

j. Architecturally design the top of the building to provide a finished terminus to the building's form. At a minimum, screen all roof-top mechanical equipment and carefully design and detail all roof-top penthouses; and

k. Avoid highly reflective glass, and facades composed predominantly of glass curtain wall systems.

(2) Lower eighty feet review. Project layout and design of the lower eighty (80) feet of structures shall be designed to promote the following objectives:

a. Be consistent with the pertinent elements of the Denver comprehensive plan, particularly any adopted neighborhood plan;

b. Provide human scale through change, contrast, intricacy in facade form, color, and/or materials where lower levels of a structure face public streets;

c. Spatially define the street space in order to promote pedestrian activity; and

d. All structures should respect the character of the neighborhood as defined by its older, pre-World War II masonry industrial and commercial buildings;

e. Provide setbacks in the building form to:

1. Create pedestrian scale along the street;

2. Deflect wind patterns created by taller buildings away, as much as is practicable, from the street level;
3. Increase sky and daylight exposure to the street; and
4. Increase sunlight exposure to the street, particularly along "numbered" streets;

f. Locate pedestrian active uses, wherever possible, along the street; and

g. Provide, at street level, as much as possible, transparent facades, and frequent pedestrian access to the buildings.

(3) *Parking structures review*:

a. Shall have ground floor frontages occupied by pedestrian active uses as defined in section 59-2(193), or shall have driving aisles, ceiling heights, utility layouts, and structural openings designed to be consistent with future occupancy of the street frontages by pedestrian-active uses as defined in section 59-2(193), unless such requirements are inconsistent with the structural layout of existing structures being converted to parking uses;

b. Shall be designed to be compatible with the scale and character of the surrounding area and the vision and goals of the Denver comprehensive plan and any adopted neighborhood plan; and

c. Shall provide variety and human scale through the use of architectural proportions, detail, surface relief, texture, and materials that are complementary to traditional commercial and industrial structures.

(d) *Planning office rules and regulations.* The planning office has the authority to adopt rules and regulations further establishing criteria, standards and procedures.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-213. Design review procedure in the B-8-G.

All structures constructed after July 1, 1994, and all structures renovated after July 1, 1994, where (i) the renovation is valued at more than fifty (50) percent of the replacement cost of the existing structure excluding land costs, and (ii) the renovation includes alterations to the exterior of the structure other than restoration of original design features with original materials, shall be subject to the design review procedures set forth below; provided, however, that such procedures shall not apply to any structure that is subject to the design review procedures of any overlay district, nor to structures designated for preservation pursuant to chapter 30 of the Revised Municipal Code, nor to structures in a district designated for preservation pursuant to chapter 30 of the Revised Municipal Code, nor to any facade that does not face a public street. The planning office has authority to adopt rules and regulations establishing standards and procedures that address the following topics:

(1) Project layout and design of the lower eighty (80) feet of structures shall be designed to promote the following standards:

a. To provide human scale through change, contrast, and intricacy in facade form, color and/or materials;

b. To spatially define the street spaces and open spaces in order to promote the image of a cohesive, identifiable, pedestrian-oriented neighborhood;

c. To be consistent with the urban design goals of the Denver Comprehensive Plan, including any adopted neighborhood plan element;

d. If the structure is located on a zone lot adjacent to (a) Speer Boulevard, or (b) a publicly owned open space adjacent to Speer Boulevard, then such layout and design shall respect the parkway character of Speer Boulevard as it passes through the neighborhood; and

e. If the structure is located within one (1) block of the boundaries of the civic center overlay district, then such layout and design shall respect the civic character of the civic center area.

(2) Parking structures (1) shall have ground floor frontages facing named or numbered streets occupied by one (1) or more pedestrian-active uses as defined in section 59-2(195), or (2) shall have driving aisles, ceiling heights, utility layouts, and structural openings designed to be consistent with future occupancy of the street frontages facing named or numbered streets by one (1) or more pedestrian-active uses as defined in section 59-2(195), unless such requirements are inconsistent with the structure of existing buildings being converted to parking uses.
(Ord. No. 280-06, § 2, eff. 5-5-06)

Design review procedures, where applicable, shall be performed by the planning office and shall be completed within thirty (30) days after the submission of a complete application to the zoning administrator, or the design shall be considered approved. Such thirty-day review period shall be extended by an amount of time equal to any delay caused by the applicant, and may also be extended with the applicant's consent. The zoning administrator shall not issue permits for use and construction until the planning office certifies that design review has been completed or until the review period, as it may have been extended, has elapsed.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Secs. 59-214, 59-215. Reserved.

DIVISION 9. B-5 AND B-5-T DISTRICTS*

Sec. 59-216. Generally.

The provisions of this division apply to all lands, uses and structures in the B-5 and B-5-T districts.
(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 439-07, § 8, eff. 8-20-07)

Sec. 59-217. Uses allowed in this district.

The following is a list of uses with notations as to whether they are permitted, conditional, limited, require short review or have other requirements as listed in the matrix and the sections which follow. Uses not listed are not allowed in this district. Permitted uses are uses by right.

Sec. 59-217. Uses allowed in these districts.

The following is a list of uses with notations as to whether they are permitted, conditional, limited, require short review or have other requirements as listed in the matrix and the sections which follow. Uses not listed are not allowed in these districts. Permitted uses are uses by right.

Key: *P = Permitted* *L = Uses permitted with limitations* *C = Uses permitted with conditions* *D = Uses permitted with distance requirements* ** = Need not be enclosed*	
Use	*B-5, B-5-T*
Residential	
Assisted living facility	P
Dwelling, multiple unit	P
Dwelling, single unit	P
Residential, institutional/special	L13
Residence for older adults	P
Retail, service, office	
Adult establishment as follows:	
Adult amusement or entertainment	D1
Bookstore, adult	D1
Eating place with adult amusement	D1
Photo studio, adult	D1
Theater, adult	D1

*__Editor's note—__Section 7 of Ord. No. 439-07, effective Aug. 20, 2007, amended div. 9, title to include B-5-T districts.

Key: *P = Permitted* *L = Uses permitted with limitations* *C = Uses permitted with conditions* *D = Uses permitted with distance requirements* ** = Need not be enclosed*	
Use	*B-5, B-5-T*
Animal sales, service, care, household pets only	P
Auto pawn lot, auctioneer for automobiles, large vehicles or heavy equipment	P
Automobile gasoline filling station, emissions inspection	L24
Automobile repair garage	P
Automobile wash, laundry and/or polishing shop*	L31
Automobile, motorcycle, light truck sales, leasing, rental*	P
Banking and financial services	P
Bed and breakfast	P
Body art establishment	D4
Bookstore	P
Brewpub	P
Communications service	L41
Eating place	L43
Food preparation and sales, commercial	P
Food sales or market, large	L50
Food sales or market, small	L50
Furniture, furnishings, retail sale, large scale	P
Garden supply store	P*
Home building materials and supplies, sales, or rental	P
Hotel	P
Laboratory, research, development, technological service	P
Liquor store	D7
Motel	P
Office: nondental, nonmedical	P
Pawn shop	P
Printing service, publishing, business support	P
Retail, service, repair, consumer, large scale	P
Retail, service, repair, consumer, medium scale	P
Retail, service, repair, consumer, small scale	P
Retail, service, repair, consumer, special	L81
Service, repair, commercial	L86
Vehicle, equipment sales, leasing, service, rental*	L90
Industrial, wholesale, transportation, utilities	
Assembly, without fabrication	P

Key: *P = Permitted* *L = Uses permitted with limitations* *C = Uses permitted with conditions* *D = Uses permitted with distance requirements* ** = Need not be enclosed*	
Use	*B-5, B-5-T*
Helipad, helistop, heliport*	L97/D12
Manufacturing, fabrication, and assembly, custom	P
Manufacturing, fabrication, and assembly, general	L6
Manufacturing, fabrication, and assembly, heavy	L100
Manufacturing, fabrication, and assembly, light	P
Parking of vehicles*	C
Railroad facilities	L106
Railway right-of-way*	P
Terminal and service facility for bus system*	L114
Terminal, freight, air courier services	P
Terminal, public transportation, local*	P
Utility, major impact	L115*
Utility, minor impact	L117
Vehicle storage, commercial*	L119/C
Wholesale trade, general, and/or storage of toxic and/or hazardous materials	L122
Wholesale trade, light, and/or storage of nontoxic, nonhazardous materials	P
Arts, entertainment, recreation, institutions	
Ambulance service	P
Child care center	P
Church, religious institution	P
Clinic, office, laboratory, dental or medical	P
Club or lodge	P
Community or senior center or recreational facility	P
Conference center, meeting hall	P
Fire station	P
Golf course*	P
Hospital	P
Library	P
Mortuary	P
Museums, other special purpose cultural institutions	P
Parks, public, open space, associated buildings*	P
Police station	P
Postal facility, neighborhood	P

Key: *P = Permitted* *L = Uses permitted with limitations* *C = Uses permitted with conditions* *D = Uses permitted with distance requirements* ** = Need not be enclosed*	
Use	*B-5, B-5-T*
Recreation services, indoor	P
Recreation services, outdoor*	P
School, elementary or secondary	P
School, vocational or professional	P
Theater, indoor	P
University or college	P
Construction, mining, agriculture	
Aquaculture	L164
Contractors, special trade, general	P
Contractors, special trade, heavy, contractor yard*	L166
Uses allowed in all districts unless restricted by special limitations (See chapter 59, article III, division 2)	
Residential care uses (See § 59-82)	
Uses allowed by temporary permit (See § 59-86)	

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 909-05, § 3, eff. 12-16-05; Ord. No. 439-07, § 9, eff. 8-20-07; Ord. No. 57-09, § 12, eff. 1-30-09)

Sec. 59-218. Distance requirements.

The following define the distance requirements enumerated in the use chart in section 59-217:

D1

a. The following permitted uses shall not be established, operated or maintained within five hundred (500) feet of a residential district, a dwelling unit (single or multiple), a single unit dwelling, a church, a school meeting all the requirements of the compulsory education laws of the state, an arts education center, a learning center, an amusement/special interest park, a child care center, or a children's indoor play center, or within one hundred twenty-five (125) feet of a pedestrian and/or transit mall:

1. Adult amusement or entertainment;
2. Bookstore, adult;
3. Eating place with adult amusement or entertainment;
4. Photo studio, adult;

5. Theater, adult.

b. For the purposes of this limitation, D-1, only:

1. Learning center shall mean a commercial business that regularly provides on site, specialized or intensive educational services or tutoring to persons under eighteen (18) years of age;

2. Arts education center shall mean a place where instruction is regularly provided to persons under eighteen (18) years of age in the fields of painting, drawing, sculpture, etching, craft work, fine arts, dance, drama, photography, music, martial arts, or other similar fields of art.

c. Not more than two (2) of the following permitted uses may be established, operated or maintained within one thousand (1,000) feet of each other:

1. Amusement center;
2. Adult amusement or entertainment;
3. Bookstore, adult;
4. Eating place with adult amusement or entertainment;
5. Photo studio, adult;
6. Theater, adult.

D4 Not more than two (2) of the following permitted uses may be established, operated or maintained within one thousand (1,000) feet of each other: Body art establishment.

D7

a. No liquor store or drugstore licensed to sell package liquors, not existing or operating on August 31, 1997, shall be established, operated, or maintained within one thousand (1,000) feet of another liquor store or drugstore licensed to sell package liquors.

b. No liquor store or drugstore licensed to sell package liquors, not existing or operating on July 31, 2000, shall be established, operated, or maintained within one thousand (1,000) feet of a community corrections facility.

D12 Must be a minimum of one thousand (1,000) feet from a residential district or a PUD district which allows residential uses.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-219. Limitations.

The following define the limitations enumerated in the use chart in section 59-217:

L6 Fabrication: the fabrication only of the following articles: art goods, including church art goods, needlework and mannequins and figurines; awnings; bakery products; beverage bottling; bottling or packaging of prepared specialty food products, excluding processing of ingredients; brooms, brushes; buttons; cameras; cigars, custom; clocks; clothing, custom; cosmetics, excluding the manufacture of pigments and other basic raw materials, but including the compounding of the final product by mixing; costumes, custom; costume jewelry; dyeing, custom; engraving; fishing tackle; fur dyeing, finishing and apparel (no tanning); furniture, custom; glass products from glass stock; ink mixing and packaging (no pigment manufacture); instruments, professional, scientific controlling, musical and similar precision, and instrument equipment and parts; jewelry; lithography; millinery, custom; needlework; newspaper publishing; optical goods and equipment; orthopedic appliances;

photographic supplies (no film); plastic products, but not involving casting or molding processes; religious art goods; taxidermy; toys; umbrellas; upholstery, custom; venetian blinds or window shades, except preliminary milling of the wood or metal slats; watches.

L13 Limited to parish house.

L24 Limited to emissions inspection station.

L31 Automobile laundry, including steam cleaning, if visible steam is not discharged directly into outside air. Need not have doors. Must comply with the following conditions:

a. A minimum of five (5) parking spaces is provided on the same zone lot for each washing stall;

b. All off-street parking areas shall be hard-surfaced and dust-free;

c. All lights used to illuminate the area shall be directed away from adjacent residential properties.

L41 Limited to radio and television broadcasting, including transmitter.

L43 Need not be enclosed to the extent that tables and seats may be placed out of doors, and food served thereat, subject to all of the following conditions:

a. The outdoor eating area shall be contiguous to the eating place to which it is accessory; and

b. The eating area shall be clearly delimited.

c. Any part of the serving area located outside of the completely enclosed structure shall have a hard, all weather surface.

L50 Fruit or vegetable store need not be enclosed to the extent that the unenclosed portion shall not exceed in area one-fourth the gross floor area of the structure containing the use by right.

L81 Excludes: LP Gas; Gun shop.

L86 Limited to diaper service, linen supply, laundry, metal sharpening, mirror silvering.

L90 Limited to:

a. Boat sales or repair, not including dismantling or wrecking; need not be enclosed, provided that the unenclosed part of such use shall comply with all specifications for maintenance of off-street parking space except the limitation against sales;

b. Automobile trailers, house trailers and recreation vehicles but no commercial wrecking, dismantling or junkyard; need not be enclosed, provided that the unenclosed part of such use shall comply with all specifications for maintenance of off-street parking space except the limitation against sale.

L97 Helipad or helistop, not including maintenance, repair, fueling or hangar facilities.

L100 Limited to: tire recapping shop; koshering of poultry sold at retail on the premises, with no slaughtering, eviscerating or dressing of poultry conducted outside an enclosed structure and with all wastes deposited outdoors to be in completely enclosed containers.

L106 Limited to passenger terminal.

L114 Limited to terminal, no service facilities.

L115 Limited to water reservoir, need not be enclosed.

L117 Electric substation excluded.

L119 Use by right is limited to garage for commercial and public utility vehicles. Commercial storage of automobiles and light trucks, vans and sport utility vehicles limited to a capacity of not more than one-and-one-half tons only is a conditional use.

L122 Sale at wholesale and warehousing: the sale at retail, the sale at wholesale or the warehousing of any commodity the fabrication or assembly of which is a permitted use in this district, plus automobiles; automobile trailers; house trailers; recreation vehicles, boats, trucks having a capacity of not more than one and one-half (1½) tons; automobile and truck parts, accessories, tires and tubes; beauty shop equipment and supplies; drugs; flowers; household furniture, furnishing and equipment; medical and hospital equipment and supplies; tobacco products; (automobile, truck and trailer sales need not be enclosed).

L164 Limited to tropical fish hatchery.

L166 Special trades contractor: a contractor specializing in one (1) or more trades of which the following are examples: plumbing, heating, refrigerator and air conditioning; painting, paper hanging and decorating; wiring and electrical work; glass and glazing work; damp proofing; fire proofing; tile, linoleum floor laying and other floor work; insulation, asbestos and acoustical work; carpentry and cabinet making; excavating; well drilling; masonry and stone work; ornamental iron work. Trucks having a manufacturer's capacity of more than two (2) tons shall not remain on the premises except as necessary to load and discharge contents.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-220. Conditional uses.

(a) Parking and/or commercial storage of vehicles, limited to automobiles, sport utility vehicles and light trucks and vans limited to a manufacturer's capacity of not more than one and one-half (1½) tons:

(1) In a structure, provided, however, that such use meets at least one (1) of the following conditions:

a. The use was operated in a structure before October 10, 1994; or

b. The use is operated in a structure constructed or converted from other uses after October 10, 1994, that:

1. Was constructed or converted by or on behalf of a public entity to serve the general public; or

2. Serves only buildings that do not contain office uses; or

3. Serves one (1) or more buildings that contain office uses and does not contain more than one (1) parking space per five hundred (500) gross square

feet of office space in the building or buildings served by the structure. Parking spaces restricted for use by non-office uses within the building or buildings served by the parking structure shall be exempt from such parking ratio restriction;

(2) Need not be enclosed. Surface parking lots shall only be allowed if such use:

a. Was in existence before May 25, 1990, and has been in continuous use as a parking lot since that date, provided, however, that a temporary use properly permitted under the provisions of sections 59-81 or 59-86 shall not destroy the continuity of use, or

b. Received a use permit between May 25, 1990, and October 10, 1994, and has been in continuous use as a parking lot since the date of such permit, provided, however, that a temporary use properly permitted under the provisions of sections 59-81 or 59-86 shall not destroy the continuity of use, and complies with all specifications for use and maintenance contained in Ordinance 140, series of 1986 and Ordinance 270, series of 1990, or

c. Began operation after October 10, 1994, and meets the following conditions:

1. Such use shall not be located within the area bounded by 14th Street, Colfax Avenue, Broadway Street, 18th Street, and the Larimer Street-Market Street alley; and

2. Such use shall not be located where necessary curb cuts will interfere with pedestrian activity on Larimer Street, Curtis Street, Cleveland Place, or on any street frontage facing a light rail line.

(Ord. No. 472, § 1, eff. 9-14-07)

(b) Process for approval of conditional uses. Applicants for conditional uses shall submit to the zoning administrator a complete application for such use demonstrating compliance with all applicable conditions required for such use. Upon receipt of such completed application, the zoning administrator shall refer the application to the planning office for a review and determination of compliance. The planning office shall return its determination of compliance to the zoning administrator within fifteen (15) days of receipt of such application, and the zoning administrator shall promptly approve or deny the application in accordance with the determination of compliance. If the planning office does not return a determination of compliance to the zoning administrator within fifteen (15) days of receipt of the application, such application shall be deemed to be in compliance as submitted.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-221. Required ground floor uses.

In portions of new buildings and outdoor areas constructed within thirty (30) feet of the 16th Street pedestrian and transit mall, and in portions of existing buildings and outdoor areas within thirty (30) feet of the 16th Street pedestrian and transit mall that are renovated where (i) the cost of renovation is more than fifty (50) percent of the replacement cost of the existing building or outdoor area excluding land costs, and (ii) the renovation includes all or a part of

the leasable ground floor areas of the building, at least sixty-five (65) percent of the linear frontage of the property along the 16th Street pedestrian and transit mall shall be occupied by pedestrian-active uses.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-222. Limitations on external effects of uses.

External effects of uses, as regulated by section 59-92.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-223. Permitted structures.

(a) *Zone lot for structures.*

(1) *All structures.* A ground area, herein called the zone lot, shall be designated, provided and continuously maintained for all structures or uses by right and conditional uses. Each zone lot shall have at least one (1) front line and may be occupied only by one (1) or more structures. Two (2) or more abutting zone lots intersected or divided by one (1) or more public streets or alleys may be designated as a single zone lot and as such shall be recorded with the clerk.

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

(b) *Maximum gross floor area in structures.*

(1) *Basic maximum gross floor area.* The sum total of the gross floor area of all structures on a zone lot shall not be greater than ten (10) times the area of the zone lot on which the structures are located.

(2) *Floor area premiums.* In addition to the basic maximum gross floor area permitted under subsection 59-223(b)(1) above, a premium of additional floor area may be constructed under the following circumstances, provided, however, that: (i) no use of the premiums described in those subsections c. through h. below, either alone or in combination with one another, shall cause the maximum gross floor area on any zone lot to be increased by more than two (2) times the size of such zone lot; and (ii) any area for which a premium has been granted pursuant to subsections a., c., d., or e. below shall continue to be occupied by the use which originally earned the premium, or by other uses that would earn at least an equal amount of premium space; and (iii) no facility that receives a premium under subsection c. or d. or e. below shall receive a premium under either of the other two (2) such subsections.

a. *Premium for housing.* Two (2) square feet for each square foot of housing constructed in a new building, or through conversion of all or a part of an existing

building from other uses, provided that such housing does not have a residential entrance located within two hundred (200) feet from the public right-of-way of 17th Street, or one (1) square foot for each square foot of housing constructed in a new building, or through conversion of all or a part of an existing building from other uses, if such housing has a residential entrance located within two hundred (200) feet of the public right-of-way of 17th Street.

In addition, applicants may receive floor area premiums in return for cash contributions to the housing special revenue fund (Fund/Org. No. 1150-6330) to be used to create additional housing units within the B-5, OD-2/B-5, OD-3/B-5, OD-4/B-5, B-5-T, OD-2/B-5-T, or OD-4/B-5-T zone districts. Such cash-in-lieu fee or fees shall be based on the standard that a floor area premium of two (2) square feet shall be available in return for each contribution equal to the average cost of creating one (1) additional square foot of downtown housing. The planning office is hereby granted authority:

(Ord. No. 439-07, § 10, eff. 8-20-07)

1. To adopt and to revise rules and regulations setting a cash-in-lieu fee or fees which, if contributed to such fund, would earn floor area premiums; and
2. To determine whether such fee or fees shall be based on the average cost of constructing new housing units or the average cost of creating a new housing unit through conversion of an existing building from nonresidential uses; and
3. To determine whether such fee or fees shall be based on the cost of creating new market rate housing units or new affordable housing units; and
4. To determine whether such fee or fees shall be based on a per square foot or per unit basis.

Such cash-in-lieu fee or fees shall be reviewed, and if necessary revised, at least once every three (3) years following their initial adoption. No such rule or regulation shall be effective unless and until adopted pursuant to article VI, chapter 2 of the Revised Municipal Code.

b. *Premium for rehabilitation of a structure designated for preservation pursuant to chapter 30 of the Revised Municipal Code.* Four (4) square feet for each square foot of a structure designated for preservation pursuant to chapter 30 of the Revised Municipal Code is rehabilitated (1) to the U.S. Secretary of the Interior's standards for historic preservation, (2) to the standards of the landmark preservation commission, or (3) to the standards of the Denver Building Code.

c. *Premium for child care facility.* Four (4) square feet for each square foot of child care facility constructed in a new building, or through conversion of all or a part of an existing building from other uses, and constructed to at least the minimum licensing standards of the department of environmental health.

d. *Premium for residential support facility.* Four (4) square feet for each square foot of ground floor area constructed in a new building, or through conversion of all or

a part of an existing building from other uses, and occupied as a grocery store, hardware store, drug store, variety store, elementary or secondary school meeting all requirements of the compulsory education laws of the state, or similar residential support use.

e. *Premium for pedestrian-active facility.* Four (4) square feet for each square foot of ground floor area constructed as a pedestrian-active facility within a new building or through conversion of all or a portion of an existing building from other uses, provided, however, that such ground floor area is constructed:

1. Between 15th Street and 17th Street; or

2. With frontage on, and with doorways allowing direct public access from, any of the following streets: 15th Street, 17th Street, Larimer Street, Curtis Street, Cleveland Place, or any street segment containing a light rail line.

f. *Premium for supporting mass transit facilities.* Three (3) square feet for each square foot of land dedicated for a light rail station integrated into a new or existing building. An integrated station is one (1) in which the building extends over all or part of a light rail facility and the station is constructed as part of the new building or a renovation of the existing building.

g. *Premium for outdoor art.* A floor area premium equal to twenty-five (25) percent of the zone lot area if, in connection with the construction of a new building or the renovation of an existing building at a cost of more than fifty (50) percent of the replacement cost of the existing building excluding land costs, public art costing at least (i) one (1) percent of the cost of the new building or one (1) percent of the cost of the building renovation, as reflected in approved building permits, or (ii) five hundred thousand dollars ($500,000.00), whichever is smaller, is placed outside or on the exterior surface of such new or renovated building where it is visible from at least one (1) public street.

h. *Premium for underground parking.* A floor area premium equal to one and one-half (1 ½) square feet for each square foot of underground parking provided under a new building, provided, however, that no premium shall be earned for the first level of underground parking.

i. *Premium for moderately priced dwelling units.* A floor area premium equal to the zone lot area if the structure qualifies under the provisions of article IV, chapter 27 (affordable housing), provided all of said floor area premium is dedicated to residential uses.

(3) *Transfer of undeveloped floor area.* In addition to the two (2) types of floor area permitted by sections 59-223(b)(1) and 59-223(b)(2), a certain amount of floor area may be constructed by using undeveloped floor area. Undeveloped floor area shall be created, transferred and administered as set forth in this subsection (3).

a. *Types of undeveloped floor area.* The following types of undeveloped floor area may be transferred between zone lots after certification by the zoning administrator:

1. Undeveloped floor area from a structure designated for preservation or included in a district for preservation pursuant to chapter 30 of the Revised Municipal Code:

(i) Where such designation or inclusion in a district occurred after October 10, 1994; or

(ii) Where such designation or inclusion in a district occurred before October 10, 1994, and certificates of undeveloped floor area were issued before October 10, 1994; or

(iii) Where such designation or inclusion in a district occurred before October 10, 1994, and certificates of undeveloped floor area were not issued before October 10, 1994.

2. Undeveloped floor area from a structure that (i) has received a floor area premium pursuant to section 59-223(b)(2)b., or (ii) would have received such a floor area premium if such premium had existed at the time of the rehabilitation.

b. *Calculation of undeveloped floor area.*

1. In the case of undeveloped floor area defined in section 59-223(b)(3)a.1 above, the amount of undeveloped floor area available for transfer from each structure shall be equal to one (1) times the size of the zone lot on which such structure is located, plus the difference between (i) the gross floor area in the structure, and (ii) the maximum gross floor area permitted on the zone lot containing the structure pursuant to sections 59-223(b)(1) and 59-223(b)(2), assuming that section 59-223(b)(2) had been in effect at the time the structure was constructed.

2. In the case of undeveloped floor area defined in section 223(3)a.2. above, the amount of undeveloped floor area that may be transferred is equal to the amount of floor area premiums that have been earned pursuant to section 59-223(b)(2)b., or that would have been earned if such premium had existed at the time of the rehabilitation.

c. *Option to use previous system.* Notwithstanding anything to the contrary contained in this section 59-223(b)(3):

1. In the case of undeveloped floor area defined in subsection (3)a.1.ii. above, the holders of such certificates of undeveloped floor area shall have the right to use or transfer such certificates pursuant to Ordinance 63, series of 1980,

Ordinance 224, series of 1985, or Ordinance 99, series of 1991. As an alternative, each holder of such a certificate shall have the right to exchange such certificate for a new certificate to be calculated pursuant to section 59-223(b)(3)b.1. and used or transferred pursuant to subsections 59-223(b)(3)d. through g. below by filing a written request for such exchange with the zoning administrator on or before October 19, 1995.

2. In the case of undeveloped floor area defined in section 223(3)a.1.iii. above, the owners of such property may retain the right to calculate and use or transfer undeveloped floor area pursuant to Ordinance 63, series of 1980, Ordinance 224, series of 1985, or Ordinance 99, series of 1991 by filing a complete application for a certificate of undeveloped floor area and a request for application of such ordinances on or before October 10, 1995. If the owners of such property do not submit such a filing on or before October 10, 1995, undeveloped floor area from such property shall be calculated pursuant to section 59-223(b)(3)b.1. and shall be used or transferred pursuant to subsections 59-223(b)(3)d. through g. below.

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

e. *Limitation on use.* No receiving property shall be enlarged by more than six (6) times the area of the zone lot through one (1) or more applications of this procedure.

f. *Procedures.* Undeveloped floor area shall be administered according to the following procedures:

1. Applications for certification of undeveloped floor area shall be submitted for a contiguous parcel of land in common ownership, by or with the written consent of the owners of the included property, in triplicate, and shall include:

(i) The names and signatures of all owners and security interest holders of the property included in the application;

(ii) The names of the owners to be designated as owners on the certificate applied for;

(iii) A legal description of the included property;

(iv) A current endorsement by a title insurance company to the owners' title policy covering such legal description or other acceptable evidence of title including an opinion of counsel;

(v) A survey of the included property;

(vi) A certificate of a licensed engineer or architect as to the gross floor area of all structures to be included in the calculation of undeveloped floor area and a copy of the ordinance designating the property for preservation or including the property in a district for preservation;

(vii) Evidence of the maximum gross floor area permitted on the property, calculated in accordance with section 59-223(b)(3)a.1.;

(viii) Satisfactory evidence that each structure to be included in the calculation of undeveloped floor area is utilized by a use by right and that the exterior has been renovated or restored to the U.S. Secretary of the Interior's standards for historic preservation or to the standards of the landmark preservation commission;

(ix) In the case of undeveloped floor area defined in section 223(3)a.2. above, satisfactory evidence that the interior of the structure has been rehabilitated to the U.S. Secretary of the Interior's standards for historic preservation or to the standards of the landmark preservation commission; and

(x) Such other information as the zoning administrator may reasonably require.

2. Applications shall be filed with the zoning administrator together with a one-thousand-five-hundred-dollar filing fee. Upon filing, the zoning administrator shall deny the application if it is incomplete. If the application is complete, the zoning administrator shall forward one (1) copy to the planning board and one (1) copy to the landmark preservation commission, and promptly shall grant the application or grant the application with conditions if it complies with subsection (3)f.1., but otherwise shall deny the application. All actions of the zoning administrator in denying the application shall be without prejudice to the owners to resubmit additional applications respecting the same zone lot. If an amended application covering the same property is made within ninety (90) days after denial by the zoning administrator, no additional filing fee shall be required.

3. If the application is granted, the zoning administrator shall issue a certificate of undeveloped floor area in the following form:

_____

CERTIFICATE OF UNDEVELOPED AREA

_____

(Applicants-Owners)

_____

(Address)

having filed an application for Certification of Undeveloped Floor Area according to section 59-223(b)(3) of the Revised Municipal Code of the City and County of Denver, as amended, and the Zoning Administrator having granted such application, certifies and grants as follows:

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

   _____

   _____

   _____

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

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

3. Subsequent transfers of Undeveloped Floor Area are subject to the provisions of section 59-223(b)(3) and shall be effectuated in the same manner as transfers of real property.

DATED: _____

CITY AND COUNTY OF DENVER

By ZONING ADMINISTRATOR

By

_____

(STATE OF COLORADO)

City and County (of Denver) ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____,

by _____, Zoning Administrator of the City and County of Denver, Colorado.

Witness my hand and official seal.

My commission expires:

_____

_____

Notary Public

(NOTARY SEAL)

4. The original certificate of undeveloped floor area shall be recorded by the zoning administrator in the office of the clerk and recorder of the City and

County of Denver and State of Colorado. When the certificate has been recorded, it shall be filed with the zoning administrator. A copy of the certificate shall be given to the applicant.

5. Upon the issuance of a certificate of undeveloped floor area by the zoning administrator, undeveloped floor area shall be created and shall be an independent right in the owner to whom the certificate is issued and may be transferred. Such transfer need not be made appurtenant to another zone lot until a permit is requested using the undeveloped floor area.

6. If the structure is partially or completely destroyed after a certificate of undeveloped floor area has been issued, no new structure shall be built exceeding the floor area of the former structure unless undeveloped floor area is acquired or through a combining of zone lots or other transfer procedures.

7. Until such time as undeveloped floor area is made appurtenant to another zone lot, and upon the payment of a seventy-five-dollar fee, the holder of one (1) or more certificates of undeveloped floor area may surrender such certificate or certificates to the zoning administrator and request the issuance of one (1) or more replacement certificates reflecting the division of such undeveloped floor area into smaller units for transfer or the combination of such undeveloped floor area into larger units for transfer, provided that the total amount of all undeveloped floor area represented by the applicant's certificates does not exceed the total amount of undeveloped floor area represented by the surrendered certificates.

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

1. The instrument of conveyance shall identify the undeveloped floor area transferred by amount, the zone lot creating the undeveloped floor area and certification date and be signed by both the transferor and the transferees.

2. The instrument of conveyance shall legally describe the receiving property which shall be in the B-5, OD-2/B-5, OD-3/B-5, OD-4/B-5, B-5-T, OD-2/B-5-T, or OD-4/B-5-T zone districts.
(Ord. No. 439-07, § 11, eff. 8-20-07)

3. No subsequent transfer of undeveloped floor area made appurtenant to another zone lot shall become effective until approved by the zoning administrator upon a finding that no construction using the undeveloped floor area has occurred, and any permit authorizing the use of undeveloped floor area has been canceled. Such approval shall be applied for by the owners of the receiving property by written application accompanied by a filing fee of one thousand five hundred dollars ($1,500.00) and supported by all information necessary to justify approval by the zoning administrator.

(4) *Final maximum gross floor area.*

a. Limits for designated areas. Notwithstanding sections 59-223(b)(1), (2) and (3) above, the final maximum gross floor areas that may be constructed on zone lots shall be limited as described below and shown on exhibit 1:

1. For structures located within the area bounded by 14th Street, Colfax Avenue, Broadway Street, 18th Street, and the Market Street-Larimer Street alley:

(i) A floor area ratio of 17:1; or

(ii) If structures contain over fifty (50) percent of their gross floor area in housing uses, then a floor area ratio of 20:1.

2. For structures located in other areas:

(i) A floor area ratio of 12:1; or

(ii) If structures contain over fifty (50) percent of their gross floor area in housing uses, then a floor area ratio of 17:1.

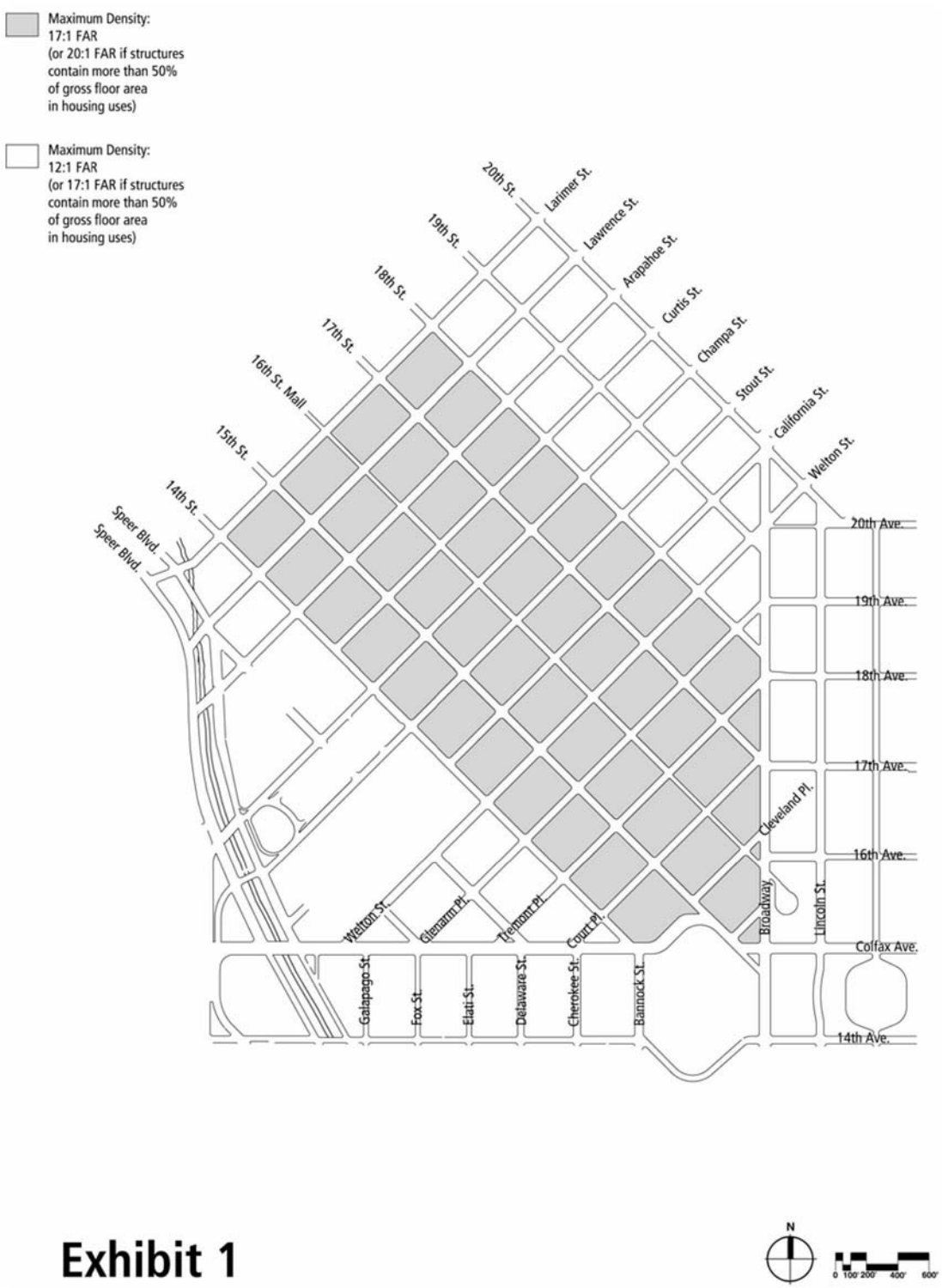

Maximum Density:
17:1 FAR
(or 20:1 FAR if structures
contain more than 50%
of gross floor area
in housing uses)
Maximum Density:
12:1 FAR
(or 17:1 FAR if structures
contain more than 50%
of gross floor area
in housing uses)
20th St.
Larimer St.
19th St.
Lawrence St.
18th St.
Arapahoe St.
17th St.
Curtis St.
16th St. Mall
Champa St.
15th St.
Stout St.
14th St.
California St.
Speer Blvd.
Welton St.
Speer Blvd.
20th Ave.
19th Ave.
18th Ave.
17th Ave.
Cleveland Pl.
16th Ave.
Broadway
Lincoln St.
Welton St.
Glenarm Pl.
Tremont Pl.
Court Pl.
Colfax Ave.
Galapago St.
Fox St.
Elati St.
Delaware St.
Cherokee St.
Bannock St.
14th Ave.
Exhibit 1
N
0 100' 200' 400' 600'

Exhibit 1

b. *Floor area excluded from calculations.* Gross floor area occupied by pedestrian active uses located at street level and directly accessible from the public sidewalk shall be excluded from the calculation of the gross floor area of a structure or project. Any floor area so excluded from the calculation of gross floor area shall maintain clear glazing, providing visual access to the interior use, for not less than sixty (60) percent of the area of the ground floor, street facing elevations, as calculated between the finished floor and finished ceiling, Qualifying floor area shall continue to be occupied by pedestrian active retail uses and shall not be altered in such a way that the amount of glazing is reduced below the required amount. Window glazing shall be clear and shall transmit at least sixty-five (65) percent of visible daylight (visible transmittance shall be sixty-five one hundredths (.65) or greater). No interior or exterior modifications, including temporary and permanent signage, window tinting, furnishings, fixtures, equipment or stored items within three (3) feet of the windows will be allowed to reduce the effective minimum transparency standards by more than twenty-five (25) percent. Open display of individual merchandise is permitted.

(Ord. No. 720-08, § 1, eff. 12-26-08)

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-224. Permitted signs.

The provisions of article V of this chapter on permitted signs shall be in full force and effect in these districts.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 439-07, § 12, eff. 8-20-07)

Sec. 59-225. Off-street parking requirements.

Off-street parking space shall be provided in accordance with the following requirements:

(1) The provisions of section 59-585 (use and maintenance of off-street parking space) of article VI of this chapter on off-street parking requirements shall be in full force and effect in these districts.
(Ord. No. 439-07, § 13, eff. 8-20-07)

(2) Off-street parking spaces or structures placed in operation after October 10, 1989, shall provide the amount or number of off-street parking spaces for disabled persons as follows: For all uses other than multiple unit dwellings, the number of such parking spaces shall be one (1) percent of the number of spaces constructed; provided, however, that at least one (1) such parking space for disabled persons shall be required where twenty-five (25) or more spaces are constructed. For multiple unit dwellings off-street parking spaces for disabled persons shall be provided for one (1) percent of the dwelling units or for each dwelling unit occupied by a disabled person, whichever is the greater requirement; provided, however, that at least one (1) such parking space shall be required where fifty (50) or more spaces are constructed. Dwelling units requiring parking for disabled persons within a multiple unit dwelling shall be provided with such parking spaces at a ratio of one (1) space per dwelling unit and each such parking

space for disabled persons shall be a minimum of twelve (12) feet wide and seventeen and one-half (17 ½) feet long or an alternative size as suggested by the PUD/PBG rules and regulations. Accessible routes, passenger loading zones and other facilities for disabled persons shall be provided according to the guidelines contained in the PUD/PBG rules and regulations for site plan review.

(3) Bicycle parking spaces. Within the area bounded by 14th Street, Colfax Avenue, Broadway Street, 18th Street, and the Larimer Street-Market Street alley, all new parking structures shall contain at least one (1) designated bicycle parking space for each twenty (20) automobile parking spaces, provided, however, that in no event shall any new parking structure be required to contain more than fifty (50) bicycle parking spaces.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-226. Off-street loading requirements.

The provisions of article VII of this chapter on off-street loading requirements shall be in full force and effect in these districts.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 439-07, § 14, eff. 8-20-07)

Sec. 59-227. Design requirements.

(a) *Design standards and guidelines.*

(1) *Applicability.* All new structures and all structures that are being renovated where the renovation is valued a more than fifty (50) percent of the replacement cost of the existing structure excluding land costs, and the renovation includes alterations to the lower eighty (80) feet of the facade of the structure other than restoration of original design features with original materials, shall be subject to either:

a. Design standards and a design standards review process established by rules and regulations; or

b. Design guidelines and a design guidelines negotiation process established by rules and regulations.

Design standards and design guidelines shall be limited to those topics listed in subsection (4) below. For each element of building or project design listed in subsection (4), the applicant shall have the option of submitting proposed designs for a determination of consistency under the design standards review process or for approval under the design guidelines negotiation process. The applicant shall also have the option of submitting different design elements for determinations of consistency or for approval at different times. The design standards review process and the design guidelines negotiation procedures shall be conducted by the planning office staff. The zoning administrator shall not issue permits for use and construction until all applicable requirements have been met.

(2) *Exclusions.* The design standards review process and the design guidelines negotiation process set forth in this section 59-227(a) shall not apply to (i) any structure that is subject to the design standards or design review procedures of the Civic Center overlay district, or (ii) any structure designated for preservation pursuant to chapter 30 of the Revised Municipal Code, or (iii) any structure in a district for preservation pursuant to chapter 30 of the Revised Municipal Code, or (iv) any facade of an existing structure that is not being altered.

(3) *Intent.* The design standards and design guidelines are intended (i) to promote visibility of commercial activities at ground level; (ii) to provide human scale through

change, contrast, and intricacy in facade form, color and/or material where lower levels of structures face public streets and sidewalks; (iii) to spatially define the street space in order to concentrate pedestrian activity and create a clear urban character; (iv) to alleviate high wind conditions for pedestrians at the base of taller structures; (v) to encourage easy pedestrian entry and exit from structures facing the 16th Street pedestrian and transit mall and light rail stations, and (vi) to prevent significant blocking of sky exposure along the 16th Street pedestrian and transit mall.

(4) *Design standards and design guidelines topics.* The planning office is authorized to develop design standards and design guidelines that address the following topics:

a. For the lower thirty (30) feet of structures above street level:

1. The percentage of the linear frontage of the structure that must be built within a short distance of property lines along public streets and sidewalks; and

2. Requirements for direct entry doors leading onto the 16th Street pedestrian and transit mall and towards light rail stations.

b. For the lower eighty (80) feet of structures above street level:

1. The percentage of glass to solid materials;

2. The use of reflective glass; and

3. The required use of scaling elements, insets, and projections to break up flat or monotonous facades and to respond to older structures nearby.

c. For all structures more than two hundred (200) feet in height: The use of building massing and stepbacks to prevent significant blocking of sky exposure along the 16th Street pedestrian and transit mall by tall buildings built very close to the right-of-way of the mall.

d. For all structures more than four hundred (400) feet in height: The use of massing and stepbacks to alleviate high wind conditions for pedestrians at ground level.

Each structure and multiple structure project shall be consistent with the adopted design standards for each design element listed above, or shall be approved pursuant to design guidelines negotiations for each element listed above. Design standards rules and regulations shall be specific, objective requirements related to each topic listed above. Design guidelines rules and regulations shall ensure that design elements meet the intents set forth in subsection 59-227(a)(3) and address the topics listed above while allowing more variation and architectural creativity than the design standards rules and regulations adopted pursuant to this subsection (4). No design standards or design guidelines shall be effective until adopted pursuant to section 12-18 of the Revised Municipal Code.

(5) *Design standards review process.* The applicant may submit any or all elements of project design listed in subsection (d) above for review under the design standards review process. Design standards review and determination shall be completed by the planning office no later than fifteen (15) days after the submission of a completed

application to the zoning administrator, or the submitted design shall be considered consistent with adopted design standards. Such fifteen-day review period shall be extended by an amount of time equal to any delay caused by the applicant, and may also be extended with the applicant's consent. The design standards review process shall determine whether the project design is consistent, with the design standards adopted as rules and regulations pursuant to subsection 59-227(a)(4) and shall make a recommendation to the zoning administrator for approval, approval with conditions, or denial of the application. Any determination of consistency or inconsistency shall be in writing. If elements of the applicant's design are found to be inconsistent with such design standards, the applicant shall have the options of (i) resubmitting a new design for review pursuant to the design standards review process, (ii) submitting the existing design to the design guidelines negotiation process, or (iii) appealing the finding of inconsistency pursuant to subsection (9) below.

(6) *Design guidelines negotiation process.* As an alternative to the design standards review process, the applicant may submit any or all elements of project design listed in subsection (4) above for review under the design guidelines negotiation process. The applicant's decision to submit design elements to the design guidelines negotiation process shall not result in the extension of design negotiations to any element of the design not presented by the applicant for review, or to any element of design that has been reviewed and found to be consistent with design standards rules and regulations on the same topic, and shall not result in the extension of design guidelines negotiations to any element of design that the applicant would not have had to address if applicant had proceeded under the design standards review process, except with the applicant's consent.

Design guidelines negotiation and determination shall be completed no later than forty-five (45) days after the submission of a completed application to the zoning administrator, or the submitted design shall be considered consistent with the intents set forth in subsection 59-227(a)(3). Such forty-five-day review period shall be extended by an amount of time equal to any delay caused by the applicant, and may also be extended with the applicant's consent. At the applicant's request, the planning office shall issue a denial of the applicant's application no later than fifteen (15) days after the submission of a completed application to the zoning administrator. The design guidelines negotiation determination shall be in writing and shall recommend either approval, approval with conditions consistent with the intent set forth in subsection 59-227(a)(3), or denial of the application.

(7) *Downtown design review appeals committee.* A five-member downtown design review appeals committee shall be appointed by the mayor, shall be convened as required, and shall be made up of an at large city council member plus one (1) representative with experience in architectural, urban design or development issues nominated by each of the following organizations: (1) the Downtown Denver Partnership, (2) the Downtown Denver Business Improvement district, (3) the Denver Chapter of the American Institute of Architects, and (4) Historic Denver, Inc.

Members of the committee shall be appointed for terms of three (3) years each. The committee shall elect a chairperson and such officers as it may require. No official

business of the committee shall be conducted unless a quorum of not less than three (3) members is present. The concurring vote of at least three (3) members of the committee is necessary to constitute an official act of the committee. The committee may adopt any rules and regulations for the conduct of its business that are not inconsistent with this chapter.

(8) *Amendments.* No amendments to the list of design standards and design guidelines topics listed in subsection (4) above, or to the review or negotiation processes set forth in subsections (5) or (6) above, or to any related rules and regulations may be approved until (1) the proposed amendments have been reviewed by the downtown design review appeals committee and such committee has forwarded its comments to the planning board, and (2) the planning board has complied with all requirements of article VI, chapter 2 of the Revised Municipal Code concerning notice and public hearing.

(9) *Appeals.* Any decision of the planning office pursuant to subsections 59-227(a)(5) or (6) above may be appealed to the downtown design review appeals committee. The applicant shall initiate such appeals process by delivering written notice of appeal to the zoning administrator identifying the design review decision or decisions that it wishes to appeal, within thirty (30) days after the date of such decision. The applicant and the director of planning, or their representatives, shall have the right to attend and address meetings of the committee concerning the proposed project and the appeal. The committee shall consider all information regarding the proposed project that it deems relevant and shall make a recommendation to the zoning administrator regarding the appeal within thirty (30) days after the zoning administrator receives the applicant's notice of appeal. The recommendation of the committee shall be mailed to the applicant and delivered to the zoning administrator.

(10) *Modifications.* If it becomes impossible or impractical to complete construction of a structure or a multiple structure project substantially in accordance with design consistency determinations or negotiated approvals obtained pursuant to sections 59-227(a)(5) or (6) above, the owner of such structure or project shall notify the zoning administrator of such impossibility or impracticality and shall submit to the zoning administrator an alternative design that is as close as reasonably possible to the consistent or approved design. The zoning administrator shall promptly refer such proposed alternative design to the planning office staff. The planning office shall treat such referral as an application for approval under the design standards review process and shall review and respond in the time period set forth in section 59-227(a)(5). If any or all elements of the proposed alternative design do not comply with such rules and regulations, the planning office shall treat any noncomplying aspects of the proposed alternative design as if they had been submitted to the design guidelines negotiation process and shall review and respond to such aspects of the design within the time period specified in section 59-227(a)(6). Decisions of the planning office staff pursuant to this section 59-227(a)(10) may be appealed as set forth in section 59-227(a)(9).

(11) *Vesting of approvals.* Approvals granted pursuant to this section 59-227(a) shall become vested rights in accordance with the following provisions:

a. If an application is submitted by or on behalf of a landowner for design standards review of some or all design elements, and it is determined that the design elements are consistent with adopted design standards, whether by (a) a planning office determination of consistency, (b) failure of the planning office to respond within the required time frame, (c) a downtown design review appeals committee determination of consistency, or (d) a successful appeal of such committee's determination of inconsistency; or

b. If an application is submitted by or on behalf of a landowner for design guidelines negotiations on some or all design elements, and some or all of the design aspects of a structure or a multiple structure project receive approval, whether by (a) an approval by the planning office, (b) failure of the planning office to respond within the required time frame, (c) an approval by the downtown design review appeals committee, or (d) a successful appeal of such committee's denial; then

c. The determination of consistency or approval of such design elements shall constitute a site specific development plan, as defined in section 24-68-102(4) of the Colorado Revised Statutes, and shall be deemed to be a vested property right of the landowner, its successors and assigns, pursuant to section 24-68-101 et seq. of the Colorado Revised Statutes. The determination of consistency or approval, and the fact of the site specific development plan approval and the vested property right creation shall be promptly described in and documented by a certificate prepared, dated as of the final determination of consistency or approval, and executed by the zoning administrator. The property right shall vest ninety (90) days after the recording and publication of the certificate, as described below, and the certificate shall so state. Thereafter, the landowner, its successors and assigns, shall be permitted to implement the consistent or approved design aspect or aspects of the structure, and shall receive all permits and approvals related to such consistent or approved design aspects in accordance with this section 59-227(a)(11).

d. The certificate advising the general public of the site specific development plan approval and the creation of a vested property right shall be recorded in the office of the clerk and recorder, and shall be published by the zoning administrator, at the expense of the landowner, within fourteen (14) days after the date of the certificate. In addition, a notice of the approval of a vested right shall be posted on the applicant's property within fourteen (14) days after the date of the certificate, and shall remain on such property for at least fourteen (14) days. The landowner shall be entitled to all of the rights of vested property right holders set forth in section 24-68-101 et seq. of the Colorado Revised Statutes. The approval represented by the certificate shall remain vested for a period of three (3) years. Upon good cause shown, the planning office may extend the duration of the

approval for additional periods of three (3) years each, and each such extension shall be certified, recorded and published in the same manner as the original establishment of the vested property right.

(b) *Exposure to the sky.* In order to allow reasonable levels of natural light to reach street level, while also promoting strong definition of the street space, all new structures located on zone lots containing more than fifteen thousand (15,000) square feet shall provide at least fifteen (15) percent sky exposure as measured from each adjacent public street on which the zone lot has greater than one hundred fifty (150) linear feet of frontage. All sky exposure measurements shall be calculated using a Waldram diagram.
(Ord. No. 150-08, § 1, eff. 3-28-08)

(c) *Ground floors of parking structures.* Each primary use or accessory use parking structure constructed after October 10, 1994, or renovated after October 10, 1994, at a cost of more than fifty (50) percent of the replacement cost of the existing structure excluding land costs, and which parking structure is located:

(1) Between 15th Street and 17th Street; or

(2) With frontage on 15th Street, 17th Street, Larimer Street, Curtis Street, or Cleveland Place, or any street segment containing a light rail line; shall either (1) have all ground floor frontages within thirty (30) feet of a public street or a pedestrian and transit mall occupied by pedestrian-active uses, or (2) have driving aisles, ceiling heights, utility layouts, and structural openings designed to be consistent with future occupancy of the ground floor street frontage by pedestrian-active uses, unless such requirements are inconsistent with the structural layout of existing structures being converted to parking uses.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Secs. 59-228—59-230. Reserved.

DIVISION 10. B-7 DISTRICT

Sec. 59-231. General.

The provisions of this division apply to all lands, uses and structures in the B-7 district.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-232. Description of district.

The district is intended to provide for and encourage the preservation and vitality of older areas that are significant because of their architectural, historical and economic value. A variety of land uses will be permitted in order to facilitate the reuse of existing structures without jeopardizing or reducing zoning standards promoting the public safety, convenience, health, general welfare and the preservation of the comprehensive plan. New residential development is encouraged. The design of new structures should recognize the style and character of adjoining building exteriors, i.e., cornice lines and building materials and colors should be similar wherever possible.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-233. Uses allowed in this district.

The following is a list of uses with notations as to whether they are permitted, limited, or have other requirements as listed in the matrix and the sections which follow. Uses not listed are not allowed in this district. Permitted uses are uses by right.

Key: *P = Permitted* *L = Uses permitted with limitations* *D = Uses permitted with distance requirements* ** = Need not be enclosed*	
Use	*B-7*
Residential	
Dwelling, multiple unit	P
Dwelling, single unit	P
Retail, service, office	
Adult establishment as follows:	
Adult amusement or entertainment	D1
Bookstore, adult	D1
Eating place with adult amusement	D1
Photo studio, adult	D1
Theater, adult	D1
Animal sales, service, care, household pets only	P
Automobile, motorcycle, light truck sales, leasing, rental*	L33
Banking and financial services	P
Bed and breakfast	P

Key: *P = Permitted* *L = Uses permitted with limitations* *D = Uses permitted with distance requirements* ** = Need not be enclosed*	
Use	*B-7*
Body art establishment	D4
Bookstore	P
Brewpub	P
Communications service	L41
Eating place	L43
Food preparation and sales, commercial	P
Food sales or market, large	L53
Food sales or market, small	L53
Furniture, furnishings, retail sale, large scale	P
Garden supply store	P*
Home building materials and supplies, sales, or rental	P
Hotel	P
Laboratory, research, development, technological service	P
Liquor store	D7
Motel	P
Office: nondental, nonmedical	P
Printing service, publishing, business support	P
Retail, service, repair, consumer, large scale	P
Retail, service, repair, consumer, medium scale	P
Retail, service, repair, consumer, small scale	P
Retail, service, repair, consumer, special	L77
Service, repair, commercial	P
Industrial, wholesale, transportation, utilities	
Assembly, without fabrication	L94
Manufacturing, fabrication, and assembly, custom	P
Manufacturing, fabrication, and assembly, general	L7
Manufacturing, fabrication, and assembly, light	P
Railroad facilities	L106
Railway right-of-way*	P
Terminal and service facility for bus system*	L114
Terminal, freight and air courier services	P
Terminal, public transportation, local*	P
Utility, major impact	L115
Utility, minor impact	P
Wholesale trade, general, and/or storage of toxic and/or hazardous materials	L125

Key: *P = Permitted* *L = Uses permitted with limitations* *D = Uses permitted with distance requirements* ** = Need not be enclosed*	
Use	*B-7*
Wholesale trade, light, and/or storage of nontoxic, nonhazardous materials	P
Arts, entertainment, recreation, institutions	
Ambulance service	P
Child care center	P
Church, religious institution	P
Clinic, office, laboratory, dental or medical	P
Club or lodge	P
Conference center, meeting hall	P
Fire station	P
Library	P
Museums, other special purpose cultural institutions	P
Police station	P
Postal facility, neighborhood	P
Recreation services, indoor	P
Recreation services, outdoor*	L151
School, elementary or secondary	P
School, vocational or professional	P
Studio, professional	P
Theater, indoor	P
University or college	P
Construction, mining, agriculture	
Contractors, special trade, general	P
Contractors, special trade, heavy, contractor yard*	L166
Uses allowed in all districts unless restricted by special limitations (See chapter 59, article III, division 2)	
Residential care uses (See § 59-82)	
Uses allowed by temporary permit (See § 59-86)	

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 909-05, § 4, eff. 12-16-05; Ord. No. 836-06, § 7, eff. 12-26-06)

Sec. 59-234. Distance requirements.

The following define the distance requirements enumerated in the use chart in section 59-233:

D1

a. The following permitted uses shall not be established, operated or maintained within five hundred (500) feet of a residential district, a dwelling unit (single or multiple), a single unit dwelling, a church, a school meeting all the requirements of the compulsory education laws of the state, an arts education center, a learning center, an amusement/special interest park, a child care center, or a children's indoor play center, or within one hundred twenty-five (125) feet of a pedestrian and/or transmit mall:

1. Adult amusement or entertainment;
2. Bookstore, adult;
3. Eating place with adult amusement or entertainment;
4. Photo studio, adult;
5. Theater, adult.

b. For the purposes of this limitation, D-1, only:

1. Learning center shall mean a commercial business that regularly provides on site, specialized or intensive educational services or tutoring to persons under eighteen (18) years of age;
2. Arts education center shall mean a place where instruction is regularly provided to persons under eighteen (18) years of age in the fields of painting, drawing, sculpture, etching, craft work, fine arts, dance, drama, photography, music, martial arts, or other similar fields of art.

c. Not more than two (2) of the following permitted uses may be established, operated or maintained within one thousand (1,000) feet of each other:

1. Amusement center;
2. Adult amusement or entertainment;
3. Bookstore, adult;
4. Eating place with adult amusement or entertainment;
5. Photo studio, adult;
6. Theater, adult.

D4 Not more than two (2) of the following permitted uses may be established, operated or maintained within one thousand (1,000) feet of each other: Body art establishment.

D7

a. No liquor store or drugstore licensed to sell package liquors, not existing or operating on August 31, 1997, shall be established, operated, or maintained within one thousand (1,000) feet of another liquor store or drugstore licensed to sell package liquors.

b. No liquor store or drugstore licensed to sell package liquors, not existing or operating on July 31, 2000, shall be established, operated, or maintained within one thousand (1,000) feet of a community corrections facility.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-235. Limitations.

The following define the limitations enumerated in the use chart in section 59-233:

L7 Limited to the manufacturing, processing and/or fabrication, as enumerated and limited herein of any commodity except the following: abrasives, basic manufacture; alcoholic distillation; animal by-products, basic manufacture or processing; bone black, basic manufacture; brewery; carbon black and lamp black, basic manufacture; charcoal, basic manufacture; chemicals, heavy or industrial, basic manufacture or processing; cinder and cinder blocks, basic manufacture or fabrication; clay and clay products, basic manufacture or fabrication; coal or coke, manufacture or processing; concrete and concrete products, manufacture or fabrication; detergents, soaps and by-products, using animal fat, basic manufacture; electric power generator station; fermented fruits and vegetable products, manufacture; fertilizers, manufacture or processing; fungicides, manufacture; gases, other than nitrogen and oxygen, manufacture; glass, manufacture; glue and size, manufacture; grain milling; graphite, manufacture; gypsum and other forms of plaster base, manufacture; insecticides, manufacture; insulation, flammable types, manufacture or fabrication; junk processing; junkyards; matches, manufacture; meat slaughtering or packing; metals, extraction or smelting; metal ingots, pigs, castings sheets or bars, manufacture; oils and fats, animal and vegetable manufacture; paints, pigments, enamels, japans, lacquers, putty, varnishes, whiting and wood fillers, manufacture or fabrication; paper pulp and cellulose, basic manufacture; paraffin, manufacture; petroleum and petroleum products, manufacture or processing; portland and similar cements, manufacture; rubber, manufacture, processing or reclaiming; sawmill or planing mill; serums, toxins, viruses, manufacture; sugars and starches, manufacture; tannery, turpentine, manufacture; wax and wax products, manufacture; wood preserving by creosoting or other pressure impregnation of wood by preservatives; provided, however, that any manufacturing process hereby excluded may be operated as and subject to the limitations of an accessory use.

L17 [Limitation L17 was deleted by Ordinance 836-06, § 8, effective Dec. 26, 2006.]

L21 Limited to auctioneer for automobiles.

L24 Limited to emissions inspection station.

L31 Automobile laundry, including steam cleaning, if visible steam is not discharged directly into outside air. Need not have doors. Must comply with the following conditions:

a. A minimum of five (5) parking spaces is provided on the same zone lot for each washing stall;

b. All off-street parking areas shall be hard-surfaced and dust-free;

c. All lights used to illuminate the area shall be directed away from adjacent residential properties.

L33 Must be totally enclosed with no outdoor displays, sales or storage.

L41 Limited to radio and television broadcasting, including transmitter.

L43 Need not be enclosed to the extent that tables and seats may be placed out of doors, and food served thereat, subject to all of the following conditions:

a. The outdoor eating area shall be contiguous to the eating place to which it is accessory; and

b. The eating area shall be clearly delimited.

c. Any part of the serving area located outside of the completely enclosed structure shall have a hard, all weather surface.

L53 Fruit and/or vegetable store need not be enclosed.

L77 Firearms sales are limited to accessory use to a sporting goods store.

L106 Limited to passenger terminal.

L114 Limited to terminal, no service facilities

L115 Limited to water reservoir, must be enclosed.

L125 Mail order house and the sale at wholesale, the warehousing and/or storage of any commodity except the following:

a. Live animals;

b. Commercial explosives;

c. Above-ground bulk storage of flammable liquids or gases, unless and only to the extent that the storage of such liquids or gases is directly connected with energy or heating devices on the premises or to service railroad locomotives.

L151 Limited to swimming pool, need not be enclosed.

L166 Special trades contractor: a contractor specializing in one (1) or more trades of which the following are examples: plumbing, heating, refrigerator and air conditioning; painting, paper hanging and decorating; wiring and electrical work; glass and glazing work; damp proofing; fire proofing; tile, linoleum floor laying and other floor work; insulation, asbestos and acoustical work; carpentry and cabinet making; excavating; well drilling; masonry and stone work; ornamental iron work. Trucks having a manufacturer's capacity of more than two (2) tons shall not remain on the premises except as necessary to load and discharge contents.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-236. Limitations on external effects of uses.

External effects of uses, as regulated by section 59-92.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-237. Permitted structures.

Zone lot for structures. A separate ground area, herein called the zone lot, shall be designated, provided and continuously maintained for one (1) or more uses by right or for each structure or group of structures containing one (1) or more uses by right. Each zone lot shall have at least one (1) front line and may have for each principal structure no more than one (1) subordinate structure containing only accessory uses. Upon application to and approval by the department of zoning administration, the boundaries and area of a designated zone lot may be amended if full compliance with all requirements of this chapter can be maintained.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-238. Permitted signs.

The provisions of article V of this chapter on permitted signs shall be in full force and effect in this district.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-239. Off-street parking requirements.

(a) The provisions of section 59-585 (use and maintenance of off-street parking space) shall be in full force and effect in this district for any structure lawfully erected or altered in conformity with applicable municipal ordinances prior to March 1, 2002.

(b) Any structure lawfully erected or any additions to structures erected in conformity with applicable municipal ordinances on or after March 1, 2002, shall comply with the provisions of article VI (off-street parking requirements) with the exception that the parking classes listed in section 59-586 (required off-street parking) shall not apply and shall be replaced by the following:

(1) There shall be no minimum off-street parking requirement for contributing buildings or residential additions to contributing buildings, as such buildings are designated in article III, (Lower Downtown historic district), of chapter 30, (landmark preservation);

(2) One off-street parking space shall be provided for each residential unit of a new residential building or a residential addition to a noncontributing building; provided that, upon qualifying under the provisions of article IV, chapter 27 (workforce housing), a twenty (20) percent reduction in the total number of required parking spaces shall be granted;
(Ord. No. 459-06, § 11, eff. 7-21-06)

(3) One (1) off-street parking space shall be provided for each seven hundred fifty (750) square feet of gross floor area for any nonresidential addition to a contributing or noncontributing building, or a new nonresidential building;

(4) For zone lots with a mix of residential and any other use by right, off-street parking spaces shall be provided based on the requirements in subsections a through c above in proportion to the uses in the building provided that, upon qualifying under the provisions of article IV, chapter 27 (workforce housing), a twenty (20) percent reduction

in the total number of required parking spaces shall be granted. This shall be calculated by first calculating the number of parking spaces otherwise required, multiplying that figure by eight tenths (.8) and rounding up to the nearest whole number;

(5) Additional parking is parking above the required minimums as set forth in subsections a through d above. All structures may provide up to an additional one-half (.5) parking space per residential unit and one (1) space per one thousand five hundred (1,500) square feet of gross floor area of nonresidential uses;

(6) Excess parking is any parking in excess of the required minimums and allowed additional parking. Excess parking may be granted only upon application to the lower downtown design review board in accordance with the provisions of article III, (Lower Downtown historic district), of chapter 30, (landmark preservation);

(7) Off-street parking requirements may be met off the zone lot upon approval of an off-street parking plan by the department of zoning administration after consultation with the lower downtown design review board and the planning director, and provided said parking is provided within the B-7 district or within one thousand (1,000) feet of the zone lot; and

(Ord. No. 211-04, § 1, eff. 4-9-04)

(8) All required off-street parking spaces shall be designed in accordance with article VI of this chapter 59.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 625-05, § 12, eff. 9-2-05)

Sec. 59-240. Off-street loading requirements.

The provisions of article VII of this chapter on off-street loading requirements shall be in full force and effect in this district.

(Ord. No. 361-03, § 3, eff. 5-23-03)

DIVISION 11. CHERRY CREEK NORTH (CCN) DISTRICT

Sec. 59-241. Generally.

The provisions of this division apply to all lands, uses and structures in the CCN district. (Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-242. Goals.

The basic goal of the CCN district is to promote development that is in keeping with the existing character, scale and ambience of the existing Cherry Creek North business area and to encourage interesting and attractive architectural design solutions for new developments and to promote pedestrian and shopping activities, particularly at street level.

Goals of the CCN district also include: to maintain and enhance the retail ambience of the Cherry Creek North district, to encourage a mixture of uses, including residential and office, and to encourage low-scale, small lot development projects that reinforce and enhance the eclectic, urban architectural character and pedestrian scale of the district. To this end, these regulations and the associated guidelines encourage:

(1) Project planning and architectural design solutions that create projects of a scale and quality that promotes pedestrian and retail shopping activity at street level;

(2) Continuity of storefronts located at the setback line creating a pedestrian oriented shopping environment;

(3) The development and redevelopment of small lots;

(4) Site and building design in new projects which compliments the tradition of low-scale, small lot development in the district;

(5) Creation of outdoor open space, taking advantage of the pleasant local climate, to provide settings for activities and visual amenities, including public art;

(6) Complementary day and evening activity through continued development of nightlife and entertainment uses. The Cherry Creek North Zone is intended to be a place where the pedestrian feels welcome and comfortable. It is a retail/restaurant/entertainment experience first and foremost.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-243. Uses allowed in this district.

The following is a list of uses with notations as to whether they are permitted, limited, or have other requirements as listed in the matrix and the sections which follow. Uses not listed are not permitted in this district and drive-thru facilities shall be prohibited. Permitted uses are uses by right.

Key: *P = Permitted* *L = Uses permitted with limitations* *D = Uses permitted with distance requirements* ** = Need not be enclosed*	
Use	*CCN*
Residential	
Dwelling, multiple unit	L10
Dwelling, single unit	L10
Retail, service, office	
Animal sales, service, care, household pets only	L16
Banking and financial services	P
Bed and breakfast	P
Bookstore	P
Brewpub	L40
Eating place	L1
Food preparation and sales, commercial	P
Food sales or market, large	P
Food sales or market, small	P
Furniture, furnishings, retail sale, large scale	P
Garden supply store	L55*
Home building materials and supplies, sales, or rental	L59
Liquor store	D7
Office: nondental, nonmedical	P
Printing service, publishing, business support	L68
Retail, service, repair, consumer, large scale	L70
Retail, service, repair, consumer, medium scale	L70
Retail, service, repair, consumer, small scale	L70
Retail, service, repair, consumer, special	L82
Industrial, wholesale, transportation, utilities	
Parking of vehicles*	P
Terminal, public transportation, local*	P
Utility, minor impact	L118
Arts, entertainment, recreation, institutions	
Child care center	P
Clinic, office, laboratory, dental or medical	P
Community or senior center or recreational facility	P
Library	P
Museums, other special purpose cultural institutions	P
Postal facility, neighborhood	P
Recreation services, indoor	P
Recreation services, outdoor*	L149

Key: *P = Permitted* *L = Uses permitted with limitations* *D = Uses permitted with distance requirements* ** = Need not be enclosed*	
Use	*CCN*
School, elementary or secondary	L156
School, vocational or professional	L156
Studio, professional	P
University or college	L156
Uses allowed in all districts unless restricted by special limitations (See chapter 59, article III, division 2)	
Residential care uses (See § 59-82)	
Parking lots designated for special events (See § 59-85)	
Uses allowed by temporary permit (See § 59-86)	
Accessory uses (See § 59-87)	
Home Occupations (See § 59-89)	

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 895-03, § 38, eff. 12-2-03; Ord. No. 909-05, § 5, eff. 12-16-05; Ord. No. 340-06, § 14, eff. 6-9-06)

Sec. 59-244. Distance requirements.

The following define the distance requirements enumerated in the use chart in section 59-243:

D7

a. No liquor store or drugstore licensed to sell package liquors, not existing or operating on August 31, 1997, shall be established, operated, or maintained within one thousand (1,000) feet of another liquor store or drugstore licensed to sell package liquors.

b. No liquor store or drugstore licensed to sell package liquors, not existing or operating on July 31, 2000, shall be established, operated, or maintained within one thousand (1,000) feet of a community corrections facility.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-245. Limitations.

The following define the limitations enumerated in the use chart in section 59-243:

L1 Eating place; provided that, upon application to and issuance by the department of zoning administration of a permit therefor, the aforesaid use need not be enclosed to the extent that tables and seats may be placed out of doors, and food served thereat, provided further that:

a. If such an outdoor eating area is fifty (50) feet or more from the nearest boundary of any RS-4, R-0, R-1, R-2, R-2-A, R-2-B, R-3-X or R-3 districts, it shall be subject to the following conditions:

1. The outdoor eating area shall be contiguous to the eating place to which it is accessory; and
2. The outdoor eating area shall be clearly delimited by fences, railings, walls or plant materials.
3. No required off-street parking spaces shall be used for the outdoor eating area.
4. Each permit shall be valid for a period of not more than one (1) year but, upon application, may be renewed. Failure to comply with all of the above conditions shall be cause for revocation of the permit.

b. If such an outdoor eating area is less than fifty (50) feet from the nearest boundary of any RS-4, R-0, R-1, R-X, R-2, R-2-A, R-2-B, R-3-X or R-3 district, it shall be subject to the approval of the board of adjustment under the provisions of section 59-54(3)u.

(Ord. No. 228-05, § 6, eff. 4-15-05)

L10 May be located only in floors above the ground floor which is the first floor in which the ceiling is four (4) feet or more above grade at the nearest building line.

L16 Limited to:

a. Veterinarian clinic; no animals may be kept on the premises after 8:00 p.m.
b. Pet grooming shop, employing no more than five (5) persons; no animals may be kept on the premises after 8:00 p.m.
c. Pet supply store, including sale of fish for aquariums, canaries, parakeets and puppies as an accessory use; no more than ten puppies shall be kept on the premises at one time.

L40 Actual area used for brewing beer limited to ten (10) percent of the gross floor area or seven hundred (700) square feet, whichever is less.

L55 Need not be enclosed, all items except shrubs, trees and flowers shall be screened from public view.

L59 Limited to linoleum and tile store.

L68 Limited to printing and duplicating shop employing no more than five (5) persons.

L70 Excludes automobile accessories. Dry cleaning, laundry limited to collection and distribution station for laundry or dry cleaner.

L82 Limited to health treatment, radio and television equipment.

L118 Excludes utility pumping station.

L149 Limited to:

a. Miniature golf or putting course, need not be enclosed;

b. Tennis, racquet ball and/or handball club; shall provide not less than two (2) standard tennis courts or two (2) standard racquet ball or handball courts; all exterior floodlights shall be extinguished when courts are not in use or by 9:00 p.m., whichever is earlier; no portion of any court which is not in a completely enclosed structure shall be located nearer than fifty (50) feet from an existing residential structure; need not be enclosed.

L156 Limited to:

a. School charging a regular tuition for instruction in ballet, tap, ballroom, square, modern and acrobatic dancing; not including public dancing or a public dance hall as defined in chapter 7, section 7-51; provided, however, that the premises on which such use is operated shall be soundproofed to that the sounds created by such use are not audible beyond the boundaries of the zone lot on which the use is operated;

b. Any school not permitting the use of machinery other than office machines and mechanical or machinery parts of household appliances used for instruction of or practice by the student;

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-246. Limitation on external effects of uses.

External effects of uses, as regulated by section 59-92.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-247. Permitted structures.

(a) *Zone lot for structures.* A separate ground area, herein called the zone lot, shall be designated, provided and continuously maintained for each structure containing a use or uses by right. Each zone lot shall have at least one (1) front line and shall be occupied only by the structure containing a use or uses by right and one (1) subordinate structure containing only accessory uses. Upon application to and approval by the department of zoning administration, the boundaries and area of a designated zone lot may be amended if full compliance with all requirements of this chapter can be maintained.

(Ord. No. 895-03, § 39, eff. 12-2-03)

(b) *Location of structures.* All structures shall be set in a distance of not less than five (5) feet from each front line of the zone lot and shall satisfy the following requirements:

(1) *Requirements.* The front facade of the ground floor shall be located on or near the front setback line as explained below. The frontage shall be measured along the front setback line, and for corner lots shall mean the length of the combined frontage of front setback lines. For the purposes of this division, "additional front setback area" shall mean the area between the front setback line or lines and the building facade.

a. A portion of the facade shall be located on the front setback line for at least thirty-three (33) percent of the frontage; and

b. The whole of the building facade shall be located so that the additional front setback area shall be no greater than fifty (50 percent of the total area between the front setback line or lines and a line ten (10) feet behind the front setback line and parallel to it.

(2) The space resulting from the required five-foot setback and additional front setback areashall be open and unobstructed and shall not be used for off-street parking space.

(c) *Permitted encroachments on setback space.*

(1) Belt courses, sills and lintels may project eighteen (18) inches into setback spaces.

(2) Cornices and gutters may project three (3) feet into setback spaces.

(3) Roofs, soffits, eaves and balconies with a minimum clearance of ten (10) feet above grade may project any distance into setback spaces.

(4) Access ramps for the handicapped may encroach into any required building setback space, providing no alternative location is available and providing the ramp construction is compatible with the character of the structure.

(5) Unwalled porches, terraces and balconies with a clearance of less than ten (10) feet above grade may encroach two (2) feet into setback spaces.

(6) Fences or walls not exceeding four (4) feet in height may be erected on any part of the zone lot between the front line of the zone lot and the front setback line for structures, and on any other part of the zone lot may be erected to a height of not to exceed six (6) feet. The height of such walls or fences shall be determined as stated in section 59-2(112.1) fence and wall height measurement.
(Ord. No. 363-06, § 11, 6-16-06)

(7) Any structure or part thereof which is below the grade of any setback space may project any distance into such setback space.

(8) Canopies, pilasters which are no more than three (3) feet in width and cumulatively occupy no more than twenty-five (25) percent of the zone lot frontage, and sloping support elements may project any distance into setback spaces.

(9) Display, show or bay windows may project up to eighteen (18) inches into the front setback spaces, provided there is a minimum of eighteen (18) inches of clearance between said projections and the grade beneath them.

(10) Flush mounted solar panels may encroach any distance into the setback space.
(Ord. No. 53-08, § 19, eff. 2-8-08)

(d) *Bulk of structures.*

(1) There shall be no bulk plane requirements along the East 1st Avenue right of way.

(2) Along the south right-of-way of East 2nd Avenue and East 3rd Avenue no part of any structure (except church spires, church towers, flagpoles, antennas, chimneys, flues, vents, flush mounted solar panels or accessory water tanks) shall project up through bulk limits which are defined by an imaginary plane extending up over the zone lot at an angle of forty-five (45) degrees with respect to the horizontal (a pitch of one (1) foot additional rise for each foot additional setback) and which plane starts at a horizontal line which runs parallel to the front setback line of the zone lot and passes through a point thirty-one (31) feet above the midpoint of such line between boundary lines of the zone lot.
(Ord. No. 53-08, § 20, eff. 2-8-08)

(3) In the remainder of the district, no part of any structure (except church spires, church towers, flagpoles, antennas, chimneys, flues, vents, flush mounted solar panels or accessory water tanks) shall project up through bulk limits which are defined by an imaginary plane extending up over the zone lot at an angle of forty-five (45) degrees with respect to the horizontal (a pitch of one (1) foot additional rise for each foot additional setback) and which plane starts at a horizontal line which runs parallel to the front setback line of the zone lot and passes through a point thirty-five (35) feet above the midpoint of such line between the boundary lines of the zone lot.
(Ord. No. 53-08, § 20, eff. 2-8-08)

(e) *Building height.* The maximum height of any structure (except flush mounted solar panels) shall be fifty-five (55) feet.
(Ord. No. 53-08, § 21, eff. 2-8-08)

(f) *Maximum gross floor area in structures.* The sum total of the gross floor area of all structures on a zone lot shall not be greater than one (1) times the area of the zone lot (FAR = 1.0:1). Computation of maximum gross floor area shall be in accordance with section 59-2(131).

(g) *Floor area premiums.* The provisions for floor area premiums make available incentives for private sector participation in pursuing specifically identified district objectives. Floor area premiums may be used to increase the maximum gross floor area an additional 0.5 times the area of the zone lot (maximum supplementary FAR = 0.5:1).

(1) *Premiums for underground parking.* (See definition of underground parking in section 59-2(303), definitions.)

a. 0.20:1 FAR if at least fifty (50) percent of the required parking is constructed with the parking surface at least eight (8) feet below street grade (elevation at centerline of the street).

b. 0.30:1 FAR if at least seventy (70) percent of the required parking is constructed with the parking surface at least eight (8) feet below street grade.

c. 0.40:1 FAR if all required parking is constructed with the parking surface at least eight (8) feet below street grade.

(2) *Premium for open space.* (See definition of unobstructed open space in section 59-2(305), definitions.) Two (2) square feet of gross floor area for each square foot of open space area not in the required setbacks. The maximum area of a zone lot that can be devoted to open space area is twenty-five (25) percent of the zone lot area. The only uses which are allowed within this open space are: eating place; display of sculptural art; sale of flowers, fruit, vegetables subject to section 59-243; landscaping; and seating. A zone lot may have more than one (1) open space. Any one (1) open space area is limited to a maximum of five thousand (5,000) square feet. The elevation of such open space must be no more than two (2) feet above or below that of the adjacent street grade. Open space shall be served by at least one (1) handicap accessible route from the sidewalk. Open space must be open to use by the public during regular business hours. Open space shall be provided with a minimum of one (1) tree per one thousand (1,000) square feet of open space. If the provision of trees can be shown to be impracticable, then in lieu of providing trees, minimum of ten (10) percent of the open space shall be in planted area. One (1) dimension of the open space shall not exceed three (3) times the other dimension.

(3) *Premium for residential use.* One (1) square foot of floor area for each square foot of floor area maintained and operated as dwelling units up to a maximum increase in the FAR of 0.25:1.

(4) *Premium for moderately priced dwelling units.* A floor area premium equal to ten (10) percent of the zone lot area if the structure qualifies under the provisions of article IV, chapter 27 (affordable housing), provided all of said floor area premium is dedicated to residential uses.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 238-04, §§ 1—5, eff. 4-19-04)

Sec. 59-248. Permitted signs.

The provisions of article V of this chapter on permitted signs shall be in full force and effect in this district. Notwithstanding the provisions of article V, certain types of signs may be permitted by the design advisory board according to rules and regulations prepared by the design advisory board and adopted by the planning board. Design guidelines and administrative provisions shall be included in the rules and regulations. In adopting the rules and regulations, the following criteria shall be utilized, and the design advisory board shall consider for approval only those signs and graphics which meet the following criteria:

(1) Must be compatible with and an enhancement of the character of the surrounding district and adjacent architecture when considered in terms of scale, color, materials, lighting levels, and adjoining uses;

(2) Must be compatible with and an enhancement of the architectural characteristics of the buildings on which they appear when considered in terms of scale, proportion, color, materials and lighting levels;

(3) Must be appropriate to and expressive of the business or activity for which they are displayed;

(4) Must be creative in the use of unique two-and three-dimensional form, profile, and iconographic representation; employ exceptional lighting design and represent exceptional graphic design, including the outstanding use of color, pattern, typography and materials; and

(5) Must be of high quality, durable materials appropriate to the physical demands of an urban setting.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-249. Off-street parking requirements.

(a) *Basic requirements*: The requirements of article VI, off-street parking, of this chapter shall apply except where superseded by this section:

(1) *Office use*: One (1) space per three hundred (300) square feet of gross floor area (1/300).

(2) *Retail use*: One (1) space per three hundred (300) square feet of gross floor area (1/300).

(3) *Residential use*: Two (2) spaces per dwelling unit.

(4) *Other uses*: For other specific uses, the provisions of article VI shall apply.

(5) *Parking bonus for moderately priced housing*: Parking bonuses for compliance with the provisions of article IV (affordable housing), chapter 27 (housing), of the Denver Revised Municipal Code, shall apply to all uses as specified in article VI, off-street parking.

(b) *Modifications of the basic requirement.* Notwithstanding the provisions of subsection (a)(1), through (a)(3), above, the following modifications shall apply to all permitted office, residential and retail uses, except barber shops, beauty salons, billiard parlors, brewpubs and eating places, which are located on zone lots in existence prior to October 1, 1996:

(1) For interior zone lots under six thousand two hundred (6,200) square feet, with no alley access, no parking is required provided the 1:1 FAR is not exceeded. If the 1:1 FAR is exceeded, the basic off-street parking requirement shall apply for the floor area in excess of the 1:1 FAR, provided, however, no parking shall be required for the first one thousand five hundred fifty (1,550) square feet of residential use.

(2) For zone lots containing an area up to and including seven thousand four hundred (7,400) square feet, one (1) parking space shall be required for every one thousand two hundred fifty (1,250) square feet of gross floor area occupied by a nonresidential use. Two (2) parking spaces shall be required for each dwelling unit.

(3) For zone lots containing an area from seven thousand four hundred one (7,401) square feet up to and including twelve thousand four hundred (12,400) square feet, one (1) parking space shall be required for every nine hundred (900) square feet of gross floor area occupied by a nonresidential use. Two (2) parking spaces shall be required for each dwelling unit.

(4) For zone lots containing an area from twelve thousand four hundred one (12,401) square feet up to and including fifteen thousand (15,000) square feet, one (1) parking space shall be required for every six hundred (600) square feet of gross floor area occupied by a nonresidential use. Two (2) parking spaces shall be required for each dwelling unit.

(c) *Parking development standards*:

(1) No parking shall be permitted in the required building setback areas.

(2) For parking structures which front on a public street, pedestrian-oriented uses such as retail or office uses shall be required at the street level along the street frontage for at least fifty (50) percent of the parking structure frontage. For that portion of the parking structure frontage not devoted to retail or office uses, landscaping shall be provided in the setback area.

(3) Notwithstanding the requirements of the landscaping rules and regulations, there shall be a five-foot wide landscaped setback area along the street frontage of any surface parking lot area. All parking lot areas shall be screened to a height of three (3) feet from all streets by a decorative three-foot high screen located at the setback line and landscaping shall be provided in the setback area. All such screens, fences, railings, walls, and landscaping shall be reviewed by the design advisory board.

(d) *Parking calculations for changes of use*: In calculating the required numbers of off-street parking spaces for changes of use in accordance with section 59-582(b)(2), office uses in existence prior to September 17, 1993, shall use the ratio of one (1) off-street parking space per five hundred (500) square feet of floor area to determine the amount of credits applied to the determination of the amount of off-street parking spaces required for the new use. For office uses established after September 17, 1993, the ratio of one (1) off-street parking space per three hundred (300) square feet of floor area shall be used to determine the amount of credits applied to the determination of the amount of off-street parking spaces required for the new use.

(e) *Special plan for the location of off-street parking*: Notwithstanding the requirements of section 59-587(b)(1)a., off-street parking requirements may be met off the zone lot upon approval of an off-street parking plan by the department of zoning administration after consultation with the Cherry Creek North Business Improvement district and the planning director.

(f) *Bicycle parking*:

(1) *Requirement for bicycle parking*: For every ten (10) automobile parking spaces required, there shall be provided an area or facility in which to park one (1) bicycle.

(2) *Facility design standards*: Bicycle parking facilities shall include provision for locking of bicycles, either in lockers or in secure racks in which the bicycle frame and wheels may be locked by the user. Bicycle spaces shall be conveniently located on the zone lot and shall be protected from damage by automobiles.

(g) *Tandem parking*: Notwithstanding the provisions of section 59-586, required off-street parking, tandem parking is allowed only in the case of an addition to an existing building to meet the parking requirement for the added floor area or in the case of a change of use which results in an increase of the parking required. Tandem parking may not be used to meet the parking requirement of a new development. It must be possible to get any vehicle in or out of a tandem space by moving only one (1) other vehicle.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-250. Off-street loading requirements.

The provisions of article VII, off-street loading requirements, of this chapter shall be in full force and effect in this district.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-251. Special zone lot plan for planned building groups.

The provisions of article VIII on special zone lot plans for planned building groups of this chapter shall be in full force and effect in this district.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-252. Design advisory board.

Board established. The mayor shall appoint a Cherry Creek North district design advisory board consisting of eight (8) members to advise and assist the planning board and/or planning office in their review procedures.

(1) The board shall consist of the following individuals to be appointed by the mayor from a list of nominations provided by the board of Cherry Creek North Business Improvement district: three (3) licensed architects and one (1) licensed landscape architect who reside in Denver; one (1) member of the board of Cherry Creek North Business Improvement District or its designated successor; one (1) property owner from the district; one (1) retailer from the district; and one (1) nonvoting representative from the Denver planning office.

(2) Two (2) members of the board shall be appointed by the mayor within thirty (30) days from the effective date of the ordinance from which this section was derived. The members of the board shall be appointed by the mayor for the term of three (3) years and shall serve at the pleasure of the mayor. The six (6) members of the board serving on the effective date of the ordinance from which this section was derived shall serve the balance of the term to which the member was appointed. Vacancies shall be filled within thirty (30) days by the mayor from the date on which the vacancy occurs.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-253. Application for design plan approval.

Applicants for a zoning administration use and construction permit shall first obtain approval of a design plan according to the following regulations:

(1) Pre-application conference. Prior to filing an application for approval of a design plan, the applicant shall make a request to the planning office for a pre-application conference. During such conference the planning staff shall explain the procedures involved in the design review and shall list the submittal material from the following subsection which will be needed to describe the project.

(2) Applications for approval of a design plan under this article shall be filed with the department of zoning administration by all the owners or authorized representative[s] of any land to be included within the zone lot. The application may include the following: [site plan;] floor plan; sections through building and site; building elevations; special zone lot plan for planned building groups; an exterior perspective; tabulations of major exterior and interior areas; a tabulation of parking by size and type required and provided; dimensions of parking areas, setbacks, building heights and sign design; a mass model of the project at a scale of one (1) inch equals thirty (30) feet. The planning staff may require that the application include all or a portion of the items listed above in order to describe the specific project.

(3) The complete application shall be forwarded to the planning office for review by the design advisory board. At a regular meeting of the design advisory board, the applicant

shall have the opportunity to discuss the application within twenty-five (25) days after submittal to zoning administration. If no action is taken within twenty-five (25) days after submittal, the project shall be deemed approved unless the review period is extended by mutual agreement of the applicant and the design review board.

(4) Rules and regulations, including administrative procedures and design guidelines, shall be prepared by the design review board and adopted by the planning board. Such guidelines shall address the following: building character; alignment of architectural features; pedestrian interest at the sidewalk edges; building materials, textures and patterns; art, open spaces, parking and signs.

(5) Applications shall be evaluated on the basis of the design guidelines. The design advisory board shall prepare recommendations, and an applicant may appeal the recommendations of the design review board to the planning board by filing an appeal in the office of the planning board within fifteen (15) days of the date of the recommendations of the design advisory board. If an appeal is filed with the planning board, the planning board shall evaluate all comments on the application and shall forward a final recommendation to the zoning administrator. If an appeal is not filed with the planning board, the recommendations of the design advisory board shall be forwarded to the zoning administrator. The zoning administrator shall approve, approve with conditions or deny the application for use and construction permit after reviewing the recommendations of the design advisory board or the planning board.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 238-04, § 6, 4-19-04)

Secs. 59-254—59-260. Reserved.

DIVISION 12. B-A-1, B-A-2, B-A-3, B-A-4 DISTRICTS

Sec. 59-261. Generally.

The provisions of this division apply to all lands, uses and structures in B-A-1, B-A-2, B-A-3 and B-A-4 districts.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-262. Uses allowed in these districts.

The following is a list of uses with notations as to whether they are permitted, conditional, limited, or have other requirements as listed in the matrix and the sections which follow. Uses not listed are not allowed in any of these districts. Uses left blank are not allowed in that district. Permitted uses are uses by right.

Key: *P = Permitted* *L = Uses permitted with limitations* *D = Uses permitted with distance requirements* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone District*			
Use	*B-A-1*	*B-A-2*	*B-A-3*	*B-A-4*
Residential				
Assisted living facilty	P			
Dwelling, multiple unit	P			
Dwelling, single unit	P			
Residence for older adults	P		P	
Residential, institutional/special	L13			
Rooming and/or boarding house	P			
Retail, service, office				
Animal sales, service, care, household pets only			P	
Auto pawn lot, auctioneer for automobiles, large vehicles or heavy equipment				L21
Automobile gasoline filling station, emissions inspection			P	P
Automobile repair garage			L26	L26
Automobile wash, laundry and/or polishing shop*			L32	L32
Automobile, motorcycle, light truck sales, leasing, rental*			L34	P
Banking and financial services	P		P	
Bookstore			P	
Communications service	L41		L41	
Eating place		L1/L192	L43/ L192	L1/L192

Key: *P = Permitted* *L = Uses permitted with limitations* *D = Uses permitted with distance requirements* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone District*			
Use	*B-A-1*	*B-A-2*	*B-A-3*	*B-A-4*
Food preparation and sales, commercial			P	
Food sales or market, large			L51	
Food sales or market, small			L51	
Furniture, furnishings, retail sale, large scale			P	
Garden supply store			P*	
Home building materials and supplies, sales, or rental			P	
Hotel		P	P	
Liquor store			D7	
Motel		P	P	
Office: nondental, nonmedical	L63		P	
Printing service, publishing, business support	P		P	
Retail, service, repair, consumer, large scale			L71	
Retail, service, repair, consumer, medium scale			L71	
Retail, service, repair, consumer, small scale	L76		L71	
Retail, service, repair, consumer, special	L76		L71	L83
Service, repair, commercial			L87	
Vehicle, equipment sales, leasing, service, rental*				L90
Industrial, wholesale, transportation, utilities				
Helipad, helistop, heliport*	L98		L98	
Manufacturing, fabrication, and assembly, heavy				L100
Parking of vehicles*	L104	L104	L104	L106
Railway right-of-way*	P		P	
Utility, major impact			L115	
Utility, minor impact			P	
Vehicle storage, commercial*				P
Wholesale trade, light, and/or storage of nontoxic, nonhazardous materials	L126			
Arts, entertainment, recreation, institutions				
Ambulance service			P	
Child care center	P	P	P	P
Church, religious institution	P		P	
Clinic, office, laboratory, dental or medical	P		P	
Club or lodge	L136		P	
Community or senior center or recreational facility	P		P	

Key: *P = Permitted* *L = Uses permitted with limitations* *D = Uses permitted with distance requirements* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone District*			
Use	*B-A-1*	*B-A-2*	*B-A-3*	*B-A-4*
Conference center, meeting hall			P	
Fire station	P			
Golf course*			P	
Library	P		P	
Mortuary	P		P	
Museums, other special purpose cultural institutions	P		P	
Parks, public, open space, associated buildings*	P			
Police station	P		P	
Postal facility, neighborhood	P		P	
Recreation services, indoor			P	
Recreation services, outdoor*			P	
School, elementary or secondary	P		P	
School, vocational or professional	L154		P	
Theater, indoor			P	
University or college	L154		P	
Construction, mining, agriculture				
Contractors, special trade, general			L165	
Uses allowed in all districts unless restricted by special limitations (See chapter 59, article III, division 2)				
Residential care uses (See § 59-82)				
Uses allowed by temporary permit (See § 59-86)				
Accessory uses (See § 59-87)				
Home occupations (See § 59-89)				

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 228-05, § 7, eff. 4-15-05; Ord. No. 326-06, § 7, eff. 5-26-06; Ord. No. 340-06, § 15, eff. 6-9-06; Ord. No. 57-09, § 13, eff. 1-30-09)

Sec. 59-263. Distance requirements.

The following defines the distance requirement enumerated in the use chart in section 59-262:

D7 No liquor store or drugstore licensed to sell package liquors, not existing or operating on August 31, 1997, shall be established, operated, or maintained within one thousand (1,000) feet of another liquor store or drugstore licensed to sell package liquors. No liquor store or

drugstore licensed to sell package liquors, not existing or operating on July 31, 2000, shall be established, operated, or maintained within one thousand (1,000) feet of a community corrections facility.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-264. Limitations.

The following define the limitations enumerated in the use chart in section 59-262:

L1 Eating place; providing that upon application to and issuance by the department of zoning administration of a permit therefor the aforesaid use need not be enclosed to the extent that tables and seats may be placed out of doors, and food served thereat provided further that:

a. If such an outdoor eating area is fifty (50) feet or more from the nearest boundary of any RS-4, R-0, R-1, R-X, R-2, R-2-A, R-2-B, R-3-X or R-3 districts, it shall be subject to the following conditions:

   1. The outdoor eating area shall be contiguous to the eating place to which it is accessory; and

   2. The outdoor eating area shall be clearly delimited by fences, walls or plant materials.

   3. No required off-street parking spaces shall be used for the outdoor eating area.

   4. Each permit shall be valid for a period of not more than one (1) year but, upon application, may be renewed. Failure to comply with all of the above conditions shall be cause for revocation of the permit.

b. If such an outdoor eating area is less than fifty (50) feet from the nearest boundary of any RS-4, R-0, R-1, R-X, R-2, R-2-A, R-2-B, R-3-X or R-3 district, it shall be subject to the approval of the board of adjustment under the provisions of section 59-54(3)u.

(Ord. No. 228-05, § 8, eff. 4-15-05)

L13 Limited to parish house, monastery, convent or similar institution of religious training.

L21 Limited to auctioneer for automobiles.

L26 Need not be enclosed provided that the unenclosed part of such use comply with all specifications for maintenance of off-street parking space except the limitation against sale.

L32 Automobile laundry, including steam cleaning, if visible steam is not discharged directly into the outside air.

L34 In the B-A-3 district only, limited to:

   a. Motorcycles or motor-scooter store.

   b. Automobile rental service operated in accordance with all the following standards:

      1. Storage of all rental automobiles shall be located on the same zone lot as the office for the automobile rental service;

2. Not more than fifteen (15) rental automobiles shall be stored at any one (1) location;
3. No mechanical or maintenance work on automobiles shall be done on the premises;
4. The land area assigned for storage of rental automobiles shall not be included for computation of any required off-street parking space.

L41 Limited to radio and television broadcasting, including transmitter.

L43 Need not be enclosed to the extent that tables and seats may be placed out of doors, and food served thereat, subject to all of the following conditions:

a. The outdoor eating area shall be contiguous to the eating place to which it is accessory; and
b. The outdoor eating area shall be clearly delimited.
c. Any part of the serving area located outside of the completely enclosed structure shall have a hard, all weather surface.

L51 Fruit or vegetable store need not be enclosed to the extent that the unenclosed portion shall not exceed in area one-fourth the gross floor area of the structure containing the use by right.

L63 Any office in which chattels or goods, wares or merchandise are not commercially created, displayed, exchanged or sold.

L71

a. Excludes:
    1. Automobile accessories;
    2. Picture frames;
    3. Art goods and supplies;
    4. Linoleum and tile;
    5. Medical and hospital equipment and supplies.
b. Limitations:
    1. Dry cleaning, laundry limited to collection and distribution station for laundry and dry cleaner;
    2. Repair limited to apparel; shoes; jewelry, watches, and clocks.
    3. Gun sales limited to accessory use to a sporting goods store.
    4. Retail, service, repair, special limited to: appliances; monuments and tombstone sales at retail: need not be enclosed; provided, however, that if the zone lot on which the use is conducted abuts a residential district or is separated from the residential district only by an alley, any outdoor display shall be screened from the residential district by means of some planting, a fence or wall.

L76 Limited to art gallery, business machines store.

L83 Limited to: automobile accessory store, auctioneer.

L87 Limited to cleaning with non-flammable cleaning agents only.

L90 Limited to:

1. Boat sales or repair, not including dismantling or wrecking; need not be enclosed, provided that the unenclosed part of such use shall comply with all specifications for maintenance of off-street parking space except the limitation against sales;

2. Automobiles; automobile trailers; house trailers; recreation vehicles; but no commercial wrecking, dismantling or junkyard; need not be enclosed provided that the unenclosed part of such use shall comply with all specifications for maintenance of off-street parking space except for the limitation against "sale."

L98 Limited to landing and take off area for police rotorcraft, not including maintenance, repair, fueling or hangar facilities.

L100 Limited to tire recapping shop.

L104 Parking of vehicles; need not be enclosed, provided that such use shall comply with and maintain all setbacks for structures as required in this district.

L106 Parking of vehicles, need not be enclosed.

L115 Limited to enclosed water reservoir.

L126 Limited to newspaper distribution station.

L136 Limited to a lodge for a religious or quasi-religious order, a charitable, nonprofit organization or a veterans organization; private and operated for the benefit of members and not for gain.

L154 Any school not permitting the use of machinery; other than office machines and mechanical or machinery parts of household appliances used for instruction of or practice by the student. Repair as a service or the sale of repaired appliances prohibited. Classes or other school activities not permitted after 11:00 p.m.

L165 Limited to:

1. Exterminators;

2. Interior decorators;

3. Electrical contractor;

4. Sign contractor.

L192 Any drive-through facility on a zone lot that is adjacent to a residentially zoned zone lot shall be limited by all of the following criteria.

a. If the facility is visible from a public street or a residential district, an opaque screen shall be provided along the visible portion of the drive through queuing and operating lane. Such screen shall at least meet the requirements for screening found in the rules and regulations for the landscaping of parking areas.

b. There shall be no glare from permanent lighting or vehicle headlights projected onto residential uses. To ensure glare is controlled, all external lights shall have fully shielded fixtures. Light trespass onto residential uses shall not exceed three-tenths (0.3) of a foot candle.

c. The manager of public works shall only approve curb cuts providing access to the site that do not unreasonably interfere with automobile or pedestrian traffic and shall only approve queuing lanes if they are adequate to prevent backups onto public streets.

d. No device that amplifies sound shall be so designed or operated that the amplified sound can be perceived on any residentially zoned lot.

e. All parts of any drive-through facility shall be separate from parking circulation aisles.

f. Any drive-through facility located on a zone lot that is adjacent to a residentially zoned zone lot and which has any portion of the facility located eighty-five (85) feet or less from the residentially zoned zone lot may only be open during the hours of 5:30 am to 11:00 pm, Sunday through Thursday and 5:30 am to midnight Friday and Saturday.

g. This limitation L192 applies only to drive through facilities that commence operations after June 1, 2006.

(Ord. No. 326-06, § 8, eff. 5-26-06)
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-265. Limitations on external effects of uses.

External effects of uses, as regulated by section 59-92.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-266. Permitted structures.

(a) *Zone lot for structures.* A separate ground area, herein called the zone lot, shall be designated, provided and continuously maintained for each structure containing a use or uses by right. Each zone lot shall have at least one (1) arterial front line and shall be occupied only by the structure containing a use or uses by right and a subordinate structure or structures containing only accessory uses. Upon application to and approval by the department of zoning administration, the boundaries and area of a designated zone lot may be amended if full compliance with all requirements of this chapter can be maintained.
(Ord. No. 895-03, § 40, eff. 12-2-03)

(1) *In the B-A-1 district.* The zone lot for each structure shall be not less than one hundred (100) feet wide at the arterial front setback line for structures and shall contain not less than eighteen thousand (18,000) square feet; provided, however, that the minimum width may be reduced to fifty (50) feet wide at the arterial front setback line and

the minimum lot area may be reduced to six thousand (6,000) square feet on a zone lot for a structure used as a single unit dwelling, if such zone lot is adjoined on both sides by zone lots with structures thereon or adjoined on one (1) side by a street and on the other side by a zone lot with a structure or structures thereon.

(2) *In the B-A-2 district.* The zone lot for each structure shall be not less than one hundred (100) feet wide at the arterial front setback for structures and shall contain not less than fifteen thousand (15,000) square feet.

(3) *In the B-A-3 district.* The zone lot for each structure shall be not less than one hundred (100) feet wide at the arterial front setback for structures and shall contain not less than twelve thousand (12,000) square feet.

(4) *In the B-A-4 district.* The zone lot for each structure shall be not less than one hundred (100) feet wide at the arterial front setback for structures and shall contain not less than fifteen thousand (15,000) square feet.

(b) *Location of structures.* Except as otherwise hereinafter provided, the space resulting from the following setbacks shall be open and unobstructed:

(1) *Front setback in the B-A-1, B-A-2, and B-A-3 districts:*

a. *Arterial front setback.* All structures shall be set in a distance of not less than thirty (30) feet in the B-A-1 district, or twenty (20) feet in the B-A-2 and B-A-3 districts, from the arterial front line of the zone lot. The space resulting from the foregoing setback shall be utilized only for swimming pools, access to the use by right, landscaping, horseshoe pitching, croquet and other lawn sports requiring no substantial permanent improvements above grade; provided, however, that for zone lots having an arterial front line of two hundred (200) feet or less paved access shall not exceed fifty (50) linear feet and for zone lots having an arterial front line of more than two hundred (200) feet paved access shall not exceed twenty-five (25) percent of the arterial front line.

b. *Front setback.* All structures shall be set in a distance of not less than fifteen (15) feet in the B-A-1 district, or ten (10) feet in the B-A-2 and B-A-3 districts, from any non-arterial front line or lines of the zone lot. The space resulting from the foregoing setbacks shall be utilized only for swimming pools, access to the use by right, landscaping, horseshoe pitching, croquet and other lawn sports requiring no substantial permanent improvements above grade.

(2) *Front Setback in the B-A-4 district:*

a. *Arterial front setback.* All structures and all uses by right consisting of open storage shall be set in a distance of not less than twenty (20) feet from the arterial front line of the zone lot. The space resulting from the foregoing setback shall be utilized only for access to the use by right and for landscaping purposes; provided, however, that for zone lots having an arterial front line of two hundred (200) feet

or less paved access shall not exceed fifty (50) linear feet and for zone lots having an arterial front line of more than two hundred (200) feet paved access shall not exceed twenty-five (25) percent of the arterial front line.

b. *Front setback.* All structures and all uses by right consisting of open storage shall be set in a distance of not less than ten (10) feet from any non-arterial front line of the zone lot. The space resulting from the foregoing setback shall be utilized only for access to the use by right and for landscaping purposes.

(3) *Rear setback.* All structures shall be set in a distance of not less than twenty (20) feet from each rear line of the zone lot, and provided further, that where a public alley abuts the rear line of the zone lot, all structures shall be set in a distance of not less than twenty (20) feet from the center line of such alley.

(4) *Side setback.* In the B-A-1, B-A-2 and B-A-4 districts, all structures shall be set in a distance of not less than ten (10) feet from each side line of the zone lot.

(5) *Permitted encroachments on setback space:*

a. Belt courses, sills, lintels and pilasters may project eighteen (18) inches into front, rear and side setback spaces.

b. Cornices, eaves and gutters may project three (3) feet into front setback space, five (5) feet into rear setback space, and eighteen (18) inches into side setback space.

c. Outside stairways and building accessories designed and intended to control light entering a building may project five (5) feet into front setback spaces, ten (10) feet into rear setback space, and three (3) feet into side setback space; access ramps for the handicapped may encroach into any required building setback space, providing no alternative location is available and providing the ramp construction is compatible with the character of the structure.

d. Unwalled porches, terraces and balconies may extend five (5) feet into front and rear setback spaces.

e. Any structure or part thereof which is below the grade of any setback space may project any distance into such setback space.

f. Canopies may project any distance into the front setback space.

(6) *Fences, walls and retaining walls.* Fences and walls not exceeding four (4) feet in height may be erected on any part of the zone lot between the arterial front line of the zone lot and the arterial front setback line for structures, and the front line of the zone lot and the front setback line for structures and on any other part of the zone lot may be erected to a height of not to exceed six (6) feet; provided, however:

a. Retaining walls may be built to any height;

b. Schools, public parks and/or playgrounds may erect open-mesh fences to any height on any part of the zone lot.

c. Determination of height. See section 59-2(112.1) fence and wall height measurement.

(Ord. No. 363-06, § 12, eff. 6-16-06)

(c) *Bulk of structures in the B-A-1 district.* No part of any structure (except church spires, church towers, flagpoles, antennas, chimneys, vents, flush mounted solar panels or accessory water tanks) shall project up through bulk limits which are defined by planes as follows:
(Ord. No. 53-08, § 23, eff. 2-8-08)

(1) *Front line.* A plane or planes extending up over the zone lot at an angle of sixty-three (63) degrees and twenty-six (26) minutes with respect to the horizontal (a pitch of two (2) feet additional rise for each foot additional setback) and which planes start at horizontal lines which are co-directional to the center lines of all streets abutting the zone lot and pass through points ten (10) feet above the midpoints of such center lines between the boundary lines of the zone lot extended;

(2) *Rear line.* A plane extending up over the zone lot at an angle of sixty-three (63) degrees and twenty-six (26) minutes with respect to the horizontal (a pitch of two (2) feet additional rise for each foot additional setback) and which plane starts at a horizontal line which is co-directional to the rear line of the zone lot, or co-directional to the center line of the alley opposite the arterial front line of the zone lot, and passes through a point ten (10) feet above the midpoint of such rear line of the zone lot, or through a point ten (10) feet above the midpoint of the center line of the alley opposite the arterial front line of the zone lot.

(3) *Side line.* A plane or planes extending up over the zone lot at an angle of sixty-three (63) degrees and twenty-six (26) minutes with respect to the horizontal (a pitch of two (2) feet additional rise for each foot additional setback) and which planes start at horizontal lines which are:

a. Co-directional to the side lines of the zone lot; or

b. Co-directional to the side line of the zone lot which is opposite the front line of the zone lot; or

c. Co-directional to the side line of the zone lot which is opposite the arterial front line of the zone lot when such zone lot has three (3) front lines, and passes through points ten (10) feet above the midpoints of such:

1. Side lines of the zone lot; or

2. Through a point ten (10) feet above the midpoint of the side line opposite the front setback; or

3. Through a point ten (10) feet above the midpoint of the side line opposite the arterial front line of the zone lot when such zone lot has three (3) front lines. Whenever any side line is coincidental with a public alley, the bulk plane shall be a plane extending up over the zone lot at an angle of sixty-three (63) degrees and twenty-six (26) minutes with respect to the horizontal (a pitch of two (2) feet additional rise for each foot additional setback) and which

plane starts at a horizontal line which is co-directional to the center line of such alley and passes through a point ten (10) feet above the midpoint of the center line of such alley.

(d) *Bulk of structures in the B-A-2 and B-A-4 districts.* No part of any structure (except church spires, church towers, flagpoles, antennas, chimneys, flues, vents, flush mounted solar panels or accessory water tanks) shall project up through bulk limits which are defined by planes extending up over the zone lot at an angle of forty-five (45) degrees with respect to the horizontal (a pitch of one (1) foot additional rise for each foot additional setback) and which planes start:
(Ord. No. 53-08, § 24, eff. 2-8-08)

(1) At horizontal lines which are co-directional to the side line or lines of the zone lot and pass through points ten (10) feet above the midpoint of each such side line; and

(2) At horizontal lines which are co-directional to the center lines of all streets abutting the zone lot and pass through points ten (10) feet above the midpoint of such center lines between the boundary lines of the zone lot extended; and

(3) At, if no alley abuts the zone lot, a horizontal line which is co-directional to the rear line of the zone lot and passes through a point ten (10) feet above the midpoint of such rear line of the zone lot; and if the rear line or lines of the zone lot are established by an abutting alley or alleys such planes shall start at horizontal lines which are co-directional to the center lines of such abutting alley or alleys and pass through points ten (10) feet above the midpoint of such center lines between the boundary lines of the zone lot extended.

(e) *Bulk of structures in the B-A-3 district.* No part of any structure (except church spires, church towers, flagpoles, antennas, chimneys, vents, flush mounted solar panels or accessory water tanks) shall project up through bulk limits which are defined by planes as follows:
(Ord. No. 53-08, § 25, eff. 2-8-08)

(1) *Front line.* A plane or planes extending up over the zone lot at an angle of forty-five (45) degrees with respect to the horizontal (a pitch of one (1) foot additional rise for each foot additional setback) and which planes start at horizontal lines which are co-directional to the center lines of all streets abutting the zone lot and pass through points ten (10) feet above the midpoints of such center lines between the boundary lines of the zone lot extended.

(2) *Rear line.* A plane extending up over the zone lot at an angle of forty-five (45) degrees with respect to the horizontal (a pitch of one (1) foot additional rise for each foot additional setback) and which plane starts at a horizontal line which is co-directional to the rear line of the zone lot, or co-directional to the center line of the alley opposite the arterial front line of the zone lot and passes through a point ten (10) feet above the midpoint of such rear line of the zone lot, or through a point ten (10) feet above the midpoint of the center line of the alley opposite the arterial front line of the zone lot.

(3) *Side line.* A plane or planes extending up over the zone lot at an angle of sixty-three (63) degrees and twenty-six (26) minutes with respect to the horizontal (a pitch of two (2) feet additional rise for each foot additional setback) and which planes start at horizontal lines which are:

a. Co-directional to the side lines of the zone lot; or

b. Co-directional to the side line of the zone lot which is opposite the front line of the zone lot; or

c. Co-directional to the side line of the zone lot which is opposite the arterial front line of the zone lot when such zone lot has three (3) front lines, and passes through points ten (10) feet above the midpoints of such:

1. Side lines of the zone lot; or

2. Through a point ten (10) feet above the midpoint of the side line opposite the front setback; or

3. Through a point ten (10) feet above the midpoint of the side line opposite the arterial front line of the zone lot when such zone lot has three (3) front lines.

(4) *Side line coincidental with a public alley.* Whenever any side line is coincidental with a public alley the bulk plane shall be a plane extending up over the zone lot at an angle of sixty-three (63) degrees and twenty-six (26) minutes with respect to the horizontal (a pitch of two (2) feet additional rise for each foot additional setback) and which plane starts at a horizontal line which is co-directional to the center line of such alley and passes through a point ten (10) feet above the midpoint of the center line of such alley.

(f) *Maximum zone lot coverage by structures.* In the B-A-1, B-A-2, and B-A-3 districts, the sum total of the ground area covered by all structures on a zone lot shall not exceed thirty (30) percent of the area of the zone lot on which the structures are located; provided, however, that, in the B-A-1 district only, if all other applicable provisions of this chapter are met, up to twenty (20) percent additional ground area may be covered if such additional ground coverage is used only for a parking structure. In the B-A-4 district, the sum total of the ground area covered by all structures on a zone lot shall not exceed sixty (60) percent of the area of the zone lot on which the structures are located.

(g) *Minimum size of dwelling in the B-A-1 district.* Each single unit dwelling and any other structure occupied in whole or in part for residential purpose shall contain a gross floor area of not less than six hundred (600) square feet.

(h) *Maximum gross floor area in structures in the B-A-1 district.* The sum total of the gross floor area of all structures on a zone lot shall not be greater than two (2) times the area of the zone lot on which the structures are located. Provided that, upon qualifying under the provisions of article IV, chapter 27 (affordable housing), the sum total of the gross floor area of all structures on a zone lot shall not be greater than two and two-tenths (2.2) times the area of the zone lot on which the structures are located, provided further that all of the extra floor area in excess of two (2) times the area of the zone lot shall be dedicated to residential uses.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-267. Permitted signs.

The provisions of article V of this chapter on permitted signs shall be in full force and effect in these districts.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-268. Off-street parking requirements.

The provisions of article VI of this chapter on off-street parking requirements shall be in full force and effect in these districts.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-269. Off-street loading requirements.

The provisions of article VII of this chapter on off-street loading requirements shall be in full force and effect in these districts.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-270. Special zone lot plan for planned building groups.

The provisions of article VIII of this chapter on special zone lot plan for planned building groups shall be in full force and effect in these districts.
(Ord. No. 361-03, § 3, eff. 5-23-03)

DIVISION 13. MAIN STREET ZONE DISTRICTS—MS-1, MS-2, AND MS-3

Sec. 59-271. Main Street districts, generally.

(a) The provisions of this division apply to all structures in the MS-1, MS-2, and MS-3 zone districts.

(b) General purpose.

(1) Promote the sustainable development of Denver's commercial corridors.

(2) Preserve and protect the public health, safety and welfare of the citizens and workers of the city.

(3) Promote efficient utilization of land for housing and business development along commercial streets. Correlate higher densities with proximity to downtown, the presence of large development parcels, and the intersection of enhanced transit corridors.

(4) Improve the function and appearance of commercial streets, and enhance the convenience, ease and enjoyment of transit use, walking, shopping and public gathering.

(5) Clearly define and activate the public realm by locating buildings to form street edges and corners, and locating entrances and windows to activate the street level.

(6) Define building forms to be compatible with their context.

(7) Provide appropriate buffers between incompatible uses and site elements.

(8) Establish flexible parking standards that respond to zone lot sizes, the presence of transit and the pedestrian oriented nature of Main Streets, and support the adaptive reuse of historic resources and buildings that meet Main Street forms.

(c) Application of Main Street districts.

(1) Main Street districts should be applied in ways that respect the residential fabric of the city and reinforce linear development patterns along commercial streets. Where an alley separates a stable residential area from the commercial street, Main Street standards may be applied to the zone lots between the alley and the commercial street. When an alley does not define a Main Street development environment or when expanding the Main Street development environment beyond the boundaries of land zoned for commercial use, Main Street districts may be applied only where the residential fabric has been eroded by vacant parcels or underutilized land.

(2) MS-1 applies primarily to sections of Main Streets in close proximity to stable residential areas that are predominantly low density and characterized by residential structures of one to two stories. Zone lot depths typically are less than one hundred and twenty five (125) feet in depth. Building heights on adjacent zone lots are typically less than thirty-eight (38) feet tall.

(3) MS-2 applies primarily to sections of Main Streets in close proximity to residential areas that are predominantly medium density and characterized by residential or

mixed-use structures of two or more stories. Zone lot depths typically approach or exceed one hundred and twenty five feet (125') in depth. Building heights on adjacent zone lots are typically greater than thirty-eight (38) feet tall.

(4) MS-3 applies to the highest intensity sections of Main Streets, generally such high intensity sections are designated as follows:

a. Within six hundred (600) feet of the intersection of enhanced transit corridors as defined by Blueprint Denver, and measured along the face blocks of the enhanced transit corridors.

b. Within one (1) mile of downtown Denver, described here as the area bounded by Colfax Avenue from Speer Boulevard to Lincoln Street, Lincoln Street to 20th Street, 20th Street to Wazee Street, Wazee Street to Speer Boulevard and thence back to Colfax Avenue.

(d) For the purposes of determining street types in this division, the following terms shall have the following meanings:

(1) *Main Street*: All commercial, industrial, main, mixed use streets and residential arterials, as specified in Blueprint Denver.

(2) *Side Street*: A residential collector or Local street as specified in Blueprint Denver.
(Ord. No. 660-05, § 9, eff. 9-16-05)

Sec. 59-272. Permitted structures.

(a) *Zone lot for structures.* A ground area, herein called the zone lot, shall be designated, provided and continuously maintained for all structures or uses by right and conditional uses. Each zone lot shall have at least one (1) front line.

(b) *Building placement.*

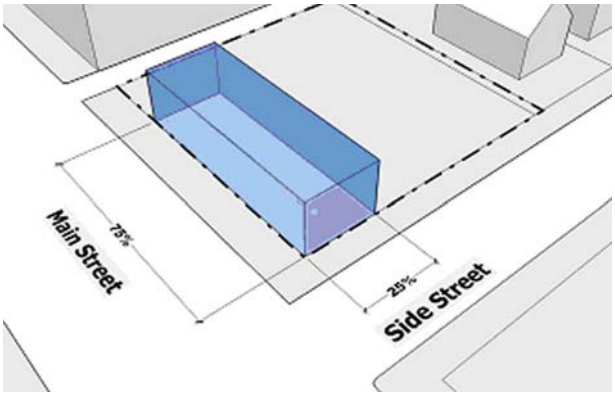


Figure 1: Building Placement (MS-1 & MS-2)

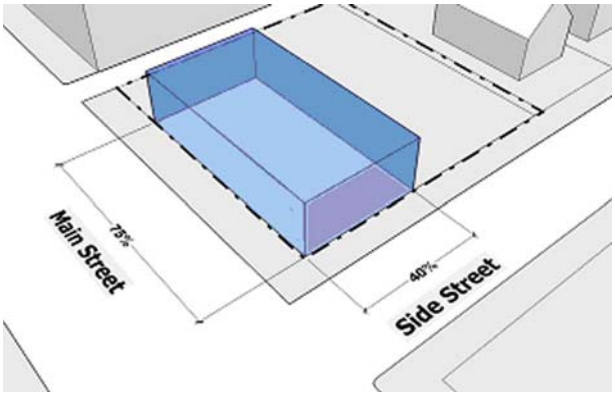


Figure 2: Building Placement (MS-3)

Buildings, except for structures used solely for residential occupancy and built under the provisions of section 59-272(i), below, shall be built to within one (1) foot six (6) inches of the zone lot line along public streets for at least the distance prescribed below. The first floor of the portion of the building specified shall contain at least one use by right in the district, other than parking of vehicles. For structures used solely for residential occupancy utilizing "option B" (see section 59-272(i), below) the percentage of lineal street frontage occupied shall apply to the portion of the building that is five (5) feet to ten (10) feet from the zone lot line. If a zone lot has only one street front and that street is a side street, the building shall occupy at least the percentages of lineal street frontage as shown below for main street frontage. The minimum percent of lineal street frontage that shall be occupied by the ground floor of any building:

	Main Street	*Side Street*	
MS-1	75%	25%	(see figure 1)
MS-2	75%	25%	(see figure 1)
MS-3	75%	40%	(see figure 2)

(c) *Setbacks and buffering.*

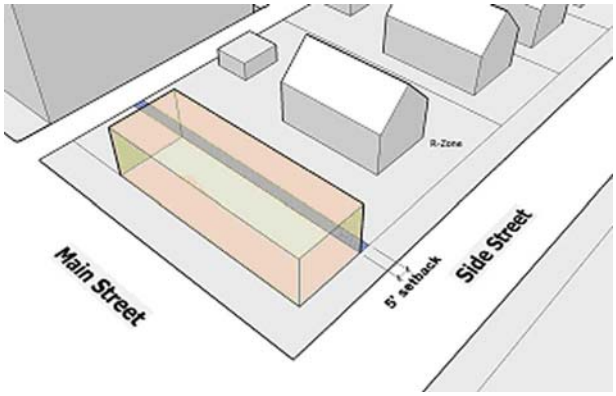


Figure 3: Setback Required Between MS and Residentially Zoned Lots

(1) All structures on a zone lot having a zone lot line which abuts the zone lot line of a residentially zoned zone lot, shall be set back five (5) feet from the zone lot line shared with the residentially zoned zone lot. (See figure 3.)

(2) MS-1, MS-2 and MS-3 shall be controlled districts under the provisions of section 59-96(a) but shall not be controlled districts under the provisions of 59-96(b).

(d) *Parking and drive-through location and screening.*

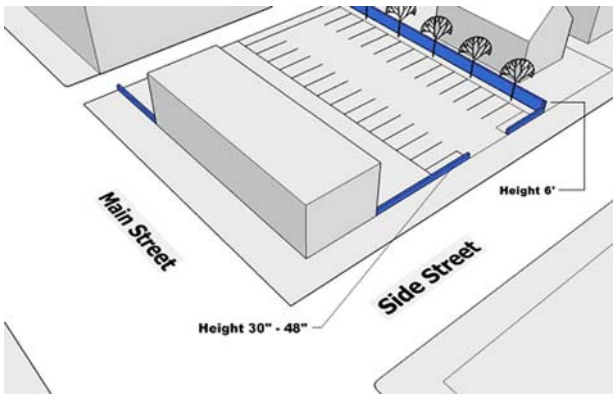


Figure 4: Parking Location and Screening

(1) No parking shall be allowed between the building and the street.

(2) Any surface parking and auto-oriented use, such as drive-through lane or the paved portion of a service station, which is visible from a main or side street shall be screened by a 30-inch to 48-inch tall screening device (see figure 4). For the purposes of this division "screening device" shall mean: a continuous masonry wall constructed of brick, stone or split-face concrete block; a combination masonry pier and decorative iron railing; other durable and decorative screening device that is consistent with the materials of the building facade (such as concrete or stucco); or an irrigated solid, evergreen hedge. Chain link, wood or vinyl picket fencing typically are not considered to be durable and decorative screening devices.

(3) Any parking lot or drive-through lane adjacent to a residential zone district shall provide:

a. A six-foot tall wall or fence (see figure 4) on the zone lot line abutting the residential zone district, subject to the approval of public works to ensure safe sight lines for pedestrians and vehicular traffic, and;

b. A five-foot wide landscaped buffer with trees located at a maximum twenty-five (25) feet on center. The wall or fence described in a., above, may be within the five-foot buffer area.

(e) *Parking structure design.* Parking structure facade openings which face any public right-of-way shall have no exposed vehicle ramps and the floors fronting on such facade shall be level.

(f) *Building height.*

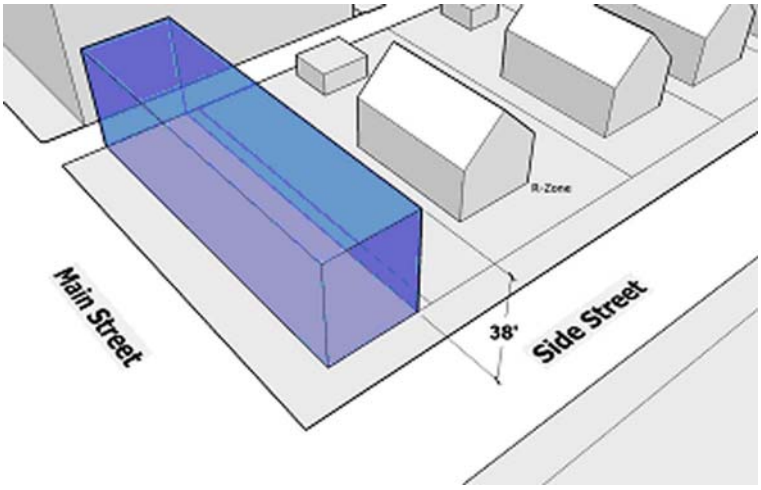


Figure 5: Maximum Building Height (MS-1)

(1) Allowable building heights, excluding flush mounted solar panels, are as follows:
(Ord. No. 53-08, § 26, eff. 2-8-08)

	Minimum Height	*Maximum Height*	
MS-1	NA	38'	(see figure 5)
MS-2	24'	65'	(see figure 6—Note: illustration shows maximum height plus upper story setback as required by section 59-272(g) below)
MS-3	24'	100'	(see figure 7—Note: illustration shows maximum height plus upper story setbacks as required by section 59-272(g) below)

(2) Minimum building height shall be measured as the vertical distance between the lowest point of the roof and the average elevation of the corners of the building at finished grade.
(Ord. No. 459-06, § 12, eff. 7-21-06)

(g) *Upper story setbacks.*

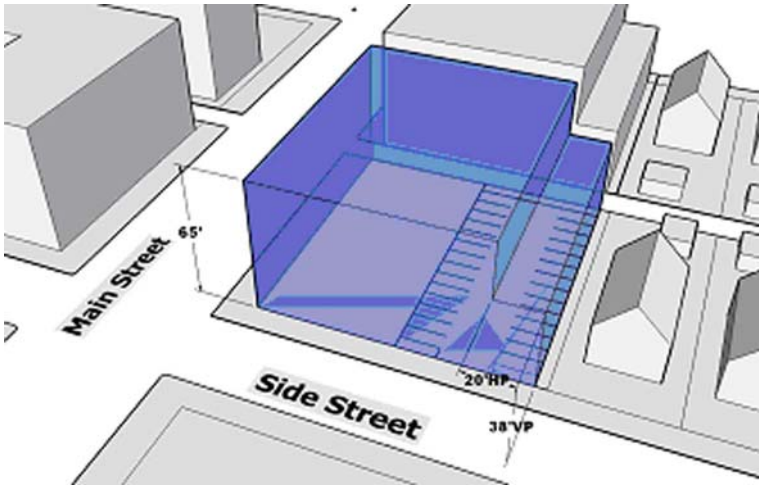


Figure 6: Maximum Building Height and Upper Story Setback (MS-2)

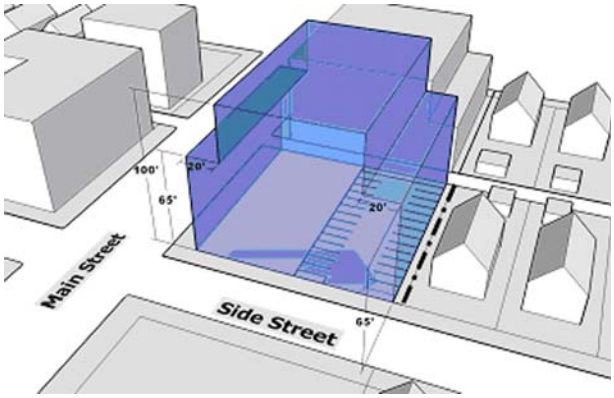


Figure 7: Maximum Building Height and Upper Story Setbacks (MS-3)

(1) Required upper story setbacks from the zone lot line are as follows:

a. Main Street upper story setback:

	Horizontal Plane	*Vertical Plane*	
MS-1	N/A	N/A	
MS-2	N/A	N/A	
MS-3	20'	65'	(see figure 7)

b. Residential protection upper story setback:

	Horizontal Plane	*Vertical Plane*	
MS-1	N/A	N/A	
MS-2	25'	38'	(see figure 6)
MS-3	25'	65'	(see figure 7)

c. The residential protection upper story setback applies to any structure on a zone lot with a zone lot line that abuts the zone lot line of a residentially zoned lot and there is no structure on the residentially zoned lot that exceeds thirty-eight (38) feet in height.

(2) Permitted encroachments into the main street and residential protection upper story setbacks:

a. Terraces at the level of the upper story setback may extend twenty (20 feet into the upper story setbacks and:

b. Unwalled balconies may extend ten (10) feet into the upper story setbacks.

c. Flush mounted solar panels may encroach any distance into the setback space. (Ord. No. 53-08, § 27, eff. 2-8-08)

(h) *Zone of transparency.*

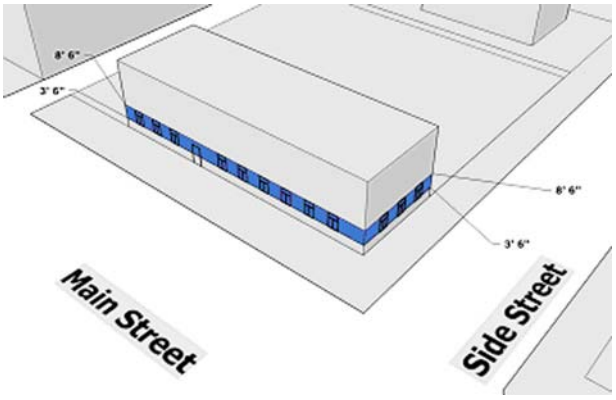


Figure 8: Zone of Transparency

(1) Transparency standards for nonresidential buildings support the Main Street district goal to activate the public realm by ensuring a minimum amount of transparent windows are installed and maintained on main street buildings. The transparency standards ensure pedestrians can see into a building and users of the building can see out to the street. The standards facilitate a safe walking environment along the city's main streets, as well as support existing and new pedestrian and business activities.

(2) New construction and additions, except for structures used solely for residential occupancy, shall incorporate transparent glass for a percentage of the lineal frontage of the first floor. These windows shall be a minimum of five (5) feet high and mounted not more than three (3) feet, six (6) inches high above the interior floor level for a total minimum height of eight (8) feet six (6) inches. The area between three (3) feet, six (6) inches and eight (8) feet, six (6) inches above the interior first floor level shall be called the zone of transparency (see figure 8).

a. Minimum glazed lineal building frontage in the zone of transparency on main street frontage, or for a zone lot that has only side street frontage, shall be:

MS-1	*MS-2*	*MS-3*
60%	60%	60%

b. Minimum glazed lineal building frontage in the zone of transparency on side street frontage, other than on a zone lot with only side street frontage, shall be:

MS-1	*MS-2*	*MS-3*
25%	25%	30%

(3) No existing building shall be altered in such a way that the amount of glazing in the zone of transparency is reduced below the required amount, and, if the amount of glazing in the zone of transparency is already below the required amount, it shall not be further reduced.

(4) Window glazing shall be clear and shall transmit at least sixty-five (65) percent of visible daylight (visible transmittance shall be sixty-five one hundredths (.65) or greater). No interior or exterior modifications, including temporary and permanent signage, window tinting, furnishings, fixtures, equipment or stored items within 3 feet of the windows will be allowed to reduce the effective minimum transparency standards by more than 25%. Open display of individual merchandise is permitted.

(Ord. No. 492-08, eff. 9-26-08)

(i) *Structures used solely for residential occupancy.*

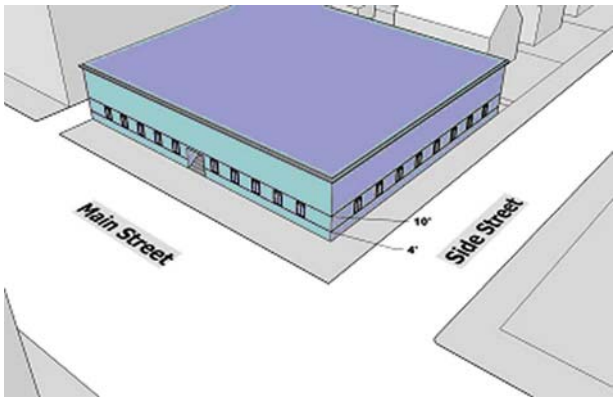


Figure 9: Structures Used Solely for Residential Occupancy—Option A (Requires a Zone of Transparency)

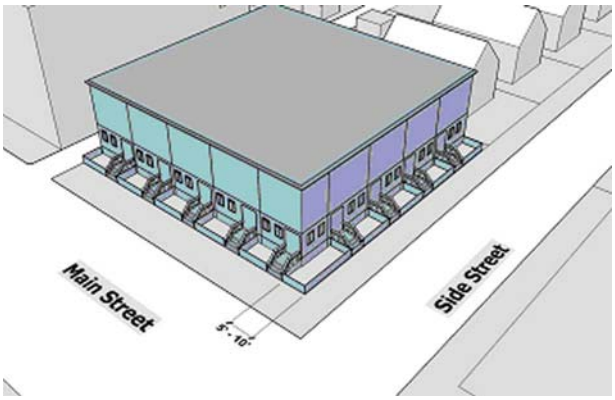


Figure 10: Structures Used Solely for Residential Occupancy—Option B (Allows a 5'—10' Setback)

(1) Structures used solely for residential occupancy may either be built within one (1) foot six (6) inches of any zone lot line that fronts a named or numbered street (option A-See figure 9) or may be setback between five (5) feet and ten (10) feet from any such zone lot line (option B—See figure 10). A structure may use different options for each street front.

(2) The setback area for Option B shall be landscaped or enclosed by a 30-inch to 48-inch decorative masonry wall or wrought iron fence (see figure 10). The area between a wall

or fence and the front of the building shall be landscaped or hardscaped. Allowed encroachments into the setback include: stoops (including steps and raised landings), unwalled balconies, porches (unwalled; may be covered), bay windows, awnings, canopies or arcades covering the primary entrance to a residence(s), and sill boxes.

(3) For structures used solely for residential occupancy which are built to option A standards, there shall be a zone of transparency located between four (4) feet and ten (10) feet above the level of the street.

(4) In the zone of transparency (see figure 9), the following percentages of the building must be glazed:

Main street frontage, or frontage on a zone lot which has only side street frontage: 40 percent

Side street frontage: 25 percent

(j) *Building entrances.*

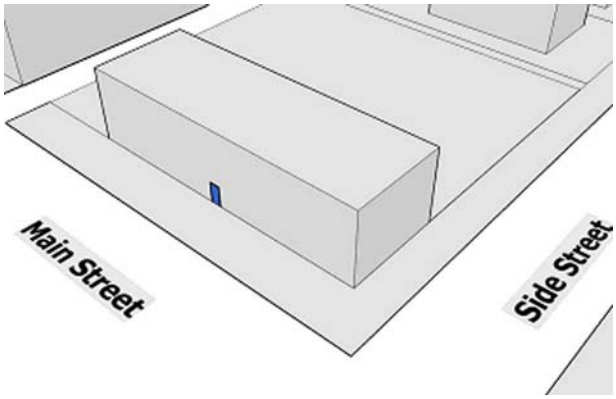


Figure 11: Primary Entrance Required to Face Main Street

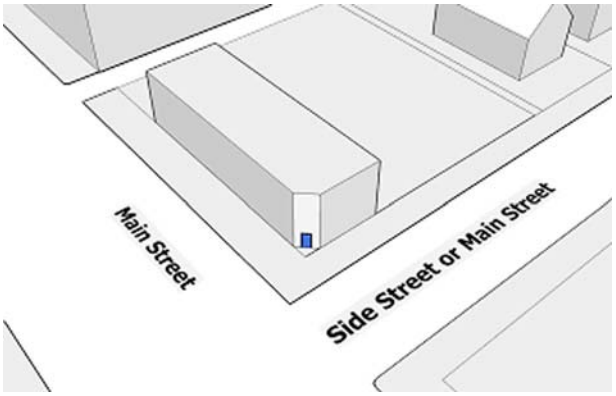


Figure 12: Angled Entrance Option

New construction shall have a pedestrian entrance located on or within ten (10) feet of the main street facade and facing the main street (see figures 11 or 12). This entrance shall be operable during normal hours of business operation. A building located on two (2) main streets shall have either one entrance per main street or one angled entrance at the corner of the two (2) main streets (see figure 12).

(k) *Trash containers*. All trash containers shall be completely screened from adjoining properties and rights of way and shall be located at least twenty (20) feet from a named or numbered street or a residentially zoned lot.
(Ord. No. 660-05, § 9, eff. 9-16-05)

Sec. 59-273. Uses allowed in these districts.

The following is a list of uses with notations as to whether they are permitted, limited, or have other requirements as listed in the matrix and the sections which follow. Uses not listed are not allowed in any of these districts. Permitted uses are uses by right.

Key: *P = Permitted* *L = Uses permitted with limitations* *D = Uses permitted with distance requirements* ** = Need not be enclosed*	*Zone District*
USE	*MS-1, MS-2, MS-3*
Residential	
Artist studio	P
Assisted living facility	P
Dwelling, multiple unit	P
Dwelling, single unit	P
Nursing home, hospice	P

Key: *P = Permitted* *L = Uses permitted with limitations* *D = Uses permitted with distance requirements* ** = Need not be enclosed*	*Zone District*
USE	*MS-1, MS-2, MS-3*
Residence for older adults	P
Residential, institutional/special	P
Rooming and/or boarding house	P
Retail, service, office	
Adult establishment as follows:	
Adult amusement or entertainment	D1
Bookstore, adult	D1
Eating place with adult amusement	D1
Photo studio, adult	D1
Sexually oriented commercial enterprise	D1
Theater, adult	D1
Animal sales, service, care, household pets only	P
Auto pawn lot, auctioneer for automobiles, large vehicles or heavy equipment	P
Automobile gasoline filling station, emissions inspection	L4
Automobile repair garage	P
Automobile wash, laundry and/or polishing shop	P
Automobile, motorcycle, light truck sales, leasing, rental	P
Banking and financial services	P
Bed and breakfast	P
Body art establishment	D1
Bookstore	P
Brewpub	P
Communications service	P
Eating place	L42/L192
Food preparation and sales, commercial	P
Food sales or market, large	L50
Food sales or market, small	L50
Furniture, furnishings, retail sale, large scale	P
Garden supply store	P
Home building materials and supplies, sales, or rental	P
Hotel	P
Laboratory, research, development, technological service	P
Liquor store	D7
Motel	P
Office: nondental, nonmedical	P

Key: *P = Permitted* *L = Uses permitted with limitations* *D = Uses permitted with distance requirements* ** = Need not be enclosed*	*Zone District*
USE	*MS-1, MS-2, MS-3*
Printing service, publishing, business support	P
Retail, service, repair, consumer, large scale	L51
Retail, service, repair, consumer, medium scale	L51
Retail, service, repair, consumer, small scale	L51
Retail, service, repair, consumer, special	P
Service, repair, commercial	P
Vehicle, equipment sales, leasing, service, rental	P
Industrial, wholesale, transportation, utilities	
Assembly, without fabrication	L94
Helipad, helistop, heliport*	L98
Manufacturing, fabrication, and assembly, custom	P
Manufacturing, fabrication, and assembly, general	P
Manufacturing, fabrication, and assembly, light	P
Parking of vehicles	P
Railway right-of-way*	P
Terminal, public transportation, local*	P
Utility, minor impact	L117
Vehicle storage, commercial	P
Wholesale trade, general, and/or storage of toxic and/or hazardous materials	L121
Wholesale trade, light, and/or storage of nontoxic, nonhazardous materials	P
Arts, entertainment, recreation, institutions	
Ambulance service	P
Child care center	P
Church, religious institution	P
Clinic, office, laboratory, dental or medical	P
Club or lodge	P
Community or senior center or recreational facility	P
Conference center, meeting hall	P
Library	P
Mortuary	P
Museums, other special purpose cultural institutions	P
Police station	P
Postal facility, neighborhood	P
Recreation services, indoor	P
School, elementary or secondary	P

Key: *P = Permitted* *L = Uses permitted with limitations* *D = Uses permitted with distance requirements* ** = Need not be enclosed*	*Zone District*
USE	*MS-1, MS-2, MS-3*
School, vocational or professional	P
Studio, professional	P
Theater, indoor	P
University or college	P
Construction, mining, agriculture	
Contractors, special trade, general	P
Uses allowed in all districts unless restricted by special limitations. (See chapter 59, article III, division 2)	
Construction, temporary structures (See section 59-81)	
Residential care uses (See section 59-82)	
Uses allowed by temporary permit (See section 59-86)	
Accessory uses (See section 59-87)	
Home occupations (See section 59-89)	

(Ord. No. 660-05, § 9, eff. 9-16-05; Ord. No. 909-05, § 6, eff. 12-16-05; Ord. No. 326-06, § 9, eff. 5-26-06; Ord. No. 57-09, § 14, eff. 1-30-09)

Sec. 59-274. Distance requirements.

The following define the distance requirements enumerated in the use chart in section 59-273:

D1

a. The following permitted uses shall not be established, operated or maintained within five hundred (500) feet of a residential district, a dwelling unit (single or multiple), a single unit dwelling, a church, a school meeting all the requirements of the compulsory education laws of the state, an arts education center, a learning center, an amusement/special interest park, a child care center, or a children's indoor play center:

1. Adult amusement or entertainment;
2. Bookstore, adult;
3. Eating place with adult amusement or entertainment;
4. Photo studio, adult;
5. Theater, adult.

b. For the purposes of this distance limitation D1 only:

1. Learning center shall mean a commercial business that regularly provides on site, specialized or intensive educational services or tutoring to persons under eighteen (18) years of age;

2. Arts education center shall mean a place where instruction is regularly provided to persons under eighteen (18) years of age in the fields of painting, drawing, sculpture, etching, craft work, fine arts, dance, drama, photography, music, martial arts, or other similar fields of art.

c. Not more than two (2) of the following permitted uses may be established, operated or maintained within one thousand (1,000) feet of each other:

1. Amusement center;

2. Amusement or entertainment on payment of a fee or admission charge, adult;

3. Body art establishment;

4. Bookstore, adult;

5. Eating place with adult amusement or entertainment;

6. Photo studio, adult;

7. Theater, adult.

D7 No liquor store or drugstore licensed to sell package liquors, not existing or operating on August 31, 1997, shall be established, operated, or maintained within one thousand (1,000) feet of another liquor store or drugstore licensed to sell package liquors. No liquor store or drugstore licensed to sell package liquors, not existing or operating on July 31, 2000, shall be established, operated, or maintained within one thousand (1,000) feet of a community corrections facility.

(Ord. No. 660-05, § 9, eff. 9-16-05)

Sec. 59-275. Limitations.

The following define the limitations enumerated in the use chart in section 59-273:

L4 Automobile gasoline filling station: an automobile gasoline filling station which complies with all of the following conditions:

a. Does not rent or sell motor vehicles;

b. Does none of the following: overhaul engines or transmissions, body or fender work, auto glass work, painting, welding, tire recapping or auto dismantling;

c. All discarded parts and materials are deposited into a completely enclosed container concealed from adjacent properties;

d. Parks no vehicles being serviced or stored for customers, on streets, alleys, public sidewalks or public park strips;

e. Is provided with barriers of such dimensions that occupants of adjacent structures are not unreasonably disturbed, either by day or night, by the movement of vehicles and light facilities are so arranged that they neither unreasonably disturb occupants of adjacent residential properties nor interfere with traffic;

f. Extinguishes all flood lights at close of business or 11:00 p.m., whichever is earlier;

g. Trailer rentals permitted as an accessory use subject to the following limitations:

(1) One (1) trailer permitted on the zone lot for each four thousand (4,000) square feet of land area in the zone lot, not, however, exceeding five (5) trailers at any one (1) time; and

(2) Each trailer not to exceed eight (8) feet in height, length and width;

h. Fuel pumps need not be enclosed;

i. A single bay carwash containing either manual or automatic equipment is permitted as an accessory use subject to the following conditions:

1. The carwash bay is limited in size to a single vehicle.

2. Adequate landscaping and solid fencing shall be installed to control the effects of noise where such bay is located adjacent to a residential use or a residential district.

3. Sufficient space on the same zone lot shall be provided to accommodate three (3) waiting vehicles in addition to the required off-street parking.

4. A site plan showing all improvements on the zone lot shall be submitted to the planning office for review.

5. The provisions of section 59-41(b) shall be followed.

6. The hours of operation shall be limited to the period between 7:00 a.m. and 8:00 p.m.

7. In deciding to approve or disapprove the application, the zoning administrator shall consider the written comments of all interested parties. In approving an application the zoning administrator may attach conditions in order to protect adjoining properties and must find that the proposed use will not adversely affect the appropriate use of adjoining properties;

L42 Need not be enclosed to the extent that tables and seats may be placed out of doors, and food served thereat, subject to all of the following conditions:

a. The outdoor eating area shall be contiguous to the eating place to which it is accessory; and

b. The eating area shall be clearly delimited, but there shall be no structure or enclosure more than forty-two (42) inches tall, except that temporary canvas awnings or umbrellas may serve as sun shades.

c. Any part of the serving area located outside of the completely enclosed structure shall have a hard, all weather surface.

L50 Fruit or vegetable store need not be enclosed to the extent that the unenclosed portion shall not exceed in area one-fourth (1/4) the gross floor area of the structure containing the use by right.

L51 Flower store need not be enclosed to the extent that the unenclosed portion shall not exceed in area one-fourth (1/4) the gross floor area of the structure containing the use by right.

L94 Excluding the assembly of automobiles, trucks, trailer and mobile homes.

L98 Limited to landing and take off area for police rotorcraft, not including maintenance, repair, fueling or hangar facilities.

L117 Electric substation excluded.

L121 Limited to: mail order house; sale at wholesale and warehousing of any commodity the fabrication or assembly of which is a permitted use in the district; any other similar commodity not listed elsewhere.

L192 Any drive-through facility on a zone lot that is adjacent to a residentially zoned zone lot shall be limited by all of the following criteria.

a. If the facility is visible from a public street or a residential district, an opaque screen shall be provided along the visible portion of the drive through queuing and operating lane. Such screen shall at least meet the requirements for screening found in the rules and regulations for the landscaping of parking areas.

b. There shall be no glare from permanent lighting or vehicle headlights projected onto residential uses. To ensure glare is controlled, all external lights shall have fully shielded fixtures. Light trespass onto residential uses shall not exceed three-tenths (0.3) of a foot candle.

c. The manager of public works shall only approve curb cuts providing access to the site that do not unreasonably interfere with automobile or pedestrian traffic and shall only approve queuing lanes if they are adequate to prevent backups onto public streets.

d. No device that amplifies sound shall be so designed or operated that the amplified sound can be perceived on any residentially zoned lot.

e. All parts of any drive-through facility shall be separate from parking circulation aisles.

f. Any drive-through facility located on a zone lot that is adjacent to a residentially zoned zone lot and which has any portion of the facility located eighty-five (85) feet or less from the residentially zoned zone lot may only be open during the hours of 5:30 a.m. to 11:00 p.m., Sunday through Thursday and 5:30 a.m. to midnight Friday and Saturday.

g. This limitation L192 applies only to drive through facilities that commence operations after June 1, 2006.

(Ord. No. 326-05, § 10, eff. 5-26-06)

(Ord. No. 660-05, § 9, eff. 9-16-05)

Sec. 59-276. Permitted signs.

The provisions of article V of this chapter on permitted signs shall be in full force and effect in these districts.

(Ord. No. 660-05, § 9, eff. 9-16-05)

Sec. 59-277. Off-street parking requirements.

The provisions of article VI of this chapter on off-street parking requirements shall be in full force and effect in these districts except as modified in this section.

(1) Off-street parking ratios, general parking standards for zone lots greater than eighteen thousand, seven hundred and fifty (18,750) square feet.

a. One (1) parking space per five hundred (1:500) square feet of nonresidential uses.

b. One (1) parking space per unit of market rate housing.

c. Eight tenths (0.8) spaces per unit of affordable housing provided that said units qualify under the provisions of article IV, chapter 27 (affordable housing) of the Denver Revised Municipal Code (DRMC).

d. One (1) parking space per four (4) units for: senior housing; housing that is affordable for persons with forty (40) percent area median income and below; units under five hundred and fifty (550) square feet; single room occupancy housing; boarding or rooming homes; and other special needs housing.

(2) The parking requirements may be met off of the zone lot under the following circumstances

a. By ownership or a current lease of parking spaces on another zone lot within a 1,500-foot radius of the zone lot dedicated to the uses in question. Divesting ownership or terminating lease of the required parking spaces shall result in termination of the use permit until the deficiency is rectified.

b. In the event that a parking district (or another shared parking entity) has been formed and is fully operational, the documented parking spaces allocated to the zone lot will count toward the off-street parking requirements. Although allocated to a specified zone lot, said spaces need not be reserved for said specified zone lot.

(3) Existing surface parking lots shall be legal nonconforming uses so long as they existed by September 1, 2005, comply with chart 1, section 59-588 and plant and maintain

street trees according to the city forester's rules and regulations for such trees by June 30, 2009, or within nine (9) months of the property being re-zoned to Main Street, whichever is later. Surface parking is not a use by right.

(Ord. No. 588-08, § 1, eff. 11-14-08)

(4) For buildings that were built before 1967, are consistent with the build-to lines specified in section 59-272, above, and meet the minimum height requirement, parking provided as of September 1, 2005 shall be considered sufficient, even in the event of a change of use. Additions to such buildings shall meet the parking requirements of this division and subsection 59-582(f).

(Ord. No. 449, § 1, eff. 8-31-07)

(5) Exceptions for small zone lots:

a. For zone lot sizes up to and including six thousand two hundred and fifty (6,250) square feet: Exempt from parking requirements.

b. Non-residential uses:

1. For zone lot sizes greater than six thousand two hundred and fifty (6,250) square feet up to and including nine thousand five hundred (9,500) square feet: one (1) parking space per twelve hundred and fifty (1,250) square feet of non-residential uses.

2. For zone lot sizes greater than nine thousand five hundred (9,500) square feet up to and including fifteen thousand, seven hundred and fifty (15,750) square feet: one (1) parking space per nine hundred (900) square feet of non-residential uses.

3. For zone lot sizes greater than fifteen thousand, seven hundred and fifty (15,750) square feet up to and including eighteen thousand, seven hundred and fifty (18,750) square feet: one (1) parking space per six hundred (600) square feet of non-residential uses.

c. Residential uses on zone lots of eighteen thousand, seven hundred and fifty (18,750) square feet or less:

1. One (1) parking space per unit of market rate housing including artist studio and other live work spaces.

2. Sixty-five one hundredths (0.65) parking spaces per unit of affordable housing provided that said units qualify under the provisions of article IV, chapter 27 (workforce housing) DRMC.

3. One (1) parking space per four (4) units for senior housing, single room occupancy housing, boarding or rooming homes, and other special needs housing.

4. No parking required for housing provided that is affordable for persons with forty (40) percent area median income and below or units under five hundred and fifty (550) square feet.

(Ord. No. 660-05, § 9, eff. 9-16-05)

Sec. 59-278. Off-street loading requirements.

The provisions of article VII of this chapter shall be of no force and effect in these districts. (Ord. No. 660-05, § 9, eff. 9-16-05)

Sec. 59-279. Special zone lot plan for planned building groups.

The provisions of article VIII of this chapter shall be in effect in these districts only for zone lots in excess of ten thousand (10,000) square feet. On zone lots of ten thousand (10,000) square feet or less, multiple use by right structures, as well as multiple accessory structures, are allowed on the zone lot provided all of the provisions of this division are met.
(Ord. No. 660-05, § 9, eff. 9-16-05)

Sec. 59-280. Reserved.

DIVISION 14. I-0, I-1, I-2 DISTRICTS

Sec. 59-281. Purpose.

The following paragraphs explain the general purpose and intent of the individual zone districts. No industrial zones allow new residential uses.

(1) *I-0 Light industrial/office zone district:* This district is intended to be an employment area containing offices, business and light industrial uses which are generally compatible with residential uses. I-0 zoned areas have been established throughout the city to serve as a land use buffer between residential areas and more intensive industrial areas. All uses conducted in this district shall be enclosed within a structure unless specifically allowed to operate out of doors.

(2) *I-1 General industrial zone district:* This district is intended to be an employment area containing industrial uses which are generally more intensive than those permitted in the I-0 zone. A larger number of business and commercial uses are permitted in this district as compared with the I-0 zone, yet the overall purpose of the district is to promote industrial development and economic activity.

(3) *I-2 Heavy industrial zone district:* This district is intended to be an employment area containing industrial uses which are generally more intensive than that permitted in either of the other industrial zones. A similar number of business and commercial uses are allowed in this zone as are allowed in the I-1 zone.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-282. Uses allowed in these districts.

The following is a list of uses with notations as to whether they are permitted, conditional, limited, require short review or have other requirements as listed in the matrix and the sections which follow. Uses not listed are not allowed in any of these districts. Uses left blank are not allowed in that district. Permitted uses are uses by right.

Key:
P = Permitted
L = Uses permitted with limitations
C = Uses permitted with conditions
S = Uses permitted after short review procedure
D = Uses permitted with distance requirements
** = Need not be enclosed, exempt from I-0 enclosure requirement*
(blank) = Not permitted

Use	*Zone District*		
	I-0	*I-1*	*I-2*
Residential			
Dwelling, multiple unit	L200	L200	L200
Dwelling, single unit	L200	L200	L200

Key: *P = Permitted* *L = Uses permitted with limitations* *C = Uses permitted with conditions* *S = Uses permitted after short review procedure* *D = Uses permitted with distance requirements* ** = Need not be enclosed, exempt from I-0 enclosure requirement* *(blank) = Not permitted*			
Use	*Zone District*		
	I-0	*I-1*	*I-2*
Artist studio	P*	P	P
Retail, service, office			
Animal care, kennel, cattery	L15	L15/C	L15/C
Animal sales, service, care, household pets only	P	P	P
Auto pawn lot, auctioneer for automobiles, large vehicles or heavy equipment	C/L22*	L22	L22
Automobile gasoline filling station, emissions inspection	L25/S	L25/S	L25/S
Automobile repair garage	S/L27/C	L27/C	L27/C
Automobile wash, laundry and/or polishing shop*	S	P	P
Automobile, motorcycle, light truck sales, leasing, rental*	S	P	P
Banking and financial services	P	P	P
Bookstore	S/L2	L2	L2
Brewpub	P	P	P
Communications service	P	P	P
Eating place	L1*/L192	L1/L192	L1/L192
Food preparation and sales, commercial	C/D5	C/D5	C/D5
Food sales or market, large	D8/L52/C/S	D8/S	D8/S
Food sales or market, small	S	S	S
Furniture, furnishings, retail sale, large scale	S/L2/L54	L2/L54	L2/L54
Garden supply store	S/L2	L2	L2
Home building materials and supplies, sales, or rental	S/L2	L2	L2
Hotel	P	P	P
Laboratory, research, development, technological service	C	C	C
Liquor store	D7	D7	D7
Motel	P	P	P
Office: nondental, nonmedical	P	P	P
Outdoor sales, flea market*	C/D8	D8	D8
Printing service, publishing, business support	S/L69/C	S	S

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Use	*Zone District*		
	I-0	*I-1*	*I-2*
Retail, service, repair, consumer, large scale	S/L2	L2	L2
Retail, service, repair, consumer, medium scale	S/L2	L2	L2
Retail, service, repair, consumer, small scale	S/L2	L2	L2
Retail, service, repair, consumer, special	S/L2/L54	L2/L54	L2/L54
Service, repair, commercial	C/L88	C/L88/S	C/L88/S
Vehicle, equipment sales, leasing, service, rental*	S	L91/S	L91/S
Industrial, wholesale, transportation, utilities			
Assembly, without fabrication	L95	L95	L95
Automobile parts recycling business*		D5	D5
Automobile towing service storage yard*		D5	D5
Helipad, helistop, heliport*		C/D10	C/D10
Junkyard*			C/D11
Manufacturing, fabrication, and assembly, custom	C/D5	C/D5	C/D5
Manufacturing, fabrication, and assembly, general	C/D5	C/D5	C/D5
Manufacturing, fabrication, and assembly, heavy		C/D5/L101	C/D5/L102
Manufacturing, fabrication, and assembly, light	C/D5	C/D5	C/D5
Parking of vehicles*	P	P	P
Railroad facilities*		C	C
Railway right-of-way*	P	P	P
Recycling center, facility	C/D5	C/L113/D5	L113/D5
Recycling collection station	L112/D15*	D15	D15
Recycling plant, scrap processor		C/L113/D15	L113/D15
Terminal and service facility for bus system*		S/D13	S/D13
Terminal, freight, air courier services*		S/D14	S/D14
Utility, major impact	L115*	L116/C	L116/C
Utility, minor impact	L117	L117	L117
Vehicle storage, commercial*	L120	L120	L120
Wholesale trade, general, and/or storage of toxic and/or hazardous materials		C/D15	C/D15
Wholesale trade, light, and/or storage of nontoxic, nonhazardous materials	S	P	P
Arts, entertainment, recreation, institutions			

Key: *P = Permitted* *L = Uses permitted with limitations* *C = Uses permitted with conditions* *S = Uses permitted after short review procedure* *D = Uses permitted with distance requirements* ** = Need not be enclosed, exempt from I-0 enclosure requirement* *(blank) = Not permitted*			
Use	*Zone District*		
	I-0	*I-1*	*I-2*
Ambulance service	S	S	S
Cemetery	L19/C/D16	L19/C/D16	L19/C/D16
Child care center	P	P	P
Church, religious institution	P	P	P
Clinic, office, laboratory, dental or medical	L135/C	L135/C	L135/C
Club or lodge	P	P	P
Community or senior center or recreational facility	P	P	P
Conference center, meeting hall	P	P	P
Fire station	P	P	P
Mortuary	C/D16	C/D16	C/D16
Museums, other special purpose cultural institutions		P	P
Parks, public, open space, associated buildings*	P*	P	P
Police station	P	P	P
Postal facility, neighborhood	P	P	P
Recreation services, indoor	C/D5/S	D5/S	D5/S
Recreation services, outdoor*	S/L152*	S/L152	S/L152
School, elementary or secondary	P	P	
School, vocational or professional	L158	L158	L158
Sports and/or entertainment facility	C/L139/D5*	L139/D5	L139/D5
Studio, professional	P*	P	P
Theater, indoor	S	S	S
University or college	P	P	L158
Construction, mining, agriculture			
Aquaculture	P*	P	P
Contractors, special trade, general	C/D5	D5	D5
Contractors, special trade, heavy, contractor yard*	C/D5	D5	D5
Husbandry*	L168	L168	C/D5/L168
Nursery, plant	P*	P	P
Oil, gas, production, drilling*	C/D18	D18	D18
Sand or gravel quarry*		C/D5	C/D5

Key: *P = Permitted* *L = Uses permitted with limitations* *C = Uses permitted with conditions* *S = Uses permitted after short review procedure* *D = Uses permitted with distance requirements* ** = Need not be enclosed, exempt from I-0 enclosure requirement* *(blank) = Not permitted*			
Use	*Zone District*		
	I-0	*I-1*	*I-2*
Uses allowed in all districts unless restricted by special limitations (See chapter 59, article III, division 2)			
Construction, temporary structures (See § 59-81)			
Residential care uses (See § 59-82)			
Power, gas, telecommunications (See § 59-83)			
Accessory uses (See § 59-87)			

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 436-04, § 1, 7-9-04; Ord. No. 625-05, § 13, eff. 9-2-05; Ord. No. 909-05, § 7, eff. 12-16-05; Ord. No. 326-05, § 11, eff. 5-26-06; Ord. No. 362-06, § 1, eff. 6-16-06)

Sec. 59-283. Distance requirements.

The following defines the distance requirement enumerated in the use chart in section 59-282:

D5 Denotes a 500-foot spacing requirement between a use and a residential zone. This requirement may be reduced by the environmental review committee if an analysis of the proposed use, its traffic generation and other external effects indicates a smaller separation will have no significant effect on the nearby residential district.

D7 No liquor store or drugstore licensed to sell package liquors, not existing or operating on August 31, 1997, shall be established, operated, or maintained within one thousand (1,000) feet of another liquor store or drugstore licensed to sell package liquors. No liquor store or drugstore licensed to sell package liquors, not existing or operating on July 31, 2000, shall be established, operated, or maintained within one thousand (1,000) feet of a community corrections facility.

D8 Any proposed farmer's market or flea market located within five hundred (500) feet of an "R" zone must comply with the short review procedure.

D10 Must be a minimum of one thousand (1,000) feet from a residential district or a PUD district which allows residential uses.

D11 Must be completely enclosed by a solid wall or fence in accordance with section 59-291(a) and must be a minimum of one thousand (1,000) feet from any residential or business district.
(Ord. No. 459-06, § 13, eff. 7-21-06)

D13 Any terminal proposed after January 11, 1991, shall be a minimum of five hundred (500) feet from a residential district; provided, however, this 500-foot spacing requirement may be reduced by the environmental review committee for an expansion of an existing facility if an analysis of the proposed expansion, its traffic generation and other external effects indicates a smaller separation will have no significant effect on the nearby residential zone.

D14 Any terminal proposed after January 11, 1991, shall be a minimum of five hundred (500) feet from a residential district; provided, however, this 500-foot spacing requirement does not apply to an increase of an existing use of less than fifteen (15) percent gross floor area or gross site area, or the 500-foot spacing requirement may be reduced by the environmental review committee for an expansion greater than fifteen (15) percent gross floor area or gross site area of an existing facility if an analysis of the proposed expansion, its traffic generation and other external effects indicates a smaller separation will have no significant effect on the nearby residential zone.

D15 Must be a minimum of five hundred (500) feet from an "R" district.

D16 Crematorium shall be a minimum of five hundred (500) feet from a residential zone.

D18 Limited to geophysical services. The planning office shall determine the separation between the proposed use and nearby residential zones based on the external effects of the proposed use. Geophysical services are a conditional use in the I-0 district.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-284. Limitations.

The following define the limitations enumerated in the use chart in section 59-282:

L1 Eating place: providing that upon application to and issuance by the department of zoning administration of a permit therefor the aforesaid use need not be enclosed to the extent that tables and seats may be placed out of doors, and food served thereat, provided further that:

a. If such an outdoor eating area must be fifty (50) feet or more from the nearest boundary of any RS-4, R-0, R-1, R-X, R-2, R-2-A, R-2-B, R-3-X or R-3 districts, it shall be subject to the following conditions:

   1. The outdoor eating area shall be contiguous to the eating place to which it is accessory; and

   2. The outdoor eating area shall be clearly delimited by fences, walls or plant materials.

   3. No required off-street parking spaces shall be used for the outdoor eating area.

4. Where the outdoor eating area lies between fifty (50) and one hundred (100) feet of any of the residential districts listed above the use of the outdoor eating area and all activities therein shall cease by 10:00 p.m. except on Friday and Saturday nights when the use of the outdoor eating area and all activities therein shall cease by 11:00 p.m.;

5. Each permit shall be valid for a period of not more than one (1) year but, upon application, may be renewed. Failure to comply with all of the above conditions shall be cause for revocation of the permit.

b. If such an outdoor eating area is less than fifty (50) feet from the nearest boundary of any RS-4, R-0, R-1, R-X, R-2, R-2-A, R-2-B, R-3-X or R-3 district, it shall be subject to the approval of the board of adjustment under the provisions of section 59-54(3)u.

(Ord. No. 228-05, § 9, eff. 4-15-05)

L2 Sale at retail of the items listed below: In the I-0 district this use shall comply with the short review procedure.

a. Hardware;

b. Any commodity manufactured, processed or fabricated only on the premises;

c. Equipment, supplies and materials (except commercial explosives) designed especially for use in agriculture, mining, industry, business, transportation, building and other construction; except that retail sales of new or used recreation vehicles shall be approved subject to the short review procedure per section 59-285.

d. Any commodity, except the permitted and prohibited uses listed in paragraph (c) above, which are warehoused only on the premises, but only to the extent that the total floor area utilized by retail sales of all such warehoused commodities shall not exceed twenty (20) percent of the gross floor area of the warehouse.

e. In the I-1 and I-2 zones any commodity other than those which are warehoused on the premises. The total floor area utilized by the retail sales of all such warehoused commodities may comprise up to one hundred (100) percent of the gross floor area providing the following conditions are met:

1. A site plan of the proposed development is submitted by the applicant and approved by the zoning administration after review by the planning office.

2. The gross floor area of one (1) or more such retail uses in any single structure shall exceed twenty thousand (20,000) square feet. The retail use will serve a community-wide or citywide area.

3. The structure containing the proposed use shall be located a minimum of five hundred (500) feet from any residential zone or any residential PUD, and traffic general by the proposed retail-warehouse use shall not impact nearby residential access streets.

4. Notwithstanding the provisions of section 59-586, required offstreet parking, the proposed use shall provide one (1) parking space for each six hundred (600) square feet of gross floor area except that this requirement may be reduced to one (1) space per one thousand two hundred (1,200) square feet by the zoning administrator where it is determined that some characteristic of the proposed activity will exist which justifies a reduction

in the requirement. Parking lots serving such retail-warehouse uses shall be landscaped according to the rules and regulations for parking lot landscaping.

5. No retail package liquor business, not existing or operating on August 31, 1997, shall be established, operated, or maintained within one thousand (1,000) feet of another such business, including a liquor store or a drugstore licensed to sell package liquors.

6. No retail package liquor business, not existing or operating on the effective date of this provision (July 31, 2000), shall be established, operated, or maintained within one thousand (1,000) feet of a community corrections facility.

L15 Limited to kennel or cattery; where located abutting an "R" district, 50-foot wide landscaped buffer shall be provided as approved by the planning office. Animal care is not permitted in the I-0 district; in the I-1 and I-2 districts, it is a conditional use.

L19 Limited to columbarium.

L22 Adjoining residential zones should be protected from the external effects of the vehicle or equipment storage area by the establishment of landscaped buffers, by the location of landscaped employee or public parking areas or by other means. Vehicle traffic generated should not be allowed to pass through residential neighborhoods.

L25 Automobile gasoline filling station requires short review.

L27 Limited to: Repair, rental and servicing of any commodity which is manufactured, processed, fabricated, stored or sold in the district, except for the following: vehicle body shop, upholstery or top shop, paint shop, refrigeration and air-conditioning service and repair, disinfecting and pest control service. Uses located in the I-0 shall comply with the short review procedure. Conditional uses: Repair, rental and servicing of any commodity which is manufactured, processed, fabricated, stored or sold in the zone which involve an environmental hazard as determined by the fire department, including but not limited to the following: vehicle body shop, upholstery or top shop, paint shop, refrigeration and air-conditioning service and repair, disinfecting and pest control service.

L52 Conditional use: farmer's market.

L54 In the I districts repair, rental and servicing is limited to any commodity which is manufactured, processed, fabricated, stored or sold in the district, except for the following: vehicle body shop, upholstery or top shop, paint shop, refrigeration and air conditioning service and repair, disinfecting and pest control service. Uses located in the I-0 district shall comply with the short review procedure.

L69 Use by right: Blueprinting, copy shop, publishing company, desktop publishing or job shop. Limited to twenty-five (25) employees. Blueprinting and job shop establishments must comply with the short review procedure. Publishing is a conditional use.

L88 Limited to the following conditional uses:

a. Repair, rental and servicing of any commodity which is manufactured, processed, fabricated, stored or sold in the zone which involve an environmental hazard as determined by the fire department, including but not limited to the following: vehicle body shop, upholstery or top shop, paint shop, refrigeration and air conditioning service and repair, disinfecting and pest control service;

b. Autoclave;

c. Laundry, dry cleaning, commercial, industrial: short review in the I-1 and I-2 districts, not permitted in the I-0 district.

L91 Retail sales of new or used recreation vehicles shall be approved subject to the short review procedure per section 59-285.

L95 Limited to assembly of products not involving bonding and/or heating or toxic or hazardous materials as determined by the department of environmental health or by the fire department.

L101 Limited to: Use by right: Brewery or malt beverage manufacturing - limited to not more than sixty thousand (60,000) barrels per year. See distance requirement.

Conditional uses:

a. 3631 Household cooking equipment;

b. 3632 Household refrigerators and freezers;

c. 3633 Household laundry equipment;

d. 3639 Household appliances.

L102 Petroleum refining is prohibited except for the following:

295 Asphalt paving and roofing materials;

299 Miscellaneous products of petroleum and coal.

L112 The zoning administrator shall review the proposed use according to the requirements of section 59-54(3)o.1, required conditions.

L113 Recycling center, facility shall be completely enclosed, recycling plant, scrap processor shall be enclosed by a solid wall or fence meeting the requirements of section 59-291(a). (Ord. No. 625-05, § 14, eff. 9-2-05)

L115 Limited to water reservoir, need not be enclosed.

L116 Limited to water reservoir, need not be enclosed.

a. Conditional uses:

1. Sanitary service: 500-foot spacing requirement between a use and a residential zone. This requirement may be reduced by the environmental review committee if an analysis of the proposed use, its traffic generation and other external effects indicates a smaller separation will have no significant effect on the nearby residential zone district.

2. Solid waste facility. Must be located in a completely enclosed structure and must be a minimum of five hundred (500) feet from an "R" district.

b. Conditional uses in the I-2 district only; must be a minimum of five hundred (500) feet from an "R" district:

1. Sewage disposal plant.
2. Incinerator, publicly operated.
3. Electric generation plant, excluding nuclear powered plants.

L117 Electric substation excluded.

L120 Use by right; commercial storage of vehicles. Any part of such use conducted outside a completely enclosed structure need not comply with section 59-585(11), landscape plan. Garage for public utility vehicles: not permitted in the I-0 district, short review in the I-1 and I-2 districts, 500-foot spacing requirement between a use and a residential zone. This requirement may be reduced by the environmental review committee if an analysis of the proposed use, its traffic generation and other external effects indicates a smaller separation will have no significant effect on the nearby residential zone district. Garage for commercial vehicles not permitted.

L135 Laboratory is conditional use.

L139 Entertainment and sports arena, rodeo, stock show or convention center. Notification shall be given to all registered neighborhood organizations within one thousand (1,000) feet of the proposed facility soliciting written comment on the proposal. Building additions to existing facilities which propose more than ten thousand (10,000) square feet of floor area shall be regulated by this notification requirement. Such notification shall be made within fifteen (15) days after receipt of the application for a zoning permit. The planning office shall evaluate the proposal and shall prepare a recommendation which incorporates a consideration for planning and urban design principles and the concerns of the public. Any zoning permit which may be issued may contain conditions based on the recommendations of the planning office.

L152 Limited to riding academy.

L158 Limited to school for occupational skills, may include dormitories for students and instructors.

L168 In I-0 and I-1 districts, limited to plant husbandry only; in the I-2 meat packing plants and poultry slaughtering are conditional uses, distance requirement applies.

L192 Any drive-through facility on a zone lot that is adjacent to a residentially zoned zone lot shall be limited by all of the following criteria.

a. If the facility is visible from a public street or a residential district, an opaque screen shall be provided along the visible portion of the drive through queuing and operating lane. Such screen shall at least meet the requirements for screening found in the rules and regulations for the landscaping of parking areas.

b. There shall be no glare from permanent lighting or vehicle headlights projected onto residential uses. To ensure glare is controlled, all external lights shall have fully shielded fixtures. Light trespass onto residential uses shall not exceed three-tenths (0.3) of a foot candle.

c. The manager of public works shall only approve curb cuts providing access to the site that do not unreasonably interfere with automobile or pedestrian traffic and shall only approve queuing lanes if they are adequate to prevent backups onto public streets.

d. No device that amplifies sound shall be so designed or operated that the amplified sound can be perceived on any residentially zoned lot.

e. All parts of any drive-through facility shall be separate from parking circulation aisles.

f. Any drive-through facility located on a zone lot that is adjacent to a residentially zoned zone lot and which has any portion of the facility located eighty-five (85) feet or less from the residentially zoned zone lot may only be open during the hours of 5:30 am to 11:00 pm, Sunday through Thursday and 5:30 am to midnight Friday and Saturday.

g. This limitation L192 applies only to drive through facilities that commence operations after June 1, 2006.

(Ord. No. 326-05, § 12, eff. 5-26-06)

L200

a. That there is an existing structure which was erected as a single unit dwelling or multiple unit dwelling prior to July 1, 2004, has not had its nonconforming use terminated and is not a neglected or derelict building under the provisions of article IX (neglected and derelict buildings), chapter 10 (buildings and building regulations) of the Denver Revised Municipal Code.

b. That future rebuilds, physical modifications, alterations, and/or additions to the structure containing the single unit dwelling or multiple unit dwellings shall comply with the provisions of section 59-120 as it applies to the R-0, R-1 and R-2 zone districts.

c. That uses allowed by temporary permit shall be regulated by section 59-86(b), as it applies to the R-0, R-1 and R-2 zone districts.

d. That accessory uses allowed shall be regulated by section 59-87.

e. That accessory structures allowed shall be regulated by section 59-88. A single unit dwelling in the I-0, I-1 and I-2 zone districts shall be subject to the same limitations as a single unit dwelling located in any residential zone district.

f. That home occupations allowed shall be regulated by section 59-89 as it applies to the R-0, R-1 and R-2 zone districts.

g. That external effects of such uses shall be regulated by section 59-92 and shall not be exempt from these provisions due to the industrial zoning.

h. That parking of vehicles shall be regulated by section 59-93 as it applies to the R-0, R-1 and R-2 zone districts.

i. That the provisions of article V of this chapter on permitted signs allowed in the R-0, R-1 and R-2 zone districts shall be in full force and effect.

j. The zone lot containing a residential use shall be used and operated in its entirety as a residential use. Such zone lots shall not be amended.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 436-04, § 2, 7-9-04)

Sec. 59-285. Short review procedure.

Where the short review procedure is required, applicants shall submit a plan of the property according to the requirements of section 59-515(a)(2), the P.U.D. district plan, excluding the written description of the proposed development. Such plan shall be reviewed by the planning office to resolve any traffic related environmental problems which may affect nearby residential neighborhoods. Also such plan shall be reviewed by the fire department to resolve any fire hazards. Within fifteen (15) days after the receipt of a completed application by the zoning office, reviewing agencies shall indicate their approval or approval with conditions.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-286. Procedure for the review of conditional uses.

Conditional uses may be permitted upon the completion of the review procedure described below:

(1) *Application submittal requirements.* Along with the standard zoning application form, the applicant shall submit a plan of the property meeting the requirements of the PUD district plan, section 59-515(a)(2), excluding the written description of the proposed development. Reviewing agencies may require additional information as necessary to complete their review. The zoning office may establish a reasonable fee for the processing of these applications.

(2) *Referral to public agencies and others.* Within seven (7) days after receipt of a complete permit application, the zoning office shall forward a copy of the application and attached schematic plan to each member of the environmental review committee as established by subsection (4) below, to all registered neighborhood organizations within two thousand (2,000) feet of the proposed site, to the city council and to other agencies as deemed appropriate by the zoning office.

a. *Basis for agency review.* All proposed conditional uses shall be reviewed on the basis of potential environmental problems and/or detrimental external effects as listed below:

1. Harmful external effects;
2. Traffic congestion or truck traffic on residential streets;
3. Air pollution caused by a stationary source;
4. Water pollution, surface and/or subsurface;
5. Radioactive emissions;
6. The presence of toxic or hazardous materials and/or wastes;

7. Emission of noise, heat, glare, fumes, and/or odors;
8. Fire hazards;
9. Visual pollution;
10. Undue concentration of uses which create the environmental problems and external effects listed above.

In addition, a proposed use shall be reviewed on the basis of its compliance with the city's comprehensive plan.

b. *Adoption of rules and regulations.* Reviewing agencies shall have the authority to adopt rules and regulations containing the criteria used to differentiate a minor

conditional use from a major conditional use. Such criteria shall relate to the potential environmental problems and detrimental effects as listed in subsection (2)a., above.

c. *Minor conditional uses.* At the option of the applicant, a proposal may be reviewed according to agency criteria which is designed to evaluate its eligibility as a minor conditional use. Minor conditional uses are those which are not anticipated to cause any environmental problems for abutting properties or nearby residential areas. Agency criteria used to identify such minor uses shall be in writing and available to applicants prior to the time of application. Applications shall be reviewed by the zoning office staff using the criteria and referred to the agencies for verification. If a majority of agency members of the committee verify that a proposed use is a minor conditional use, the administrator shall issue the use permit without satisfying the requirement of subsection (5), public meeting. Agencies may attach conditions to their approval, and such conditions shall be listed on the use permit. Agency decisions shall be forwarded to the zoning office no later than fifteen (15) calendar days after receipt of a completed application by the zoning office. Agencies which do not submit their decision to the zoning office within the specified time shall be assumed to have made a favorable decision without conditions.

d. *Major conditional uses.* If the proposed use is determined not to be a minor conditional use or if that evaluation process was not chosen by the applicant, the zoning office shall see that all committee members have a copy of the application and shall instruct the recipient members to prepare a preliminary decision on the proposal. A copy of the application shall be referred to the building inspection division of community planning and development so that the agency can advise the applicant regarding any change of occupancy problems.

(3) *Request for public meeting and notification.* A public meeting of the committee may be requested if the proposed use is determined to be a major conditional use. Such request must be submitted to the zoning office no later than twenty-one (21) days after the receipt of the application by the zoning office. Such request may be made after a majority vote of the executive committee, board of directors, or membership in favor of such request, by a registered neighborhood organization within two thousand (2,000) feet of the proposed use, a majority of the members of the review committee, or a petition signed by one hundred (100) people who either own property within two thousand (2,000) feet of the proposed use or who reside within the same area. Within seven (7) days after the receipt of such request, the zoning office shall set a date for a public meeting and shall send a notice to the parties listed in (3) above, referral to public agencies and others. The meeting date shall be no less than twenty-one (21) days and no more than thirty-five (35) days from the date of the notice.

(4) *Environmental review committee established.* There shall be an environmental review committee consisting of the director of planning, the manager of public works, the zoning administrator, the chief of the fire department and the manager of the

department of environmental health, or their appointed representatives. The committee shall include two (2) community members as follows: (a) a person who represents the registered neighborhood organizations whose areas adjoin an industrial zone; and (b) a person who owns property in Denver which is zoned for an industrial use and which is occupied by a permitted business or industrial use, or who owns or manages a business or industrial use in Denver. Community members shall be appointed by the mayor for a term of four (4) years and shall serve at the pleasure of the mayor. The appointment of the neighborhood representative shall be made from a list of candidates prepared by the registered neighborhood organizations. The director of planning or his/her appointed representative shall act as coordinator of this committee and shall preside at scheduled public meetings conducted by the committee. The committee may adopt rules governing all its meetings.

(5) *Public meeting.* At the meeting agency members shall indicate their intention to either approve, approve with conditions, or deny the application and the reasons for their decision. Agencies which do not submit their recommendation at the time of the meeting shall be assumed to have made a favorable decision. Community members and members of the public may express their concerns and may question the conclusions of any participating agency. If a disagreement occurs or if conflicting facts are presented, the public meeting on the case may be continued to a date specific in order to resolve the issue.

(6) *Approval / denial of the use permit.* Within twenty-eight (28) days after the receipt of an application by the zoning office if no public meeting is requested, or within seven (7) days after a public meeting or continued public meeting on a permit application, each agency member shall submit to the zoning office a written indication of their approval, approval with conditions or denial. Agencies which do not submit their comments within this seven-day period shall be assumed to have approved the application. The zoning administrator shall approve, approve with conditions or deny the permit as determined by the decisions of the individual agencies. A notice of such decision shall be sent to the applicant, any registered neighborhood organization within two thousand (2,000) feet of the subject property, the city council, and to committee members. Such notice will be sent no later than four (4) days after the decision on the permit.

(7) *Application of procedure to existing uses.* Conditional uses existing as of January 11, 1991, shall not be enlarged more than fifteen (15) percent of the existing floor area or site area unless the addition meets the requirements of this section 59-286.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-287. Uses by temporary permit.

Uses by temporary permit, as regulated by section 59-86; parking lot designated for a special event, as regulated by section 59-85.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-288. Accessory uses.

Accessory uses, as regulated by section 59-87.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-289. Limitations on external effects of uses.

Performance standards. All uses shall comply with the following limitations:

(1) *Enclosure of uses in the I-0 zone:* Every use in the I-0 zone, unless expressly exempted by the chapter, shall be operated in its entirety within a completely enclosed structure.

(2) *Noise:* The regulations of chapter 36, Revised Municipal Code, noise control, as administered by the department of environmental health, shall apply to all properties in the industrial zone.

(3) *Vibration:* Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the zone lot on which the use is located. Vibrations from temporary construction and vehicles which leave the zone lot (such as trucks, trains, airplanes and helicopters) are excluded.

(4) *Air pollution and odors:* The emission of any air contaminant or odor shall be regulated by the provisions of chapter 4, Revised Municipal Code, air pollution, as administered by the department of health and hospitals.

(5) *Radioactivity:* The airborne emission of radioactive material shall comply with the latest provisions of the State of Colorado Rules and Regulations pertaining to radiation control.

(6) *Other emissions:* Emissions of electromagnetic radiation, heat or glare shall comply with applicable standards adopted by city regulatory agencies; and in no case shall such emissions endanger human health, cause damage to vegetation or property, interfere with the normal operation of equipment or instruments, or interfere with the reasonable use and enjoyment of property located outside the zone lot on which a use is operated.

(7) *Outdoor storage and waste disposal:*

a. No materials or wastes shall be deposited upon a zone lot in such form or manner that they may be transferred off the zone lot by natural causes or forces.

b. All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.

c. Limitation on the aboveground storage of certain materials:

1. No flammable gases or solids, combustible or flammable liquids or explosives shall be stored in bulk above ground except that:

i. Railroad locomotive fueling, fuel tanks for energy or heating devices or appliances, tanks containing compressed natural gas and the fueling of

vehicles operated in association with a permitted use may utilize aboveground tanks provided they are located a minimum of one thousand (1,000) feet from a protected use.*

ii. Vaulted tanks as approved by the fire department may be located above ground.

iii. The parking of railroad tank cars containing explosive or flammable materials [may be] located at least one thousand (1,000) feet from a protected use. A protected use is any residential use, a hospital, an auditorium or other building used for public assembly. The one-thousand-foot spacing may be reduced by the administrator with review and concurrence of the fire department, providing the owner submits evidence that the proposed storage facility will not create a hazard for nearby protected uses.

2. Liquefied petroleum gases shall be stored no closer to any boundary line of a zone lot on which they are located than that allowed by the Denver Fire Code.

3. Explosives shall be stored no closer to any boundary line of the zone lot on which they are located than that allowed by the Denver Fire Code.

(8) *Loading operations:* Truck or railroad loading or unloading operations located within two hundred (200) feet of and abutting to a residential district shall not be conducted between the hours of 10:00 p.m. and 6:00 a.m. or else shall be conducted entirely within an enclosed structure.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-290. Permitted structures.

The following regulations shall apply to all industrial zones:

(1) *Zone lot for structures.* A specific ground area, herein called the zone lot, shall be designated, provided and continuously maintained for all structures containing a use or uses by right. Each zone lot shall have at least one (1) front line. Upon application to and approval by the department of zoning administration, the boundaries and area of a designated zone lot may be amended if full compliance with all requirements of this chapter can be maintained.

(2) *Location of structures.* Except for permitted encroachments, vehicle/pedestrian accessways and the uses or improvements listed below, the space resulting from the following setbacks shall be open and unobstructed:

a. *Front setback:* Twenty (20) feet; provided, however, that automobile parking may be maintained on the interior ten (10) feet of this setback unless the front line abuts an "R" district; then the full twenty-foot setback must be open and unobstructed. Corner lots: A 20-foot setback is required on the front line which is part of the longer dimension of the block; however, the setback adjacent to the front line comprising the shorter dimension of the block may be reduced to ten

ten (10) feet. If the lot width measured along the longer dimension of the block is one hundred (100) feet or less, the setback adjacent to the front line comprising the shorter dimension of the block may be reduced to five (5) feet.

b. *Side setback:* Ten (10) feet wherever the side line abuts an "R" zone. In all other cases, no setback is required.

c. *Rear setback:* Ten (10) feet where the rear line abuts an "R" district. If the zone lot abuts a "B" zone, the rear setback shall be the same as that required for the "B" district. In all other cases, no setback is required.

d. *Permitted encroachments on setback space:*

1. Belt courses, sills, lintels and pilasters may project eighteen (18) inches into front, rear and side setback spaces.

2. Cornices, eaves and gutters may project three (3) feet into front setback space. Cornices, eaves and gutters may project five (5) feet into rear setback space and thirty-six (36) inches into side setback space; provided, however, that if the side setback space is less than five (5) feet in width, then such projection shall not exceed one-half the width of the side setback space.

3. Outside stairways may project five (5) feet into front setback space; access ramps for the handicapped may encroach into any required building setback space, providing no alternative location is available and providing the ramp construction is compatible with the character of the structure. Outside stairways may project ten (10) feet into rear setback space and three (3) feet into side setback space.

4. Unwalled porches, terraces and balconies may extend five (5) feet into front and rear setback spaces.

5. Chimneys not to exceed six (6) feet in width may project eighteen (18) inches into front, and rear and side setback spaces.

6. Building accessories designed and intended to control light entering a building and being a permanent part of such building may project five (5) feet into front setback space, and ten (10) feet into rear setback space and three (3) feet into side setback space.

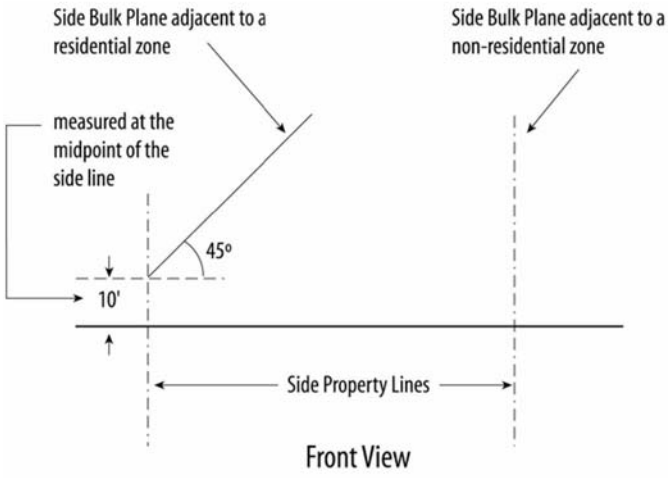
7. Building accessories designed and intended to control light entering a building and not being a permanent part of such building, by being removable therefrom and by not being attached to a load-bearing member thereof, may project any distance into any setback space.

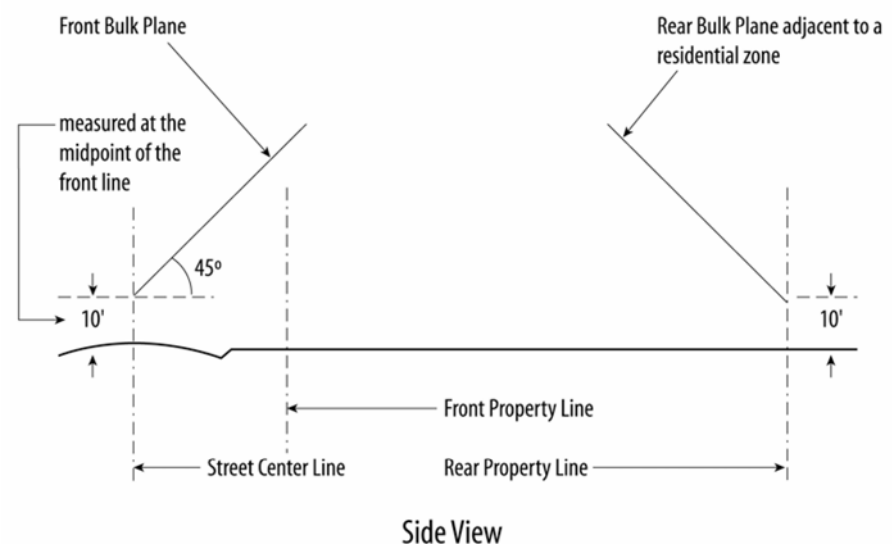
8. Canopies may project any distance into the front setback space.

9. Any structure or part thereof which is below the grade of any setback space may project any distance into such setback space.

10. Gas and electric meters may project three (3) feet into any setback space if screened on all sides by a masonry wall. Utility pedestals, transformers or other similar equipment may be installed in any setback providing they do not exceed a height of three (3) feet.
11. Basketball goals on a fixed post may project any distance into the setback spaces.
12. Open walls or fences or chainlink security fences not exceeding seven (7) feet in height may be erected on any portion of any required setback area. The height of such walls or fences shall be determined as stated in section 59-2(112.1) fence and wall height measurement.
(Ord. No. 363-06, § 13, eff. 6-16-06)
13. Flush mounted solar panels may encroach any distance into the setback space.
(Ord. No. 53-08, § 28, eff. 2-8-08)

(3) *Bulk of structures.* No part of any structure (except flagpoles, antennas, chimneys, flues, vents, flush mounted solar panels or accessory water tanks) shall project up through bulk limits which are defined by planes extending up over the zone lot at an angle of forty-five (45) degrees with respect to the horizontal (a pitch of one (1) foot additional rise for each foot additional setback) and which planes are shown in the diagram below:
(Ord. No. 53-08, § 29, eff. 2-8-08)





The sketch above generally illustrates the setback and bulk regulations for most buildings containing a use by right.

The Code language prevails if any variation occurs between the illustration and Code language.

(4) *Maximum gross floor area in structures.* The sum total of the gross floor area of all structures on a zone lot shall not exceed the floor area ratios (FAR) as shown below (FAR is the ratio of the gross floor area to the site area):

a. I-0 Five-tenths (0.5) FAR for non-office uses, plus five-tenths (0.5) FAR for office uses; providing, however, that if non-office uses occupy less than five-tenths (0.5) F.A.R, the office use may be increased proportionately to a maximum of one (1.0) FAR

b. I-1 and I-2 Two (2.0) FAR

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-291. Required site improvements.

(a) *Screening by solid wall and/or fence.* The solid wall or fence shall consist of wood, brick, masonry or other materials as approved by the zoning administrator; however, salvage doors and corrugated or sheet metal shall not be allowed. The requirement for a solid wall or fence may be satisfied by an equivalent visual barrier consisting of chainlink fence containing an approved sight-obscuring material. Within fifty (50) feet of the intersection of the right-of-way lines of intersecting streets, the height and location of such walls or fences shall be determined by the director of transportation engineering. All walls or fences shall be maintained in good condition at all times.

(1) *Outdoor storage areas adjacent to certain zoned areas.* All outdoor storage areas or facilities for fuel, raw materials, equipment and products shall be enclosed by a solid

wall or fence adequate to conceal such facilities from abutting residential and business zoned properties. Such storage areas and unenclosed solid waste collection areas which are located within two hundred (200) feet of and abutting a residential or business zoned property shall be screened by a seven- to ten-foot high solid wall or fence. Materials and products stored within one hundred (100) feet of a residential or business zoned property shall not be stacked to a height above that of the wall or fence surrounding the storage area.

(2) *Junkyard.* Such yard must be entirely surrounded by a solid wall or fence as described by section 59-291(a) above. The height of such fence or wall shall screen the view of the stored material and need not exceed a height of ten (10) feet. Existing solid walls or fences consisting of prohibited materials shall be replaced with approved materials no later than June 15, 1993.

(b) *Landscaping of setback areas.* The required setback area shall be landscaped according to the requirements listed below. The zoning administrator shall adopt rules and regulations for such landscaping and shall review proposed plans on the basis of such rules and regulations.

(1) *Front setback.* The required front setback shall be improved by the installation of trees and ground cover in accordance with the rules and regulations mentioned above. The required trees may be located either in the setback area or in the public right-of-way if approved by the public works department and city forester.

(2) *Side and rear setback areas abutting a residential district.* The presence of a street or alley shall not destroy the abutment of a zone lot to a zone district. Landscaping shall be required in these setback areas to create a visual barrier for residentially zoned properties. The landscaping rules and regulations as adopted by the zoning administrator shall describe the elements necessary to create such visual barrier and shall include a mixture of understory vegetation and canopy trees.

(c) *General landscaping requirement.* Landscaped areas equal to five (5) percent of the zone lot area shall be installed on the zone lot. Front setback landscaping and the landscaped areas required for onsite parking lots may be counted as part of this requirement. Such landscaping shall be located near the front of the zone lot and shall comply with the aforementioned rules and regulations.

(d) *Application of the landscaping requirements to existing uses.*

(1) *Setback areas.* The landscaping requirements for front, side and rear setback areas abutting a residential district shall apply to existing uses. The presence of a street or alley shall not destroy the abutment of a zone lot to a zone district. Where a zone district boundary follows a railroad right-of-way, consideration shall be given to transportation safety, adequate drainage and right-of-way maintenance needs in the administration of this requirement. The city shall notify all affected property owners of this requirement and shall instruct such owners in regard to the planting requirements and the phases of compliance. The administrator shall adopt guidelines

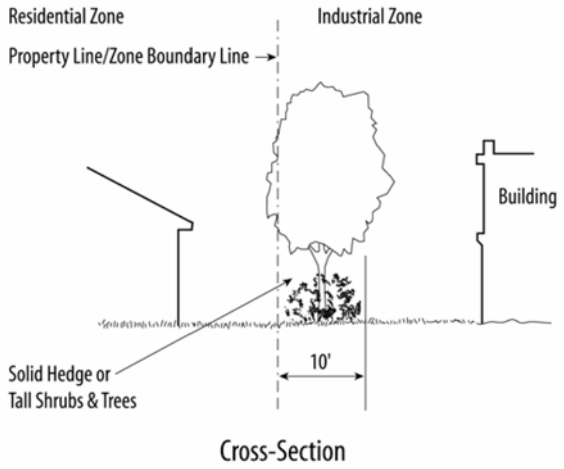
for the application of these requirements to the variety of situations which will occur where industrial districts abut residential districts. The administrator may waive the requirement or may allow the relocation of the planting or may require substitute improvements if it appears that the application of the requirements to the specific circumstances of the zone lot would create an unreasonable burden on the owner. Such burden would be created if the application of this requirement were to remove required parking spaces from the front setback where no other convenient location was available onsite for such parking spaces. In addition, the administrator may waive the requirement if the strict application of the requirement would provide nosignificant benefit to adjoining residentially zoned property.

(2) *General landscaping.* The general landscaping requirement of subsection 59-291(c) shall apply to the expansion of an existing use if the site area or gross floor area of such use is enlarged more than fifteen (15) percent of that existing at the date of the adoption of this subsection. The area of landscaping required shall be the ratio of additional floor or site area to the gross floor area or site area existing at the date of adoption multiplied times five (5) percent. A formula explaining the application of this requirement is shown below.

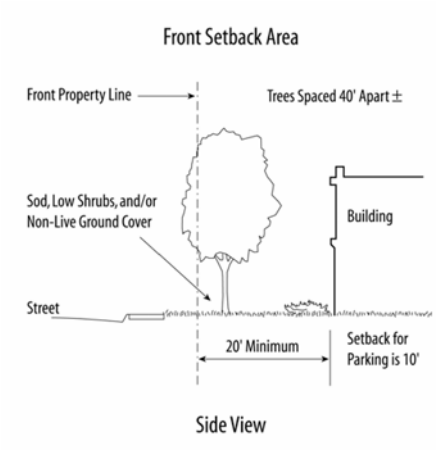
Assume an industrial use is to be expanded by twenty-three (23) percent of the present gross floor area or site area:

0.23 (23%) × 0.05 (5%) = 0.0115

0.0115 × present zone lot area = area of required new landscaping.



Side or Rear Setback Area Abutting a Residential Zone—Cross Section



Front Setback Area—Side View

The sketch generally illustrates the setback and bulk regulations for most buildings containing a use by right.

The Code language prevails if any variation occurs between the illustration and Code language.

(e) *Application of the enclosure requirement to certain existing uses.* A recycling facility shall be operated within a completely enclosed structure.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-292. Permitted signs.

The provisions of article V of this chapter on permitted signs shall be in full force and effect in this district.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-293. Off-street parking requirements.

The provisions of article VI of this chapter on off-street parking requirements shall be in full force and effect in this district; except that the landscaping requirements of section 59-585(11), landscape plan, shall not apply to truck parking areas.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-294. Off-street loading requirements.

The provisions of article VII of this chapter on off-street loading requirements shall be in full force and effect in this district. Off-street truck loading docks shall be so located that trucks parked in such docks will not occupy the public right-of-way.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-295. Special zone lot plan for planned building groups.

The provisions of article VIII of this chapter on special zone lot plan for planned building groups shall be of no force and effect in this district.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Secs. 59-296—59-300. Reserved.

DIVISION 15. MIXED-USE DISTRICTS

Sec. 59-301. Mixed-use districts—General purpose, appropriate use and compatibility of uses and structures.

(a) *General purpose.* These mixed-use districts are enacted to provide for and encourage a compatible mix of uses, rather than a separation of uses, in accordance with the Denver comprehensive plan. The provisions of the mixed-use districts, OS-1, R-MU-20, R-MU-30, C-MU-10, C-MU-20, C-MU-30, and T-MU-30 shall establish and define the uses of land and the siting and character of the improvements and structures allowed on the land in a manner that allows a balanced mix of uses in a pedestrian-friendly environment. The special review use and development plan review processes set forth herein and the associated rules and regulations will assure that adjacent uses are compatible and that design is of a high quality. Public amenities such as streets with detached sidewalks and tree lawns, parkways, parks, creek corridors, open spaces and direct access to permanent mass transit facilities should be used to organize private development. The director of planning may adopt rules and regulations relating to the design and siting of structures and uses to assure the compatibility of uses and high quality design. All of the mixed-use districts provide a broad range of uses in order to encourage the development of diverse, interesting neighborhoods. R-MU districts are predominantly residential with neighborhood-serving retail shops, offices, restaurants, and services along more heavily traveled streets. C-MU districts are predominantly commercial. T-MU districts combine residential, office, civic and commercial uses and are primarily organized to provide users with good access to transit. In order to accomplish this goal, these districts must be proximate and accessible to a mass transit railway system station and must have a direct pedestrian connection to that station. All uses and structures will be sited and designed to be compatible with one another.

(1) *OS-1 Open Space District.* The OS-1 district is intended for publicly and privately owned parks, open space, natural habitats, golf courses, and a limited range of other uses, such as public or private recreation centers and concessions, that may enhance the use and enjoyment of open space.

(2) *R-MU-20 Residential Mixed Use District.* The R-MU-20 district is primarily residential, allowing either single-or multiple-unit dwellings. Along collector or arterial streets, development may be either residential or mixed-use, combining residential with neighborhood-serving retail, office, or service uses. Commercial uses should be located on collector or arterial streets or in areas that already have commercial uses. No maximum residential density is prescribed; instead, the scale of buildings is determined by bulk plane, maximum height, setbacks, open space requirements, and parking ratios. The intent is to encourage a full range of housing types, including affordable housing.

(3) *R-MU-30 Residential Mixed-Use District.* The R-MU-30 district is a primarily residential district allowing higher density multiple unit dwellings of a density appropriate to the center-city and other activity centers such as light rail transit stations. Supporting commercial development, such as consumer retail and service uses and small-scale

office uses, is encouraged to create a truly mixed-use environment. No maximum residential density is prescribed. Instead, maximum height, setbacks, and open space requirements determine the scale of buildings.

(4) *C-MU-10 Commercial Mixed-Use District.* The C-MU-10 district is the most restrictive of the commercial mixed-use districts, with the shortest list of allowed uses. It includes commercial uses appropriate for high-visibility locations such as employment centers and the intersections of arterial streets. The purpose of the district is to concentrate higher intensity commercial uses, spatially define streets, encourage higher site and building design standards, and create a more attractive pedestrian environment. Uses incompatible with this purpose, such as auto-related uses, industrial uses, and single-unit dwellings, are not allowed. All uses and structures will be sited and designed to be compatible with one another.

(5) *C-MU-20 Commercial Mixed-Use District.* The C-MU-20 district provides for a mix of commercial, residential, and industrial uses along or near arterials or other high traffic streets. Site and building design will be of a quality that enhances the character of the streets. A wide range of commercial and residential uses are allowed, along with limited industrial uses. All uses and structures will be sited and designed to be compatible with one another.

(6) *C-MU-30 Commercial Mixed-Use District.* The C-MU-30 district provides for a wide range of commercial, office, retail, industrial, and residential uses that allow property owners the flexibility to respond to the long-term evolution of development trends. All uses and structures will be sited and designed to be compatible with one another.

(7) *T-MU-30 Transit Mixed-Use District.* The T-MU-30 district provides for urban development proximate to a mass transit railway system station to promote a mix, arrangement, and intensity of uses that support transit ridership and use of other transportation modes, especially walking. The arrangement of uses allows residents, workers, and shoppers to walk to transit and other destinations within the district. The T-MU-30 district allows the broadest range of uses and most development intensity. The T-MU-30 district is intended for station areas with adequate land to create a viable transit oriented development (TOD) and to transition to the surrounding community. A T-MU-30 district must be proximate to a mass transit railway system station and have a direct pedestrian connection to that station. That point of a T-MU-30 district that is nearest to a mass transit railway system station shall be located no more than 1500 feet from the intersecting center lines of the tracks and adjacent passenger loading platforms.

(b) *Appropriate use of mixed-use districts.* Mixed-use districts should be used only when there is no other zone district that is more appropriate for the desired uses; there are or will be multiple uses, not just a single use, either in a single structure or on a single parcel; when the desired uses substantially conform with the mixed-use zoning requirements and extensive use waivers are not required; when it is anticipated that over time there will be a need and desire for flexibility; and when a higher level of design review is desired in order to mitigate

potential impacts. Mixed-use districts may also be more appropriate when there is more than a single owner and when an appropriate planning framework is in place for the area which includes the proposed mixed-use district. The director of planning may adopt rules and regulations relating to the appropriate use of mixed-use districts instead of other zone districts including PUDs. In addition, all applications to rezone land into a mixed-use district shall be submitted to the planning board. The planning board may make a recommendation as to the appropriateness of using a mixed-use district for the subject land to the zoning administrator.

(c) *Compatibility.* All uses and structures shall be sited and designed to be compatible with one another. To determine compatibility, a review, including but not limited to, the following characteristics of the uses and structures shall be conducted relative to other affected uses and structures: location, orientation, operation, massing, scale, and visual and sound privacy. The director of planning may adopt rules and regulations relating to the compatibility of uses and structures based upon the above-listed characteristics.

(d) *Integration with adjacent public infrastructure.* The T-MU-30 districts shall be designed to integrate into the adjacent transportation system and maintain or exceed specific performance standards. These performance standards include: strong pedestrian connections to ensure the maximum benefits of the transit system; connectivity to existing roadways; multi-modal roadway design that accounts for each transportation mode; strategic locations of parking lots/structures; compatibility with the regional transportation system; and, minimization of impacts to local neighborhood streets.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-302. Enclosure of uses.

This section sets forth the types of enclosure required for each use.

(1) *Types of enclosure.* The three (3) types of enclosures are:

a. *Drive-up.* A structure designed or operated to enable persons to receive a service or purchase goods while remaining within a motor vehicle.

b. *Enclosed.* A permanently roofed structure fully contained on all sides by solid exterior walls, which are pierced only by windows, vents or customary entrances and exits, excluding drive-up structures.

c. *Unenclosed.* A structure without a permanent roof or a structure that is not fully contained on all sides by solid exterior walls, is pierced only by windows, vents or customary entrances and exits, excluding drive-up structures, or where a use, other than open space, park or recreation, is conducted totally or substantially without structural containment.

(2) *Application.* Any permitted use or part of such a use conducted outside of a completely enclosed structure and all drive-up facilities shall be subject to the review process in accordance with section 59-306 (procedures for the review of nonindustrial special

review uses and enclosure requirements). The standards set forth in section 59-306(g) (unenclosed uses and drive-up facilities; standards) shall be applied in reviewing the enclosure.

(3) *Requirements for outdoor storage and waste disposal.*

a. All outdoor storage of waste shall be enclosed by a fence, wall, hedge or other type of landscaping adequate to conceal such facilities from the adjacent property. Such enclosure shall meet fire department safety requirements.

b. Waste shall be contained and/or deposited in such a manner that natural causes or forces do not transfer it off the zone lot.

c. All wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.

d. This provision applies to all residential uses: No flammable or explosive liquids, solids or gases shall be stored in bulk above ground. Tanks of fuel directly connected to heating devices or appliances located on the same zone lot as the tanks of fuel are excluded from this provision.

e. For all nonresidential uses, no flammable gases or solids, combustible or flammable liquids or explosives shall be stored above ground except for the following as permitted and regulated by the fire department:

1. Tanks or drums of fuel directly connected to heating devices or appliances located on the same zone lot as the tanks or drums of fuel;

2. Vaulted tanks;

3. Tanks containing compressed natural gas for the fueling of vehicles operated in association with a permitted use; and

4. LP gas dispensing units.

(4) *Exceptions to use enclosure requirements.*

a. Notwithstanding the otherwise applicable provisions, the following uses need not be enclosed: Automobile gasoline filling stations; agriculture uses; athletic fields; building contractors, heavy; cemeteries; concrete, asphalt, and rock crushing facilities; husbandry; nurseries, plant; public or private park or open space; parking of vehicles; parking of vehicles, excess; and, sales lots for motor vehicles, recreational vehicles, trucks, and trailers.

b. Eating place: providing that upon application to and issuance by the department of zoning administration of a permit therefor the aforesaid use need not be enclosed to the extent that tables and seats may be placed out of doors, and food served thereat provided further that:

1. If such an outdoor eating area is fifty (50) feet or more from the nearest boundary of any RS-4, R-0, R-1, R-X, R-2, R-2-A, R-2-B, R-3-X or R-3 district, it shall be subject to the following conditions:

i. The outdoor eating area shall be contiguous to the eating place to which it is accessory; and

ii. The outdoor eating area shall be clearly delimited by fences, walls or plant materials.

iii. No required off-street parking spaces shall be used for the outdoor eating area.

iv. Where the outdoor eating area lies between fifty (50) and one hundred (100) feet of any of the residential districts listed above the use of the outdoor eating area and all activities therein shall cease by 10:00 p.m. except on Friday and Saturday nights when the use of the outdoor eating area and all activities therein shall cease by 11:00 p.m.;

v. Each permit shall be valid for a period of not more than one (1) year but, upon application, may be renewed. Failure to comply with all of the above conditions shall be cause for revocation of the permit.

2. If such an outdoor eating area is less than fifty (50) feet from the nearest boundary of any RS-4, R-0, R-1, R-X, R-2, R-2-A, R-2-B, R-3-X or R-3 district, it shall be subject to the approval of the board of adjustment under the provisions of section 59-54(3)u.

(Ord. No. 228-05, § 10, eff. 4-15-05)

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-303. Uses allowed in these districts.

The following is a list of uses with notations as to whether they are permitted, conditional, limited, or have other requirements as listed in the matrix and the sections which follow. Uses not listed are not allowed in any of these districts. Uses left blank are not allowed in that district. Permitted uses are uses by right.

Key: *P = Permitted* *L = Uses permitted with limitations* *SR = Uses permitted after special review* *D = Uses permitted with distance requirements* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone District*						
	R-MU-		*C-MU-*			*T-MU-*	*OS*
Use	*20*	*30*	*10*	*20*	*30*	*30*	*1*
Residential							
Artist studio		P	P	P	P	P	
Assisted living facility	P	P	P	P	P	P	
Dwelling, multiple unit	P	P	P	P	P	P	
Dwelling, single unit	P	P		P	P		
Nursing home, hospice	P	P		P		P	
Live/work residential	P	P	P	P	P	P	
Residence for older adults	P	P	P	P	P	P	
Residential, institutional/special	P	P	P	P	P	P	
Rooming and/or boarding house	L14/SR	L14/SR	P	P	P	P	
Retail, service, office							
Adult establishment as follows							

Key: *P = Permitted* *L = Uses permitted with limitations* *SR = Uses permitted after special review* *D = Uses permitted with distance requirements* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone District*						
	R-MU-		*C-MU-*			*T-MU-*	*OS*
Use	*20*	*30*	*10*	*20*	*30*	*30*	*1*
Adult amusement or entertainment					SR/D2	D2	
Bookstore, adult					SR/D2	D2	
Eating place with adult amusement					SR/D2	D2	
Photo studio, adult					SR/D2	D2	
Sexually oriented commercial enterprise					SR/D2	D2	
Theater, adult					SR/D2	D2	
Animal care, kennel, cattery					P	SR	SR
Animal sales, service, care, household pets only	SR/D3/ L17	L17	L17	P	P	SR	
Automobile gasoline filling station, emissions inspection		SR		P	P	SR	
Automobile repair garage					P	SR	
Automobile wash, laundry and/or polishing shop*				P	P		
Automobile, motorcycle, light truck sales, leasing, rental*					P	L34	
Banking and financial services	D3	P	P	P	P	P	
Bed and breakfast	D3	P	P	P	P	P	
Bookstore	L38/D3	L39/SR	L39/SR	P	P	L39/SR	
Brewpub		SR	P	P	P	SR	
Communications service		P	P	P	P	P	
Eating place*	L45/D3	P	P	P	P	L46	SR/L45
Food preparation and sales, commercial		L49			P	SR/L49	
Food sales or market, large		SR	SR	P	P	SR	
Food sales or market, small	SR/D3	P	P	P	P	P	SR
Furniture, furnishings, retail sale, large scale		L39/SR	L39/SR	P	P	L39/SR	
Garden supply store		SR		P	P		
Home building materials and supplies, sales, or rental				P	P		
Hotel		P	P	P	P	P	
Laboratory, research, development, technological service		SR	SR	SR	SR	SR	
Liquor store		D7	SR/D7	D7	D7	D7	
Motel		P		P	P		
Office: nondental, nonmedical	L65/D3	L66/SR	P	P	P	L66/SR	SR/L66
Printing service, publishing, business support		P	P	P	P	P	
Retail, service, repair, consumer, large scale		SR	SR/L72	P	P	SR/L72	
Retail, service, repair, consumer, medium scale		SR	P	P	P	P	
Retail, service, repair, consumer, small scale	D3	P	P	P	P	P	
Retail, service, repair, consumer, special		L38/SR	L39/SR	P	P	L39/SR	
Service, repair, commercial		SR/L89		SR/L89	P	SR/L89	
Vehicle, equipment sales, leasing, service, rental*					L92/ SR/D9		

Key: *P = Permitted* *L = Uses permitted with limitations* *SR = Uses permitted after special review* *D = Uses permitted with distance requirements* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone District*						
	R-MU-		*C-MU-*			*T-MU-*	*OS*
Use	*20*	*30*	*10*	*20*	*30*	*30*	*1*
Industrial, wholesale, transportation, utilities							
Automobile parts recycling business*					SR		
Manufacturing, fabrication, and assembly, custom			SR	P	P	SR	
Manufacturing, fabrication, and assembly, general				SR/ L99/D9	L99/D9		
Manufacturing, fabrication, and assembly, heavy					SR/D9		
Manufacturing, fabrication, and assembly, light				SR	P	SR	
Parking of vehicles*				SR	SR	L108	
Railroad facilities					L106	L106	
Recycling collection station			SR	P	P	SR	
Recycling plant, scrap processor					SR/D9		
Terminal and service facility for bus system*					L114	L114	
Terminal, freight, air courier services*					P		
Terminal, public transportation, local*		P		P	P	P	
Utility, major impact		SR	SR	P	P	SR	SR
Utility, minor impact	SR/D3	SR	P	P	P	SR	SR
Wholesale trade, general, and/or storage of toxic and/or hazardous materials				SR	P		
Wholesale trade, light, and/or storage of nontoxic, nonhazardous materials		SR/ L127	SR/ L128	L129/ SR	P	SR/ L129	
Arts, entertainment, recreation, institutions							
Ambulance service				P	P		
Child care center	D3	P	P	P	P	P	P
Church, religious institution	L132/ SR/D3	L132/ SR	P	P	P	L132/SR	
Clinic, office, laboratory, dental or medical	L135/ L65/D3	L135/ SR	L135/ SR	L135/ SR	L135/ SR	L135/ SR	
Club or lodge		P	P	P	P	SR	
Community or senior center or recreational facility	D3	P	P	P	P	P	SR
Conference center, meeting hall		SR			P		
Fire station	D3	P	P	P	P	P	
Golf course*	D3		P	P	P		P
Library	D3	P	P	P	P	P	
Mortuary				P	P		
Museums, other special purpose cultural institutions	SR/D3	P	P	P	P	SR	SR
Parks, public, open space, associated buildings*	D3	P	P	P	P	P	P
Police station	SR/D3	SR	P	P	P	P	
Postal facility, neighborhood	SR/D3	P	P	P	P	P	SR
Recreation services, indoor		SR	P	P	P	P	SR
Recreation services, outdoor*				P	P	SR	SR
School, elementary or secondary	L157/D3	L157	L157	L157	L157	L157	

Key: *P = Permitted* *L = Uses permitted with limitations* *SR = Uses permitted after special review* *D = Uses permitted with distance requirements* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone District*						
	R-MU-		*C-MU-*			*T-MU-*	*OS*
Use	*20*	*30*	*10*	*20*	*30*	*30*	*1*
School, vocational or professional		L159/ SR	L159	P	P	SR	
Sports and/or entertainment facility		SR			P		
Studio, professional		P	P	P	P	P	
Theater, indoor		P	P	P	P	P	
University or college	SR/D3	P	P	P	P	P	
Construction, mining, agriculture							
Agriculture, limited*			D17	D17	D17		D17
Contractors, special trade, general				P	P		
Contractors, special trade, heavy, contractor yard*					D9		
Husbandry*							SR/D17
Nursery, plant				P	P		SR
Construction, temporary structures (See § 59-81)							
Residential care uses (See § 59-82)							
Power, gas, telecommunications (See § 59-83)							
Uses allowed by temporary permit (See § 59-86)							
Accessory uses (See § 59-87)							
Home occupations (See § 59-89)							

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 228-05, § 11, eff. 4-15-05; Ord. No. 909-05, § 8, eff. 12-16-05; Ord. No. 836-06, § 9, eff. 12-26-06; Ord. No. 20-07, § 1, eff. 1-26-07; Ord. No. 340-06, § 16, eff. 6-9-06; Ord. No. 57-09, § 15, eff. 1-30-09)

Sec. 59-304. Distance requirements.

The following defines the distance requirement enumerated in the use chart in section 59-303:

D2

a. The following permitted uses shall not be established, operated or maintained within five hundred (500) feet of a residential district, a multiple-unit dwelling, a single-unit dwelling, a church, a school meeting all the requirements of the compulsory education laws of the state, an arts education center, a learning center, an amusement/special interest park, a child care center, or a children's indoor play center; nor may more than two of the following permitted uses be established, operated or maintained within one thousand (1,000) feet of each other:

1. Adult amusement or entertainment;

2. Bookstore, adult;

3. Eating place with adult amusement or entertainment;
4. Photo studio, adult;
5. Sexually oriented commercial enterprise; and
6. theater, adult.

b. For the purposes of this section 59-304 only;

1. Learning center shall mean a commercial business that regularly provides on site specialized or intensive educational services or tutoring to persons under eighteen (18) years of age;
2. Arts education center shall mean a place where instruction is regularly provided to persons under eighteen (18) years of age in the fields of painting, drawing, sculpture, etching, craft work, fine arts, dance, drama, photography, music, martial arts, or other similar fields.

D3 In the R-MU-20 zone district, all enumerated civic and commercial uses shall be located not less than fifty (50) feet from the nearest boundary of any zone lot containing a single-or two-unit dwelling existing at the time of application for the civic or commercial use unless such civic or commercial use has been sited and designed to assure its compatibility with adjacent dwelling units. The adequacy of the siting and design for the purpose of achieving compatibility shall be determined by the zoning administrator.

D7 No liquor store or drugstore licensed to sell package liquors, not existing or operating on August 31, 1997, shall be established, operated, or maintained within one thousand (1,000) feet of another liquor store or drugstore licensed to sell package liquors. No liquor store or

drugstore licensed to sell package liquors, not existing or operating on the July 31, 2000, shall be established, operated, or maintained within one thousand (1,000) feet of a community corrections facility.

D9 The following industrial uses shall be located five hundred (500) feet or more from the nearest boundary of any zone lot containing a single-or two-unit dwelling existing at the time of application for the industrial use:

a. Aircraft maintenance and repair facility;

b. Building contractors, heavy;

c. Concrete, asphalt, and rock crushing facility;

d. Manufacturing, fabrication, and assembly, general;

e. Manufacturing, fabrication, and assembly, heavy; and

f. Recycling plant.

This five-hundred-foot spacing requirement may be reduced or eliminated by the zoning administrator, if an analysis of the proposed use, its siting, design, traffic generation, and other external effects indicate a reduced or eliminated separation will have no significant adverse impact on the nearby existing single-or two-unit dwelling.

D17 The raising and/or grazing of livestock animals and any confinements for such animals shall be located not less than five hundred (500) feet from the nearest boundary of any zone lot containing a single-or two-unit dwelling existing on the date of application for the raising and/or grazing of livestock animals use. The five-hundred-foot spacing requirement shall not apply to any accessory residential dwelling units located on the same zone lot as the raising and/or grazing of the livestock animals.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-305. Limitations.

The following define the limitations enumerated in the use chart in section 59-303:

L14 Fraternity and sorority house requires special review.

L17 No overnight boarding.
(Ord. No. 836-06, § 10, eff. 12-26-06)

L34 Limited to automobile, motorcycle and light truck rental.

L38 Limited to no more than ten thousand (10,000) square feet of gross floor area.

L39 Special review required if over ten thousand (10,000) square feet of gross floor area in the R-MU-30, and if over thirty thousand (30,000) square feet of gross floor area in the C-MU-10 or T-MU-30.

L45 Limited to three thousand five hundred (3,500) square feet of gross floor area.

L46 Drive up facilities not allowed.

L49 Flight kitchen not permitted.

L65 Limited to 5,000 square feet individually and no more than 10,000 square feet in aggregate. Airline reservation center not permitted.

L66 Office for parks purposes is a special review use. In the OS-1 district only, limited to office for parks purposes, special review.

L72 In the CMU-10 and TMU-30 districts only, service, large scale is not permitted.

L89 Building maintenance service: special review. Other commercial services not permitted. Laundry, dry-cleaning, commercial, industrial is allowed only in the CMU-20 district.

L92 Excluding buses. Industrial special review: aircraft maintenance and repair facility.

L99 Except the following: 20 Food and kindred products, 32 Stone, clay, glass and concrete products.

L106 Limited to railroad passenger terminal.

L108 Limited to parking of vehicles, excess.

L114 No service facility.

L127 Limited to storage services; use by special review.

L128 Limited to postal processing center; use by special review.

L129 In the C-MU 20 district, limited to postal processing center and wholesale sales, use by right; warehousing, wholesale trade, light special review and storage services not permitted. In the T-MU-30 limited to wholesale trade, light only, use by special review.

L132 Special review if seating capacity of over 600 in the sancturary or main activity area.

L135 Use by right limited to clinic or office, medical or dental. Special review/conditional: laboratory, except laboratory not allowed in the R-MU-20.

L157 Boarding school permitted.

L159 Special review for other than vocational or professional small in the R-MU-30 district. Limited to school, vocational or professional, small, in the C-MU-10 district. Flight training center not allowed in either district.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-306. Procedures for the review of nonindustrial special review uses and enclosure requirements.

(a) *Purpose.* The following provisions are established to address special review uses. The special review process allows particular uses to be reviewed in accordance with specific standards, conditions, and restrictions. Some land uses have a nature or scale that significantly impacts both the immediately surrounding area and the entire community, which impact cannot be predetermined and which cannot be controlled by general zone district standards. There are also certain uses that, because of their unique characteristics, cannot be properly classified as allowed uses in a particular zone district, without consideration of both the potential impact of those uses upon neighboring land or public facilities, and the public

need for that use at a particular location. The special review process provides for the accommodation of these types of uses subject to specific conditions that ensure compatibility

of the use with the use and enjoyment of neighboring properties. The required enclosure of certain uses as set forth in section 59-302 also warrants a special review. The following general categories require review under the procedure set forth herein:

(1) Uses publicly operated or traditionally associated with a public interest.

(2) Uses entirely private in character, but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

(3) Uses wholly or partially conducted outside of a completely enclosed structure, and all drive-up facilities.

(b) *Approval authority.* The zoning administrator may approve, approve with conditions and restrictions, or deny any application for a special review use or for an enclosure requirement except those applications for special review use submitted as part of a general development plan (hereinafter "GDP", see section 59-314) in which case the approval authority shall be the approval authority for the submitted GDP. Prior to approving an application for a special review use or enclosure, the approval authority shall find that the proposed special review use or enclosure complies with the standards herein prescribed.

(c) *Application, how made.* All applications for approval of a special review use or enclosure under this subsection shall be filed with the department of zoning administration by any person, or entity having an interest in the land for which a special review use or enclosure is sought.

(d) *Application for special review use or enclosure, contents.* The application for a special review use or enclosure shall be filed with the zoning administrator on a prescribed form. The application shall contain the following:

(1) A legal description of the property, and a plan of the subject property, drawn at a scale of not less than one (1) inch per two hundred (200) feet, which shall show the location, arrangement, and extent, of the following where applicable:

a. Uses by type, including the gross acreage or square footage of each proposed use;

b. Structures or building envelopes by type of use, maximum height of structures, maximum gross floor area for each use, and land coverage of buildings and impervious areas;

c. Dimensions of separations between buildings, streets and other features;

d. Residential densities by housing type and maximum number of dwelling units;

e. Interior streets and drives, and parking areas;

f. Adjacent public streets and alleys;

g. Loading and outdoor storage areas and access thereto, including areas for storage of boats, campers, trailers and recreation vehicles;

h. Landscaped areas including typical materials;

i. Buffer areas and fencing; and

j. Treatment of sound, vibration, glare, radiation, fumes, and heat emission which will extend beyond the zone lot.

(2) Any other information deemed necessary by the zoning administrator.

(e) *Review.* The provisions of section 59-41(b) shall be followed except for applications for special review uses submitted as part of a GDP. Submittals done as part of a GDP shall be processed and approved in accordance with section 59-314.
(Ord. No. 468-05, § 17, eff. 7-15-05)

(f) *Special review use, standards.* No application for a special review use shall be granted by the approval authority unless the approval authority finds that all of the following conditions are met or can be met through conditions placed on approval of the application:

(1) The establishment, maintenance, and operation of the special review use will not be detrimental to or endanger the public health, safety, or general welfare of the community;

(2) The use and enjoyment of other existing uses on the surrounding property will not be substantially impaired by the establishment, maintenance, and operation of the special review use;

(3) The establishment of the special review use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

(4) The proposed special review use meets all of the applicable provisions of chapter 59 (zoning) and all applicable regulations;

(5) The aggregate impacts of similar uses shall not result in harmful external effects or environmental impacts;

(6) The special review use shall conform to all applicable regulations of the zone district in which it is located;

(7) If located within a GDP area, the special review use shall be consistent with the GDP and, if in the T-MU-30 district, shall enhance access to or use of multiple modes of transportation.

(8) The proposed use shall be consistent with the purposes and objectives of the zone district in which it is located.

(9) The proposed special review use shall be sited and designed to be compatible with adjacent uses;

(10) The potential impacts of the proposed special review use will be adequately mitigated.

(g) *Unenclosed uses and drive-up facilities; standards.* Uses that are unenclosed or drive-up facilities shall be reviewed to determine the existence of detrimental external effects and/or environmental impacts including: traffic congestion or truck traffic on residential streets; air pollution caused by a stationary source; water pollution, surface and/or subsurface; radioactive emissions; toxic or hazardous materials and/or wastes; emission of noise, heat, glare, fumes,

and/or odors; fire hazards; and visual pollution. In any T-MU-30 district, drive-up facilities associated with eating places shall not be allowed and all other drive-up facilities shall be enclosed and shall be considered uses requiring special review pursuant to subsection (6) of this section. No application for uses that are unenclosed or drive-up facilities shall be granted unless the zoning administrator finds that any detrimental external effects or environmental impacts and the aggregate impacts of similar uses that result in such harmful external effects or environmental impacts can be adequately mitigated. The zoning administrator may place conditions on the application to ensure such mitigation.

(h) *Decision.* The decision of the approval authority shall take into account any statements or written materials received from any interested parties and shall be based on the standards for review set forth herein. When the zoning administrator is the approval authority, the zoning administrator shall approve the application, approve the application with conditions, or deny the application within forty-five (45) days after the completed application was received by the zoning administrator. The zoning administrator shall send the applicant a written notice of such decision. When the development review committee (established by section 59-619(a)(1), and in this division hereinafter referred to as "DRC") or the planning board is the approval authority the DRC or planning board shall approve the application, approve the application with conditions or deny the application as part of the GDP process.

(i) *Additional requirements.* The following shall apply to all special review uses:

(1) Prior to the granting of a permit for a special review use or enclosure, the approval authority may place conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special review use or enclosure as deemed necessary to promote the public health, safety, and general welfare of the community.

(2) No change in a structure containing the special review use or enclosure, or change in the nature of the special review use or enclosure shall be permitted unless approved by the zoning administrator. The zoning administrator may approve for minor alterations or changes which are compatible with the original structure, use, or enclosure approved by the zoning administrator.

(3) When the zoning administrator is the approval authority for a permit for a special review use, said special review use shall become null and void twelve (12) months of the date of the decision of the zoning administrator, unless the use or enclosure begins operating, or a valid building permit is issued. The zoning administrator may extend the permit for the use by special review for additional time periods not to exceed a total of twelve (12) additional months.

(4) No application for a special review use which has been denied by the approval authority shall be considered for a period of one (1) year from the date of said denial unless the zoning administrator determines that the application contains substantial changes that address the reasons for denial of the application.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 886-05, §§ 1—8, eff. 12-9-05)

Sec. 59-307. Additional procedures for the review of industrial special review uses.

In addition to, but simultaneous with, the process for reviewing special review uses set forth in this division, industrial special review uses shall be subject to section 59-286 (procedure for the review of conditional uses), except that those applications for industrial special review uses submitted as part of a GDP shall be reviewed as part of said GDP.
(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 886-05, § 9, eff. 12-9-05)

Sec. 59-308. Uses by temporary permit.

In the OS-1, R-MU-20, R-MU-30, C-MU-10, C-MU-20, C-MU-30, and T-MU-30 districts, temporary uses shall be regulated by section 59-86 (uses allowed by temporary permit).
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-309. Accessory uses.

In the OS-1, R-MU-20, R-MU-30, C-MU-10, C-MU-20, C-MU-30, and T-MU-30 districts, accessory uses shall be regulated by section 59-87 (accessory uses).
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-310. Home occupations.

In OS-1, R-MU-20, R-MU-30, C-MU-10, C-MU-20, C-MU-30, and T-MU-30 districts, home occupations shall be regulated by section 59-89 (home occupations allowed).
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-311. Limitation on external effects of uses.

In the OS-1, R-MU-20, R-MU-30, C-MU-10, C-MU-20, C-MU-30, and T-MU-30 districts, the limitations on external effects of uses shall be regulated by division 3 (regulations on specific effects, uses and structures) of article III of chapter 59, D.R.M.C., and section 59-302 (enclosure of uses).
(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 625-05, § 15, eff. 9-2-05)

Sec. 59-312. Permitted structures.

The following are addressed in this section:

Zone lots for structures;

Required unobstructed open space;

Minimum and maximum setbacks for structures;

Permitted encroachments into required setback spaces;

Permitted fences; walls and retaining walls;

Bulk planes;

Maximum building heights;

Maximum gross floor area in structures; and

Required site improvements for industrial uses.

(1) *Zone lots for structures.* A separate ground area, herein called the zone lot, shall be designated, provided and continuously maintained for each structure containing a use or uses by right or by special review. Each zone lot shall have at least one (1) front line and may contain in addition to the principal structure one (1) or more subordinate structures containing only accessory uses. The zone lot for each structure used as a single-unit dwelling shall contain not less than four thousand (4,000) square feet; the zone lot for each structure used as a two-unit dwelling shall contain not less than six thousand (6,000) square feet; and the zone lot for each structure used for any other use shall contain not less than ten thousand (10,000) square feet. Notwithstanding the previous sentence, if qualifying under the provisions of article IV, chapter 27 (affordable housing) the zone lot for each structure used as a single-unit dwelling shall contain not less than thirty-six hundred (3,600) square feet; the zone lot for each structure used as a two-unit dwelling shall contain not less than fifty-four (5,400) square feet; and the zone lot for each structure used for any multiple unit dwelling shall contain not less than nine thousand (9,000) square feet. Zone lots smaller than required by this section may be approved pursuant to section 59-313 (development plan review). Upon application to and approval by the zoning administrator, the boundaries and area of an existing zone lot may be amended if full compliance with all requirements of this chapter 59 can be maintained.

(2) *Required unobstructed open space.* The zone lot for structures shall contain at least the following amounts of unobstructed open space:

Minimum Required Amounts of Unobstructed Open Space	
Use	*Amount*
Single- or two-unit dwellings.	35 percent of the total zone lot area.
Structures, other than single or two unit dwellings, with no ground floor commercial use and which are three (3) or fewer stories in height.	20 percent of the total zone lot area.
Structures, other than single or two unit dwellings, with ground floor commercial uses, or which are four (4) or more stories in height.	0 percent of the total zone lot area.

Minimum Required Amounts of Unobstructed Open Space	
Use	*Amount*
Structure complexes in an R-MU-20 or R-MU-30 zone district with an approved GDP.	May be reduced to 10 percent of the GDP area if open space is aggregated in one (1) or more areas and is entirely useable open space. The required open space may be aggregated from multiple zone lots within a GDP area provided the aggregated area enhances the connection to transit facilities, plazas or streets, or enhances the pedestrian environment, enhances or creates a public space, or is a benefit to the neighborhood and is publicly accessible and will remain publicly accessible, and is entirely usable open space, and is shown on an approved GDP. In no case shall the open space for single and two unit dwellings be reduced.
Structure complexes in a T-MU-30 zone district	10 percent of total zone lot area. The required open space may be aggregated from multiple zone lots within a GDP area provided the aggregated area enhances the connection to transit facilities, plazas or streets, or enhances the pedestrian environment, enhances or creates a public space, or is a benefit to the neighborhood and is publicly accessible, will remain publicly accessible, and is entirely usable open space, and is shown on an approved GDP.

(Ord. No. 886-05, § 10, eff. 12-9-05)

(3) *Setbacks for structures.* All structure shall have the setbacks listed below. Except as otherwise hereinafter provided, the space resulting from the setbacks shall be open and unobstructed.

a. Minimum setbacks.

Uses	*Front setback measured from front zone lot line*	*Side setback measured from side zone lot line*		*Rear setback*	
	Minimum setback	*Minimum Setback*		*Minimum Setback measured from rear zone lot line or as noted*	
Single or two-unit dwellings or structures with no ground floor commercial use and which are three (3) or fewer stories in height.	10 feet. Provided, however, that if the front setbacks of the residential structure abutting on either side of the proposed structure are greater than 10 feet, the minimum front setback of the proposed structure shall be the average of the front setbacks of the abutting structures.	1. On lots 30 feet in width or less	3 feet	1. Use by right or use by special review structure with no rear alley	20 feet

Uses	*Front setback measured from front zone lot line*	*Side setback measured from side zone lot line*		*Rear setback*	
	Minimum setback	*Minimum Setback*		*Minimum Setback measured from rear zone lot line or as noted*	
	The minimum front setback for garages facing directly on to the street shall be 20 feet from the back of the sidewalk.				
				With an alley, setback measured to alley centerline	20 feet
		2. On lots greater than 30 feet in width	5 feet	2. Attached or detached garage or carport with no alley	5 feet
				With an alley with doors opening directly onto the alley	5 feet
				With an alley but with no doors opening directly onto the alley	0 feet
		3. Regardless of lot width, detached accessory structures may be located as follows:		3. Detached accessory structures and fixtures with no alley	5 feet

Uses	*Front setback measured from front zone lot line*	*Side setback measured from side zone lot line*		*Rear setback*	
	Minimum setback	*Minimum Setback*		*Minimum Setback measured from rear zone lot line or as noted*	
		(a) On lots 125 feet or less in depth with the accessory structure located entirely on the rear one-third of the lot and no part of such structure is more than 40 feet from the rear line	0 feet	With an alley but with no doors opening directly onto the alley	0 feet
		(b) On lots more than 125 feet in depth with the accessory structure located entirely on the rear one-third of the lot and no part of such structure is less than 85 feet from any front line of the zone lot	0 feet	Fixtures for the disposal of trash and garbage	0 feet

Uses	*Front setback measured from front zone lot line*	*Side setback measured from side zone lot line*		*Rear setback*	
	Minimum setback	*Minimum Setback*		*Minimum Setback measured from rear zone lot line or as noted*	
Structures, that are not single or two unit dwellings, and which have ground floor commercial, or which are four (4) or more stories in height.	0 feet with no encroachments into right-of-way on ground floor	(1) On a side zone lot line congruent with a zone lot line of a zone lot zoned R-0, R-1, or R-2	5 feet	Structures that do not have a rear entrance	0 feet
		(2) Not on a side zone lot line congruent with a zone lot line of a zone lot zoned R-0, R-1 or R-2	0 feet	Structures that have a rear entrance	5 feet
Parking lots	5 feet	5 feet			0 feet

b. Within an individual T-MU-30 district area for which a GDP has been approved, setbacks shall be based upon the Transit Mixed-Use District zoning standards and the individual Transit Mixed Use district's GDP, which defines additional setback requirements based upon use, location, character, and sidewalk dimensions. If not specified, the setbacks for structures provided in the Minimum Setbacks chart in 59-312(3)a. above shall apply.

(Ord. No. 466-08, §§ 1, 2, eff. 9-12-08)

(4) *Permitted encroachments into required setback spaces:* The following are permitted encroachments into required setback spaces:

Architectural Feature	*Permitted encroachment into Front Setback*	*Permitted encroachment into Side Setback*	*Permitted encroachment into Rear Setback*
a. All Mixed Use Zones			
1. Belt courses, sills, lintels and pilasters.	18 inches	18 inches	18 inches
2. Cornices, eaves and gutters	5 feet	5 feet	5 feet
3. Outside stairways	5 feet	5 feet	3 feet
4. Access ramps for the handicapped.	May encroach into any required building setback space, provided no alternative location is available.	May encroach into any required building setback space, provided no alternative location is available.	May encroach into any required building setback space, provided no alternative location is available.
5. Unwalled porches, terraces and balconies.	5 feet (porch steps may encroach an additional two (2) feet into the setback so long as three (3) feet is retained between the back of the sidewalk and the bottom step)	5 feet	5 feet
6. Chimneys six (6) feet or less in width.	18 inches	18 inches	18 inches
7. Building accessories designed and intended to control light entering a structure and being a permanent part of such structure (excluding projecting windows).	5 feet	5 feet	5 feet
8. Building accessories designed and intended to control light entering a structure, not a permanent part of such structure or attached to a load-bearing member of such structure.	May project any distance into any setback space.	May project any distance into any setback space.	May project any distance into any setback space.

Architectural Feature	*Permitted encroachment into Front Setback*	*Permitted encroachment into Side Setback*	*Permitted encroachment into Rear Setback*
9. Any structure or part thereof which is below the grade of any setback space.	May project any distance into any setback space.	May project any distance into any setback space.	May project any distance into any setback space.
10. Gas and electric meters if screened on all sides by a masonry wall.	3 feet	3 feet	3 feet
11. Utility pedestals, transformers or other similar equipment providing they do not exceed a height of four (4) feet.	May project any distance into any setback space.	May project any distance into any setback space.	May project any distance into any setback space.
12. Flush mounted solar panels.	May project any distance into any setback space.	May project any distance into any setback space.	May project any distance into any setback space.
b. Residential Mixed Use Zones Only			
1. Basketball goals on a fixed post.	May project any distance into any setback space.	May project any distance into any setback space.	May project any distance into any setback space.
2. Ground mounted evaporative coolers.		May project three (3) feet into side setback space provided: i. The equipment is located behind the front of the residential structure and screened from adjacent properties ii. The noise standards of section 36-6 of the Denver Revised Municipal Code are not exceeded.	

(Ord. No. 695-07, § 12, eff. 11-30-07; Ord. No. 53-08, § 30, eff. 2-8-08)

(5) *Permitted fences, walls and retaining walls.* The height of fences and walls shall be determined as stated in section 59-2(112.1) fence and wall height measurement. Fences and walls not exceeding four (4) feet in height may be erected on any part of the

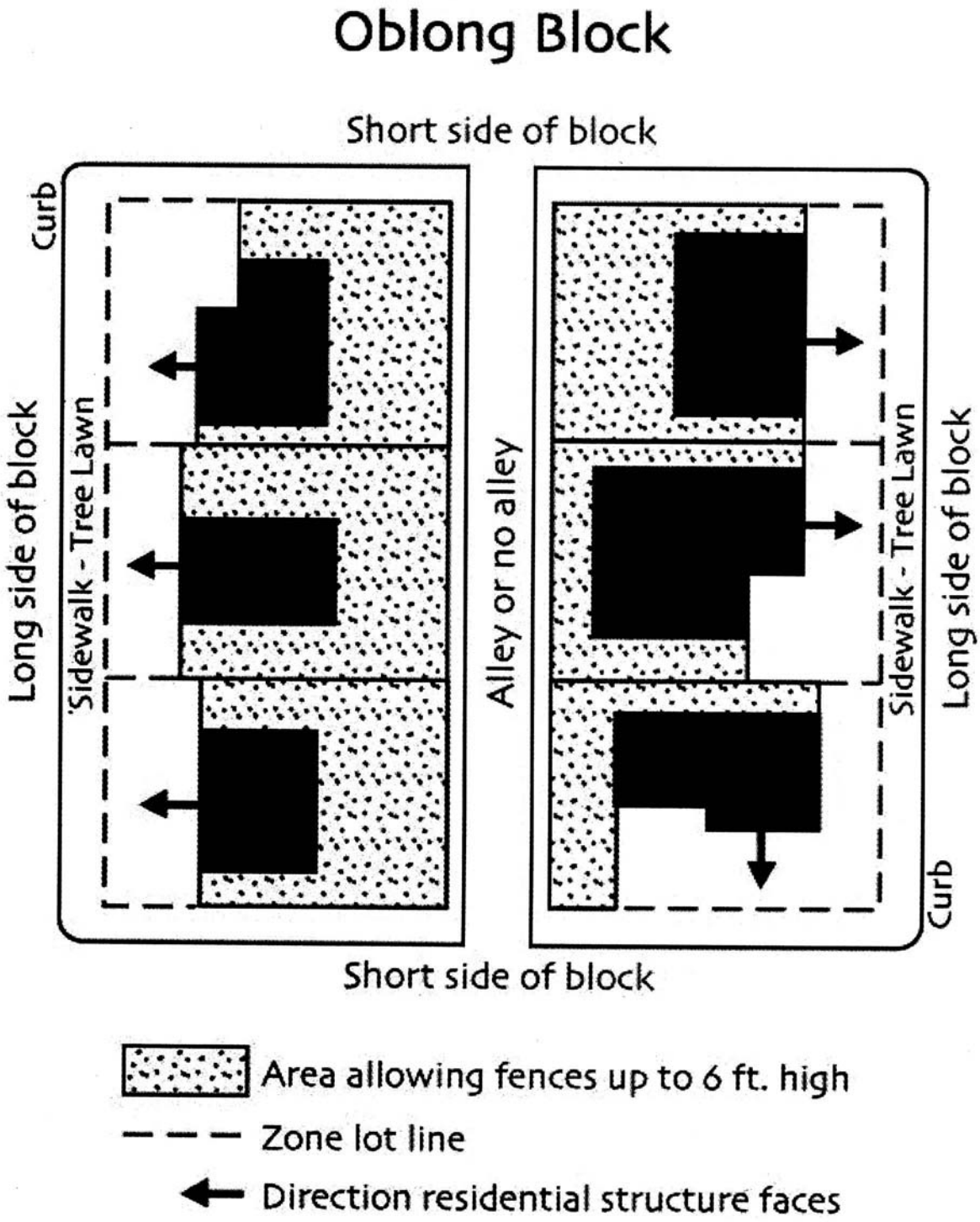
zone lot. Fences not exceeding six (6) feet in height may be built anywhere on the zone lot except forward of any adjacent front wall or walls of a residential structure (see illustration).

a. Retaining walls on zone lots which do not have single- or two-unit residential dwellings may be erected to any height.

b. In the front setback of zone lots which contain single or two unit residential structures, retaining walls may be built to a height of four (4) feet and successive walls may be built provided that they are separated by at least four (4) feet. In any area of such zone lot other than the front setback, retaining walls may be built to any height;

c. Fences located on top of retaining walls in the front set back of zone lots which contain single or two unit residential structures, must be fifty (50) percent or more open for any portion of the fence that is more than four (4) feet above the lowest grade at the base of the retaining wall;

d. Fences not exceeding six (6) feet in height on a corner lot where a single or two unit residential structure is oriented to the short dimension of an oblong block may be built to the zone lot line along the short dimension of the block except along the zone lot line or area in front of any wall of a residential structure. Fences over four (4) feet in height but not exceeding six (6) feet in height may only be placed in the areas described in this section 59-312(5) and the accompanying illustration;



1

Oblong Block

e. Schools, public parks and/or playgrounds may erect open-mesh fences to any height on any part of the zone lot.

f. On a corner zone lot, fences and walls may not exceed four (4) feet in height within ten (10) feet of the point of intersection of the front property lines.

g. The materials used for fences or walls shall consist of wood, brick, masonry, wire mesh, metal bars not exceeding one and one-half (1.5) inches in diameter or other materials which may be approved by the zoning administrator. Salvaged doors and corrugated or sheet metal shall not be used as a fence or wall.

(Ord. No. 363-06, § 14, eff. 6-16-06; Ord. No. 605-06, § 8, eff. 9-22-06)

(6) *Bulk planes.*

a. Single-unit dwellings and two-unit dwellings shall comply with the provisions set forth in section 59-120(c) (R-0, R-1, and R-2 districts, bulk of structures), except as modified pursuant to article VIII (special zone lot plans for planned building groups).

b. All other uses with a side zone lot line congruent with a zone lot line of a zone lot zoned R-0, R-1 or R-2, shall comply with the following bulk plane limitations (see figure 1):

(Ord. No. 466-08, § 2, eff. 9-12-08)

1. Ground-level point. The starting point for locating the bulk plane shall be the midpoint of the specific lot line adjoining the zone lot containing the single-or two-unit dwelling. The elevation of the ground at the midpoint shall be used as the first measuring point for the bulk plane. In case a retaining wall is located on the lot line, the midpoint elevation shall be taken from the base of the wall. The midpoint elevation shall be established prior to any grading or construction.

2. Above-ground horizontal line. The starting line for bulk planes shall be a horizontal line which is located directly above the lot line adjoining the zone lot containing the single-or two-unit dwelling and passes through a point twenty (20) feet above the midpoint elevation of such lot line.

3. Sloping plane. The bulk planes start at the horizontal lines described above and extend upwards over the zone lot at an angle of forty-five (45) degrees with respect to the horizontal (a pitch of one (1) foot additional rise for each foot additional setback).

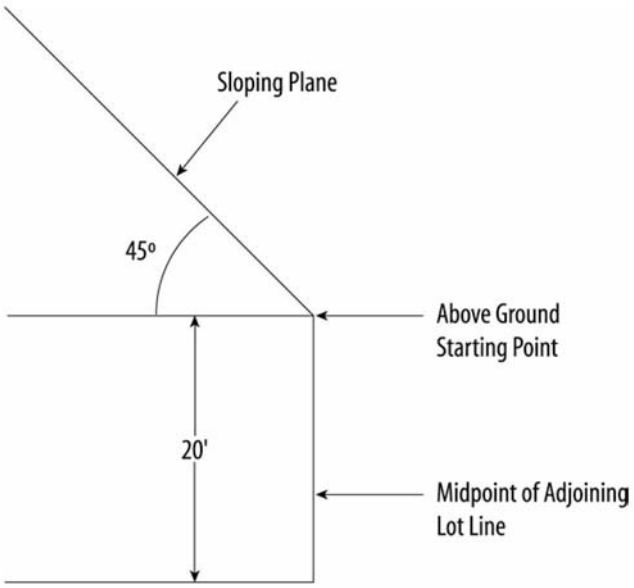


Figure 1

(7) *Maximum building heights.* Structures in the R-MU districts are controlled by height and bulk limitations only, unless otherwise modified herein. Building height shall be measured in accordance with section 59-2(52) except that in the R-MU-20 district mechanical equipment and mechanical penthouses which may exceed the maximum permitted height by no more than twelve (12) feet. Flush mounted solar panels may exceed the height by any amount.
(Ord. No. 53-08, § 31, eff. 2-8-08)

Maximum Permitted Building Heights	
Zone District	*Height (in feet)*
OS-1	30 feet
R-MU-20	55 feet
R-MU-30	140 feet
T-MU-30	220 feet
Single- and two-unit dwellings located in any zone district	35 feet, subject to the bulk plane limitations in section 59-312(6) above

(Ord. No. 895-03, § 41, eff. 12-2-03)

(8) *Maximum gross floor area in structures.* Structures in C-MU and T-MU districts are controlled by gross floor area unless otherwise modified herein.

		R-MU		*C-MU*			*T-MU*
Maximum Gross Floor Area / Zone Districts	*OS-1*	*20*	*30*	*10*	*20*	*30*	*30*
Maximum gross floor area is equal to five-tenths (0.5) of the area of the zone lot on which the structures are located (.5:1)	X						
Maximum gross floor area is equal to the area of the zone lot on which the structures are located (1:1)					X	X	
Basic maximum gross floor area is equal to two (2) times the area of the zone lot on which the structures are located (2:1)				X			
Basic maximum gross floor area is equal to five (5) times the area of the zone lot on which the structures are located (5:1)							X*

*Note: For an approved general development plan area within a T-MU-30 zone district, the maximum gross floor area limit may be applied on an area-wide basis, provided that the area-wide average maximum gross floor area shall not exceed the limit specified above. Any parking of vehicles, excess, shall be included in the calculation of gross floor area. For this purpose only, gross floor area for parking of vehicles, excess shall include all above grade parking spaces, drive aisles, and ramps; underground parking shall be excluded from the calculation.

(9) *Required site improvements for industrial uses.* Section 59-415 (required site improvements) shall be in full force and effect for all industrial uses.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 624-05, §§ 2, 3, eff. 9-2-05)

Sec. 59-313. Site plan review.

(a) *Applicability.* In the OS-1, R-MU-20, R-MU-30, C-MU-10, C-MU-20, C-MU-30, and T-MU-30 districts, all construction of use by right or use by special review structures or additions to such structures shall be subject to the site plan review process, but not the standards for approval, set forth in article VIII (special zone lot plans for planned building groups), and rules and the regulations promulgated thereunder. The review procedures, standards, and criteria set forth in this section 59-313 shall be applied during the site plan review process. At the applicant's option, such review may be submitted concurrently with the site plan review process set forth in article VIII (special zone lot plans for planned building groups). Any property that is subject to the design standards or design review procedures of an overlay district, is designated as a Denver Landmark Structure, or is within a designated Denver Landmark District, shall not be subject to the standards and review procedures set forth herein.

(b) *Rules and regulations.* The director of planning has the authority to adopt rules and regulations for specific land areas establishing standards and guidelines and procedures for review of site plans based on the criteria set forth herein. Prior to the adoption of any rule or regulation, the director of planning shall forward the notice required under section 12-18 of the Denver Revised Municipal Code to all members of city council. City council members may submit comments on such rules or regulations as provided for in section 12-18 of the Denver Revised Municipal Code. Once adopted by the director of planning, such rules and regulations shall supercede the process, time frames, and application contents and criteria for design review, but not for the site plan review process set forth in article VIII (special zone lot plans for planned building groups).

(c) *Review.* All structures shall be subject to the design criteria and standards, and the review procedures set forth herein or in the rules and regulations prior to issuance of a zoning permit.

(1) *Review process.* Review shall consist of the following three (3) phases. Review phases may be combined or eliminated by the zoning administrator after consideration of a recommendation by the director of planning.

a. Pre-submittal conference. Prior to filing an application, the applicant and the planning office shall have a pre-submittal conference to discuss the application and process. The pre-submittal conference may occur with the site plan pre-submittal conference or at the site plan schematic phase described in the PBG/PUD site plan rules and regulations. Information about the proposed uses, project program, and building footprint should be provided for discussion.

b. Schematic (concept) design phase. The architectural schematic design application shall be submitted.

c. Design development phase. The architectural design development application shall be submitted.

(2) *Application, how filed, and notice.* All applications shall be filed with the department of zoning administration. Such applications shall be reviewed for completeness and, if found to be complete, shall be transmitted to the planning office for review. The department of zoning administration shall also notify all registered neighborhood organizations in accordance with section 12-96 and the city council member(s) whose district contains the proposed project or is within two hundred (200) feet of the proposed project, of all applications received for the schematic review phase for developments on sites equal to or larger than ten thousand (10,000) square feet. Such council member or registered neighborhood association may request additional information and may submit written comments to the planning office within twenty (20) days after notice is sent.

(3) *Application, contents.* Applications shall contain the following information:

a. Schematic (concept) design phase. Site plan and context photos of the site and immediately adjacent properties, building elevations, and other supporting information as requested;

b. Design development phase. Landscape plan, building elevations, building materials, facade details and treatments, all items required to make a determination of consistency for the schematic design phase, and other supporting information as requested.

(4) *Review, recommendation decision, and time frames.* Review shall be conducted by the planning office.

a. Review at the schematic design phase shall be completed within thirty (30) days after the submission of a complete application to the department of zoning administration. The planning office shall consider any written comments received and make a determination of consistency of the application with adopted plans, the standards and criteria and any applicable rules and regulations and guidelines and shall identify additional design issues to be addressed in the design development phase.

b. Review by the planning office at the design development phase shall be completed within thirty (30) days after the submission of a complete application to the department of zoning administration. The planning office shall make a determination of consistency of the application with the adopted plans, standards and criteria and any applicable rules and regulations and guidelines and shall make a recommendation to the zoning administrator. The zoning administrator shall have fifteen (15) days to approve, approve with conditions or deny the application after receipt of the determination by the planning office.

c. Review periods may be extended by an amount of time equal to any delay caused by the applicant, or with the applicant's consent.

(5) *Standards and criteria.* Site plan review shall be based on the following standards and criteria:

a. *General criteria:*

1. Continue Denver's physical character, including mixed use development, access to parks and parkways, tree lined streets, detached sidewalks, interconnected street networks, and convenient access to parks, open space, and transit;
2. Provide an adaptable and interconnected transportation system that encourages multiple modes of transportation, disperses traffic, and provides streets that accommodate multiple transportation modes including motor vehicles, transit, bicycles and pedestrians;
3. Use man-made and natural features, such as open spaces, drainage corridors, parkways, streets and alleys, as development edges, transitions and interconnections;
4. Arrange residential, employment, retail, service, and open space uses to be convenient to and compatible with each other and with transit;
5. Create spatial definition of the streets with buildings and landscaping to promote pedestrian activity;
6. Design early phases of development so as to promote long-term quality and character;
7. Encourage housing in a range of densities, sizes, and types;
8. Be consistent with an approved GDP, if applicable.

b. *Site design criteria:*

1. Locate, screen, and buffer service, storage, delivery and refuse areas to minimize the view from streets, adjacent zone lots, and open spaces;
2. Minimize the visual impacts of parking areas, parking structures, and residential garages on streets, open spaces, and adjoining development;
3. Improve the efficiency of parking areas by allowing multiple uses to share parking spaces, curb cuts, and circulation drives; and
4. Provide safe and attractive pedestrian and bicycle connections to building entries and public sidewalks within parking lots and transit facilities.
5. Site and design the use or utilize other technology to reduce potential adverse impacts between otherwise potentially incompatible uses.
6. Incorporate required water quality and stormwater management features into the overall site design.

c. *Building design criteria:*

1. Create buildings that provide human scale and interest through use of varied forms, materials, details, and colors;

2. Provide architecturally finished and detailed elevations for all exposures of the building with the primary facade, typically the street-facing elevation, having appropriate architectural expression;
3. Provide a primary building entrance facing or clearly visible from the public sidewalk;
4. Use durable materials that complement Denver's tradition as a city of brick and masonry; and
5. Minimize the use of highly reflective glass, particularly at street level.

d. *Transit Mixed-Use district criteria.* In addition to the general, building design and site design criteria in subsections 1 through 3 above, the following criteria shall apply in T-MU districts:

1. Site buildings to emphasize or reinforce the relationship of the development to the transit facility.
2. Provide a primary building entrance facing or visible to the transit facility or the primary pedestrian connection to the transit facility.
3. Provide clear and adequate pedestrian connections and linkages between buildings and transit facilities, public rights of way and transit facilities, and between multiple modes of transit.
4. Configure the site so that a clear, safe, and attractive pedestrian system, with the transit facility as an easily identifiable component, is the primary public element to which buildings are oriented.
5. Maximize pedestrian amenities near transit facilities and along the primary pedestrian connections to transit facilities.
6. Arrange building uses, heights, and scaling devices to reinforce the station area core and to transition to adjoining areas.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 886-05, §§ 11—13, eff. 12-9-05)

Sec. 59-314. General development plan.

(a) *Intent.* The intent of the general development plan (GDP) is to establish a workable framework for the development of large or phased projects. Major transportation, major stormwater drainage and water quality systems, major utilities, open space or land use issues within the GDP area shall be identified and a conceptual plan for addressing those issues shall be part of the GDP, so that such issues shall be completely addressed as the development proceeds. An approved GDP constitutes approval of a master plan that will guide all future development within the area defined by the GDP.

(b) *GDP required.* Notwithstanding the size of the zone lot, if a proposed development in the OS-1, R-MU-20, R-MU-30, C-MU-10, C-MU-20, or C-MU-30 districts, anticipates establishing or changing in the required arterial and collector street grid or an existing water drainage course, or aggregating required open space beyond a single zone lot, as permitted pursuant to section 59-312(2), submittal of a GDP is required. Landowner(s), at their option, may elect to

submit a GDP for their property in order to establish a coordinated development plan for the project area. The manager of community planning and development (CPD) may also apply for a GDP when the manager finds it is necessary to implement the comprehensive plan. If any part of a development is zoned T-MU-30, submittal of a GDP is required. The GDP application shall contain the information required in applicable rules and regulations. Any required GDP must be approved before any zoning permit, to include site plan approval, is issued.

(c) *Preapplication phase.* Preliminary GDP applications shall be submitted to the DRC. Utilizing the procedures set forth in the rules and regulations adopted pursuant to section 59-314(q), the DRC shall ensure that there is adequate community outreach and shall determine the documentation that will be required to support the final GDP and the exact area to be covered by the final GDP.

(d) *GDP requirements.* In addition to the submittal requirements set forth in the GDP rules and regulations, and except as modified by the DRC after the preapplication phase is complete, all GDP applications shall include the following information:

(1) *Narrative submittal requirements.* Unless waived by the DRC the following information shall be submitted in narrative form:

a. Description of land use concepts, ranges of square footage and general locational distribution, parking concept, public and private open space concept, and on site circulation concept of primary auto, bicycle and pedestrian and transit connections within the GDP area and connections to other areas.

b. Preliminary transportation analysis that addresses roadway network design and modal split.

c. Major stormwater drainage and water quality systems, major utilities, open space or land use issues and discussion of how such issues will be addressed as development proceeds.

d. Description of any proposed development standards at the edge of the GDP area to promote compatibility between the GDP area and adjacent land uses.

e. Estimated sequence and estimated timing where known of project construction, public land and right-of-way dedications, site infrastructure improvements, off-site infrastructure improvements, and supporting facilities.

f. Discussion of proposed incorporation of existing structures in future development plans.

g. Any other information required by the GDP rules and regulations.

(2) *GDP graphic submittal requirements.* Unless waived by the DRC, the following information shall be submitted in graphic form according to technical requirements established by the GDP rules and regulations:

a. Existing conditions as specified in the GDP rules and regulations.

b. Diagram of conceptual land uses.

c. Diagram of circulation plans for primary vehicular, transit, bicycle, and pedestrian service.

d. Concept plan, showing the relationship of development to GDP area ingress and egress and to public amenities and/or open spaces.

e. Open space concept plan, showing both the general location and general configuration of the intended public and private open spaces and bicycle and pedestrian corridors.

f. Preliminary utility and regional storm water detention/retention plans.

g. Preliminary transportation analysis that addresses roadway network design, location number and functional classification of proposed arterial and collector streets, general internal circulation and modal split.

h. Proposed incorporation of existing structures in future development plans.

i. Estimated sequence and estimated timing, where known, of project construction, public land and right-of-way dedications, on-site infrastructure improvements, off-site infrastructure improvements, and supporting facilities.

j. Maps and legal description of the boundaries of the GDP area.

k. Any other information required by the GDP rules and regulations.

(e) *Optional submittals.* The following may be submitted as described.

(1) Additional submittals that may be required by the DRC or requested by the applicant:

a. Proposed development standards.

b. Conceptual location, size, configuration and use of proposed public facilities, including schools.

c. Proposed size and layout of block patterns.

d Major issues not resolved in the GDP with discussion of how issues will be addressed as development proceeds.

(2) Additional submittal options that may be requested by the applicant.

a. *Design guidelines.* Design guidelines may be approved as part of a GDP and shall be required for the entire area of a GDP which has any TMU-30 zoning. A GDP which has any TMU-30 zoning, may be approved without design guidelines, but such guidelines shall be approved prior to issuance of a zoning permit, including site plan approval, for any development project within that GDP area. Design guidelines shall be approved as rules and regulations by the manager of CPD pursuant to section 12-18.

b. *Master sign plan.*

c. *Requests for uses by special review.* In areas where a use by special review is shown on the use chart in section 59-303, an applicant may request approval of such use by special review as part of a GDP application or amendment. Such

special review uses shall be reviewed by the approval authority for the GDP and shall be approved or disapproved by said approval authority based on the standards provided in section 59-306(f).

d. *Aggregating or reducing open space.* If the owner of a development wishes to request open space aggregation or reduction such request will require a GDP application and said request shall be specified in the GDP, and said application must demonstrate compliance with section 59-312(2).

e. *Obtaining twenty-six (26) percent to fifty (50) percent parking reduction.* If the applicant wishes to obtain the twenty-six (26) percent to fifty (50) percent parking reduction allowed by section 59-316(1)(a) the information required by said section shall be included in the GDP.

f. *Transportation facilities and infrastructure*. If the applicant wishes to have more specific approval for transportation facilities and infrastructure not required by 59-314(d) above the applicant may request such approval provided the applicant submits studies supporting the specific facilities or infrastructure.

g. *Water quality best management practices.* Water quality best management practices may be included in the master drainage study.

(f) *Waiver of specific submissions.* Any information required by the GDP rules and regulations or this section 59-314 may be waived by the DRC on the basis that the information is not necessary to review the proposed GDP and such waiver shall be documented in writing by the zoning administrator.

(g) When the DRC has determined that the GDP application is complete, it shall forward the complete application to the city council member or members in whose district or districts the GDP area is located and the at large council members. Said council members shall also be forwarded copies of all subsequent modifications of the application. Said council members may forward their recommendations to the approving authority for the approving authority's consideration. At the same time, notice shall also be given to all registered neighborhood organizations (RNO) whose boundaries include any land in or within two hundred (200) feet of the area encompassed by the proposed GDP and all other RNOs that have provided the city with an electronic address that copies of the complete GDP are available in CPD for reading or purchase. RNOs that have provided the city with an electronic address shall be notified electronically.

(h) *Approval authority.* For GDPs that are for proposed developments with no TMU-30 zoning, the DRC shall be the approval authority. For proposed developments with any TMU-30 zoning or for GDPs initiated by the manager of CPD, the planning board shall be the approval authority.

(i) *Approval by the DRC for non-TMU-30 GDPs*. For non-TMU-30 GDPs, the DRC shall approve, approve with conditions or deny the application for the GDP utilizing the procedures established by the GDP rules and regulations and based on the criteria set forth in the GDP rules and regulations, section 59-314(l) and the requirements of sections 59-314(a) and

59-314(d). Action shall be taken within one hundred and twenty (120) days of DRC's determination that the application is complete, unless the applicant consents to an extension. The one hundred and twenty (120) days shall not include any time in which the applicant is revising the GDP application and the application is not under review by the DRC.

(j) *Recommendation for GDPs with TMU-30 zoning and for GDPs initiated by the manager of CPD.* For TMU-30 GDPs and for GDPs initiated by the manager of CPD, the DRC shall prepare recommendations to approve, approve with conditions or deny the application for the GDP based on the criteria set forth in the GDP rules and regulations, section 59-314(l) the requirements of section 59-314(a) and, section 59-314(d). If the DRC recommends denial or approval with conditions, the applicant may revise and resubmit the GDP to the DRC or may have the application forwarded, as is, to the planning board with said recommendation for denial or approval with conditions. All recommendations, along with the final GDP application, shall be forwarded to the planning board within thirty (30) days after final review of the GDP by the DRC.

(k) *Approval by planning board for GDPs with any T-MU-30 zoning, or CPD initiated GDPs.* A GDP with any T-MU-30 zoning within the GDP area, or a GDP for which the manager of CPD is the applicant shall be submitted to the planning board for its approval. The planning board shall hold a public hearing on the GDP.

(1) *Posting of notice.* The land included in the GDP shall be posted for at least twenty (20) calendar days prior to the planning board public hearing. The posted notices shall be in number, size and location as required by the zoning administrator and shall indicate the boundaries of the property included in the GDP, the general uses allowed under the GDP, the time and place of the planning board public hearing, and any other information prescribed by the zoning administrator. Posted notices shall be removed by the applicant from the subject area within fifteen (15) calendar days after said public hearing has been held, and failure to remove such notices in a timely manner shall constitute a violation of this chapter.

(2) *Mailing or electronic mailing of notice.* The zoning administrator shall mail, either by United States Postal Service or, with the consent of the recipient, by electronic mail, notices of the time and place of the planning board public hearing to the following at least twenty (20) days before the date of the public hearing:

a. The applicant.

b. All owners of land included in the boundaries of the GDP other than the applicant;

c. Owners of property within 200 feet of the boundary of the GDP;

d. Registered neighborhood organizations whose boundaries include any land in or within two hundred (200) feet of the area encompassed by the GDP, plus all RNOs which have provided the city with an electronic address shall be notified electronically;

e. The city councilperson or persons in whose district or districts the GDP area is located, and the at large councilpersons.

f. Any special district, including Denver Charter districts or districts formed pursuant to Colorado Revised Statutes, title 32, adjacent to the GDP or in which any portion of the GDP lies; and

g. Any neighboring municipality or county which is contiguous to any boundary of the GDP.

h. Denver Public Schools.

(3) *Planning board public hearing.* The planning board shall hold a public hearing at which all persons shall have an opportunity to be heard. The public hearing may be held open for up to three consecutive planning board regularly scheduled meetings, at which third meeting, if not sooner closed, said public hearing must be closed. A decision of the planning board to approve, approve with stipulations, or deny the GDP shall be forwarded to the zoning administrator for action in accordance with such decision within ninety (90) calendar days after the closing of the public hearing, unless the applicant consents to an extension of such time.

(l) *Criteria for review.* The criteria for review of all GDPs shall be:

(1) Consistency with the Denver Comprehensive Plan; and

(2) Compliance with city codes, rules, regulations and standards of the DRC applicable to the proposed GDP

(m) *Recording.* All approved GDPs, and all approved amendments to such GDPs, shall be recorded in the real property records with a notation that all land within such boundaries shall be subject to the provisions of such GDP or amendment unless or until amended.

(n) *Major and minor amendments.* An approved GDP may be amended at any time using the process set out herein, and may be amended simultaneously with the processing of a site plan application or a site plan amendment. The zoning administrator shall decide whether a proposed amendment is a "major" or "minor" amendment. In order to initiate an amendment, the applicant shall submit to the zoning administrator those GDP submission items listed in section 59-314(d) that would change if the proposed amendment were approved. Review of applications for amendments shall be governed by those criteria set forth in section 59-314(k), above. Approved amendments shall be recorded as set forth in section 59-314(l), above.

(1) *Major amendments.* Major amendments shall be reviewed and approved using the process and criteria set out in sections 59-314(d), (e), (f), (g), (h), (i), (j), (k) and (l) above. Changes of the following types shall define an amendment as major:

a. Significantly modify or reallocate the allowable height, mix of uses, or density of a development;

b. Significantly alter the location or amount of land dedicated to parks, trails, open space, natural areas or public facilities;

c. Any change from, or addition to, the GDP of a type that would, under section 59-314(b) require a GDP in a non-TMU-30 district; or

d. Modify any other aspect of the GDP that would significantly change its character.

(2) *Minor amendments.* Amendments that are not major amendments shall be termed "minor amendments" and shall be referred to the zoning administrator for review. The zoning administrator may also refer the application to other departments or agencies for comment using the process set out in section 59-314(c) of this section. After consultation with the manager of CPD, the zoning administrator shall approve, approve with conditions, or deny such amendment within twenty (20) calendar days after the date of applicant's submission of a complete application for amendment.

(o) *Effect of approved GDPs.* All GDPs and GDP amendments recorded under this division shall be binding upon the applicants and their successors and assigns and approving development review committee agencies, and shall limit and control the issuance of all zoning permits and certificates and the construction, location, use and operation of all land and structures included within the GDP or GDP amendment, provided, however, that sections 59-314(d)(1)(e) and 59-314(d)(2)(i) are advisory only and are not binding nor do they provide vested rights. A recorded GDP shall be in full force and effect until and unless such time as the GDP is amended or replaced by a new GDP for the same location following the applicable rules and regulations. An approved GDP shall constitute a site specific development plan which triggers a vested property right pursuant to CRS 24-68-102(4). Such property right which has been vested shall remain vested for a period of three (3) years. The applicant's vested rights are directly proportional to the level of detail approved in the general development plan. The applicant obtains vested rights only to the extent that the GDP specifically includes development program, architecture and engineering solutions and those solutions are specifically approved. The recorded GDP is binding upon the applicants, their successors and assigns and approving city review committee agencies. The implementation and phasing plan is not a self-implementing document and is to be used for strategic timing only. It neither confers nor denies any property rights or public funding.

(p) *Rules and regulations.* The managers of parks and recreation, public works and community planning and development are authorized to adopt, jointly or severally, rules and regulations and fees for the processing and approval of applications received pursuant to this section.

(q) *Appeals of decision.*

(1) The final decision of the DRC to approve, approve with conditions or deny a GDP within its approval authority may be appealed to the board of adjustment.

(2) The final decision of the planning board to approve, approve with conditions or deny a GDP within its approval authority may be appealed to the district court in accordance with the provisions of Colorado Rule of Civil Procedure 106(a)(4).

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 886-05, § 14, eff. 12-9-05)

Sec. 59-315. Permitted signs.

Sections 59-536 through 59-545 (signs) shall apply except as modified in this section.

(1) Conditions on signs subject to a permit:

a. Signs may be created, altered and maintained only for and by a use by right or use by special review in the district in which the signs are located; shall be located on the same zone lot as the use by right or use by special review and shall be incidental, customary and commonly associated with the operation of the use by right or use by special review. All signs shall be designed to minimize glare and with appropriate lighting levels so as to be compatible with the mixed use nature of the zone district.

b. Signs for a single-unit dwelling shall be subject to those conditions set forth in section 59-547 (signs permitted in the RS-4, R-0, R-1, R-X and P-1 districts).

c. Signs for multiple-unit dwellings shall be subject to those conditions set forth in section 59-548 (signs permitted in the R-2, R-2-A, R-3-X, R-3, and H-1-A districts), except that the permitted maximum height above grade for ground or pedestal signs shall be six (6) feet.

d. Signs on all zone lots in the R-MU-20, R-MU-30, C-MU-10, C-MU-20, and T-MU-30 districts containing any nonresidential use by right or special review use shall be subject to those conditions set forth in section 59-550 (signs permitted in the B-2, B-3, and I-0, except as follows:
(Ord. No. 895-03, § 42, eff. 12-2-03)

1. Permitted sign types shall include wall, window, arcade, ground or pedestal.

2. Permitted maximum height above grade:

i. For ground or pedestal signs shall be twelve (12) feet;

ii. For window or arcade signs shall be fifteen (15) feet; and

iii. For wall signs shall be twenty-five (25) feet, except that one (1) hotel or major tenant sign is permitted below the roof line of the building to which the sign is attached; provided, however, that consumer retail, large scale uses are allowed up to three (3) wall signs below the roof line of the building to which the sign is attached.

e. Signs on all zone lots in the C-MU-30 and districts containing any nonresidential primary uses shall be subject to those conditions set forth in section 59-551 (signs permitted in the B-A-2, B-A-3, B-A-4, B-4, B-7, B-8, I-1 and I-2 districts), except as follows:

1. Permitted sign types shall include wall, window, arcade and pedestal.

2. Permitted maximum height above grade:

i. For ground or pedestal signs shall be sixteen (16) feet;

ii. For window or arcade signs shall be twenty-five (25) feet; and

iii. For wall signs shall be thirty-five (35) feet, except that one (1) hotel or one (1) major tenant sign is permitted below the roof line of the building to which the sign is attached.

(2) *Outdoor general advertising devices.* Outdoor general advertising devices are prohibited throughout the OS-1, R-MU-20, R-MU-30, C-MU-10, C-MU-20, C-MU-30, and T-MU-30 districts.

(3) *Common signage plan.* If the owners or agents of two (2) or more zone lots in the OS-1, R-MU-20, R-MU-30, C-MU-10, C-MU-20, and C-MU-30 districts include in the site plans for each such zone lot a common signage plan conforming to applicable regulations, and all such included zone lots are contiguous disregarding intervening streets and alleys, then a twenty-five (25) percent increase in the maximum total sign area shall be allowed for each such zone lot. A common signage plan shall be required for GDP areas in a T-MU-30 district. All way-finding signage shall be exempt from the calculation of allowed signage. Once adopted, such common signage plan may be amended only with the written consent of the owners of all zone lots included in the common signage plan. Such common signage plan shall be subject to such reasonable restrictions as to location and organization as the zoning administrator may require to promote public safety, reduce visual clutter and increase visual interest.

(4) *Projecting signs and graphics.* Projecting signs and graphics shall be permitted if the zoning administrator finds that the approved development meets any one (1) of the following conditions:

a. The approved development is at least one (1) block in length and contains at least three (3) consumer retail, small, and/or consumer service, small and/or eating place uses;

b. The approved development is a multiple-story building containing three (3) or more consumer retail and/or eating place uses located in the ground floor with residential uses located in the second story and above;

c. The approved development surrounds a publicly accessible pedestrian mall or town square open space on at least two (2) sides.

d. The approved development is in a T-MU-30 zone district.

(5) *Criteria.* Projecting signs and graphics shall comply with rules and regulations governing size and placement which have been adopted based on the following criteria:

a. Must be compatible with and an enhancement of the character of the surrounding district and adjacent architecture when considered in terms of scale, color, materials, lighting levels, and adjoining uses;

b. Must be compatible with and an enhancement of the architectural characteristics of the buildings on which they appear when considered in terms of scale, proportion, color, materials and lighting levels;

c. Must be appropriate to and expressive of the business or activity for which they are displayed;

d. Must be creative in the use of unique two-and three-dimensional form, profile, and iconographic representation; employ exceptional lighting design and represent exceptional graphic design, including the outstanding use of color, pattern, typography and materials; and

e. Must be of high quality, durable materials appropriate to the physical demands of the setting.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-316. Off-street parking requirements.

The provisions of article VI of this chapter on off-street parking requirements shall be in full force and effect in the OS-1, R-MU-20, R-MU-30, C-MU-10, C-MU-20, C-MU-30, and T-MU-30 districts, except as modified by this section.

(1) *Reduction of parking spaces in all mixed use districts except the T-MU-30 zone district.* In all mixed-use zones with the exception of the T-MU-30 zone district, the number of off-street parking spaces for uses and structures located within one-fourth mile of the outer boundary of a rail transit station, a regional or urban ten-minute bus corridor or within one-half mile of the B-5 or B-7 zone districts may be reduced where, in the opinion of the zoning administrator, residents, employees, customers or visitors will use the transit system or will walk to their destinations. The zoning administrator shall not reduce the number of required off-street parking spaces by more than twenty-five (25) percent. The parking reduction may be increased as hereinafter provided:

(Ord. No. 161-10, § 1, eff. 3-26-10)

a. *Reductions of twenty-six (26) percent to fifty (50) percent.* In order to obtain a reduction in the number of required parking spaces of between twenty-six (26) percent and fifty (50) percent, information supporting such a reduction in the form of shared parking analysis, trip reduction strategy, or transportation management plan shall be included in an approved GDP. All registered neighborhood organizations within two hundred (200) feet of the development for which this level of reduced parking is requested and the city council member in whose district the project is located and the at-large council members shall be notified of the application for reduced parking. Such registered neighborhood organizations and council members may request additional information. Any comments on the application shall be submitted in writing to the zoning administrator within twenty (20) days of receipt of the notice.

(Ord. No. 161-10, § 1, eff. 3-26-10)

b. *Maximum reduction.* The total number of parking spaces required on an area-wide basis shall not be reduced by more than fifty (50) percent.

c. *Disabled parking.* The number of spaces required for persons with disabilities shall not be reduced.

(1.5) *Reduction of parking spaces in the T-MU-30 zone district.*

a. Within an area with an approved GDP for a T-MU-30 district, an area-wide twenty-five (25) percent reduction in the number of required parking spaces shall be granted.

b. In addition to the twenty-five (25) percent reduction specified in [subsection] (1.5)a., above, in a T-MU-30 zone district with an approved GDP, the number of off-street parking spaces for uses and structures shall be reduced a further twenty-five (25) percent if located within one-half mile of the B-5 or B-7 zone districts or if served by more than one (1) RTD rail line.

c. In addition to the parking reductions allowed in [subsection] (1.5)a., and (1.5)b., above, in a T-MU-30 zone district, a further twenty-five (25) percent reduction may be granted if information supporting such a reduction in the form of shared parking analysis, trip reduction strategy, or transportation management plan is included in the approved GDP. All registered neighborhood organizations within two hundred (200) feet of the development for which this level of reduced parking is requested and the city council member in whose district the project is located and the at large council members shall be notified of the application for reduced parking. Such registered neighborhood organizations and council members may request additional information. Any comments on the application shall be submitted in writing to the zoning administrator within twenty (20) days of receipt of the notice.

d. Maximum reduction. The total number of parking spaces required on an area-wide basis shall not be reduced by more than seventy-five (75) percent.

(Ord. No. 161-10, § 2, eff. 3-26-10)

(2) *Special plan for shared parking.* In all mixed-use zone districts, the zoning administrator may authorize a reduction in the number of required parking spaces for multiple-use developments or for uses that are located near one another and which have different peak parking demands and operating hours. Approval of a special plan for shared parking shall be subject to the following standards:

a. *Location.* Shared off-street parking spaces shall be located no further than six hundred (600) feet from all the buildings and uses they are intended to serve. The separation shall be measured perpendicularly from the nearest point of the buildings or uses to the nearest point of the zone lot containing the shared off-street parking spaces.

b. *Shared parking analysis.* A parking analysis acceptable to the zoning administrator shall be submitted which clearly establishes that uses will make use of the shared spaces at different times of the day, week, month, or year. The study shall:

1. Address the intensity and type of activities, the composition of uses; hours of operation of the uses; the rate of turnover for proposed shared spaces;

distances of shared parking spaces from the uses they serve; availability of embedded on-street parking spaces in the public rights-of-way; and the anticipated peak parking and traffic loads for the site; and

2. Consider the availability of transit facilities and modes of available transit serving the site including both public and private transit (e.g., car and vanpooling).

c. *Maximum reduction.* The total number of parking spaces required for each use shall not be reduced by more than fifty (50) percent.

d. *Disabled parking.* The number of spaces required for persons with disabilities shall not be reduced.

e. *Applications, how made and contents.* All applications for approval of a special plan for shared parking hereunder shall be filed with the department of zoning administration by the owners of the entire land area to be included within the special plan, and the owners of all structures then existing on such land area; shall contain sufficient evidence to establish to the satisfaction of the department that the applicants are the owners of the designated land and structures; shall contain such information and representations required by this subsection or deemed necessary by the department, and shall include plans showing the following details:

1. The location of the uses by right or structures for which off-street parking space is required;

2. The location of off-street parking spaces; and

3. A landscape plan as required by section 59-585(10) (use and maintenance of off-street parking space; landscape plan).

f. *Review of application.* All applications hereunder shall be reviewed by the zoning administrator and either approved, approved with conditions or denied.

g. *Approved plan registered and recorded.* Upon approval of a special plan hereunder, a copy of such plan shall be registered among the records of the department of zoning administration and a copy of such plan, or such other record thereof as deemed proper by the department shall be recorded by the department of zoning administration with the Denver clerk and recorder.

h. *Effect of registered and recorded special plan.* All special plans registered and recorded hereunder shall run with the land, be binding upon the applicants for such special plans, their successors and assigns, and shall restrict and limit the use and operation of all land and structures included within such special plan to all conditions and limitations specified in such plan and the approval thereof. No zoning use permits shall be issued unless such uses comply with all the conditions and limitations of the approved special plan.

i. *Amendment of registered and recorded special plans.* All special plans registered and recorded hereunder may be amended pursuant to the same procedure and subject to the same limitations and requirements by which such plans were approved, registered and recorded.

j. *Withdrawal of registered and recorded special plans.* Upon application to the department of zoning administration by the owners of the entire land area included within any special plan registered and recorded hereunder, and the owners of any structures then existing thereon any such plan may be withdrawn, either partially or completely, from registration and released from recording if all uses, land and structures remaining under such plan can be made to comply with all conditions and limitations of the plan and all uses by right, land and structures withdrawn from such plan can be made to comply with all regulations established by this chapter 59 and unrelated to any special plan. Upon approval of the withdrawal of an application hereunder, the department of zoning administration shall register among its records and record with Denver clerk and recorder an appropriate certificate of such withdrawal.

(3) *Required off-street parking spaces.* All uses shall provide at least the number of off-street parking spaces set forth below, provided that:

a. Parking for structures designated for preservation or for contributing structures in districts designated for preservation shall be in accordance with [subsection] 59-582(f). Additions to such structures shall meet the parking requirements of this division and subsection 59-582(f).

b. All off-street parking spaces hereinafter required shall be designed in accordance with the dimensions set out in chart no. 1, off-street parking, which chart follows section 59-588.

c. In a T-MU-30 district with an approved GDP, parking may be provided on a GDP-area wide basis, rather than on a zone lot basis.

(Ord. No. 449, § 2, eff. 8-31-07)

REQUIRED OFF-STREET PARKING AMOUNT BY USE	
Use	*Amount of Off-Street Parking Required*
(a) Residential Uses	
1. Artist studio	1.0 space for each unit
1A. Assisted living facility	.75 of a space provided per unit in an assisted living facility provided that the zoning administrator may increase or decrease the required amount by up to one-half (.5) space per unit subject to the administrative review and public notice procedures in section 59-41. The zoning administrator may approve such increase or reduction only upon finding that the assisted living facility generates less or more parking need or demand due to the specific nature and character of the facility, its occupants, and/or visitors. If a reduction is permitted under this provision, no additional parking reduction otherwise available under this chapter will be granted. Any person, or the city, may apply for an increase or decrease from the base requirement upon an application for a use permit for such a facility.
2. Residence for consuls or clergy, monastery, convent, similar institution of religious training	1.0 space for each 600 square feet of gross floor area
3. Live/work residential	As required by 59-316(3)(a)4, below plus 1.0 space for each employee not residing in the dwelling unit

REQUIRED OFF-STREET PARKING AMOUNT BY USE	
Use	*Amount of Off-Street Parking Required*
4. Dwelling, multiple unit	2.0 space for each dwelling unit in a multiple unit dwelling containing three or more bedrooms; 1.5 spaces for each dwelling unit in a multiple unit dwelling containing two bedrooms; 1.0 spaces for each dwelling unit in a multiple unit dwelling containing one bedroom or each studio unit
5. Nursing home, hospice	1.0 space for each 600 square feet of gross floor area contained in the structure(s) containing the use. Requests for up to 50 percent reduction of parking spaces may be made to the zoning administrator subject to the administrative review and public notice procedures in section 59-41. The zoning administrator may approve such reduction only upon finding that the nursing home/hospice generates less parking need or demand due to the specific nature and character of the facility, its occupants, and/or visitors. If a reduction is permitted under this provision, no additional parking reduction otherwise available under this chapter (e.g., under section 59-316) will be granted.
6. Residence for older adults	1.0 space for each 3 dwelling units
7. Rooming and boarding house	1.0 space for each 300 square feet of gross floor area
8. Dwelling, single unit	1.0 space for each single unit dwelling located on a public or private street thirty (30) feet or more in width; 2.0 spaces for each single unit dwelling located on a public or private street less than thirty (30) feet in width
(b) Retail, service, office	
1. Adult establishment	1.0 space for each 200 square feet of gross floor area
2. Animal care, kennel, cattery	1.0 space for each 300 square feet of gross floor area
3. Animal sales, service, care, household pets only	1.0 space for each 300 square feet of gross floor area
4. Automobile gasoline filling station, emissions inspection	1.0 space for each 300 square feet of gross floor area

REQUIRED OFF-STREET PARKING AMOUNT BY USE	
Use	*Amount of Off-Street Parking Required*
5. Automobile repair garage	1.0 space for each 300 square feet of gross floor area
6. Automobile wash, laundry and/or polishing shop*	1.0 space for each 300 square feet of gross floor area
7. Automobile, motorcycle, light truck sales, leasing; rental*	1.0 space for each 300 square feet of gross floor area
8. Banking and financial services	1.0 space for each 300 square feet of gross floor area
9. Bed and breakfast	1.0 space for each 600 square feet of gross floor area
10. Bookstore	1.0 space for each 300 square feet of gross floor area
11. Brew pub	1.0 space for each 200 square feet of gross floor area
12. Communications service	1.0 space for each 600 square feet of gross floor area
13. Eating place	1.0 space for each 300 square feet of gross floor area
14. Food preparation and sales, commercial	An area equal to one-tenth (1/10) the gross floor area in all structures containing the use by right or use by special review
15. Food sales or market, large	1.0 space for each 300 square feet of gross floor area
16. Food sales or market, small	1.0 space for each 300 square feet of gross floor area
17. Furniture, furnishings, retail sale, large scale	1.0 space for each 500 square feet of gross floor area
18. Garden supply store	1.0 space for each 300 square feet of gross floor area
19. Home building materials and supplies, sales, or rental	1.0 space for each 200 square feet of gross floor area
20. Hotel	1.0 space for each 600 square feet of gross floor area
21. Laboratory, research, development, technological service	An area equal to one-fourth (1/4) the gross floor area in all structures containing the use by right or use by special review
22. Liquor store.	1.0 space for each 300 square feet of gross floor area
23. Motel	1.0 Space for each rental room

REQUIRED OFF-STREET PARKING AMOUNT BY USE	
Use	*Amount of Off-Street Parking Required*
24. Office: nondental, nonmedical	1.0 space for each 500 square feet of gross floor area
25. Printing service, publishing, business support	An area equal to one-tenth (1/10 the gross floor area in all structures containing the use by right or use by special review.
26. Retail, service, repair, consumer, large scale	1.0 space for each 300 square feet of gross floor area
27. Retail, service, repair, consumer, medium scale	1.0 space for each 300 square feet of gross floor area
28. Retail, service, repair, consumer, small scale	1.0 space for each 300 square feet of gross floor area
29. Retail, service, repair, consumer, special	1.0 space for each 300 square feet of gross floor area
30. Service, repair, commercial	An area equal to one-fourth (1/4) the gross floor area in all structures containing the use by right or use by special review
31. Vehicle, equipment sales, leasing, service, rental*	1.0 space for each 300 square feet of gross floor area
(c) Industrial, wholesale, transportation, utilities	
1. Automobile parts recycling business*	An area equal to one-fourth (1/4) the gross floor area in all structures containing the use by right or use by special review
2. Manufacturing, fabrication, and assembly, custom	An area equal to one-tenth (1/10) the gross floor area in all structures containing the use by right or use by special review
3. Manufacturing, fabrication, and assembly, general	An area equal to one-tenth (1/10) the gross floor area in all structures containing the use by right or use by special review
4. Manufacturing, fabrication, and assembly, heavy	An area equal to one-tenth (1/10) the gross floor area in all structures containing the use by right or use by special review
5. Manufacturing, fabrication, and assembly, light	An area equal to one-tenth (1/10) the gross floor area in all structures containing the use by right or use by special review
6. Recycling center, facility	An area equal to one-fourth (1/4) the gross floor area in all structures containing the use by right or use by special review
7. Recycling collection station	An area equal to one-fourth (1/4) the gross floor area in all structures containing the use by right or use by special review

REQUIRED OFF-STREET PARKING AMOUNT BY USE	
Use	*Amount of Off-Street Parking Required*
8. Recycling plant, scrap processor	An area equal to one-fourth (1/4) the gross floor area in all structures containing the use by right or use by special review
9. Terminal and service facility for intercity bus system*	An area equal to one-fourth (1/4) the gross floor area in all structures containing the use by right or use by special review
10. Terminal, freight, air courier services*	An area equal to one-fourth (1/4) the gross floor area in all structures containing the use by right or use by special review
11. Terminal, public transportation, local*	An area equal to one-fourth (1/4) the gross floor area in all structures containing the use by right or use by special review
12. Utility, major impact	1.0 space for each 600 square feet of gross floor area
13. Utility, minor impact	1.0 space for each 600 square feet of gross floor area
14. Wholesale trade, general, and/or storage of toxic and/or hazardous materials	An area equal to one-tenth (1/10) the gross floor area in all structures containing the use by right or use by special review
15. Wholesale trade, light, and/or storage of nontoxic, nonhazardous materials	An area equal to one-tenth (1/10) the gross floor area in all structures containing the use by right or use by special review
Arts, entertainment, recreation, institutions	
1. Ambulance service	1.0 space for each 300 square feet of gross floor area
2. Child care center	1.0 space for each 600 square feet of gross floor area
3. Church, religious institution	An area equal to one-fourth (1/4) the gross floor area in all structures containing the use by right or use by special review
4. Clinic, office, laboratory, dental or medical	1.0 space for each 300 square feet of gross floor area
5. Club or lodge	1.0 space for each 300 square feet of gross floor area
6. Community or senior center or recreational facility	1.0 space for each 600 square feet of gross floor area
7. Conference center, meeting hall	1.0 space for each 200 square feet of gross floor area
8. Fire station	1.0 space for each 300 square feet of gross floor area

REQUIRED OFF-STREET PARKING AMOUNT BY USE	
Use	*Amount of Off-Street Parking Required*
9. Library	1.0 space for each 600 square feet of gross floor area
10. Mortuary	1.0 space for each 300 square feet of gross floor area
11. Museums, other special purpose cultural institutions	1.0 space for each 600 square feet of gross floor area
12. Police station	1.0 space for each 300 square feet of gross floor area
13. Postal facility, neighborhood	1.0 space for each 300 square feet of gross floor area
14. Recreation services, indoor*	1.0 space for each 300 square feet of gross floor area
15. Recreation services, outdoor*	1.0 space for each 300 square feet of gross floor area
16. School, elementary or secondary	a. Each elementary or grade school or junior high school shall provide ten (10) off-street parking spaces plus one (1) off-street parking space for each classroom; b. Each senior high school shall provide one (1) off-street parking space for each teacher and employee plus one (1) off-street parking space for each six (6) students based on design capacity for each senior high school
17. School, vocational or professional	An area equal to one-fourth (1/4) the gross floor area in all structures containing the use by right or use by special review
18. Sports and/or entertainment facility	An area equal to one-fourth (1/4) the gross floor area in all structures containing the use by right or use by special review
19. Studio, professional	1.0 space for each 600 square feet of gross floor area
20. Theater, indoor	1.0 space for each 200 square feet of gross floor area
21. University or college	1.0 space for each 600 square feet of gross floor area
Construction, Mining and Agriculture	
1. Contractors, special trade, general	1.0 space for each 300 square feet of gross floor area

REQUIRED OFF-STREET PARKING AMOUNT BY USE	
Use	*Amount of Off-Street Parking Required*
2. Contractors, special trade, heavy, contractor yard*	An area equal to one-fourth (1/4) the gross floor area in all structures containing the use by right or use by special review
3. Husbandry	1.0 space for each 600 square feet of gross floor area
4. Nursery, plant	1.0 space for each 300 square feet of gross floor area

(Ord. No. 624-05, § 4, eff. 9-2-05; Ord. No. 20-07, § 2, eff. 1-26-07; Ord. No. 449, §§ 3, 4, eff. 9-14-07; Ord. No. 57-09, § 16, eff. 1-30-09)

(4) *Tandem parking.* Tandem parking may be allowed within all mixed use districts upon the submittal of an application for tandem parking relating to the proposed use, its operation and the proposed tandem parking configurations. Tandem parking may be allowed upon the approval of the director of planning and the zoning administrator upon review of a recommendation from the manager of public works. Tandem parking recommendations should be based on the following criteria:

a. The proposed development is designed to minimize dependence on the automobile, is transit-oriented with housing units within one-quarter mile of from a transit stop, has units that are within one-quarter mile of retail or community services, and creates a pedestrian friendly and useable environment.

b. There is adequate on-street parking and pedestrian connections.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-317. Off-street loading requirements.

The provisions of article VII of this chapter (off-street loading requirements) shall be in full force and effect in the OS-1, R-MU-20, R-MU-30, C-MU-10, C-MU-20, C-MU-30, and T-MU-30 districts.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-318. Special zone lot for planned building groups.

The provisions of article VIII of this chapter (special zone lot plans for planned building groups) shall be in full force and effect in the OS-1, R-MU-20, R-MU-30, C-MU-10, C-MU-20, C-MU-30, and T-MU-30 districts.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Secs. 59-319, 59-320. Reserved.

DIVISION 16. RESERVED

[The next page is 445]

DIVISION 17. PLATTE RIVER VALLEY ZONE DISTRICT (PRV)

Sec. 59-321. General purpose and scope.

This division is enacted to provide for and encourage the development and redevelopment of the area commonly known as the Platte River Valley and select adjacent neighborhoods in accordance with the comprehensive plan of Denver. The provisions of this division together with the subarea zoning standards enacted hereunder shall establish, define, and limit the use of land, and the facilities and structures located in the Platte River Valley Zone District.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-322. Description of district.

This district is intended to promote and encourage a diversity of land uses having urban character, integrating the district's unique geographic location and setting, amenities of view, transportation linkages and open space. A variety of land uses will be permitted in order to facilitate new development, allow for the reuse of eligible historic structures and to complement development in the adjacent neighborhoods and downtown, thereby promoting the public safety, convenience, health, general welfare and the comprehensive plan. New residential development and open space is encouraged. General design guidelines are provided on a subarea development basis as a feature of development review. Regulatory flexibility is provided to facilitate development responsive to current and future market conditions, and to encourage creativity in the development of the Platte River Valley.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-323. Definitions.

Terms and definitions contained in the Denver Zoning Code, section 59-2, shall be applicable to this district, except the following definitions shall apply for certain selected terms as used in this district, unless the context otherwise requires:

(1) *Certificate of housing compliance.* A written document issued by the department of zoning administration evidencing that certain property is in compliance with and not otherwise subject to further housing designation requirements as set forth in section 59-332.

(2) *Gross floor area, basic maximum.* The permitted nonresidential development density for the Platte River Valley Zone District or subareas thereof, as regulated by section 59-330(b), "Density," of these zone district regulations.

(3) *Light-production facility.* An accessory use to a research/development use, including facilities for assembly, manufacturing, fabrication, processing or packaging of products developed as a result of on-site research, but shall not include facilities for general commercial production of products.

(4) *Notice of housing designation.* A written notice filed with the department of zoning administration by a property owner whereby certain lands of that owner are identified as being a designated housing site, subject to the conditions and limitations set forth in section 59-332.

(5) *Pedestal sign.* An outdoor sign which is attached to and supported by a base connected to the ground, not including poles, braces, or uprights.

(6) *Pedestrian connector.* An area oriented for major pedestrian movement/activity, including, but not limited to, physical improvements that enhance such pedestrian activity, such as special landscaping, paving, street furniture, retail uses, outdoor eating, and lighting; and where such area is designated as a "pedestrian connector" on the subarea plan. Such connectors may or may not be developed as a separate right-of-way.

(7) *Public project.* A project in which the land and improvements involved are owned by a governmental entity.

(8) *Subarea.* A defined subdistrict area of the Platte River Valley Zone District which has its own unique character and individual development requirements and subarea zoning standards.

(9) *Subarea plan.* A general development plan created for all or part of a subarea to be used as a framework for private and public development projects within that subarea.

(10) *Subarea zoning standards.* Rules and criteria adopted by the city council to govern the content and requirements of subarea plans and to establish standards for development within the various subareas of the Platte River Valley Zone District.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-324. Use by right, use by special review and existing use.

(a) *Generally.* Each subarea in the Platte River Valley Zone District shall be assigned uses by right and uses by special review from the matrix of uses established by this section. Uses by temporary permit and accessory uses shall be allowed throughout the district as provided in sections 59-326 and 59-327, respectively. Continuation and modification of existing uses which are not uses by right or uses by special review shall be allowed as provided in section 59-328 and by section 59-335(d)(1)c.3. In the subarea zoning standards for each subarea there are preferred land uses. Those preferred land uses shall not limit the uses by right and/or uses by special review set forth in this section 59-324.

(b) *Uses by right and uses by special review.* No land shall be used or occupied and no structure shall be erected, altered, used or occupied except for either one (1) or more of the uses by right or uses by special review set forth on the following use matrix; provided, however, that a use by right or a use by special review may be accompanied by lawful accessory uses as set forth in section 59-327 and/or one (1) or more of the uses by temporary permit set forth in section 59-326 section.

(1) *Use by right.* A use designated as a use by right in any given subarea of this zone district is permitted and may be developed without further approval regarding its

location in that subarea. However, such uses must comply with all requirements of this zone district, including the subarea zoning standards and the rules and regulations adopted hereunder, and the approved subarea plan. Uses not listed are not permitted in this district, and blanks indicate uses not permitted in a subarea.

(2) *Use by special review.* A use designated as a use by special review in any given subarea of this zone district is characterized as being generally compatible with the basic use classifications of that subarea; however, individual review and approval is required to consider certain matters which its proposed location may present. The planning board must be satisfied that the special use will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the general purpose of this zone district. In making its determination, the board shall find that the special use will be reasonably compatible with the character of the surrounding area and would not have a materially adverse affect on surrounding property owners. In granting any special use, the board may prescribe any conditions that it deems to be reasonable and necessary for the public interest. The planning board shall adopt rules and regulations governing the information requirements and process for making decisions on uses permitted by special review.

(3) *Drive-in facilities.* Drive in facilities are not permitted as a use by right, use by special review, or accessory use except for financial institutions in the Platte River Valley Zone District.

Key: *P = Permitted* *SR = Uses permitted after special review* ** = Need not be enclosed* *(blank) = Not permitted*	*Key for Subareas: 1 = Auraria Business and Research Park, Auraria Village, 16th - 20th Common, Prospect, Water Street and Rockmount. 2 = Rice Yards, Cherry Creek, West Bank, Diamond Hill and Front View Crescent. 3 = Sports Complex. 4 = Denver Union Terminal. 5 = Glenn Court/Stoneman's Row. 6 = Saint Patrick's/Guadalupe, Overlook. 7 = Gates Crescent.*						
Use	*PRV Subarea*						
	1	*2*	*3*	*4*	*5*	*6*	*7*
Residential							
Artist studio	P	P	P	P	P	P	SR
Assisted living facility	L18/SR	L18/SR	L18/SR	L18/SR	L18/SR	L18/SR	SR
Dwelling, multiple unit	L18/SR	L18/SR	L18/SR	L18/SR	L18/SR	L18/SR	SR
Dwelling, single unit	P	P	P	P	P	P	SR
Residence for older adults	L18/SR	L18/SR	L18/SR	L18/SR	L18/SR	L18/SR	SR
Rooming and/or boarding house	P	P	P	P	P	P	SR
Retail, service, office							
Animal sales, service, care, household pets only	L20/SR	L20/SR	L20/SR	L20/SR	L20/SR	L20/SR	L20/SR

Key: *P = Permitted* *SR = Uses permitted after special review* ** = Need not be enclosed* *(blank) = Not permitted*	*Key for Subareas: 1 = Auraria Business and Research Park, Auraria Village, 16th - 20th Common, Prospect, Water Street and Rockmount. 2 = Rice Yards, Cherry Creek, West Bank, Diamond Hill and Front View Crescent. 3 = Sports Complex. 4 = Denver Union Terminal. 5 = Glenn Court/Stoneman's Row. 6 = Saint Patrick's/Guadalupe, Overlook. 7 = Gates Crescent.*						
Use	*PRV Subarea*						
	1	*2*	*3*	*4*	*5*	*6*	*7*
Automobile gasoline filling station, emissions inspection	L4/SR	L4/SR	L4/SR	L4/SR	L/SR	L4/SR	L4/SR
Automobile, motorcycle, light truck sales, leasing, rental*	L20/SR	L20/SR	L20/SR	L20/SR	L20/SR	SR	SR
Banking and financial services	P	P	P	P	P	P	SR
Bed and breakfast	P	P	P	P	P	SR	SR
Bookstore	L20/SR	L20/SR	L20/SR	P	L20/SR	SR	SR
Communications service	P	SR	P	P	SR	SR	SR
Eating place	L47	L47	L47	L47	L47	L47	L47
Food sales or market, large	L20/SR	L20/SR	L20/SR	P	L20/SR	SR	SR
Food sales or market, small	P	P	P	P	P	SR	SR
Furniture, furnishings, retail sale, large scale	L20/SR	L20/SR	L20/SR	P	L20/SR	SR	SR
Garden supply store	L20/SR	L20/SR	L20/SR	P	L20/SR	SR	SR
Home building materials and supplies, sales, or rental	L20/SR	L20/SR	L20/SR	P	L20/SR	SR	SR
Hotel	P	P	P	P	P	SR	SR
Laboratory, research, development, technological service	P	SR	P	P	SR	SR	SR
Liquor store	L20/SR	L20/SR	L20/SR	P	L20/SR	SR	SR
Office: nondental, nonmedical	P	P	P	P	P	P	P
Outdoor sales, flea market*	L20/SR	L20/SR	L20/SR	P	L20/SR	SR	SR
Printing service, publishing, business support	P	P	P	P	P	P	SR
Retail, service, repair, consumer, large scale	L20/SR	L20/SR	L20/SR	P	L20/SR	L20/SR	L20/SR
Retail, service, repair, consumer, medium scale	P	P	P	P	P	L36/SR	SR
Retail, service, repair, consumer, small scale	P	P	P	P	P	L36/SR	SR
Retail, service, repair, consumer, special	L20/SR	L20/SR	L20/SR	P	L20/SR	L20/SR	L20/SR

Key: *P = Permitted* *SR = Uses permitted after special review* ** = Need not be enclosed* *(blank) = Not permitted*	*Key for Subareas: 1 = Auraria Business and Research Park, Auraria Village, 16th - 20th Common, Prospect, Water Street and Rockmount. 2 = Rice Yards, Cherry Creek, West Bank, Diamond Hill and Front View Crescent. 3 = Sports Complex. 4 = Denver Union Terminal. 5 = Glenn Court/Stoneman's Row. 6 = Saint Patrick's/Guadalupe, Overlook. 7 = Gates Crescent.*						
Use	*PRV Subarea*						
	1	*2*	*3*	*4*	*5*	*6*	*7*
Vehicle, equipment sales, leasing, service, rental*	L20/SR	L20/SR	L20/SR	L20/SR	L20/SR	L20/SR	L20/SR
Industrial, wholesale, transportation, utilities							
Helipad, helistop, heliport*	SR	SR	P	SR	SR	SR	SR
Parking of vehicles*	SR/ L110	SR/ L110	SR/ L110	SR/ L110			SR/ L110
Railroad facilities*	L106	L106	P	L106	L106	L106	L106
Railway right-of-way*	SR	SR	P	SR	SR	SR	SR
Terminal, public transportation local*	SR	SR	P	SR	SR	SR	SR
Utility, major impact	SR	SR	P	SR	SR	SR	SR
Utility, minor impact	SR	SR	P	SR	SR	SR	SR
Arts, entertainment, recreation, institutions							
Church, religious institution	P	P	P	P	P	P	P
Clinic, office, laboratory, dental or medical	P	P	P	P	P	P	SR
Community or senior center or recreational facility	SR	SR	P	SR	SR	SR	SR
Conference center, meeting hall	SR	SR	SR	SR	SR	SR	SR
Fire station	SR	SR	P	SR	SR	SR	SR
Library	SR	SR	P	SR	SR	SR	SR
Museums, other special purpose cultural institutions	P	P	P	P	P	P	P
Parks, public, open space, associated buildings*	SR	SR	P	SR	SR	SR	SR
Police station	SR	SR	P	SR	SR	SR	SR
Postal facility, neighborhood	SR	SR	P	SR	SR	SR	SR
Recreation services, indoor	P	P	P	P	P	P	P
Recreation services, outdoor*	SR	SR	SR	SR	SR	SR	SR
School, elementary or secondary	SR	SR	P	SR	SR	SR	SR
School, vocational or professional	SR	SR	P	SR	SR	SR	SR
Sports and/or entertainment facility	SR	SR	P	SR	SR	SR	SR
Studio, professional	P	P	P	P	P	P	SR

Key: *P = Permitted* *SR = Uses permitted after special review* ** = Need not be enclosed* *(blank) = Not permitted*	*Key for Subareas: 1 = Auraria Business and Research Park, Auraria Village, 16th - 20th Common, Prospect, Water Street and Rockmount. 2 = Rice Yards, Cherry Creek, West Bank, Diamond Hill and Front View Crescent. 3 = Sports Complex. 4 = Denver Union Terminal. 5 = Glenn Court/Stoneman's Row. 6 = Saint Patrick's/Guadalupe, Overlook. 7 = Gates Crescent.*						
Use	*PRV Subarea*						
	1	*2*	*3*	*4*	*5*	*6*	*7*
Theater, indoor	P	P	P	P	P	P	P
University or college	SR	SR	P	SR	SR	SR	SR
Uses allowed in all districts unless restricted by special limitations (See chapter 59, article III, division 2)							
Residential care uses (See § 59-82)							
Uses allowed by temporary permit (See § 59-326)							

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 625-05, § 16, eff. 9-2-05; Ord. No. 57-09, § 17, eff. 1-30-09)

Sec. 59-325. Limitations.

The following define the limitations enumerated in the use chart in section 59-324 above: (Ord. No. 625-05, § 17, eff. 9-2-05)

L4 An automobile gasoline filling station which complies with all of the following conditions:

a. Is contained in a structure the gross floor area of which may not exceed one-fourth the area of the zone lot on which the structure is located;

b. Does not rent or sell motor vehicles;

c. Does none of the following: overhaul engines or transmissions, body or fender work, auto glass work, painting, welding, tire recapping or auto dismantling;

d. All discarded parts and materials are deposited into a completely enclosed container concealed from adjacent properties;

e. Parks no vehicles being serviced or stored for customers on streets, alleys, public sidewalks or public park strips;

f. Is provided with barriers of such dimensions that occupants of adjacent structures are not disturbed, either by day or night, by the movement of vehicles, and light facilities are so arranged that they neither disturb occupants of adjacent residential properties nor interfere with traffic;

g. Extinguishes all flood lights at close of business or 11:00 p.m., whichever is earlier;

h. Trailer rentals permitted as an accessory use subject to the following limitations: (1) one (1) trailer permitted on the zone lot for each four thousand (4,000) square

feet of land area in the zone lot, not, however, exceeding five (5) trailers at any one (1) time; and (2) each trailer not to exceed eight (8) feet in height, length and width;

i. Fuel pumps and trailer storage need not be enclosed.

L18 A residential development which exceeds more than an average of sixty (60) dwelling units per acre of the land area held in one (1) ownership within a subarea which is designated and/or reserved for residential shall require approval as a use by special review.

L20 Limited to the retail sale of goods. In subareas Gates Crescent, Overlook and Saint Patrick's/Guadalupe all retail subject to special review, in all other limited areas special review required when individual buildings and uses exceed fifty thousand (50,000) square feet.

L36 Retail sales of goods by special review only.

L47 If outdoor eating area is in excess of fifteen (15) percent of indoor area, special review required.

L106 Limited to railroad passenger terminal.

L110 Limited to temporary surface parking. Such facility may be developed and operated only as a use by special review for a period not to exceed five (5) years; however, approval for each facility may be renewed for successive periods at the same location.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-326. Uses by temporary permit.

Upon application to and issuance by the department of zoning administration of a permit therefor, the following uses may be operated as uses by temporary permit and need not be enclosed:

(1) Bazaar and/or carnival; provided, however, that each permit shall be valid for a period of not more than seven (7) days and shall not be renewed for more than two (2) successive periods;

(2) Noncommercial concrete batching plant, both incidental and necessary to construction in the district. Each permit shall specify the location of the plant and the area, within the Platte River Valley Zone District, of the permitted operation, no part of which area shall be a distance of more than two (2) miles from the plant. In the Glen Court/Stoneman's Row, Overlook, and Saint Patrick's/Guadalupe subareas, such concrete batching plants will be permitted only if they are incidental and necessary to construction within the subarea in which the plant would be located. Each such permit shall be valid for a period of not more than six (6) calendar months and shall not be renewed for more than six (6) successive periods at the same location;

(3) Parking lot designed for a special event; provided, however, that each permit shall be valid only for the duration of the designated special event; and provided, further, that

if the designated special event is a seasonal activity, the permit may be valid for the entire season but shall be restricted in use to designated dates and times during which the event is occurring;

(4) Outdoor retail sales within one hundred twenty-five (125) feet of a pedestrian connector as follows: The outdoor retail sales of articles such as books, artwork, craftwork, food, flowers, clothing, newspapers and similar articles are permitted subject to the provision of this section. Before issuing a permit for such use the zoning administrator shall determine that the proposed use meets the following criteria:

a. That it will not obstruct the movement of pedestrians through plazas or other areas intended for public usage, or create congestion on adjoining public sidewalks;

b. That it will not generate an undue amount of noise, heat, fumes, glare, radiation, or other external effects; and

c. That it will not create a debris or litter problem.

Each such permit shall be valid for a period of not more than six (6) calendar months and may be renewed providing the hereinabove set forth criteria are satisfied;

(5) Temporary building or yard for construction materials, the storage of excavated materials and/or equipment, both incidental and necessary to construction in the district. Each permit shall specify the location of the building or yard and the area, within the Platte River Valley Zone District, of the permitted operation, no part of which area shall be a distance of more than two (2) miles from the building or yard. In the Glen Court/Stoneman's Row, Overlook and Saint Patrick's/Guadalupe subareas, such temporary building or yard will be permitted only if it is both incidental and necessary to construction within the subarea in which the building or yard would be located. This facility shall not maintain in storage more than six (6) cubic feet of excavated material for each square foot of zone lot area. Such material shall be piled no higher than eight (8) feet above grade and shall be protected by a seven-foot-high fence with controlled access. Each such permit shall be valid for a period of not more than six (6) calendar months and shall not be renewed for more than three (3) successive periods at the same location.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-327. Accessory uses.

Incidental only to a use by right or a use by special review, any use which complies with all of the following conditions may be operated as an accessory use and need not be enclosed:

(1) Is clearly incidental and customary to and commonly associated with the operation of the permitted use;

(2) Is operated and maintained under the same ownership or by lessees or concessionaires thereof, and on the same zone lot as the permitted use;

(3) Does not include buildings, structures or structural features inconsistent with the permitted use;

(4) The gross floor area utilized by any accessory use shall not exceed ten (10) percent of the gross floor area utilized by the permitted use to which it is accessory except as

otherwise permitted; provided, however, there shall be no limitation on the area occupied by garages, loading docks and company dining room; and, provided further that light-production facilities are permitted as an accessory use to a research/development use, subject to the limitation that such accessory use shall not exceed fifty (50) percent of the gross floor area utilized by the permitted use. Such light-production facilities which exceed the gross floor area utilized by the permitted use by more than fifty (50) percent but less than eighty (80) percent may be permitted as accessory when approved as a use by special review.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-328. Continuation and modification of existing uses.

The purpose of this subsection is to allow existing uses and/or structure(s) containing existing uses which are not permitted uses by right or special review to continue in use and to be modified by structural repair, alteration or expansion of the gross floor area on the existing zone lot, in order to maintain or improve the appearance, safety, efficiency or productivity of the existing use.

The owner of such an existing use seeking modification shall provide evidence in the form of business records, receipts, tax returns, or similar items, which prove its operation in an identifiable structure or on a zone lot, at a specific location from March 23, 1988. No such existing use shall be expanded unless the expansion can be and is made in compliance with specific criteria established by the planning board and all the provisions of this chapter established for structures in the district, and in the subarea plan if approved, in which the existing use is located. The planning board's criteria shall be established to assure that the expansion of existing uses will be compatible with the use of adjacent conforming property. Such expansion shall require a finding by the planning board that all conditions specified for the expansion have been met. In making its finding, the planning board may request an advisory recommendation from the PRV subcommittee established under 59-333(c).

During the interim period between the adoption of the PRV regulations and the establishment of specific criteria by the planning board, the expansion of such uses shall be regulated by the zoning district provisions in effect prior to the adoption of the PRV regulations.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-329. Limitations on external effects of uses.

All uses shall comply with the following limitations:

(1) *Enclosure of uses.* Every use, unless expressly exempted by this chapter, shall be operated in its entirety within a completely enclosed structure.

(2) *Vibration generated.* Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the zone lot on which the use is located. Mainline railroad corridor activities are specifically exempt from this provision.

(3) *Emission of noise, heat, glare, radiation and fumes.* Every use shall be so operated that it does not emit, or transmit, an obnoxious, hazardous or dangerous degree of noise, heat, glare, radiation or fumes beyond any boundary line of the zone lot on which the use is located.

(4) *Outdoor storage and waste disposal.*

a. All outdoor storage and storage facilities for fuel, raw materials or any products shall be prohibited.

b. No materials or wastes shall be deposited and/or stored outdoors.

(5) *Solar access.* Developments in the Platte River Valley shall be so planned in relation to one another that at least sixty-five (65) percent of the designated open space ground area in the Platte River Greenway, Hirshorn Park, Rockmont Park, Commons, Confluence Park, the Gates Crescent Park and the Cherry Creek Promenade, shall be in sunlight for at least a total of two (2) hours from 9 a.m. to 4 p.m. on December 21. The boundaries of each designated open space ground area shall be established in a subarea plan, or an approved development agreement which includes that designated area.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-330. Permitted structures.

(a) *Zone lot for structures.* A separate ground area, herein called the zone lot, shall be designated, provided and continuously maintained for one (1) or more use by right and use by special review or for each structure or group of structures containing one (1) or more use by right and use by special review. Each zone lot shall have at least one (1) front line and may have for each principal structure no more than one (1) subordinate structure containing only accessory uses. Upon application to and approval by the department of zoning administration, the boundaries and area of a designated zone lot may be amended if full compliance with all requirements of this zone district can be maintained.

(b) *Density.* Except as specifically stated or otherwise permitted for a given subarea, the density throughout the Platte River Valley for nonresidential development as measured by floor area shall be a basic maximum gross floor area ratio (FAR) of 2:1. For residential development, the density shall not exceed an average maximum density of sixty (60) dwelling units per acre of land area, held in one (1) ownership within a subarea plan approval, which is designated and/or reserved for residential uses unless approved by special review. Provided that, upon qualifying under the provisions of article IV, chapter 27 (affordable housing), the density for residential development shall not exceed an average maximum density of sixty-six (66) dwelling units per acre of land area.

(c) *Floor area.*

(1) Subject to limitations regarding building heights and parking, the basic maximum gross floor area established in paragraph (b) of this section may be exceeded within a

subarea or among subareas or on a given zone lot by the approval of certain bonuses for identified amenities, and/or by the transfer of development rights, as provided in subparagraph (g) of this section 59-330.

(2) Floor area shall be calculated by using a basic maximum gross floor area for all structures per zone lot. However, the following types of floor areas shall be excluded from the calculation of gross floor area:

a. Street-level floor areas meeting all of the following conditions:

1. Are located within ten (10) feet of the front line or lines of the zone lot for a depth of not greater than fifty (50) feet, excepting access ramps to parking areas. When the setback requirements for a specific property exceed ten (10) feet, the free floor area shall be measured from the point of the front setback;

2. Shall have direct access to certain streets, arcades or pedestrian connectors designated by a subarea plan;

3. The building wall facing the street, arcade or pedestrian way shall have at least fifty (50) percent of the street-level floor facade area (measured from the street level upward a maximum of twelve (12) feet) devoted to display windows and/or windows affording views into the interior areas;

4. Shall contain retail, entertainment, eating places/restaurants, or cultural uses.

b. Any floor area for residential uses shall be excluded from the calculation of gross floor area for the zone lot.

c. Floor area of historic structures designated a Denver Landmark and/or on the National Register of Historic Places.

d. Street-level retail, combined with a residential building along major streets, promenades or water ways, which are designated in the subarea plan.

(d) *Bonuses.* In addition to the basic maximum gross floor area and the average maximum residential density permitted under this section, floor area and residential density may be added through the bonus categories listed below in an amount specified when the bonuses requested are part of an approved subarea plan. Bonuses created by a qualifying project shall be documented by the zoning administrator. Such bonuses may be used anywhere in the subarea which contains that project, subject to the subarea plan. The planning office, in conjunction with the zoning administrator, shall develop criteria and rules and regulations for the administration of bonuses.

(1) *Residential uses.* In addition to excluding the residential floor area from the calculation of gross floor as hereinabove provided, any landowner who constructs residential uses on their property shall have the right to use or to transfer an amount of gross floor area equal to the square footage constructed for residential uses. Notwithstanding paragraph 59-330(d), this bonus may be used or transferred to any subarea in the zone district.

(2) *Residential proximate to water and/or open space.* One (1) square foot of nonresidential floor area for every ten (10) square feet of residential floor area constructed within the bonus area. Said bonus areas shall be designated in the subarea plans.

(3) *Development with designated improved open space with public access.* One and one-half (1.5) square feet of nonresidential floor area for every ten (10) square feet of designated improved open space.

(4) *Underground parking.* Two (2) square feet of nonresidential floor area for every ten (10) square feet of underground parking.

(5) *Development over the railroad tracks.* One and one-half (1.5) square feet of nonresidential floor area for every ten (10) square feet of development over the railroad tracks.

(6) *Historic structures designated a Denver Landmark and/or on the National Register of Historic Places which have been renovated and/or preserved.* One (1) square foot of nonresidential floor area for every one (1) square foot within historic structures designated a Denver Landmark and/or on the National Register of Historic Places which are renovated and/or preserved.

(e) *Building height.*

(1) The base maximum building height in the Platte River Valley shall be one hundred forty (140) feet or as otherwise set forth in the subarea zoning standards. In no event may a building height exceed two hundred fifty (250) feet. Flush mounted solar panels shall not be included in building height measurements anywhere in the Platte River Valley district.
(Ord. No. 53-08, § 32, eff. 2-8-08)

(2) Subject to the absolute maximum building height of two hundred fifty (250) feet, the base building height of one hundred forty (140) feet, where applicable, may be exceeded if approved by the planning board for a subarea or a development project, subject, however, to the provision that such additional height may not exceed the applicable base maximum building heights by more than twenty (20) percent. The planning board may consider any of the following criteria:

a. Literal enforcement of the maximum building height will preclude reasonable development of the parcel; or

b. The transfer of density from the use of bonuses which would result in an increased building height; or

c. Other public policy objectives regarding views, solar access, ground level winds, housing, water amenities, preservation and open space which may be achieved through increased building heights.

(3) Subject to the absolute maximum building height of two hundred fifty (250) feet, the base maximum building height as set forth in paragraph (1), above, may be exceeded for a subarea or a development project by utilizing transfer of development rights from

housing development, historic preservation and/or dedication of open space subject, however, to the provision that such additional height may not exceed the applicable subarea base maximum building height by more than twenty (20) percent.

(4) Maximum building heights of eighty (80) feet and one hundred forty (140) feet, may only be exceeded up to the twenty (20) percent maximum increase when such increase is otherwise consistent with the requirements governing solar access, view corridors and water feature setbacks.

(5) For the subarea zoning standards not adopted concurrently with these zone district regulations, height limits shall be established within said subarea zoning standards which provide forty (40) to eighty (80) foot heights along the Platte River generally consistent with the Platte Valley comprehensive plan.

(f) *View corridor building heights.*

(1) Hirshorn Park View to Downtown.

a. *Building height*: No part of any structure within the designated area described in section 59-330(f)(1)b.2. shall exceed an elevation of five thousand two hundred sixty (5,260) feet above mean sea level minus one and nine-tenths (1.9) feet for each one hundred (100) feet that said part of a structure is horizontally distant from the reference point. Wherever a structure lies partially outside and partially inside of the designated area, these regulations shall apply only to that part of the structure that lies within the designated area.

b. Definition of terms used:

1. *Reference point:* A point which is located at a brass cap set in concrete, and which point is located in Hirshorn Park two hundred thirty (230) feet northeast of the center line of 16th Street and one hundred fifty (150) feet northwest of the center line of Boulder Street.

2. *Designated area:* An area enclosed by a line drawn from the reference point southeasterly to the intersection of the center line of 16th Street with the northwest line of the South Platte River Channel, thence northeasterly along the northwest line of the South Platte River Channel a distance of five hundred fifty (550) feet, thence northwesterly to the reference point.

c. Exceptions: Any currently existing structure which would not be in compliance with this subsection (1) may be altered or replaced as necessary for its current height.

(2) Denver Union Terminal view to the South Platte River.

a. *Building height*: No part of any structure within the designated area described in section 59-330(f)(2)b. shall exceed a height of thirty-five (35) feet. All structures in excess of thirty-five (35) feet in height shall be approved by the Denver

planning board. Criteria used by the planning board in considering such approval shall include public policy objectives regarding views, solar access, water amenities, preservation, and open space.

b. *Designated area*: An area enclosed by a line drawn from the north corner of the Denver Union Terminal main train room, thence southwesterly to the west corner of the Denver Union Terminal main train room, thence northwesterly to the intersection of the center line of 16th Street and the southeast line of the South Platte River Channel, thence northeasterly along the southeast line of the South Platte River Channel a distance of one thousand twenty (1,020) feet, thence southeasterly to the north corner of the Denver Union Terminal main train room.

c. *Exceptions*: Any currently existing structure which would not be in compliance with this subsection (2) may be altered or replaced as necessary for its current height.

(3) Larimer/14th Mountain View. Mount Evans View Corridor, as defined in article IV of chapter 10 of the Revised Municipal Code, section 10-59.5.

(g) *Transfer of development rights.* Transfer of unused development rights or undeveloped floor area from a zone lot shall be permitted. These development rights may be internally transferred to other portions of the subarea from which they originate, or the rights may be transferred between or among other subareas in the Platte River Valley Zone District. Such transfer shall meet the following conditions and requirements:

(1) This procedure may be utilized a maximum of four (4) times for any sending zone lot.

(2) The maximum amount of undeveloped floor area which may be transferred from a zone lot shall be the difference between the gross floor area of the structure developed and the basic maximum gross floor area. Any bonuses or development rights transfers which have accrued to a zone lot may also be transferred, as provided in section 59-494(d).

(3) Transfers of unused or undeveloped floor area shall be made within, between, and/or among subareas with reference to specific zone lots as identified by the owners of these lots.

(4) All such transfers shall be documented by the zoning administrator and recorded with the department of zoning administration and the clerk and recorder of the city, in such a form as to appear on real estate records. Transfers shall contain the signatures of the owners of all properties involved.

(5) The zoning administrator shall establish such rules and regulations that are deemed to be reasonable for the administration of development rights transfers, including the stage(s) at which development rights transfers are identified, mechanisms for banking or pooling such rights, limitations on transfer of rights from both sending and receiving zone lots (subject to the sending lot maximum established in (g)(1), hereinabove), related processing requirements and other pertinent information.

(h) *Setbacks.* The setback requirements for each subarea shall include minimum and maximum setback standards and shall be adopted in the subarea plan for each subarea. Setbacks shall be consistent with the subarea zoning standards unless modifications are approved by the planning board, up to a maximum deviation of ten (10) percent from various quantitative subarea zoning standards. Flush mounted solar panels may encroach any distance into any setback space in the Platte River Valley district.

(Ord. No. 53-08, § 33, eff. 2-8-08)

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-331. Gross floor area ratio transfers from open space.

(a) Basic maximum gross floor area attached to a pedestrian connector, public trail, public park or other public open space area which is dedicated by a property owner shall be transferable by that owner to another part of that subarea or to any other subarea.

(b) Basic maximum gross floor area for open space which is purchased or condemned by the city or other public entity is not transferable, except by the city or its assignee.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-332. Parking and loading.

(a) Adequate off-street parking space shall be provided for each use by right or use by special review in accordance with this section, however, with approval of the planning director, such parking need not be provided on the same zone lot as the principal use; provided, however, that in the Glenn Court/Stoneman's Row, Overlook and Saint Patrick's/Guadalupe subareas, said off-site parking is provided in the same subarea as the principal use and is approved by the planning director under rules and regulations adopted by the planning board. Adequate off-street loading space shall be provided on the same zone lot for any permitted use in accordance with this section. Off-street parking space and off-street loading space shall not be counted as open space.

(1) *Parking.* All of the provisions of article VI, "off-street parking requirements," including the parking bonuses for compliance with the provisions of article IV (affordable housing), chapter 27 (housing), of the Denver Revised Municipal Code, shall apply, except as hereinafter provided. The minimum off-street parking requirements provided hereafter shall be calculated on the basis of total floor area which shall consist of the sum of gross floor area and any floor area not included in the calculation of gross floor area under section 59-330(c). The following minimum off-street parking space shall be provided for the following uses:

a. General office: 1.5 spaces for each 1,000 square feet of total floor area.

b. Convenience retail: 1.0 spaces for each 1,000 square feet of total floor area.

c. Hotel: 0.75 spaces for each rental room, or dwelling unit.

d. Research and development facilities: 0.5 spaces for each 1,000 square feet of total floor area.

e. Public facilities: Special review.

f. Multiple dwelling unit: 0.75 spaces for each dwelling unit.

g. Recreational facilities, amusement/special interest park, open space: Special review.

h. Any permitted use not specified: 0.5 spaces for each 1,000 square feet of total floor area.

(2) *Loading.* An off-street loading area which is adequately screened from the street providing access shall be provided for each structure. Where required such area shall

contain adequate space for turning and maneuvering and shall be served by a roadway permitting simultaneous ingress and egress. All provisions of article VII, "off-street loading requirements," shall apply except as hereinafter provided.

(b) Parking and loading requirements specified in this section may be reduced by the planning board if such reduction is based on one (1) or more of the following: (1) adequate alternative parking for the use of the zone lot seeking such modification without use of on-street parking; (2) shared parking; (3) transit facilities; or (4) a Transportation Systems Management Plan (TSM) approved by the board. A TSM Plan shall incorporate a balance of auto, HOV, mass transit, ride sharing and other methods of improving vehicular and pedestrian movement. The planning board shall adopt rules and regulations governing the manner in which a TSM Plan is initiated and implemented. Such rules and regulations shall identify the planning stage or development point at which a TSM Plan is required, reflecting thereby the maturing urban character and transportation needs of the Platte River Valley. (Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-333. Signs.

(a) *General.* Signs may be erected, altered and maintained only for and by a use by right or a use by special review in the subarea in which the signs are located; shall be located on the same lot as the use by right or use by special review and shall be clearly incidental, customary, and commonly associated with the operation of the use by right or use by special review. Accessory uses may not display exterior signs except as part of the use by right or use by special review sign allowance.

(b) *Sign area measurement.* The provisions of section 59-538, sign area measurement, shall apply.

(c) *Nonconforming signs.* The provisions of section 59-539, nonconforming signs, shall apply.

(d) *Signs not subject to a permit.* The provisions of section 59-537(a), signs not subject to a permit, shall apply.

(e) *Signs subject to a permit.* Upon application to and issuance by the department of zoning administration of a permit therefor, the following signs may be erected and maintained:

(1) Miscellaneous signs as described and regulated by section 59-537(b)(1) through (8).

(2) Other signs as regulated by the following provisions:

a. *Permitted contents.* Identification by letter, numeral, symbol or design of the use by right or use by special review by name, use, hours of operation, services or products offered, events and price of products and services; and/or any sign or signs that do not come within the definition of off-site commercial signs.

b. *Permitted sign types.* Wall, window, arcade and pedestal.

c. *Permitted maximum number*. Each use by right or use by special review may have the greater number of the following:

1. Four (4) signs; or

2. Two (2) signs for each front line of the zone lot on which the use by right or the use by special review is located.

d. *Permitted maximum sign area*:

1. Dwelling, multiple unit. One (1) square foot of sign area for each dwelling unit in a multiple dwelling unit; not, however, to exceed sixty-four (64) square feet of sign area to be applied to any one (1) street frontage.

2. Commercial hotel and/or residential motel. On zone lots having a linear street frontage of one hundred (100) feet or less, one hundred (100) square feet; on zone lots having a linear street frontage of more than one hundred (100) feet, one (1) square foot of sign area for each linear foot of street front; provided, however, computations shall be made and sign area shall be determined on each street front separately, and provided, further, that in no event shall more than two hundred (200) square feet of sign area be applied to any one (1) street front and no sign shall exceed two hundred (200) square feet in size.

3. Each use by use by right or use by special review other than a commercial hotel and/or residential hotel. Eighty (80) square feet, or, the total permitted sign area of each use by right or use by special review shall be determined by one (1) of the following provisions; provided, however, that no sign shall exceed one hundred fifty (150) square feet in area nor shall the total sign area of any use exceed four hundred (400) square feet.

i. For a zone lot having but one (1) use by right or use by special review: One (1) square foot of sign area for each linear foot of street front of the zone lot; provided, however, that in computing the area of such sign, the measurement of not more than two (2) front lines, one (1) contiguous with the other, shall be used.

ii. For a zone lot having two (2) or more uses by right or uses by special review: For each use by right or use by special review, one and one-half (1 ½) square feet of sign area for each linear foot of that portion of building frontage occupied by the use by right or use by special review, for the first two hundred (200) feet of building frontage, then one (1) square foot of sign area for each linear foot of building frontage thereafter.

e. *Permitted maximum height above grade*:

1. Arcade signs: Twenty (20) feet.

2. Wall or window signs: Thirty-five (35) feet, except for either one (1) commercial hotel or one (1) major tenant sign which may be at the roof line

of the building to which the sign is attached. A "major tenant" means a building tenant who leases and/or uses in excess of fifty (50) percent of the gross floor area of that building.

3. Pedestal signs: Fifteen (15) feet.

f. *Permitted location.* Pedestal signs shall be set in at least five (5) feet from every boundary line of the zone lot. Wall signs and arcade signs may project into any required setback space the permitted depth of the sign.

g. *Permitted illumination.* May be illuminated but shall not flash, blink or fluctuate and all direct illumination shall not exceed twenty-five (25) watts per bulb.

h. *Animation.* Shall not be animated.

i. *Temporary signs.* Subject to the conditions hereinafter set forth and upon application to and issuance by the department of zoning administration of a permit therefor, signs identifying or advertising new construction, remodeling, rebuilding, development, sale, lease, rental or special event regarding either a use by right or a use by special review, or a designated land area; each such permit shall be valid for a period of not more than twelve (12) calendar months and shall not be renewed for more than one (1) successive period at the same location.

1. Permitted sign types: Wall, window, ground banners and wind signs.

2. Permitted maximum number: One (1) sign for each front line of the zone lot or designated land area on which the sign is located.

3. Permitted sign area: Thirty-two (32) square feet for each front line of the zone lot or designated land area on which the sign is located. Computations shall be made and sign area shall be applied to each front line separately.

4. Permitted maximum height above grade: Ten (10) feet.

5. Permitted location: Shall be set in at least five (5) feet from every boundary line of the zone lot or designated land area.

6. Permitted illumination: May be illuminated but only from a concealed light source; shall not remain illuminated between the hours of 11:00 p.m. and 6:00 a.m.; and shall not flash, blink or fluctuate.

7. Animation: Shall not be animated.

j. Joint identification signs. Subject to the conditions hereinafter set forth and upon application to and issuance by the department of zoning administration of a permit therefor, joint identification signs are permitted for three (3) or more uses by right or uses by special review on the same zone lot as the sign, excluding parking. The following joint identification signs are in addition to all other signs:

1. Permitted sign types: Wall and pedestal.

2. Permitted maximum number: One (1) sign for each front line of the zone lot.

3. Permitted area: The greater number of the following:
   i. One hundred (100) square feet; or
   ii. One square foot of sign for each two (2) linear feet of street frontage of the zone lot; provided, however, that the total area of all signs on each front line of the zone lot shall not exceed two hundred (200) square feet.
4. Permitted maximum height above grade: Twenty-five (25) feet.
5. Permitted location: Shall be set in at least five (5) feet from every boundary line of the zone lot.
6. Permitted illumination: May be illuminated but shall not flash, blink or fluctuate and all direct illumination shall not exceed twenty-five (25) watts per bulb.
7. Animation: Shall not be animated.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-334. Demolition of historic structures.

(a) *Applicability.* The provisions of this section shall apply only to structures listed in the 1983-84 Architectural and Historical Survey of Downtown Denver, and shall apply only to land or subareas that are not covered by an officially adopted subarea plan.

(b) *Notification of landmark preservation commission.* Within five (5) days of receipt of an application for a demolition permit for an applicable structure under this section, the building department shall notify the landmark preservation commission and the historic preservation officer of the planning office of the permit application. Such notice shall be in writing, shall cite the provisions of this section and shall include a copy of the application for the demolition permit.

(c) *Issuance of demolition permits.* No demolition permit shall be issued for applicable structures under this section unless:

(1) The landmark preservation commission has reviewed said demolition permit application and has informed the building department in writing that it has no objection to the demolition of the structure; or

(2) Ninety (90) days has elapsed from the date of written notification from the building department to the landmark preservation commission regarding application for said demolition permit.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-335. Development review.

(a) *Development review process, general.* All proposed public and private development projects located in the Platte River Valley Zone District shall comply with the requirements of this zone district, the subarea zoning standards adopted for the subarea in which the projects are located, and an approved subarea plan for that subarea; provided, however, that certain small development proposals are exempt from these requirements in accordance with section

59-335(d)(1)b., subarea plans initiated by private landowners; small developments. The subarea plan approval process shall be conducted by the Denver planning board, as established and configured pursuant to chapter 12, article II, division 2, of this Code. The board shall review and approve, when appropriate, a subarea plan for each subarea in the Platte River Valley District through a review process as set forth herein below. Subarea zoning standards can be modified by the planning board up to a maximum deviation of ten (10) percent from various quantified subarea zoning standards, or by the execution of a development agreement between the city and a landowner, as approved by city council. Such modifications shall only apply to specific features of a subarea plan or a development project, and shall not change the general application of subarea zoning standards to the individual subarea.

(b) *Subarea plans.* Subarea plans, in a formal prescribed by the planning office, shall be submitted for review to the planning board and shall contain the following information:

(1) *Development program.* The following information shall be submitted in narrative form:

a. Description of land use intent, including explanation of land use concept, preliminary concept of uses and ranges of square footage and locational distribution, parking concept, public open space concept, and circulation concept of auto, bicycle and pedestrian connections within the subarea and to other areas.

b. Ranges of proposed densities by use, expressed as floor area ratio as defined in the Platte River Valley Zoning district and/or for residential use as dwelling units per acre.

c. Estimated sequence and estimated timing where known of project, public land and ROW dedications, site improvements, off-site improvements, and supporting facilities as referenced in (2)e., below, to be provided by the land owner, developer, and the city and/or the Denver Urban Renewal Authority.

(2) *Subarea plan concepts.* The following information shall be submitted in graphic form according to technical requirements established by planning office standards:

a. Illustrative plans, including connections with surrounding and adjacent subareas; and circulation plans, including vehicular, bus, bicycle, and pedestrian service.

b. Illustrative sketches, showing main ingress and egress, and relationship of development to public amenities and/or open spaces.

c. Open space concept plan, showing both the general location and preliminary design character for the intended public and private open spaces and bicycles and pedestrian corridors.

d. Plan illustrating eligibility for transfer development rights and bonus floor area ratio as adopted in the Platte River Valley Zoning District, when requested, including application of additional square footage, if known at the time of submittal.

e. Identification of those infrastructure, on and off-site improvements to be provided by the land owner, developer, city and/or DURA, both inside and outside of the subarea (when affecting the subarea), which are required to commence and complete the building program.

f. Preliminary utility plans and needed capacity for the subarea. Preliminary plans for storm water detention/retention, consistent with the level of specificity of the subarea plans.

g. Proposed incorporation of existing structures in future development plans.

(3) *Preliminary design guidelines.* Information regarding preliminary design guidelines is not required to be part of a subarea plan submittal; however, if such information is available to the applicant, its inclusion is encouraged at this review stage. A subarea plan without design guidelines can be approved by the board, but such guidelines must be approved by the board, and then incorporated into an approved subarea plan prior to zoning permit approval for development projects within that subarea.

Submittal information shall include preliminary exterior design guidelines and a brief narrative and illustrations, where appropriate, for imagery concepts depicting the intended character of the proposed development and open space. Certain of the required information set forth below which does not apply to a particular subarea proposal may be waived at the discretion of the planning director. Submittal of information in addition to that which is required shall be encouraged. Guidelines which deviate from subarea zoning standards may be approved by the planning board up to a maximum deviation of ten (10) percent from various quantitative subarea zoning standards. It is intended that design guidelines will add an additional level of design detail to the applicable subarea zoning standards. Guidelines which propose such deviations shall be identified in the subarea plan proposal. Proposed guidelines shall consist of the following information, and shall be submitted in a form according to technical requirements established by the planning board.

a. Map showing location of subarea and property.

b. Brief narrative description of the imagery concepts intended for the subarea and the authority and process for implementing private design review.

c. Guidelines for building location:

1. Orientation;
2. Building frontage along public right of way;
3. Distance between buildings;
4. Building massing;
5. Building setbacks.

d. Guidelines for:

1. Glazing and reflective surfaces;
2. Utility and mechanical equipment screening.

e. Landscaping guidelines:

1. Character of planting and general location;
2. Type of irrigation system;
3. Rail corridor buffer;
4. Terracing;
5. General ground surface treatment.

f. Guidelines regarding location for utilities.

g. Access and circulation guidelines for major streets, pedestrian connectors, and bicycle paths.

1. Sidewalks:
   i. Type/size
   ii. Location
2. Pedestrian connector standards;
3. Street intersection standards.

h. Parking guidelines:

1. Location
2. Setback
3. Buffering
4. Type/size

i. Lighting guidelines.

j. Signage guidelines.

(c) *Platte River Valley subcommittee to advise planning board.*

(1) *Composition.* To advise the planning board in public and private development matters pertaining to the Platte River Valley, there is hereby established a Platte River Valley subcommittee to the planning board. The subcommittee representing each subarea shall consist of five (5) members and three (3) alternates. All of the members and the alternates shall be professionals with at least ten (10) years experience in any of the following areas: real estate development, architecture, urban design, landscape architecture, urban planning, land planning, engineering; provided, however, that the two (2) persons appointed to represent the Glenn Court/Stoneman's Row, Overlook or Saint Patrick's/Guadalupe subareas under subsection b., below, shall only be required to have at least four (4) years of experience in any of the applicable areas. The subcommittee members and alternates shall be appointed by the mayor from a list transmitted by the planning board according to the following provisions. The mayor shall have the right to request additional recommendations.

a. Two (2) persons and an alternate as recommended by the planning board. The planning board, with the advice of property owners in the Platte River Valley,

registered neighborhood organizations, professional organizations and other interested parties shall recommend a list of qualified professionals to the mayor from which the selections shall be made.

b. Two (2) persons and an alternate for each subarea who are, or who represent, property owners from each subarea. Property owners from each subarea shall recommend a list of qualified professionals to the mayor from which the selections shall be made for individual subareas. At least one (1) of the names to be considered shall be recommended by an owner of fifty (50) percent or more of the subarea, if any; or, by a consortium of property owners who collectively own fifty (50) percent or more of that subarea. These subcommittee representatives for each subarea shall "float" and combine from time to time with the two (2) representatives in a., above, and the one (1) representative in c., below, to constitute the subcommittee regarding development matters in their subarea. Subarea representatives selected under this paragraph will not review development matters in subareas other than the one which they represent.

c. One (1) person and an alternate recommended by the Denver city council member from that council district in which the largest amount of land area in the Platte River Valley Zone District is located. That city council member, with the advice of registered neighborhood organizations within the council district and with the consultation of the other members of the city council, shall present the name of a qualified professional and an alternate to the mayor.

(2) *Function.* Members of the subcommittee shall serve staggered five-year terms, and shall serve with compensation as established by the mayor according to operational rules and regulations. The subcommittee shall meet and review all proposed subarea plans, as requested by the planning board. After completing its review of each proposal, the subcommittee shall, consistent with individual subarea zoning standards, make a written recommendation to the planning board to approve, approve with conditions or deny proposals. The subcommittee shall submit its written recommendation to the board within thirty (30) days after receipt of the subarea plan submittal, but in no event less than seven (7) days prior to the hearing scheduled by the board.

(d) *Review process for subarea plans.*

(1) *Subarea plan submittal procedures.*

a. A private landowner controlling all or a substantial part of a designated subarea must develop and obtain approval for a plan for that subarea prior to approval of individual development projects. Subarea plans may be submitted to and approved by the planning board for all or an acceptable logical area or portion of each subarea regarding impacts in relation to public areas and infrastructure. Such landowners shall be responsible for developing the required subarea plan and applying for plan approval from the planning board. Landowners who develop subarea plans under this provision shall be required to provide formal written notice of such plans to all owners of parcels in that subarea, if those

parcels are either a part of the area included in such plans, or within two hundred (200) feet from the perimeter of the area included in the plans. No such property owner may exercise a veto power over the right of a larger property owner to submit a subarea plan. Such notice shall be given at least thirty (30) days prior to submittal of the proposed subarea plan to the planning board, according to the rules and regulations of the board governing form, content and timing of this notice. Joint efforts in preparing such plans are encouraged.

b. Subarea plans initiated by private landowners; small developments. A private landowner controlling part of a subarea, the size of which is too small to develop into a logical subarea plan, must cause the development of and obtain approval for a plan for that subarea (or part thereof) prior to approval of individual development projects. Such landowners may cause the development of a subarea plan under one (1) of the following methods: (1) initiate a cooperative effort with other landowners in the subarea to create a plan, or (2) request that the city create a plan for the subarea. Whoever causes the development of a subarea plan under this provision shall be required to provide formal written notice of that proposed plan to other interested landowners in the same manner provided in a., above. When the city is requested to develop a subarea plan, the city shall be permitted a six (6) month period following formal agreement to undertake such plan within which to complete the plan, with reasonable extensions to be granted at the city's discretion. The city may charge a fee for developing subarea plans requested by private landowners. The fee schedule shall include a provision for fee reimbursement from landowners who do not participate in development of the subarea plan, but who later develop under the plan.

c. The following small scale building activities are specifically exempt from the requirement to develop a subarea plan:

1. Rehabilitation of an existing building which conforms to the use requirements for the subarea in which the building is located.

2. Limited expansion, not exceeding thirty (30) percent of the floor area of an existing building containing a permitted, nonresidential use(s), subject to the provision that the planning board must approve all such expansions prior to commencement of work.

3. Interim period regulations: During the interim period between the adoption of the Platte River Valley Zone District (P.R.V.) regulations and the approval of a subarea plan, limited development activity as defined below shall be regulated by the zoning district provisions in effect prior to the adoption of the P.R.V. regulations. Limited development activity is a type of change to a developed or partially developed property involving minor improvement to the property such as the construction of a fence, the construction of an accessory structure, the enlargement of a residential structure, the construction of a porch or patio, and other similar improvements. In situations where

a specific requirement of the P.R.V. regulations imposes a more restrictive limitation on a proposed improvement than the prior zoning provisions, the requirements of the P.R.V. regulations shall apply.

4. Interim period use regulations: During the interim period between the adoption of the P.R.V. district regulations and the approval of a subarea plan, a proposal to establish a use as listed below shall be reviewed for approval by a review committee consisting of the zoning administrator, the director of planning and development, and the chairperson of the planning board or their designated representatives.

   i. A new use within an existing building;

   ii. An unenclosed use (i.e., one (1) not operated in a completely enclosed structure), including the establishment or expansion of a parking area to serve the off-street parking needs of an operating use. The period of operation for such unenclosed use shall be limited to five (5) years.

   iii. Such proposed use must have been included on the list of permitted uses for the zone district in effect on the property prior to the adoption of the P.R.V. designation, or such use is listed as a use by right on the P.R.V. use matrix for the specific subarea in which the use is located. In reviewing an application for a proposed use, the committee shall consider the general purpose, scope and description of the P.R.V. district along with any zoning standards approved for the subarea in which the subject property is located. In situations where a specific requirement of the P.R.V. regulations imposes a more restrictive limitation on a proposed use than the prior zoning provisions, the requirements of the P.R.V. regulations shall apply. In approving an application, the, review committee may attach conditions and/or limitations as are necessary to preserve adjoining property values and promote the goals of the P.R.V. district.

5. Small developments in certain subareas. Small developments proposed for certain subareas shall be exempt from the requirement for a subarea plan provided they meet the following conditions:

   i. The proposed development will occupy a zone lot that contains twenty thousand (20,000) square feet or less, is held in one (1) ownership, existed on or before March 23, 1988, and is not a phase of a planned larger development;

   ii. The zone lot is located in any PRV subarea which is included in an approved neighborhood plan and for which zoning standards have been approved. (For the purpose of this section the PRV district regulations and attached maps are not considered to be a neighborhood plan.)

   iii. No subarea plan has been approved for the subarea or portion of subarea in which the zone lot is located.

iv. The proposed use of the zone lot is either a use by right or a use by special review as listed in section 59-324(b), use by right and use by special review.

6. General and specific requirements: Small developments meeting the above conditions shall be evaluated for conformance with the most recently approved plans and guidelines for the area in which the zone lot is located. Such plans and guidelines shall include the neighborhood plan, the Denver comprehensive plan, and any other requirements, policies or standards within the PRV regulations which may apply to the subject zone lot. Such proposed developments shall comply with the requirements of section 59-329, limitations on external effects; 59-330, permitted structures, provided however, that subsection (g), transfer of development rights, shall not apply until a subarea plan has been approved for the entire subarea; section 59-331, gross floor area ratio transfers from open space; section 59-332, parking and loading; section 59-333, signs; section 59-334, demolition of historic structures; section 59-336, residential development; section 59-337, dedication of open space; and section 59-338, subarea zoning standards for the subarea in which the subject zone lot is located.

7. Review procedures: The following review procedures shall be observed according to the classification of the proposed use on the use matrix contained in section 59-324.

i. Use by right: As a first step in obtaining city approval of a proposal, an applicant shall submit a schematic plan of the proposed development to the planning office for review. Upon the approval of such schematic plan the applicant shall then submit a use and construction permit application to zoning administration. This application shall include a site plan and building elevations which shall be forwarded to the planning office and the PRV subcommittee for review. The planning office shall evaluate the application and attached plans on the basis of the approved guidelines listed in a preceding paragraph and accepted site planning standards. The planning office shall return a recommendation on the application within twenty-five (25) days after receipt of the application from zoning administration. The zoning administrator shall implement the recommendation of the planning office through the issuance or denial of the necessary zoning permit. The decision of the administrator may be appealed to the planning board according to the provisions of subsection 59-335(g)(3), appeal.

ii. Use by special review: As a first step in obtaining city approval of a proposal, an applicant shall meet with members of the planning office for a pre-application conference. Following this conference the applicant shall submit a use permit application and a schematic plan of the proposed development to zoning administration for referral to the

planning board and the PRV subcommittee. At a public meeting the planning board shall evaluate the application and attached plan on the basis of the approved guidelines listed earlier and the compatibility of the proposed use to the goals of the PRV. The planning board shall return a recommendation on the application within forty-five (45) days after receipt of the application from zoning administration. If the board recommends approval of the proposal, the applicant shall prepare and submit a detailed site plan and building elevations to the zoning administration for review by the planning office according to the procedure set forth in section i. above.

d. Subarea plans initiated by public development proposals. A proponent for a public project, whether or not publicly funded, shall cause the city to develop and approve a subarea plan. Such plan shall include the area in which the project is located as well as the area directly affected by the project. The project proponent shall be required to provide formal written notice of that proposed plan to interested landowners in the same manner as provided in a., above. The city shall be permitted a six (6) month period or period otherwise agreed upon by the majority of interested landowners within which to complete such plan, with reasonable extensions to be granted at the city's discretion. Strict application of subarea plan requirements may be waived by the planning board for public projects, at the board's discretion, upon written request and stated justification by the requesting public agency. All public projects shall require public review and comment by the planning board even if some or all of the subarea plan requirements are waived.

e. Sidewalk improvements which are located in a developed area and which involve the reconstruction of sidewalks and/or curbs, the installation of street trees, lighting devices and/or similar improvements are specifically exempt from the requirement to develop a subarea plan.

(2) *Approval process.*

a. Subarea plan proposals together with fees shall be submitted to the planning board for review and approval. Upon receipt of a complete subarea plan application, as determined by the board, a public hearing to consider that application shall be held within forty-five (45) days. Notice of the time and place of such hearing shall be published at least once in the official newspaper at least twenty-one (21) days prior to the hearing. Additionally, any area for which a subarea plan is being considered shall be posted for at least twenty-one (21) days prior to the hearing. The posted notices shall be in number, size and location as prescribed by the department of zoning administration and shall include the time and place of the public hearing and any other information prescribed by the department. Posted notices shall be removed by the applicant from the subject area within fifteen (15) days after the public hearing has been held. Failure to do so shall constitute a violation of this chapter. The board shall promptly forward

each proposed subarea plan to the board's Platte River Valley subcommittee for its review and advisory recommendation as provided in (c)(2). After receipt of the subcommittee recommendation, the board shall conduct a public hearing according to board rules and regulations on the date previously scheduled, and the board shall make one (1) of the following determinations:

1. The proposed subarea plan complies with the requirements of this zone district, and the subarea zoning standards established for the subarea; or

2. The proposed subarea plan complies, in part, with the requirements of this zone district, and the subarea zoning standards established for the subarea; however, the plan includes a feature or features which require planning board approval by special review; or

3. The proposed subarea plan complies, in part, with the requirements of this zone district, and the subarea zoning standards established for the subarea; however, the plan includes a feature or features which deviate from those requirements in a manner which necessitates specific approval by the planning board for such deviations pursuant to the provisions of this district; or

4. The proposed subarea plan does not comply with the requirements of this zone district, and the subarea zoning standards established for the subarea; nor does the plan otherwise qualify for approval pursuant to b. or c, above.

b. The board shall consider all submittals in a public hearing after receiving the advice and recommendations of the Platte River Valley subcommittee.

1. If the subarea plan complies with the requirements of this zone district, and the subarea zoning standards for the subarea, then the planning board shall determine (2)a.1., and the board shall approve the plan as being in compliance with the requirements for the subarea.

2. If, however, the planning board determines (2)a.2. or (2)a.3., then each item of special review or deviation from standards pursuant to the provisions of this zone district as proposed in subarea plan shall be reviewed by the board. The board's decision to approve, approve with conditions, or deny any special review or deviation shall be based on the following considerations:

i. When a proposed subarea plan includes a matter for special review, the board must find that the proposal is in compliance with the requirements set forth in section 59-324(b)(2), above, and the subarea zoning standards and the rules and regulations regarding special review features for that subarea.

ii. When a proposed subarea plan includes a proposed deviation pursuant to the provisions of this zone district, or from subarea zoning standards, the board must find that the proposal is: (a) in compliance with the allowable ten (10) percent range of deviation permitted herein; (b)

substantially consistent with the overall development objectives established for that subarea; and (c) compatible with existing or approved development in the surrounding area.

3. If the planning board determines (2)a.4., above, the board must deny approval for the proposed subarea plan.

c. The board must state in writing the basis for its action of approval or denial of any subarea plan application. If the board believes that sufficient detailed information pursuant to section 59-335(b)(2) and (3) was not submitted with the subarea plan, then the board may condition their approval on the submission of the additional information prior to any application for a subdivision plat, planned building group, or a zoning permit review. The board shall specifically identify such additional information to be submitted. If no such additional information is required by the board at the time of the subarea plan approval, then an applicant may proceed to development pursuant to the subarea plan as set forth in section 59-335(g)(1) and (2). The board, in its discretion, may informally offer its advice and recommendations to the applicant regarding various features of the subarea plan.

d. When the board approves a subarea plan in response to a public development proposal, the board shall also make its formal recommendation regarding the specific public project to the responsible public agency. The board's recommendations shall be based upon the proposal's compliance with applicable subarea zoning standards for the subarea.

(e) *Amendment to subarea plans.* An approved subarea plan may be amended at the request of any landowner in a subarea which is subject to that plan. An application for an amendment may be submitted requesting that all or a part of a previously approved subarea plan be amended. Applications for major amendments to an approved subarea plan shall be reviewed in the same manner required for approval of a subarea plan, subject however to the provision that certain subarea plan submittal requirements may be waived by the planning board, at the board's discretion, upon the request of an applicant. Applications for minor amendments to an approved plan shall be reviewed by the city planning office. The planning board shall establish rules and regulations to administer the system of major and minor subarea plan amendments.

(f) *Appeals process.* A party of interest may appeal a decision by the planning board approving, approving with conditions, or denying a subarea plan application, or an application to amend. Status as a party of interest shall be established by the planning board when a subarea plan or amendment thereto is being considered for action. Appeals shall be made directly to the Denver district court within thirty (30) days after final decision by the planning board.

(g) *Development under subarea plans.*

(1) *General.* Individual development projects which are consistent with approved subarea plans, which subarea plans do not require additional information pursuant to section 59-335(d)(2), shall be eligible for subdivision plat, planned building group, or zoning permit review.

(2) *Staff review.* Upon receipt of an application for a proposed development project the zoning administrator shall review the proposal in the context of an approved subarea plan for consistency with that plan. No project shall be approved under a proposal for a subdivision plat or a planned building group, nor shall such project be granted a zoning permit if the zoning administrator determines that the project, as proposed, is inconsistent with the approved subarea plan.

(3) *Appeal.* An applicant may appeal a decision by the zoning administrator to the planning board for review. Each appeal to the board shall be reviewed first by the Platte River Valley subcommittee. The subcommittee shall meet as necessary and review the decision of denial by the zoning administrator. After completing its review, the subcommittee shall make a written recommendation to the planning board to uphold or reverse the zoning administrator's decision. The subcommittee shall submit its written decision to the board within ten (10) days after completing its review of the matter, but in no event more than thirty (30) days after initiating its review. Appeals from the planning board's final decision shall be made to the board of adjustment. The review by the board of adjustment shall be a review of the record created before the planning board.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-336. Residential development.

(a) *Requirements.* Subject to the provisions of this section 59-336, each owner of land in the Platte River Valley Zone District shall identify ten (10) percent of that owner's land as a designated housing site.

(1) The ten (10) percent requirement shall be measured against the "net property" of an owner. The "net property" is the amount of land owned at the time of adoption of this ordinance, less any portion of such land which has been dedicated to or purchased by the city or other public entity for streets, parks, pedestrian ways, or other public purposes at or before the time of identification of the designated housing site, or which is occupied by an historic structure.

(2) This requirement shall apply to all owners of land within the Platte River Valley Zone District, except it shall not apply to any property owned by the United States Government, the State of Colorado, the City and County of Denver, or any quasi-municipal corporation of the State of Colorado.

(3) If an owner dedicates or sells additional land for streets, parks, pedestrian ways or other public purposes after the identification of the designated housing site, then the owner may reduce the size of the designated housing site in proportion to the amount of land sold or dedicated.

(4) The requirements of this section shall not apply to:

a. Any owner where the net property of that owner is less than sixteen thousand (16,000) square feet. Provided however, this exception shall not apply where the net property of an owner is less than sixteen thousand (16,000) square feet and

subsequent to the enactment of this ordinance, said owner purchases sufficient additional property so that all of the contiguous property exceeds sixteen thousand (16,000) square feet.

b. The sale of property including existing buildings which conform to the use requirements for the subarea in which the property is located, and for which the use will remain the same.

c. Rehabilitation of an existing building which conforms to the use requirements for the subarea in which the building is located provided that the rehabilitation costs do not exceed fifty (50) percent of the replacement cost of the building.

d. Limited expansion not exceeding thirty (30) percent of the floor area of the existing building(s)/permitted use(s) provided that expansion costs do not exceed fifty (50) percent of the replacement cost of the building(s).

(b) *Compliance.* A designated housing site shall be identified according to the provisions of this subparagraph (b).

(1) Designation thresholds. An owner must identify the designated housing site prior to the time that either (i) fifty (50) percent of the net property or development rights has received building permits, or (ii) the owner has sold fifty (50) percent of the net property; or (iii) the owner has either sold or has received building permits on a total of sixty (60) percent of the net property. A sale of all of the net property in one (1) bulk transaction shall not trigger the requirement to identify the designated housing site, which identification requirement shall be the responsibility of the purchaser.

(2) A site shall be a designated housing site when a notice of housing designation is filed with the department of zoning administration of the city. The notice of housing designation shall identify the property designated.

(3) The department of zoning administration may record the notice of housing designation with the office of the clerk and recorder.

(4) The department of zoning administration may promulgate rules, including such reporting requirements as are necessary, in order to monitor the time at which a housing site must be designated. Such regulations may include reporting requirements for the sale of the property, but no such regulation may include any prohibition against or limitation on the sale, transfer, or encumbrance of any property.

(5) Nothing in this subsection (b) shall be construed to prohibit designating multiple sites as the designated housing site or designating any site for partial satisfaction for the requirements set forth in paragraph (a), above.

(6) To insure compliance with the requirements set forth in this section 59-336, the city shall record the provisions of this section 59-336, including a map of the district in which these provisions apply, in the records of the clerk and recorder. If the designation

threshold requirements set forth in subparagraph (1), above, have been reached and a designated housing site has not been identified, the city may withhold the approval of any zoning permits or subdivision plats for the net property of the owner.

(c) *Consequence of designation.*

(1) Following the designation of property as a designated housing site, the owner and subsequent owners of that site shall be limited to the use of the property by the following:

a. If the owner transfers all of the basic minimum gross floor area from the designated housing site, then only residential uses may thereafter be built on the designated housing site.

b. If the owner constructs residential units on the site, the owner would retain the basic maximum gross floor area density for use on the site or for transfer to other sites pursuant to section 59-331(a) of the Platte River Valley Zone District.

c. If the owner elects not to construct residential units and builds nonresidential development on the property, then the owner shall pay a housing fee equal to twenty-five (25) percent of the dollar amount calculated by multiplying the fair market value per square foot of property times the number of square feet of land area in the designated housing site.

1. The fair market value per square foot of property shall be the current sale price if a bona fide sale of comparable property within the subdistrict has occurred within the previous twelve (12) months or, if no sale has occurred, the value as determined by an independent appraisal, approved by the city.

2. If residential uses are constructed on a portion of the designated housing site and nonresidential uses are constructed on a portion, then the housing fee shall be adjusted accordingly.

(d) *Certificate of housing compliance.* A certificate of housing compliance may be issued by the department of zoning administration, at the request of the landowner.

(1) A certificate of housing compliance shall be issued for property which is not a designated housing site when:

a. The designation thresholds set forth in section 59-336(b)(1) for identifying the designated housing site have not been reached.

b. An owner has identified its designated housing site on another parcel, or has developed an alternative plan to payment of the housing fee pursuant to section 59-336(e).

c. The owner participated in the development of residential uses on other property in the district in accordance with the provisions of subsection (e)(3)c. or d., so long as such other property is not being used to satisfy another owner's housing requirement.

(2) A certificate of housing compliance shall be issued when:

a. Residential uses have been constructed on the designated housing site.

b. The housing fee has been paid pursuant to section 59-336(c)(1)c.

c. In the case of a site dedicated for housing-related amenities as described in section 59-336(e)(3)a., when such housing-related amenities have been constructed on such site.

d. In the case of a site dedicated for open space as described in section 59-336(e)(3)b., when an ordinance accepting the dedication of such site has been passed by city council and signed by the mayor.

e. In the case of a site otherwise dedicated pursuant to section 59-336(e)(3)d., at a time which is agreed upon by the owner, the planning board and the planning board subcommittee reviewing such owner's alternative plan.

(3) The city shall respond to any request for a certificate of housing compliance within thirty (30) days. Failure to issue the certificate of housing compliance or to deny a certificate of housing compliance in writing with the reasons for denial within the thirty-day period shall be deemed to be approval of a certificate of housing compliance.

(4) The certificate of housing compliance can be relied on by any owner, purchaser or mortgagee.

(5) The certificate of housing compliance may be recorded by the owner in the office of the clerk and recorder.

(e) *Alternatives to payment of housing fee.*

(1) This section 59-336(e) is intended to recognize that locational constraints and other physical limitations may render certain properties in the Platte River Valley Zone District unsuitable for housing, and to permit owners of such properties, upon demonstrating such unsuitability, to satisfy the housing fee payable pursuant to section 59-336(c)(1)c., by methods other than cash payments.

(2) If, either at the time of submittal of a subarea plan for a subarea or portion of a subarea pursuant to section 59-335(b), or at the time a property owner must designate its designated housing site pursuant to this section 59-336, such owner can reasonably demonstrate to the planning board subcommittee responsible for the subarea in which such owner's property is located and to the planning board that the ten (10) percent portion of such owner's property required to be dedicated for housing pursuant to this section 59-336 the housing site is "unsuitable" as defined below, for housing, assuming that the rest of the property is devoted to uses permitted under the Platte River Valley Zone District, such owner shall have the right to elect, in lieu of paying the housing fee described in section 59-336(c)(1)c., to develop an alternate plan to satisfy the fee, in whole or in part, by any one (1) of the methods or a combination of the methods described in subsection (3), below.

For purposes of this section 59-336, "unsuitable" shall mean that the housing site, if developed at the densities permitted by the Platte River Valley Zone, is inappropriate

for residential uses, taking into account such factors, among others, as the location, size and configuration of the housing site, access to amenities, compatibility of housing as a use of the housing site with existing and proposed neighboring uses, access to and from the housing site and environmental quality of the housing site. Economic feasibility and/or land costs may be considered but shall not be the only factors in determining whether the housing site is unsuitable for housing. The burden of making such demonstration of unsuitability shall be on the property owner, provided that the subcommittee reviewing such demonstration and the planning board make findings in support of their decision. In the event that the subcommittee and the planning board determine that the housing site is unsuitable for housing, such owner shall be responsible for formulating an alternate plan for satisfying either all or a portion of the housing fee using the methods described in subsection (3).

(3) Any property owner who, pursuant to subsection (2), above, is able to establish that such owner's housing site is unsuitable for housing shall have the right to satisfy the housing fee, in whole or in part, by one (1) or a combination of the following methods:

a. Such owner may set aside a portion of its site for "housing-related amenities," as defined below, including without limitation, portions of existing structures which are not then occupied by such use, which portion with respect to land set aside shall not, in any event, have a total land area of less than three thousand (3,000) square feet. In calculating the credit to be given against the housing fee, the basis of measurement for such portion shall be its land area or its floor area, as the case may be. As used herein, a "housing-related amenity" shall mean any commercial, service, entertainment, cultural, recreational, community or restaurant use which depends in significant part for its livelihood on the business of residents in close proximity to such use.

b. Such owner may set aside open space above the six (6) percent required dedication or improve existing open space either on or off its site. In calculating the credit to be given against the housing fee, the basis of measurement for such open space set aside shall be the area of land set aside over the six (6) percent requirement, and the basis of measurement for such open space improved shall be, on a dollar for dollar basis, the amounts expended for such improvements. If the city accepts any such open space located on the owner's site as a public park, the city shall be obligated to maintain such open space; if any such open space remains as private open space, the owner shall be obligated to maintain such open space. Any open space dedicated or improved pursuant to this provision shall not be taken into account when determining bonuses pursuant to section 59-330(d)(2), or the gross floor area transfers from open space pursuant to section 59-331. Whether a parcel of open space is sufficiently improved to allow an owner to include it in the calculation provided herein shall be determined by the planning board and the subcommittee reviewing such owner's subarea plan.

c. Such owner may develop new housing, substantially renovate existing housing, or dedicate a site for new housing, at another location within the Platte River

Valley Zone District. In calculating the credit to be given against the housing fee, the basis of measurement for such investment or dedication shall be the gross floor area of the new or renovated housing or the land area of the site dedicated, as the case may be.

d. Such owner may use any other method to satisfy the housing fee which is agreed upon by the subcommittee responsible for reviewing such owner's subarea plan, the planning board and such owner, and in calculating the credit to be given against the housing fee, the basis of measurement shall be that which is mutually agreed upon by such owner, such subcommittee, and the planning board.

(4) Any property set aside pursuant to subsection (3), above, may be designated in the same manner as housing sites are designated pursuant to section 59-336(b).

(f) *Miscellaneous.*

(1) After recording of a notice of housing designation, a landowner may request a substitution of different property for the property described in the notice of housing designation, provided only that the substitute property is of sufficient size. If such substitution occurs, a release of the notice of housing designation shall be recorded by the department of zoning administration.

(2) Any housing fees which are paid pursuant to this section 59-336 shall be paid prior to the issuance of a zoning permit.

(3) In the event a building permit for which a housing fee has been paid expires prior to the commencement of the work so that it will be necessary to obtain a new permit to carry out any development, then any housing fee previously paid shall be refunded. The procedures set forth in this section regarding construction of housing or payment of a housing fee shall then be followed for any new permit.

(4) The department of zoning administration shall promulgate such rules and regulations as are necessary to carry out the intent of this section, including but not limited to prescribing the form of the notice of housing designation and the certificate of housing compliance.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-337. Dedication of open space.

(a) *General.* All development of land within the Platte River Valley Zone District causes a need for open space and related amenities. Since this need is a result of demands created by such development, it is proper and reasonable to require a dedication of land in an amount related to the demands attributable to such development. It is the intent of this section to establish an open space requirement and procedure so that developers of land will dedicate open space sufficient to satisfy such need.

(b) *Open space dedication requirement.* Prior to issuing a zoning permit to develop or redevelop land in the Platte River Valley Zone District, the city shall require the owner of such land to offer by dedication a land area as shown below or fees in lieu thereof or a combination

of these two (2) requirements to the city for open space purposes:

Net Land Area of the Development	*Required Open Space Dedication*
0 to 10,000 sq. ft.	0%
10,001 to 16,000 sq. ft.	1.5%
16,001 to 20,000 sq. ft.	3%
20,001 and over	6%

The city shall have the right to accept or reject land offered by dedication to meet the requirements of this section. If the city rejects land offered by dedication, it may require the payment of fees in lieu thereof as hereinafter provide. Acceptability of the specific form for the offer by dedication shall be determined by the city consistent with a general city policy adopted in this regard.

This required land dedication may be met by an in-lieu monetary payment equivalent in value to the land which would otherwise be dedicated, or a combination of land and monetary payment, when permitted as hereinafter provided.

(c) *Exceptions.* The open space dedication requirement shall not apply to:

(1) Rehabilitation of an existing building which conforms to the use requirements for the subarea in which the building is located provided that the rehabilitation costs do not exceed fifty (50) percent of the replacement cost of the building.

(2) Limited expansion not exceeding thirty (30) percent of the floor area of existing building(s)/permitted use(s) provided that expansion costs do not exceed fifty (50) percent of the replacement cost of the building(s).

(d) *Monetary payment in lieu of land dedication.* With the approval of the director of planning and development, a landowner responsible for offering land in dedication for open space may make a monetary payment in lieu of the land dedication.

(e) *Specific provisions.*

(1) The offer of land by dedication shall contain language of reversion for any in-lieu monetary payment which is not used, or for any land which is not improved in a timely manner for the public purpose for which it was intended. Such reversion may be triggered either by a predetermined time period, or upon the completion of a predetermined percent [percentage] of the development from which the dedication was obtained, if the land or money has not been used properly as provided for herein.

(2) The in-lieu monetary payment shall be in an amount equal to the market land value of the amount of land which otherwise would have been offered by dedication. Such value shall be established at time of plat approval or if the area has already been subdivided at the time of zoning permit approval. The method utilized for establishing market value in the absence of agreement by the parties shall be determined by an appraised land value. The system for establishing an appraised land value shall be determined by administrative rule.

(f) *Rules and regulations.* The director of planning and development is hereby authorized to adopt and shall promulgate administrative rules and regulations deemed necessary for the proper and effective enforcement of the provisions of this section. Such rules and regulations shall be consistent with the provisions of this section.

(g) *Withholding of permits.* The city is authorized to withhold subdivision plat approval, the issuance of a zoning permit, an address permit, or any other required permit until arrangements have been made to the satisfaction of the director of planning and development that the required offer by dedication of land or money in lieu thereof has been provided by the owner of the land to be developed or redeveloped.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-338. Subarea zoning standards.

(a) Development requirements, general. Public and private development projects located in the individual subareas of the Platte River Valley Zone District shall comply with the following: (1) the requirements of this zone district which are applicable to those subareas; (2) the subarea zoning standards adopted for each subarea; and (3) an approved subarea plan for the subarea in which the projects are located. Subarea zoning standards for each subarea shall be adopted by city council. Such subarea zoning standards may include provisions for administrative flexibility to be administered by the planning board up to a maximum deviation of ten (10) percent for various quantitative standards. Changes in such standards which exceed ten (10) percent shall require prior approval by city council as an amendment to the subarea zoning standards. Proposed amendments may be initiated by the planning board, a property owner from a subarea to which such amendments apply or a party of interest as determined by the planning board. Subarea zoning standards, and all amendments thereto, shall be substantially consistent with relevant features of adopted neighborhood plans which relate to the Platte River Valley Zone District.

(b) Subarea zoning standards shall be reviewed and recommended to the city council by the planning board under rules and regulations adopted by the board. In approving the subarea zoning standards the city council must find that the proposed standards are consistent with the Central Platte Valley comprehensive plan amendment adopted under Ordinance Number 478, series of 1986, and are consistent with the provisions of the Platte River Valley Zone District as set forth herein. The subareas in the Platte River Valley Zone District are listed below:

(1) Auraria Business and Research Park.

(2) Auraria Village.

(3) Rice Yards.

(4) Cherry Creek.

(5) Denver Union Terminal.

(6) Sixteenth to Twentieth/Common.

(7) Prospect.

(8) Sports Complex.

(9) Water Street.

(10) West Bank.

(11) Glenn Court/Stoneman's Row.

(12) Overlook.

(13) Saint Patrick's/Guadalupe.

(14) Diamond Hill.

(15) Gates Crescent.

(16) Rockmount.

(17) Front View Crescent.

The following subarea zoning standards are approved as part of this amendment to chapter 59 (zoning):

A. Auraria Village.

B. Rice Yards.

C. Cherry Creek.

D. Sixteenth to Twentieth/Common.

E. Glenn Court/Stoneman's Row.

F. Overlook.

G. Saint Patrick's/Guadalupe.

H. Denver Union Terminal.

I. Diamond Hill.

Editor's note—The above listing of approved subarea zoning standards has been designated by the editor as "A" through "I" for consistency with the designations given hereinbelow, at the direction of the city.

A. *Auraria Village subarea zoning standards.*

1. *Character:* Mixed use development, including housing. Building facades along the pedestrian connectors should be 3—5 stories with, typically, retail on the ground floor; commercial/office or possibly residential on the upper floor(s). Development will require some buffering from Auraria Parkway and, if necessary, along the railroad tracks, with landscaping and parking garages. Wynkoop becomes the primary pedestrian street, in that most of the activity is oriented along Wynkoop and that activity provided both business, professional and student support. Wynkoop should also be used for pedestrian access to Cherry Creek. Concentrated and "continuous" retail

should be located on street level to encourage active pedestrian traffic. Parking is preferred to be below grade or in structures near tracks and/or along major thoroughfares.

2. *Auto circulation:*

   (a) Major access to subarea from Auraria Parkway, Wewatta, 7th and 9th Streets.

   (b) A crossing over the mainline rail corridor shall occur at either 7th or 9th Street.

   (c) Right and left turns from Wynkoop and major access roads.

   (d) Two-way Wynkoop.

   (e) At-grade intersections with Wynkoop and 7th, 9th and 11th.

3. *Public right-of-way:*

   (a) Wynkoop—80 feet.

   (b) 7th and 9th Street requirements—80 feet.

   (c) Pedestrian corridors along 7th, 9th and 11th—20 feet minimum width from curb to building.

   (d) Public access to Cherry Creek from Wynkoop must be maintained.

   (e) Wewatta—To accommodate 4—6 lanes of traffic, as well as double left hand turns where appropriate. More refined dimensions and a preliminary layout shall be shown as part of the subarea plan.

   (f) Speer—180 feet.

4. *Parking:*

   (a) Garage exteriors along pedestrian connectors and Wynkoop Street shall be buffered with one (1) or more of the following: ground floor retail, active uses (i.e., service, restaurants, etc.), landscaping, and/or special facade treatment.

   (b) Off-site parking locations preferred against railroad corridor and the Wewatta Extension.

   (c) Access preferred off of 7th and 9th Streets.

   (d) Curb cuts off of Wynkoop should be located in a regular grid pattern following typical Denver Street proportions.

   (e) Parking structures should be integrally designed, including access, with Wewatta and the 7th and 9th Street overpass.

5. *Pedestrian circulation:*

   (a) Primary pedestrian routes at 7th, 9th and Wynkoop.

   (b) Utilize existing railroad bridge at Wynkoop for pedestrian and bicycle path (if possible).

   (c) Pedestrian access from Auraria Village to Cherry Creek shall be maintained.

(d) Garages must maintain pedestrian access to 7th, 9th and Wynkoop pedestrian connectors.

(e) Create active pedestrian areas along 7th, 9th, and Wynkoop; setbacks shall not detract from active pedestrian use of these streets.

6. *Building orientation / massing:*

(a) Building frontages along pedestrian connectors shall be at least two (2) stories and shall only be interrupted by plazas, pedestrian ways and entryways. Passive landscaped side yards are prohibited.

(b) Use wider sidewalk areas to encourage active use of space, i.e., displays, outdoor eating, vendor trade.

(c) Cornice line along Wynkoop to be determined in subarea plan.

(d) Maintain building articulation at 30—40 foot intervals of retail and commercial activity along Wynkoop. Maintain variation at 30—40 foot intervals through changes in either structure, facade, color, materials or roof line.

(e) New development along Wazee and the Auraria Parkway should be designed with massing and street orientation compatible to the existing historic structures.

(f) Research and development facilities shall be buffered with one (1) or more of the following: ground floor retail, active uses (i.e., service, restaurants, etc.), landscaping, and/or special facade treatment, and such facilities shall not have dead walls along streets.

7. *Building entrances:*

(a) All buildings facing Wynkoop must have a primary pedestrian entrance from Wynkoop Street.

(b) Buildings along 7th and 9th Street should have access from 7th and 9th Street.

(c) Access must be provided to perimeter ground retail, commercial, and other related uses from a pedestrian connector. Common entries are acceptable.

8. *Setbacks:*

(a) Wynkoop—To be determined in the subarea plan but not to exceed a maximum of 10 feet.

(b) 7th and 9th Street—0 feet beyond r-o-w.

(c) Minor access roads—0 feet beyond r-o-w.

(d) Wewatta Extension—to be determined in subarea plan.

9. *Open space / special features:*

(a) To be determined in the subarea plan, and such open space/special features shall be consistent with the Central Platte Valley comprehensive plan amendment.

10. *Preferred land uses:*

(a) Office.

(b) Retail—Concentrated on Wynkoop.

(c) Restaurants, bars, especially concentrated along Wynkoop, 7th, 9th and 10th Streets.

(d) Residential.

(e) Hotel.

(f) Conference facilities.

B. *Rice Yards subarea zoning standards.*

1. *Character:* Business and residential park, with "signature" buildings along main arterial road, with lower structures located closer to river bank. Open-space "fingers" and pedestrian connection connecting development to river. As an alternative character, this subarea may be developed as an amusement/special interest park and/or a public recreation or cultural facility; in which case, the standards listed below need not apply to such development except as determined by the planning board.

2. *Auto circulation:*

(a) Emphasize urban/pedestrian character (city streets and sidewalks) along collector and arterial roads, as well as along connections to river and between subareas.

(b) Where internal circulation is required, street layout should follow grid pattern between railroad corridor and Mile High Blvd.

(c) 7th and 9th should extend to the river greenway edge.

(d) Curb cuts:

Mile High Boulevard:

100-foot minimum from the center line of intersection at 7th, 9th and Speer Blvd.

Four (4) curb cuts on each side of street, and two (2) median cuts, between 7th and 9th.

Four (4) curb cuts on each side of street, and two (2) median cuts, between 9th and Speer.

7th and 9th Streets:

100-foot minimum from center line of intersection with Mile High Blvd.

3. *Public right-of-way (minimum standards):*

(a) Mile High Boulevard—Eighty (80) feet, one hundred (100) feet with median.

(b) 7th and 9th Streets—Eighty (80) feet.

(c) Other local roads—Eighty (80) feet.

4. *Parking:*

   (a) No parking between roads and buildings along Mile High Blvd., 7th and/or 9th depending which one (1) is the thoroughfare connecting Mile High Blvd. and Auraria Parkway.

   (b) Buffered garage edges of landscaping, special facade, or active use for frontage immediately adjacent to pedestrian connectors.

   (c) Garage locations adjacent to rail corridor are encouraged.

   (d) Minimize view of parking from river greenway where site configuration permits.

5. *Pedestrian circulations:*

   (a) Two (2) continuous pedestrian connectors, connecting Auraria Village and Platte River greenway.

   If major roadway connection from Mile High Blvd. to Auraria Parkway is at 7th:

   (1) One (1) shall be between 5th and 7th.

   (2) One (1) between 8th and Speer.

   If major roadway connection is at 9th:

   (1) One (1) shall be between 10th and Speer.

   (2) One (1) between 5th and 8th.

   (b) Building access encouraged off of pedestrian connectors.

   (c) Direct access for pedestrians from parking to pedestrian connectors. This can be a one-way access for security purposes.

   (d) Retail/active uses encouraged along pedestrian connectors.

   (e) Pedestrian connection from Rice Yards to Cherry Creek park system under or over Speer Blvd. is encouraged.

   (f) Ownership of pedestrian connectors may be public or private so long as the pedestrian function of each connector is established and retained.

   (g) Private automobile access may cross and/or run in conjunction with and parallel to pedestrian connectors, when additional width is provided to the connector.

   (h) Continuous pedestrian connector along east bank of Platte River.

6. *Building orientation/massing:*

   (a) Buildings on Mile High Blvd. should be oriented to street, pedestrian connectors, plazas and mini parks.

   (b) 100-foot river setback (measured from the existing channel line)—No buildings permitted (no habitable buildings within the floodplain if the floodplain exceeds one hundred (100) feet).

   (c) Next 75-foot setback from river permits lower height structures located close to river greenways system. 40 feet rising to 80 feet.

(d) Research and development facilities shall be buffered with one (1) or more of the following: ground floor retail, active uses (i.e., service, restaurants, etc.), landscaping, and/or special facade treatment, and such facilities shall not have dead walls along streets.

7. *Building entrances:*

(a) All structures, except garages, which are contiguous to pedestrian connectors must be accessible from at least one (1) pedestrian connector.

(b) Access must be provided to perimeter ground floor retail, commercial, and other related uses from pedestrian connectors. Common entries are acceptable.

8. *Minimum setbacks from right-of-way:*

(a) Mile High Parkway—To be determined in subarea plan.

(b) 7th and 9th—Zero feet beyond r-o-w.

9. *Open space/special features:*

(a) To be determined in the subarea plan, and such open space/special features shall be consistent with the Central Platte Valley comprehensive plan amendment.

(b) Berming of mainline railroad is encouraged where parking structures do not conceal tracks.

(c) Platte River greenway/River Park along east edge of Platte River.

10. *Preferred land uses:*

(a) General office.

(b) Corporate/employment center.

(c) Residential: Multi-family and townhouse along river edge. Clustered near roundhouse and southern edge.

(d) Support retail—Located along 6th and 10th pedestrian connections and along mid-valley promenade.

C. *Cherry Creek subarea zoning standards.*

1. *Character:* Extension of Lower Downtown character. Smaller scale along Cherry Creek promenade and contiguous to the common. Strong orientation to sidewalk with zero lot line buildings. Buildings step down to Cherry Creek.

2. *Auto circulation:*

(a) Access to development and parking shall be provided off 15th Street.

(b) Right and left turn movement from 15th shall be permitted into development.

(c) Secondary access shall be permitted off of Wewatta with right turn in and out only.

3. *Public right-of-way:*

(a) Wewatta right-of-way—120 feet (maximum).

(b) Public access to Cherry Creek stream level must be provided.

4. *Parking:*

(a) Access shall be primarily off of 15th Street.

(b) Secondary access shall be permitted off of Wewatta with right turn in and out only.

(c) Garage exteriors along pedestrian connectors and the Cherry Creek promenade shall be buffered with one (1) or more of the following: retail, active uses (i.e., service, restaurants, etc.), landscaping, and/or special facade treatment.

5. *Pedestrian circulation:*

(a) Pedestrian connectors—20 foot minimum width.

(b) Cherry Creek walk—50 foot width from north Cherry Creek wall to face of building.

(c) Two required pedestrian connections:

(1) Connector from Cherry Creek to Common located between Wewatta and Mid-Valley Rail.

(2) Connector from Cherry Creek to Common located between Mid-Valley Rail and River.

(d) Pedestrian connectors should be linked by pedestrian bridge connections across Cherry Creek. This linkage may be by the Cherry Creek promenade, but the specific linkage point(s) shall remain flexible.

(e) Ownership of pedestrian connectors may be public or private so long as the pedestrian function of each connector is established and retained.

(f) Private automobile access may cross and/or run in conjunction with and parallel to pedestrian connectors, when additional width is provided to the connector.

6. *Building orientation/massing:*

(a) Building frontages along pedestrian connectors shall be at least one (1) story and shall only be interrupted by plazas, pedestrian ways, and entryways. Passive landscaped side yards on a zone lot are prohibited.

(b) Buildings shall be oriented along pedestrian connectors as defined in the design guidelines.

(c) Buildings which are more than one hundred (100) feet high along Wewatta shall have cornice lines no higher than one hundred (100) feet, with a minimum "stepback" beginning at that 100-foot level as established in the design guidelines.

(d) Buildings which are more than one hundred (100) feet high along 15th Street shall have cornice lines no higher than one hundred (100) feet, with a minimum 15-foot "stepback" beginning at the 100-foot level.

(e) Plazas and decks open to the public and located adjacent to the Cherry Creek promenade and all pedestrian connectors must directly tie into the promenade and connectors.

(f) Building development shall have a 60-degree angle stepping back from Cherry Creek beginning 25 feet above the property line starting 50 feet back from the creek wall, and extending to the 50-foot height limit plane.

(g) In the first 75 feet from the bank of the Platte River, buildings shall be lower height structures located close to the river greenways system 40 feet rising to 80 feet.

7. *Building entrances:*

(a) All structures, except garages, which are contiguous to pedestrian connectors must be accessible from at least one (1) such connector.

(b) Access must be provided to perimeter ground floor retail, commercial, and other related uses from promenades and/or pedestrian connectors. Common entries are acceptable.

8. *Minimum setbacks from right-of-way:*

(a) Wewatta—To be determined in subarea plan.

(b) 15th Street—0 feet beyond r-o-w.

(c) Pedestrian connectors—0 feet beyond r-o-w.

9. *Open space/special features:*

(a) To be determined in the subarea plan, and such open space/special features shall be consistent with the Central Platte Valley comprehensive plan amendment.

10. *Preferred land uses:*

(a) General office.

(b) Specialty and support retail—Along Creek, 16th Street, Common.

(c) Restaurants, bars, entertainment—Concentrated along Creek.

(d) Multi-unit residential—Upper floors facing Creek and common park.

(e) Hotel.

D. *16th/20th commons subarea zoning standards.*

1. *Character:* Extension of the 16th Street Mall, opening up to major urban park along river's edge. Bounded by mid- and high-rise structures, and cultural/entertainment activities, with maximum advantage taken of mountain views.

2. *Auto circulation:*

(a) Major access to subarea shall be provided from 20th, 19th, 18th, Wewatta and Chestnut.

(b) Right and left turn movement into and from Bassett/Chestnut/Wewatta alignments shall be permitted onto 20th Street.

(c) An at-grade intersection shall be provided at 20th and Chestnut Streets.

(d) If 16th Street is open to vehicular traffic, access to developments and parking from 16th Street is permitted.

3. *Public right-of-way:*

(a) 18th/19th Street—80 feet (maximum).

(b) Bassett, Chestnut alignment off of 20th—80 feet (maximum).

(c) Wewatta—To be determined in the subarea plan.

4. *Parking:*

(a) Principal access off of 15th, 18th and 19th Streets and Wewatta/Chestnut/Bassett alignments.

(b) Special landscaping to relate to park edges.

(c) Garage exteriors along pedestrian connectors and the common park shall be buffered with one (1) or more of the following: retail, active uses (i.e., service, restaurants, etc.), landscaping, and/or special facade treatment.

5. *Pedestrian circulation:*

(a) Pedestrian connectors—20 feet (minimum width).

(b) Primary pedestrian paths along 19th Street from Lower Downtown, across 19th Street bridge to West Bank, one (1) between river and mainline tracks from the Commons to at least 19th Street, and one (1) between mainline tracks and Wewatta, from the Commons to Prospect (at least to 20th).

(c) Public access shall be provided to the common park from pedestrian connectors.

(d) North/South connectors must link to north/south connectors in the Cherry Creek subarea.

(e) Maintain 19th Street bridge for pedestrian and bicycle access.

6. *Building orientation/massing:*

(a) Building frontages along pedestrian connector shall be at least one (1) story and shall only be interrupted by plazas, pedestrian ways, and entryways. Passive landscaped side yards on the zone lot are prohibited.

(b) Buildings shall be oriented along pedestrian connectors as defined in the design guidelines.

(c) Buildings which are more than one hundred (100) feet high along Wewatta shall have cornice lines no higher than one hundred (100) feet, with a minimum "stepback" beginning at the 100-foot level as established in the design guidelines.

(d) Plazas and decks located adjacent to the common park and all pedestrian connectors must directly tie into the promenade and connectors.

(e) In the first seventy-five (75) feet from the bank of the Platte River, buildings shall be lower height structures located close to the river greenways system forty (40) feet rising to eighty (80) feet.

7. *Building entrances:*

(a) Garages must maintain pedestrian access to 19th, and north/south pedestrian connectors.

(b) All structures, except garages, which are contiguous to pedestrian connectors must be accessible from at least one (1) connector.

(c) Access must be provided to perimeter ground floor retail, commercial, and other related uses from promenades and/or pedestrian connectors. Common type entries are acceptable.

(d) Buildings facing on the common park must provide reasonable access to the park.

8. *Minimum setbacks:*

(a) Wewatta and 20th Street—To be determined in the subarea plan.

(b) 18th and 19th Street—0 feet beyond r-o-w.

(c) Minor access roads—0 feet beyond r-o-w.

9. *Open space/special features:*

(a) To be determined in the subarea plan and such open space/special features shall be inconsistent with the Central Platte Valley comprehensive plan amendment.

(b) Special guidelines for the common park shall be adopted and shall be included in a subarea plan.

(c) Transit Plaza shall be encouraged at intersection of 16th Street Mall extension and north/south pedestrian connector.

(d) Extension of park and 16th Street under and/or across mainline tracks.

(e) Pedestrian connection through common park between 16th Street extension and existing 16th Street bridge.

10. *Preferred land uses:*

(a) Residential along the common and river greenway.

(b) General office.

(c) Support retail—16th and 20th.

(d) Retail along common edge and mall.

(e) Hotel.

(f) Restaurants, bars, entertainment—Along common edge and mall.

(g) Cultural, civic and tourist uses.

(h) Theme park.

(i) Display/showroom/trade center.

(j) Media studios/artist studios/production houses.

(k) Transportation center.

E. *Glenn Court/Stoneman's Row subarea zoning standards.*

1. *Character:* Develop the area west of Vallejo (Glenn Court) as mixed use area including office, retail and residential uses. Development of the area east of Vallejo (Stoneman's Row) should emphasize residential uses, should maintain the historic character, and should promote development of vacant land for housing at a density and scale which would enhance the historic character.

2. *Auto circulation:*

   (a) Discourage increase of traffic through the area on W. 28th Avenue and Vallejo Street.

   (b) Subarea plan shall define limitations on truck routes and the transportation of hazardous materials.

3. *Public right-of-way:*

   (a) Any change to Interstate 25 should take into account the Speer Blvd. design guidelines, the creation of open space and pedestrian/bike amenities.

4. *Parking:*

   (a) Commercial parking lots will be prohibited.

   (b) Parking lots shall be landscaped, according to section 59-585 of the Revised Municipal Code.

   (c) Underground parking shall be encouraged.

   (d) Buffer aboveground parking structures with active uses (i.e., retail, offices).

   (e) Provide appropriate buffering of existing parking lots.

5. *Pedestrian circulation:*

   (a) Develop a historic trail linking historic landmarks and points of interest.

   (b) Install a landscaped bike and pedestrian path from Zuni Street along W. 27th Avenue (south of the Colorado Farm Bureau behind Stoneman's Row) connecting to the 15th and 16th Street bridges.

6. *Building orientation/massing:*

   (a) The proportions, scale, rhythm of facade elements, materials and colors shall be in harmony with the character of existing historic buildings in the Highland neighborhood.

7. *Building entrances:* Respect the rhythm, size and proportion of entrances prevalent in the immediate area surrounding the new building. Avoid drastically different entrances inconsistent with the general character of the area.

8. *Setbacks:*

   (a) Front setback to residential structures will be compatible with existing residential setbacks and will be determined on a block by block basis in the subarea plan.

   (b) Front setbacks for commercial structures along Zuni and Speer will be 15 feet.

9. *Open space:*

   (a) To be determined by subarea plan and such open space/special features shall be consistent with the Highland neighborhood plan and the Central Platte Valley comprehensive plan amendment.

   (b) Landscape the area between I-25 and the neighborhood (approximately along W. 27th and Central).

10. *Heights:*

   (a) West of Vallejo (Glenn Court) maximum 60 foot building heights will be allowed. Views from the north side of W. 29th Avenue toward the downtown will be provided.

   (b) East of Vallejo (Stoneman's Row) height shall match existing residential building heights (excluding the Wheeler Building).

   (c) Preserve existing views towards Pikes Peak and downtown within the existing public right-of-way.

11. *Preferred land uses:*

   (a) Encourage continuation of existing residential uses.

   (b) Focus new residential development in the area east of Wyandot. The design of residential uses shall support the character of Stoneman's Row (low density townhomes, consistent with historic character and materials).

   (c) Historic buildings shall be preserved or moved into the Stoneman's Row area.

   (d) Develop residential use in the area east of Vallejo at the same scale as existing homes (2-story townhomes).

   (e) Building materials shall be compatible with existing structures.

   (f) Expand the historic district north to W. 29th Avenue from Vallejo east.

F. *Overlook subarea zoning standards.*

1. *Character of future developments:* Preserve existing residential uses and development as a mixed use office, retail and residential area. Focus retail and office toward Boulder and Central Street. Develop the Highland Block at 15th (both sides of the street) and 16th, Central Street to Boulder Street in a way that would preserve and enhance its remaining historic significance and create a major gateway into Highland. Provide appropriate buffering between commercial and residential uses.

2. *Auto circulation:*

   (a) Establish a major gateway to the subarea at 15th Street and Central.

(b) Provide access to CPV and downtown.

(c) Limit auto circulation throughout subarea.

3. *Public right-of-way:*

(a) Provide access to the new Rockmount Park and Commons Park.

(b) Install landscaping along Central Street.

4. *Parking:*

(a) Parking lots shall be landscaped, according to section 59-585 of the Revised Municipal Code.

(b) Commercial parking lots will be provided.

(c) Appropriate buffering shall be provided where residential and commercial abut.

5. *Pedestrian circulation:*

(a) Develop major pedestrian and bike routes along 15th, 16th, and 19th/20th Street.

(b) Pedestrian and bike access shall be provided on 16th Street.

(c) Pedestrian and bike access shall be developed to the new Rockmount and common parks.

(d) Continue landscaped bike and pedestrian path from the Glenn Court/Stoneman's Row subarea along Central.

6. *Building orientation/massing:*

(a) The proportions, scale, rhythm of facade elements, materials and colors shall be in harmony with the character of existing historic buildings in the Highland neighborhood.

7. *Building entrances:*

(a) Respect the rhythm, size and proportion of entrances prevalent in the immediate area surrounding the new building. Avoid drastically different entrances inconsistent with the general character of the area.

(b) Building entrances should be oriented to the street, in harmony with other entrances on the immediate block on which the development is located.

8. *Setbacks:*

(a) Front setbacks to residential structures to be determined by subarea plan, on a block by block basis consistent with the existing setbacks on a given block.

(b) Setbacks in the Highland Block area shall be consistent with existing historic commercial structures.

9. *Open space/special features:*

(a) To be determined by subarea plan and such open space/special features shall be consistent with the Highland neighborhood plan and the Central Platte Valley comprehensive plan amendment.

(b) Significantly improve and maintain Hirshorn Park.

(c) Landscape the area between I-25 and the neighborhood.

10. *Heights:*

(a) A maximum of 40-foot building heights will be allowed throughout the subarea; provided, however, that building heights up to eighty (80) feet will be allowed south of Boulder Street if a minimum of two-thirds (2/3) of total square footage in the building is residential and if the building does not block the view corridor from Hirshorn Park to downtown.

(b) View corridor from Hirshorn Park to the CBD must be established and maintained.

(c) Preserve existing views towards Pikes Peak and downtown within the existing public right-of-way.

11. *Preferred land uses:*

(a) Encourage residential as a part of mixed-use projects.

(b) Any new development that replaces existing residential uses shall contain residential use in at least fifty (50) percent of the project's floor area.

(c) Reinforce existing residential uses in the block bounded by W. 32nd Avenue, Boulder and 18th Streets.

G. Saint Patrick's/Guadalupe subarea zoning standards.

1. *Character of future development:* Continue to develop this subarea as a mixed-use area (including moderate-density residential and neighborhood serving office and retail) with emphasis on strengthening the residential character, open space and restaurant services. Provide strong buffering between residential and commercial uses.

2. *Auto circulation:*

(a) Establish a major gateway to the subarea at the entrance into the neighborhood from downtown.

(b) Continue sufficient access to the businesses from the 33rd and Osage area.

(c) Discourage increase in nonlocal through traffic throughout the subarea.

3. *Public right-of-way:*

(a) Install streetscape along Central Street.

(b) Landscape the traffic island at W. 33rd and Osage Street.

(c) Redesign and install a noise barrier to screen I-25 noise.

(d) Landscape I-25 Corridor with irrigation and mature plantings.

(e) Provide access to Rockmount Park at both the north and south ends.

4. *Parking:*

(a) Provide appropriate buffering of existing accessory parking lots.

(b) Commercial parking lots will be prohibited.

(c) Parking lots shall be landscaped, according to section 59-585 of the Revised Municipal Code.

5. *Pedestrian circulation:*

(a) Install a new pedestrian and bike path to the Rockmount Park and Downtown area.

(b) Reconstruct and widen the existing pedestrian and bike path on W. 36th Avenue.

(c) Continue the landscaped bike and pedestrian path from the Glenn Court/ Stoneman's Row and Overlook subareas along I-25.

6. *Building orientation/massing:*

(a) The proportions, scale, building mass, rhythm of facade elements, materials and colors shall be in harmony with the character of existing historic buildings in the Highland neighborhood.

7. *Building entrances:*

(a) Respect the rhythm, size and proportion of entrances prevalent in the immediate area surrounding the new building. Avoid drastically different entrances inconsistent with the general character of the area.

(b) Building entrances should be oriented to the street, in harmony with other entrances on the immediate block on which the development is located.

8. *Setbacks:*

(a) Setbacks to match existing residential areas.

(b) Setbacks in commercial areas to be 15'.

9. *Open space/special features:*

(a) To be determined by subarea plan and such open space/special features shall be consistent with the Highland neighborhood plan and the Central Platte Valley comprehensive plan amendment.

(b) Provide open space amenities along streets, viaduct and entryways (gateways) into neighborhood.

(c) Landscape the area between I-25 and the neighborhood.

(d) Landscape bicycle and pedestrian paths.

10. *Heights:*

(a) Maximum 47-foot building heights will be allowed along Central Street.

(b) Maximum 35-foot building heights will be allowed along W. 33rd and Osage with bulk plane requirements as in R-1 zone.

(c) Preserve existing views towards Pikes Peak and downtown within the existing public right-of-way.

11. *Preferred land use:*

(a) Preserve existing residential uses.

(b) Encourage the development of vacant lots for residential uses at a scale and density to enhance residential character.

(c) Rehabilitate existing buildings.

(d) Enhance existing restaurant uses.

H. *Denver Union Terminal subarea zoning standards.*

1. *Character:* As the "gateway" between Lower Downtown and the Platte Valley, the subarea should accommodate active uses, including retail, office and hotel, which uses should accommodate and encourage pedestrian flows between Lower Downtown and the Commons subarea. A primary goal of the subarea is to preserve the main train room and two-story wings with sloped roofs of the Denver Union Terminal. Uses in the station and other additional uses in the subarea, however, should also be compatible with the goal of preserving the historic integrity of the main train room and two-story wings with sloped roofs of the Denver Union Terminal.

2. *Auto circulation:*

Major access—Wynkoop, 18th, and 17th Streets and Wewatta Parkway.

Secondary access—19th, 20th and 15th Streets.

All intersections (e.g., 16th Street mall, 19th, 20th Streets) should be developed or redeveloped at an elevation or depression which is compatible with the elevation or depression of streets in the Platte Valley.

Minimize vehicular intrusion and conflict within the subarea.

3. *Public right-of-way:*

Wewatta—To be determined by subarea plan.

16th and 18th Streets—To be determined by subarea plan.

All other local streets—Eighty (80) feet.

19th Street—To be determined by subarea plan.

4. *Parking:*

Parking garages—Primary vehicular access from Wynkoop, Wewatta, 18th and 19th Streets. Design of parking structures should be compatible with character of redevelopment of subarea. Underground parking is encouraged wherever possible, including under ground level open space. Buffering of garage exteriors along pedestrian connectors and 16th, 18th and Wynkoop with ground floor retail or active uses is encouraged.

Surface parking should not occur in the major open spaces between the D.U.T. development and Wynkoop Street and Wewatta Street, except that in each such open space a relatively small number of handicapped and VIP parking spaces will be permitted.

5. *Pedestrian circulation:*

Pedestrian access from subarea to Commons open space, Wynkoop Street, 16th Street, 17th Street and 18th Street should be provided.

Direct access for pedestrians from parking to pedestrian connectors should be provided.

Pedestrian access to and through main train room of Union Station should be encouraged.

Pedestrian connection from Union Station to Commons open space should encourage safe and easy access across existing rail lines, if any, and Wewatta Parkway.

Pedestrian access from Lower Downtown to the Central Platte Valley should be provided along 16th Street, 18th Street alignment and 19th Street.

Special streetscape treatment should be provided along 16th Street, in harmony with the 16th Street mall design character, if the 16th Street mall is extended to the area adjoining the D.U.T. special streetscape treatment should also be provided along Wynkoop Street and 18th Street alignment in conformance with Lower Downtown street guidelines as described in "the Lower Downtown Urban Design Project" prepared by the Denver Partnership, if the streetscape program for which such guidelines have been developed is implemented in Lower Downtown.

6. *Building orientation/massing:*

Develop a unified design for the entire subarea.

The D.U.T. development should be in a formal manner oriented toward Wynkoop Street and Wewatta Parkway.

Active ground level uses should orient at a minimum toward Wynkoop, 16th and 18th.

Lower scaled building forms should be oriented toward Lower Downtown. Higher scaled building forms may be oriented toward Wewatta Parkway, and the Commons.

7. *Building entrances:* Major access to train room on Lower Downtown side of Union Station should be maintained.

All structures which are contiguous to pedestrian connectors should be accessible from at least one (1) such connector.

Access should be provided to perimeter ground floor retail, commercial, and other related uses from pedestrian connectors. Common entries are acceptable.

A major access to the train room should be provided on the side facing Wewatta Parkway.

8. *Setbacks:*

The minimum street setback along Wewatta Parkway is 15 feet, except that there shall be no street setbacks on 16th Street and 18th Street in order to reflect the urban nature of the buildings and enhance their compatibility with other Lower Downtown buildings.

No side or rear setbacks.

9. *Open space:*

Publicly accessible and usable open space should be provided between the D.U.T. and its development, and Wynkoop Street from 16th Street to 18th Street.

Publicly accessible and usable open space should also be provided between the D.U.T. and Wewatta Parkway.

Area in front of Union Station and adjoining new development facing Wynkoop Street should be landscaped in character with Lower Downtown (e.g., plazas, benches, trees and flowers).

Development within subarea should accommodate extension of 16th Street Mall.

10. *Height:*

Two (2) tower buildings may be built to a height up to two hundred fifty (250) feet maximum (not including mechanical penthouses, roof forms, etc., per Denver Building Code).

Locate the tower buildings as far from the D.U.T. and its two-story wings as reasonably possible, in the area between 16th and 18th Street, while still providing upper level setbacks from 16th Street and 18th Street to create the lower scaled street walls.

11. *Preferred land uses:*

General office

Retail

Restaurants, bars, entertainment, cinema

Display showroom, except auto related

Hotel

Exhibition gallery, museum

Convention facilities/meeting rooms

Lower Downtown visitors/information center

Residential

I. *Diamond Hill subarea zoning standards.*

1. *Character:* The eastern and northern portions of the subarea shall be redeveloped as an area of low to midrise, commercial, office, retail, hotel/motel and multi-tenant residential buildings. Higher and larger scaled buildings are appropriate in the

eastern and northern portions of the subarea. The western portion of the subarea adjacent to the Jefferson Park neighborhood shall be redeveloped as a mixed use transition area including office, neighborhood serving retail and shops, with emphasis on residential uses along the west facing boundaries of the subarea. Lower scaled building forms should be located on the properties fronting onto the western boundary of the subarea. Along the eastern edge of the subarea, a special district composed of street oriented retail, restaurant and entertainment uses should be developed.

2. *Auto circulation:*

   (a) Establish a major gateway to the subarea at the intersection of Zuni Street and Speer Boulevard.

   (b) The subarea plan shall define limitations on heavy truck traffic within the subarea, particularly along Alcott, Bryant, Clay and 26th Avenue.

   (c) Primary access will be via Speer Boulevard, Water Street/23rd Avenue, Zuni Street and their interchanges with I-25.

   (d) Secondary access from the west shall be via 23rd Avenue, 26th Avenue.

3. *Public right-of-way:*

   (a) Provide landscaped traffic divider along Speer Boulevard from Zuni Street to west 29th Avenue.

   (b) Provide landscaped areas along I-25 corridor, taking into account the Speer Boulevard Design Guidelines.

4. *Parking:*

   (a) Notwithstanding the uses established by the matrix of uses contained in section 59-492, commercial parking lots shall be prohibited in the subarea.

   (b) Underground parking for permitted uses and uses by special review shall be encouraged.

   (c) Parking structures shall be buffered at ground level with active uses such as retail shops and offices.

5. *Pedestrian circulation:*

   (a) Major pedestrian connectors shall include: Speer Boulevard, Bryant Street, 23rd Avenue from Jefferson Park into the Platte River Valley; a pedestrian trail wide enough for bicycles shall link with the pedestrian connector from the Glenn Court/Hirshorn Park pedestrian connector and the Front View Crescent pedestrian connector. This public/private pedestrian connector should utilize the I-25 right-of-way and/or the abutting private property to provide a walkway along the edge of the ridge overlooking Downtown, running from Speer Boulevard to the intersection of 23rd Avenue and Alcott Street.

   (b) Sidewalks shall be provided and widened along pedestrian connectors as a part of any redevelopment of property adjacent to the connectors.

(c) Public open space, plazas and decks shall be encouraged along pedestrian connectors in specific locations to be determined in the subarea plan.

(d) All structures that are contiguous with the pedestrian connectors must provide access from the connector.

(e) Provide pedestrian connector from the subarea to the Sports Complex in coordination with the Front View Crescent subarea zoning standards.

6. *Building orientation/massing.*

(a) Building form shall be primarily aligned to be parallel with the adjoining streets unless the configuration of the land parcel makes such alignment impractical.

(b) Any new development shall be so designed as to provide an interesting and varied appearance through (steps or division) special attention to the form, detail, window size and pattern, ground floor facade treatment, and material, as defined in the subarea plan design guidelines.

(c) A bulk plane shall be established over the properties whose west property lines abut or are within 120 feet of the following streets:

1. Bryant Street from 23rd Avenue to 26th Avenue;
2. Bryant Street from 27th Avenue to Speer Boulevard;
3. Clay Street from 26th Avenue to 27th Avenue;

This bulk plane shall begin at a height of forty-five (45) feet above a line at ground level which is twenty-five (25) feet east of and parallel to the right-of-way lines of the streets listed above; and shall extend upward to the east at a forty-five (45) degree angle until it intersects with the one hundred forty (140) feet height limit governing the remainder of the district.

(d) In addition to the other bonuses provided in section 59-494, permitted structure[s] all properties within this bulk plane shall receive a bonus of 0.4 square feet of additional development area for every square foot of land area within the horizontal limits of the bulk plane. This bonus may be transferred to other properties within the Diamond Hill subarea. This bonus area shall not supersede any height limits, building setbacks or upper level setbacks established in these subarea zoning standards.

7. *Building entrances:*

(a) Major building entries shall be oriented to public ways and pedestrian connectors.

8. *Setbacks:*

(a) Front setbacks shall be a minimum of fifteen (15) feet, except that no front setback is required along the pedestrian connector specifically defined in the last sentence of 5(a) above. Required front setback space may be used for automobile parking.

(b) In addition to a minimum fifteen foot front setback, any portion of the building facade that is greater than forty feet in height shall be set back a minimum of ten feet from a horizontal line in the plane of the facade. This horizontal line may occur anywhere between thirty-five (35) and forty-five (45) feet above the average finished grade at the base of the facade.

(c) Rear and side setbacks shall be defined in the subarea plan.

(d) Street trees and landscaping following the general concepts of the "North Speer Boulevard Revitalization Master Plan, September 1987," shall be provided within the building setback adjoining Speer Boulevard.

9. *Open space:*

(a) To be determined by the subarea plan and such open space/special features shall be consistent with all neighborhood and comprehensive plan amendments pertaining to the subarea.

10. *Heights:*

(a) Maximum height of one hundred forty (140) feet in the entire subarea, with no height bonus additions allowed.

(b) Preserve existing views within certain public rights-of-way as explained in the view preservation section of the subarea plan.

11. *Land use:*

(a) Encourage residential and neighborhood serving retail uses in mixed use developments.

(b) Encourage buffering, including additional setbacks and landscaping, between land areas that contain different or divergent uses.

(c) Encourage the rehabilitation and maintenance of historic structures.

(d) Emphasize low to medium rise mixed use developments.

(e) Encourage residential uses along the western boundary of the subarea.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Secs. 59-339—59-340. Reserved.

DIVISION 18. GATEWAY DISTRICT

Sec. 59-341. General purpose and scope.

The provisions of this division apply to all lands in the Gateway district. This division is enacted to provide for and encourage quality development of the area commonly known as the Gateway and to protect and enhance the contiguous Denver neighborhoods of Montbello and Green Valley Ranch, in accordance with the Denver comprehensive plan, including the gateway concept plan. The provisions of this division 18, together with related regulations, shall establish, define and limit the use of land, improvements, facilities and structures located in the Gateway district.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-342. District and use area boundaries.

Within the Gateway district, and only to the extent that the use areas are still within the Gateway district, MU1, MU2, RU1, RU2, TSU, TCU and OSU use areas are defined with the general boundaries shown on the document titled "exhibit A, use area boundaries" filed on April 11, 2003 with the clerk and recorder at Reception No. 2003068958 (hereinafter in this division referred to as "exhibit A") which general boundaries shall be more specifically established at the time of site plan review or general development plan review according to the location of the proposed street alignments and natural features shown on exhibit A and, when the use area boundaries do not follow a street alignment or natural feature, then by the following dimensions:

(1) MU1 use areas along Tower Road extend no more than one-quarter (1/4) mile on either side of the centerline of Tower Road between First Creek and the 58th Avenue alignment, no more than one-eighth (1/8) mile either side of the centerline of Tower Road between the 62nd and 66th Avenue alignments, no more than one-eighth (1/8) mile north and south of the centerline of the 64th Avenue alignment from one-quarter (1/4) mile west of Tower Road to one-quarter (1/4) mile east of Tower Road, and no more than one-quarter (1/4) mile either side of the centerline of Tower Road between the 70th and 72nd Avenue alignments.

(2) MU1 use areas along 56th Avenue between the Biscay and Dunkirk Street alignments shall extend no more than one-eighth (1/8) mile north and south of 56th Avenue.

(3) The MU1 use area along 56th Avenue adjacent to the east side of the Telluride Street alignment shall extend no more than six hundred forty (640) feet east of the Telluride Street alignment.

(4) MU2 use areas along the west side of Tower Road between First Creek and the 48th Avenue alignment extend no more than three hundred (300) feet from the outer edge of the proposed dedicated right-of-way of Tower Road. MU2 use areas along the east side of Tower Road between First Creek and the 52nd Avenue alignment extend no more than six hundred sixty (660) feet east of the outer edge of the proposed dedicated

right-of-way of Tower Road, and such MU2 area shall incorporate the storm drainage channel currently shown in such area by the urban drainage and flood control master plan.

(5) RU2 use areas along the west side of Tower Road between the 45th and 48th Avenue alignments extend no more than three hundred (300) feet from the outer edge of the proposed dedicated right-of-way lines of those two (2) streets.

(6) All OSU use areas other than business green open spaces shall be contiguous with the natural features, trails and street alignments shown on exhibit A, except OSU use area at 40th Avenue and Chambers Road of approximately eleven (11) acres and one (1) at 40th Avenue and Pena Boulevard of approximately three (3) acres, shall have the following minimum gross acreages:

Community Park	45 acres
Trail Corridors	See section 59-350
High School	35 acres

Location of business green OSU areas shall be determined by subsection 59-347(b)(2).

(7) TSU use areas shall be contiguous with the street alignments shown on exhibit A and may include no more than eight (8) acres of land, except at Chambers Road and E. 40th Avenue, where the use area may include no more than fourteen (14) net acres.

(8) Those portions of the zone district shown as streets on exhibit A are reserved for public street rights-of-way. All such street rights-of-way shall be centered on the relevant section or half-section lines unless the alignment shown on exhibit A does not follow such lines, in which case the alignment shall be generally as shown in exhibit A.

Notwithstanding the dimensions stated above, the use area boundaries described above and on exhibit A may be varied up to one hundred (100) feet pursuant to the general development plan process set forth in section 59-351. The exact locations of TSU use areas north of 56th Avenue shown on exhibit A may be varied up to five hundred (500) feet, provided that the approval of all landowners contiguous to the original TSU location shown on exhibit A is obtained and provided that any TSU location that is not currently on an arterial or parkway street does not become contiguous with an arterial or parkway street as a result of such variation.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-343. Intended character of use areas.

This section 59-343 describes the intended character of the different use areas within the Gateway. In the event of any conflict between the descriptions in this section 59-343 and more specific language in division 18, the latter shall govern.

(1) *MU1: Mixed Use 1.* A moderate scale mixed use activity area that concentrates pedestrian-intensive mixed use activities around five (5) major intersections and allows for tall buildings. Smaller freestanding retail uses are permitted only in specified locations, and accessory retail uses are allowed on the lower floors of some

multi-story buildings to serve on-site uses. Uses involving regular truck traffic for shipping and loading of goods not consumed on-site are not permitted. Landscaping and appearance from major roadways are very important.

(2) *MU2: Mixed Use 2.* A general purpose lower scale mixed use area to accommodate office uses, office uses in combination with research, storage or distribution uses, research and development uses, and assembly/light manufacturing uses. Uses involving regular truck traffic and loading are allowed in areas that do not front on high visibility streets if properly buffered from differing contiguous uses. Smaller freestanding retail uses are allowed only in specified locations, and accessory retail uses are allowed on the lower floors of some multi-story buildings in some areas to serve on-site uses.

(3) *RU1: Residential Use 1.* A low-density, high quality residential area of detached single-family homes.

(4) *RU2: Residential Use 2.* A moderate density, high quality residential area of single and multiple unit dwellings.

(5) *TSU: Town Square Use.* A small-scale neighborhood retail, office/research, personal service and residential area focused around a town square, neighborhood park or other open space amenity and intended to create a neighborhood focal point and allow area residents and employees to meet their daily retail and service needs without traveling to or along arterial streets. Large retail uses other than food stores are not permitted.

(6) *TCU: Town Center Use.* A single mixed use node intended to consolidate major retailing activity in the Gateway and maximize large scale pedestrian and destination retail activity in one (1) mixed use site, rather than dispersing it. Hotels, office/research uses, clinics, studios and higher-density residential uses are accommodated. Links to the community park, First Creek Trail corridor and the surrounding residential areas are very important. A mix of automobile-related retail and outdoor pedestrian retail areas is desired. Landscaping and appearance from major roadways are very important.

(7) *OSU: Open Space Use.* An open space designation that includes the Gateway major park and trail space system, business green open spaces, drainage detention/retention areas and major landscaped entry features.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-344. Permitted uses.

(a) In addition to uses allowed in the Gateway district, this section lists those major use categories that are prohibited because they are beyond the bounds of the chart categories.

Additional restrictions on permitted uses in environmentally sensitive areas are set forth in subsection 59-347(e). Interpretations of permitted and prohibited uses under this division 18 shall not affect the zoning administrator's powers under any other part of the zoning code and shall not influence the interpretation of any other part of the zoning code.

(Ord. No. 625-05, § 18, eff. 9-2-05)

(b) *Uses allowed in this district.* The following is a list of uses with notations as to whether they are permitted, limited, or have other requirements as listed in the matrix and the sections which follow. Permitted uses are uses by right.

Key: *P = Permitted* *L = Uses permitted with limitations* *SR = Uses permitted after special review* *D = Uses permitted with distance requirements* ** = Need not be enclosed* *(blank) = not permitted*	*Gateway use district*						
Use	*OSU*	*RU1*	*RU2*	*MU1*	*MU2*	*TCU*	*TSU*
Residential							
Dwelling, multiple unit			L180	SR/ L180	SR/ L180	SR/ L180	SR/ L180
Dwelling, single unit		L180	L180		L172/ L180		
Nursing home, hospice		SR/ L180	SR/ L180		SR/ L180	SR/ L180	SR/ L180
Retail, service, office							
Animal sales, service, care, household pets only				L39/ L175	L39/ L176	P	L39/ L190
Automobile gasoline filling station, emissions inspection				SR/ L174/ L175	SR/ L174/ L176	SR/ L174/ L177	SR/ L174
Automobile, motorcycle, light truck sales, leasing, rental*					L172/ L178*		
Bed and breakfast				P	L83	P	P
Bookstore				L39/ L175	L39/ L176	P	L39/ L190
Eating place				L181*	L182*	P*	P*
Food sales or market, large				L39/ L175	L39/ L176	P	L39/ L190
Food sales or market, small				L175	P	P	P
Furniture, furnishings, retail sale, large scale						P	L190
Garden supply store				L39/ L175	L39/ L176	P	L39/ L190
Home building materials and supplies, sales, or rental				L39/ L175	L39/ L176	P	L39/ L190

Key: *P = Permitted* *L = Uses permitted with limitations* *SR = Uses permitted after special review* *D = Uses permitted with distance requirements* ** = Need not be enclosed* *(blank) = not permitted*	*Gateway use district*						
Use	*OSU*	*RU1*	*RU2*	*MU1*	*MU2*	*TCU*	*TSU*
Hotel				P	L183	P	P
Laboratory, research, development, technological service				L189	L189*		
Liquor store				D7/ L39/ L175	D7/ L39/ L176	D7	D7/ L39/ L190
Office: nondental, nonmedical				L184	L184	L184	L184
Outdoor sales, flea market*					SR	SR	SR
Retail, service, repair, consumer, large scale						L170	L190
Retail, service, repair, consumer, medium scale				L175	L170/ L176	L170	L170
Retail, service, repair, consumer, small scale				L175	L170/ L176	L170	L170
Retail, service, repair, consumer, special						L170	L190
Industrial, wholesale, transportation, utilities							
Assembly, without fabrication					L171		
Manufacturing, fabrication, and assembly, custom					L171		
Manufacturing, fabrication, and assembly, light					L171		
Parking of vehicles*	SR/ L188			SR/ L188	SR/ L188	SR/ L188	SR/ L188
Utility, major impact	SR/ L115*	SR/ L115*	SR/ L115*	SR/ L115*	SR/ L115*	SR/ L115*	SR/ L115*
Utility, minor impact	SR*	SR*	SR*	SR*	SR*	SR*	SR*
Wholesale trade, light, and/or storage of nontoxic, nonhazardous materials					L173/ L185		
Arts, entertainment, recreation, institutions							
Child care center			P	L179	L179	L179	P
Church, religious institution		P	P	P	P	P	P

Key: *P = Permitted* *L = Uses permitted with limitations* *SR = Uses permitted after special review* *D = Uses permitted with distance requirements* ** = Need not be enclosed* *(blank) = not permitted*	*Gateway use district*						
Use	*OSU*	*RU1*	*RU2*	*MU1*	*MU2*	*TCU*	*TSU*
Clinic, office, laboratory, dental or medical			SR	P	P	P	P
Club or lodge			SR	P	P	P	P
Community or senior center or recreational facility	SR*	SR*	SR*	SR*	SR*	SR*	SR*
Conference center, meeting hall				P	L183	P	
Fire station	SR	SR	SR	SR	SR	SR	SR
Golf course*	SR			SR	SR	SR	SR
Hospital				SR/ L180	SR/ L180		
Library	SR	SR	SR	SR	SR	SR	SR
Museums, other special purpose cultural institutions				P	P	P	P
Parks, public, open space, associated buildings*	L187	L187	L187	SR/ L187	SR/ L187	SR/ L187	SR/ L187
Police station	SR	SR	SR	SR	SR	SR	SR
Postal facility, neighborhood	SR	SR	SR	SR	SR	SR	SR
Recreation services, indoor				P	P	P	SR
Recreation services, outdoor*	SR/ L186			SR	SR	SR	SR/ L186
School, elementary or secondary		L153	L153	SR	SR	SR	SR
School, vocational or professional				SR	SR	SR	SR
Studio, professional			SR	P	P	P	P
University or college				SR	SR	SR	SR
Construction, mining, agriculture							
Agriculture, limited*	P	P	P	P	P	P	P
Contractors, general					L191		

(Ord. No. 625-05, § 19, eff. 9-2-05)

(c) *Distance requirements.* The following define the distance requirements enumerated in the use chart in section 59-344(b), above:

D7 No liquor store or drugstore licensed to sell package liquors, not existing or operating on the July 31, 2000, shall be established, operated, or maintained within one thousand (1,000) feet of another liquor store or drugstore licensed to sell package liquors or a community corrections facility.

(d) *Limitations.* The following define the limitations enumerated in the use chart in section 59-344(b):

L39 Uses are limited to no more than thirty thousand (30,000) square feet of gross floor area.

L115 Limited to water reservoir, need not be enclosed.

L153 Meeting all requirements of the compulsory education laws of the state and not providing residential accommodation.

L170 Repair, rental, servicing: additional restrictions on permitted uses in environmentally sensitive areas are set forth in subsection 59-347(e).
(Ord. No. 895-03, § 43, eff. 12-2-03)

L171 Except on zone lots fronting 56th Avenue, Tower Road, or Pena Boulevard, where it shall be a use by special review.

L172 Uses not permitted on zone lots contiguous with rights-of-way for 56th Avenue, Tower Road, or Pena Boulevard.

L173 Except on zone lots fronting 56th Avenue, Tower Road, or Pena Boulevard, where it shall be a use by special review, and within three hundred (300) feet of any boundary with any portion of Adams County other than the Rocky Mountain Arsenal, where it shall be a use by special review to allow review and comment by adjacent jurisdictions.

L174 Use must comply with all of the following conditions:

a. May not include sales or rental of motor vehicles;

b. Shall not overhaul engines or transmissions or perform body or fender work, auto glass work, painting, welding, tire recapping or auto dismantling;

c. Shall deposit all discarded parts and materials into a completely enclosed container concealed from adjacent properties;

d. Shall not park vehicles being serviced or stored for customers on public streets, alleys, sidewalks, or public parking strips;

e. Shall ensure that occupants of nearby structures are not disturbed, either by day or night, by the movement of vehicles;

f. May include car wash facilities; g. fuel pumps need not be enclosed.

L175 Use shall be permitted only within four hundred (400) feet of the following access points, and not on zone lots contiguous with Tower Road or the Pena Boulevard corridor:

a. One (1) north and one (1) south access point on 64th Avenue approximately six hundred sixty (660) feet west of Tower Road.

b. One (1) north and one (1) south access point on 64th Avenue approximately six hundred sixty (660) feet east of Tower Road on zone.

c. One (1) south access point on 56th Avenue approximately six hundred sixty (660) feet west of the Pena Boulevard corridor.

d. One (1) north and one (1) south access point on 56th Avenue approximately six hundred sixty (660) feet east of the Pena Boulevard corridor.

e. One (1) north and one (1) south access point on 56th Avenue approximately six hundred sixty (660) feet west of Tower Road.

f. One (1) north and one (1) south access point on 56th Avenue approximately six hundred sixty (660) feet east of Tower Road.

g. One (1) south access point on 56th Avenue approximately six hundred sixty (660) feet west of the Dunkirk Road alignment.

L176 Use shall be permitted only within four hundred (400) feet of the following access points, and not on zone lots contiguous with Tower Road:

a. One (1) north and one (1) south access point on 69th Avenue approximately six hundred sixty (660) feet west of Tower Road.

b. One (1) north and one (1) south access point on 68th Avenue approximately six hundred sixty (660) feet east of Tower Road.

c. One (1) north and one (1) south access point on 60th Avenue approximately six hundred sixty (660) feet west of Tower Road.

d. One (1) north and one (1) south access point on 60th Avenue approximately six hundred sixty (660) feet east of Tower Road.

e. One (1) east access point on Chambers Road approximately six hundred sixty (660) feet north of the southern boundary of the City of Denver.

L177 Use shall be permitted only along 48th Avenue, and not on zone lots fronting Tower Road.

L178 Limited to automobile rental facility. Shall not include surface parking lots exceeding two (2) acres.

L179 Freestanding facilities shall be uses by special review.

L180 Use only permitted south of 65th Avenue alignment.

L181 Freestanding uses (without drive-through facilities) contiguous to hotel sites shall be uses by special review; other freestanding uses and all drive-through facilities permitted only in those locations specified in note L175.

L182 Freestanding uses and drive-through facilities permitted only in those locations specified in note 176.

L183 Use only permitted contiguous with golf course or business green open space or north of 70th Avenue alignment, or north of 68th Avenue within six hundred sixty (660) feet of Tower Road.

L184 Laboratory facilities necessary to the business or governmental affairs conducted in an office and not exceeding fifteen (15) percent of the gross floor area of the office are permitted. Production and sales facilities may occupy no more than thirty-three (33) percent of gross floor area.

L185 Requires an occupied accessory office use occupying at least ten (10) percent of the gross floor area.

L186 Excluding amusement/special interest park. Other uses special review.

L187 Privately owned parks and open spaces that will not be dedicated to the city are uses by right in all Gateway use areas.

L188 Surface parking areas limited to two (2) acres in size and only permitted in conjunction with a primary, nonparking use on the same zone lot. Not permitted on zone lots contiguous with rights-of-way for 56th Avenue, Tower Road, or Pena Boulevard.

L189 Shall be required to follow the procedures of section 59-286 (conditional review; environmental and external effects) and be approved by the reviewing agencies prior to the issuance of a use permit.

L190 Limited to retail food stores serving the surrounding neighborhood, except for the TSU use area at Chambers Road and E. 40th Avenue, which shall be allowed. One (1) freestanding use between thirty thousand (30,000) square feet and fifty thousand (50,000) square feet. In addition to the neighborhood retail permitted.

L191 Including but not limited to the following trades: plumbing, heating; refrigeration and air conditioning; painting; paper hanging and decorating; wiring and electrical work; glass and glazing work; damp proofing; fireproofing; tile, linoleum, floor laying and other floor work; insulation and acoustical work; carpentry and cabinet-making; masonry and stone work; and ornamental iron work. Asbestos, excavating and well-drilling contractors shall not be permitted. Trucks having a manufacturer's capacity of more than two (2) tons shall not remain on the premises except as necessary to load and discharge contents.

(e) *Use by special review.* A use designated as a use by special review in any given use area is generally compatible with the basic use classifications of that use area; however, individual review and approval is required to consider issues that its proposed location and functional characteristics within the use area may present. The planning board shall confirm that those criteria set forth in subsection 59-351(d) have been met.

(f) *Uses by temporary permit.* Upon application to and issuance by the department of zoning administration of a permit of approval, the uses listed below may be operated as uses by temporary permit as shown on the chart following the use descriptions. The zoning adminis-

trator deny or impose conditions upon the permit, if required to mitigate potential adverse impacts to the surrounding businesses, residents, public use areas and future development potential of the area. The zoning administrator may require the posting of performance bonds, the recording of deed restrictions, or other forms of assurance that the terms of temporary use permits will be performed.

(1) Temporary building or yard for construction materials, the storage of excavated materials and/or equipment, both incidental and necessary to construction in the zoning district. No temporary building or yard shall be located within one hundred (100) feet of a building occupied by a residential use.

(2) Temporary office for the sale or rental of dwelling units within one (1) specific project under construction, rehabilitation or recently completed.

(3) Bazaar and/or carnival, operated as a place for the display and sale of miscellaneous goods and for entertainment; may include motorized amusement rides under certain circumstances.

(4) Noncommercial concrete batching plant, both incidental and necessary to construction in the Gateway district.

(5) Parking lot designated for special event.

(6) Sale at retail of Christmas trees and wreaths.

(7) Outdoor retail sales of articles such as books, artwork, craftwork, food, flowers, clothing, newspapers and similar articles.

(8) Kiosk or booth specifically designated for retail sales or service, whether on a public street, sidewalk, private property or parking area.

(9) Removal of dirt for use in a construction project within five (5) miles of the removal site for a period not to exceed six (6) months, which period may be extended for a similar period no more than two (2) times, subject to reasonable conditions imposed at the time of permit issuance.

(10) Tent for religious services. Must be at least five hundred (500) feet from all residential uses.

TABLE OF TEMPORARY USES ALLOWED

X DENOTES ALLOWED USE

Temporary use	*RU1*	*RU2*	*MU1*	*MU2*	*TSU*	*TCU*	*OSU*
Temporary building or yard for construction materials	X	X	X	X	X	X	X
Temporary office for sale or rental of dwelling units	X	X	X	X	X	X	
Bazaar and/or carnival	X	X	X	X	X	X	X
Noncommercial concrete batching plant	X	X	X	X	X	X	X
Parking lot for special event	X	X	X	X	X	X	X

Temporary use	*RU1*	*RU2*	*MU1*	*MU2*	*TSU*	*TCU*	*OSU*
Christmas tree sales		X	X	X	X	X	
Outdoor retail sales			X		X	X	
Kiosk or booth			X	X	X	X	
Removal of dirt	X	X	X	X	X	X	X
Tent for religious services			X	X	X	X	X

(g) *Accessory uses.* Incidental only to a primary use, any use that complies with all of the following conditions may be operated as an accessory use and need not be enclosed:

(1) *General conditions.* All accessory uses must be clearly incidental and customary to and commonly associated with the operation of a primary use; must be operated and maintained under the same ownership or by lessees or concessionaires of the owner of the primary use; must be operated on the same zone lot as primary use; and must not include structures or structural features inconsistent with the primary use.

(2) *Occupancy.* Accessory uses in RU1 and RU2 use areas shall not include residential occupancy except by family members, domestic employees employed on the premises, and the immediate families of such employees. Accessory uses in the MU1, MU2, TCU, TSU and OSU use areas shall not include residential occupancy in conjunction with uses other than hotels, except by owners and employees employed on the premises and the immediate families of such owners and employees.

(3) *Restrictions on size and inventory.* The following restrictions apply to all accessory uses except detached or attached garages or carports used exclusively by occupants of structures containing the primary use or by persons employed in such structures; loading docks; or company dining rooms.

a. If operated partially or entirely in detached structures, the gross floor area of such detached structures containing the accessory use shall not exceed ten (10) percent of the area of the zone lot.

b. If operated partially or entirely within the structure containing the primary use, the gross floor area within such structure utilized by all accessory uses shall not be greater than: (i) twenty (20) percent of the gross floor area or three hundred (300) square feet of a single unit dwelling, whichever is smaller; or (ii) ten (10) percent of the gross floor area of each unit in a building containing a multiple unit dwelling; or (iii) ten (10) percent of the gross floor area utilized by all of the primary uses in a structure with nonresidential uses or ten (10) percent of the inventory of all primary uses in a structure with nonresidential uses, whichever is less.

c. Every accessory use of a residential nature shall contain at least six hundred (600) square feet of gross floor area and no such accessory use shall contain more than twelve hundred (1200) square feet of the gross floor.

(4) *Support retail uses.* On zone lots in TSU and TCU use areas and zone lots in MU1 and MU2 use areas fronting 48th Avenue, 56th Avenue, 64th Avenue, Tower Road, and

Airport Boulevard Corridor, accessory uses may include the retail sale of goods customarily related to and incidental to those non-retail primary uses located in the same structure or in another similar structure located within five hundred (500) feet, provided, however, that (1) such establishments may only be located on the ground floor of a multi-story structure whose primary use is not a retail use, or shall be located in a hotel or conference center, and (2) no support retail establishment may occupy more than five thousand (5,000) square feet of gross floor area, and (3) the total of all support retail establishments in a structure may not occupy more than twenty-five (25) percent of the gross floor area of the structure or the entire ground floor of the structure, whichever is smaller.

(h) *Home occupations.* Upon application to and issuance by the department of zoning administration of a permit of approval, the following uses may be operated as home occupations as accessory to the operation of a single dwelling unit or each unit in a multiple unit dwelling, in compliance with all applicable regulations.

(1) Craftwork;

(2) Custom dressmaking, millinery, tailoring, sewing of fabric for custom apparel and custom home furnishings;

(3) Small child care home;

(4) Fine arts studio in which only individual works of art are created;

(5) Foster family care of not more than four (4) children simultaneously;

(6) Office in which chattels, goods, wares or merchandise are not commercially created, displayed, exchanged, stored or sold;

(7) Repairing of clocks and watches but not including the sale of such items;

(8) Tutoring of not more than four (4) students simultaneously; and

(9) Other similar home occupations as permitted by the zoning administrator provided such home occupations meet all the requirements of this section and that the zoning administrator determines that: (i) the proposed use in no way diminishes the use and enjoyment of contiguous conforming properties; (ii) the proposed use will not alter the residential character of the subject property or reduce its future value as a residence; and (iii) the proposed use will not adversely affect the public health, safety or welfare.

(i) *Uses prohibited throughout the Gateway.* No building, structure, lot or land in any use area shall be used for any of the following uses, either as a use by right or as a use by special review. This list is not exclusive, and the zoning administrator may determine that other uses are prohibited because they do not fall within the definition of a primary use under subsection 59-344(2).

(1) All uses listed as conditional or prohibited uses in any industrial zone district, as listed in sections 59-282 and 59-284;

(2) All adult uses, including without limitation eating places with adult amusement or entertainment, adult bookstores, adult photo studios, adult theaters, and sexually oriented commercial enterprises;

(3) Outdoor general advertising devices;

(4) Disposal or storage of hazardous material;

(5) Enameling and plating;

(6) Facilities for disposal, processing, incineration or reduction of garbage, medical wastes, dead animals, refuse, junk or similar materials, but not including recycling centers, in-sink garbage disposal units, and household trash compactors;

(7) Junkyard or dumps;

(8) Correctional institutions or detention centers;

(9) Smoking or curing of meat or fish; and

(10) Stockyards or slaughterhouses.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-345. Limitations on external effects of permitted uses.

(a) *General intent.* All development should be planned and implemented to assure that the external effects of uses do not interfere with the quality of life on contiguous or nearby property.

(b) *Enclosure of uses.* Every use in the Gateway district, unless expressly exempted by this division 18, shall be operated in its entirety within a completely enclosed structure; the exemption of a use from the requirement of enclosure will be indicated in the use matrix in 59-344(b) or in section 59-344(d).

(c) *Vibrations generated.* Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the zone lot on which the use is located. Vibrations from temporary construction and from vehicles which leave the zone are excluded.

(d) *Air pollution and odors.* The emission of any air contaminant or odor shall be regulated by the provisions of chapter 4, Revised Municipal Code, air pollution, as administered by the department of environmental health.

(e) *Radioactivity.* The airborne emission of radioactive materials shall comply with the latest provisions of the Colorado Rules and Regulations Pertaining to Radiation Control.

(f) *Other emissions.* Emissions of electromagnetic radiation, heat or glare shall comply with applicable standards adopted by city regulatory agencies, and in no case shall such emissions endanger human health, cause damage to vegetation or property, interfere with the normal operation of equipment or instruments, or interfere with the reasonable use and enjoyment of property located outside the zone lot on which a use is operated.

(g) *Noise generated.* The regulations of chapter 36, Revised Municipal Code, noise control, as administered by the department of environmental health, shall apply to all properties in the Gateway district. In addition, all structures in any portion of the Gateway where noise generated by aircraft has been measured to exceed the sixty (60) ldn level shall mitigate such noise through the use of insulation, sound buffering, design, structure siting, or other noise management practices.

(h) *Outdoor storage and waste disposal.* No flammable gases or solids, combustible liquids or explosives shall be stored in bulk above ground, except that (a) tanks or drums of fuel directly connecting with heating devices or appliances located on the same zone lot as the tanks or drums of fuel, and (b) tanks containing compressed natural gas for the fueling of vehicles operated in association with a primary use may be located above ground provided they are at least one thousand (1,000) feet from any residential use, hospital, nursing home, child care center, auditorium, or other building used for public assembly are excluded from this provision. All outdoor storage facilities for fuel, raw materials and products shall be enclosed by a fence, wall or other screening device described in section 59-347 adequate to conceal such facilities from contiguous property. No materials or wastes shall be deposited upon a zone lot in such form or manner that they may be transferred off the zone lot by natural causes or forces. All materials or wastes that might cause fumes or dust or that constitute a fire hazard or that may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers. All waste materials shall be stored, handled and disposed of in a manner that minimizes risks to human health and the environment.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-346. Permitted structures.

(a) *General intent.* This section 59-346 describes the basic limitations on structures that may be built within the Gateway district, with the exception of overhead or underground electric transmission lines or gas transmission lines. Density controls are designed to ensure that the infrastructure and environment have sufficient capacity to accommodate the projected development, that the densities of contiguous developments are compatible, that the densities of development support cost-effective provision of services, that nodes of more intense activity are easily identifiable to both auto and pedestrian traffic, that retail/commercial strips are avoided, that developments with potential significant negative traffic impacts are not approved until such impacts are addressed, and that the general clustering of densities set forth in the Gateway Plan is achieved. All development in the Gateway district should be of low or moderate density to complement the Gateway's role as a regional center within the Denver metropolitan area. Transfers of allowable building density within a general development plan area are allowed within limits to enable developers to respond to market pressures, avoid environmentally sensitive areas, and increase compatibility between uses. Density bonuses are available in some areas to encourage the provision of public amenities that would not otherwise be provided by the developer.

The height of buildings is controlled to prevent adverse impacts on nearby residential areas, preserve views toward the west and toward downtown Denver, improve urban design and

encourage pedestrian use of streets. Taller buildings shall be located near designated major intersections and interchanges. Flush mounted solar panels shall not be included in building height measurements anywhere in the Gateway district.

Minimum setback areas are provided to ensure adequate buffering, privacy, air and light. Flush mounted solar panels may encroach any distance into any setback space in the Gateway district. In designated areas, consistent building setbacks and/or build-to lines are used to better define and enclose streets, sidewalks and open spaces, improve visibility of nearby activity for pedestrians, and encourage ground floor commercial activity related to pedestrian uses. Building form and location will be controlled to reinforce the importance of, and the sense of enclosure around, designated streets, parks and trails, to screen parking areas and, where possible, to encourage the use of public transit and bicycling as alternatives to the private automobile where possible.
(Ord. No. 53-08, § 34, eff. 2-8-08)

(b) *Zone lots for structures.* A separate ground area called a zone lot shall be designated, provided and continuously maintained for all structures containing a use or uses by right and/or use or uses by special review. In this division, uses by right and uses by special review shall be called primary uses. Each zone lot shall have at least one (1) front line and shall be occupied only by one (1) or more structures containing a primary use or uses, a use by special

permit, an accessory use or uses or accessory structures. Each zone lot shall be sized and configured to allow for adequate servicing of the site and shall generally meet the requirements of the following table:

ZONE LOT REQUIREMENTS

Use Area	*Minimum Zone Lot Size (Square Feet)*	*Minimum Zone Lot Width at Front Setback (1) (Feet)*	*Minimum On-Site Unobstructed Open Space (2) (Percent of Zone Lot Area)*
RU1	5,000	50	40%
RU2	5,000 for zone lots with single-family detached dwellings; 18,000 otherwise	50 feet for zone lots with single-family detached dwellings; 100 feet otherwise	40%
MU1, MU2	43,560 for zone lots fronting Tower Road, 56th Avenue, 64th Avenue, 48th Avenue, or Airport Boulevard; otherwise no minimum	150 for zone lots fronting Tower Road, 56th Avenue, 64th Avenue, 48th Avenue or Airport Boulevard; otherwise no minimum	25%
TSU	No minimum	25	15%
TCU	No minimum	150 for zone lots fronting on Tower Road; 25 for zone lots fronting on designated pedestrian axes; otherwise no minimum	15% on zone lots contiguous with pedestrian axes, 25% on other zone lots

Notes to table:

(1) Applies to setbacks from nondedicated street where no dedicated public street is contiguous to zone lot.

(2) Excluding primary structures, accessory structures, and surface parking areas.

(Ord. No. 895-03, § 44, eff. 12-2-03)

(c) *Density of development.* For residential uses, density shall be measured by dwelling units per net acre. For nonresidential uses, density shall be measured by floor area ratio (FAR), also calculated on a net acreage basis. For purposes of this division 18, "net" acreage excludes land areas dedicated for local, collector and arterial streets and parkways, areas in floodplains, and areas dedicated for parks and trails; net acreages shall also exclude sites dedicated for schools or publicly owned facilities except when calculating the densities of the schools or publicly owned facilities on such sites.

(1) *Base maximum densities.* Base maximum densities for all use areas shall not exceed those shown on "exhibit B, base maximum densities" filed on April 11, 2003 with the

clerk and recorder at Reception No. 2003068958 (hereinafter in this division referred to as "exhibit B"), and base maximum densities in residential portions of MU1, MU2, TCU and TSU use areas shall not exceed thirty-six (36) dwelling units per net acre. In MU1, MU2, TCU and TSU use areas, the square footage of residential floor areas shall be deducted from base maximum densities shown in exhibit B to determine remaining FAR density available for nonresidential uses.

(2) *Non-residential bonuses.* The provision of specific public amenities listed in the table below will permit increases from the base maximum densities in MU1, MU2 and TCU use areas as shown in exhibit B provided that (1) the planning office determines that an unmet need for such public amenity then exists or will exist as a result of the requested development approval, (2) the use of the proposed land area for such amenity is in general conformance with the gateway plan, (3) the terms under which the amenity is to be provided, and the timing of its construction, are sufficient to achieve its intended purpose, and (4) the construction of bonus density in the intended location will not have an adverse impact on nearby residential areas. The amount of such density bonus shall be determined by a point system as set forth in the table below pursuant to points, standards and conditions defined in related regulations. Bonus densities shall be constructed on the zone lot on which the amenity is provided unless such zone lot is part of an approved general development plan allocating such bonus density to other zone lots within the general development plan. In no event shall the provision of amenities listed in the following table result in development densities that exceed those final maximum densities shown in "exhibit C, final maximum densities" filed on April 11, 2003 with the clerk and recorder at Reception No. 2003068958 (hereinafter in this division referred to as "exhibit C"). These density bonuses shall not apply to residential uses.

DENSITY BONUS CHART

Amenity Provided	*Amount of Bonus*
Construction of improvements to Town Square or Business Green open spaces within one-half (½) mile of site or construction of improvements to the Gateway Major Park and Trail System not otherwise required of landowner.	1 point per 1,000 square feet of Town Square or Business Green open space improved to planning office standards, or 1 point per 1,000 square feet of Major Park and Trail Open Space improved to Denver Parks Department standards (20 points maximum).
Construction of child care facility in MU1, TCU, or TSU use area.	5 points per 1,000 square feet of space constructed.
Acquisition, donation, and display of public art pursuant to procedures established by the commission on cultural affairs.	1 point per qualifying piece of art (5 points maximum).
Construction of educational facility acceptable to Denver Public Schools and accepted for use and occupancy by Denver Public Schools.	5 points per 1,000 square feet of space constructed and covered by Denver Public Schools occupancy agreement.

Amenity Provided	*Amount of Bonus*
Constructing improvements, dedicating land not otherwise required, or otherwise implementing a habitat enhancement program approved by both the Colorado Division of Wildlife and the planning office.	10 points per qualifying enhancement program (10 points maximum).
Constructing improvements, dedicating land, or otherwise implementing a transportation demand management program (other than one implemented to comply with subsection 59-346(c)(5)) approved by the planning office and the transportation planning division.	1 point for each additional percentage point of reduction in travel demand greater than ten (10) percent beneath trip table estimates for such uses (20 points maximum).
Incorporating project design features to significantly reduce energy consumption or resource consumption below those levels resulting from compliance with other portions of this zone district.	1 point for each three (3) additional percentage points of reduction in consumption of electricity, fossil fuels, or water greater than ten (10) percent beneath preexisting consumption estimates for such uses (20) points maximum).
Construction of structured or underground parking facilities to accommodate eighty (80) percent of zone lot parking requirements and agreement to provide free visitor parking equal to ten (10) percent of the number of structured spaces.	25 points per qualifying facility (maximum 25 points).

(3) *Residential density bonuses.* Upon qualifying under the provisions of article IV, chapter 27 (affordable housing), the densities of 36, 18 and 7 dwelling units per acre, as described in (c) above and exhibit C, are increased to 39.6, 19.8 and 7.7 dwelling units per acre, respectively.

(4) *Transfer of density.* Base maximum densities may be transferred among zone lots in the MU1, MU2 and TCU use areas pursuant to a general development plan subject to the following limitations:

a. Base maximum density shall not be transferred from a zone lot with a higher final maximum density as shown on exhibit C to an area with a lower final maximum density as shown on exhibit C (except to reverse an earlier transfer of base density to the extent not used on the receiving parcel), and no transfer of base maximum density shall result in any zone lot having a final maximum density greater than that shown in exhibit C.

b. No such transfer shall result in any zone lot in the MU1 or TCU use area having a base maximum density of less than .3:1 FAR, or any zone lot in the MU2 use area having a base maximum density of less than .2:1, unless there is already a primary building on such MU1, MU2 or TCU zone lot.

c. Notwithstanding subsections 59-346(c)(4)a. and b. above, unused base maximum density may be transferred from any zone lot containing a site or property listed on the National Register of Historic Places or a structure designated for preservation with the landmark preservation commission to any contiguous zone lot in an MU1, MU2, TCU or TSU use area, provided that the applicant has taken adequate steps to ensure that such historic site or structure will be protected and maintained.

d. Notwithstanding subsections 59-346(c)(4)a. and b. above or the definition of "net" acreage in subsection 59-346(c) above, base maximum density may be transferred from any privately owned land designated as a retention or detention area in "exhibit F, gateway storm drainage system" filed on April 11, 2003 with the clerk and recorder at Reception No. 2003068958 (hereinafter in this division referred to as "exhibit F"), to contiguous zone lots owned by the landowner dedicating the retention or detention area.

e. Where zone lots in RU1 and RU2 use areas are contiguous to one another and in single ownership, base maximum densities may be transferred among contiguous zone lots in either use area pursuant to an approved general development plan provided that (a) such transfer shall not result in any zone lot having a base maximum density of more than eighteen (18) dwelling units per net acre, and (b) the total number of dwelling units otherwise available to all such zone lots is not exceeded.

(5) *Traffic impacts.*

a. No development containing more than fifty (50) residential units or more than twenty thousand (20,000) square feet of nonresidential gross floor area, alone or in conjunction with earlier phases of such development, shall be allowed to proceed if it would result in traffic levels of service ("LOS") at any intersection within one-quarter (1/4) mile of the project to fall below LOS D, as defined by the department of public works.

b. If a proposed development would cause a traffic LOS of E or below, the applicant may be required to either (a) implement a transportation demand management strategy to maintain the LOS at level D or above, (b) construct or finance the improvements necessary to maintain a LOS of level D or above, or (c) reduce the project density in order to maintain the LOS at level D or above.

(d) *Maximum heights of structures.* Maximum heights for structures in all use areas in the Gateway shall not exceed those shown on exhibit D, "map of maximum heights" filed on April 11, 2003 with the clerk and recorder at Reception No. 2003068958 (hereinafter in this division referred to as "exhibit D"), except that minor encroachments through maximum heights that do not substantially compromise the intent of maximum height limits are permitted as set forth in applicable regulations. Maximum heights above fifty (50) feet may be reduced during site plan review if necessary to comply with view protection provisions set forth in chapter 10, article IX.

(e) *Build-to lines and setbacks.* On zone lot lines where subsection 59-346(e)(1) below requires build-to lines, the setbacks described in subsection 59-346(e)(2). below shall not be applicable. No parking of vehicles shall be allowed forward of the build-to line or within front setback areas except as set forth in subsection 59-347(b)(1)c.

(1) *Build-to lines.* On those streets or open space frontages where front build-to zones are designated on "exhibit E, areas subject to build-to line requirements" filed on April 11, 2003 with the clerk and recorder at Reception No. 2003068958 (hereinafter in this division referred to as "exhibit E"), at least thirty-three (33) percent of the front facade of each primary building shall be built within the applicable build-to zone. Such requirement shall not apply to portions of the front facade more than thirty (30) feet above ground level.

(2) *Required setbacks.* Except where build-to lines shown in exhibit E are applicable, no building shall be constructed within the setback areas described in the following chart:

SETBACKS (1)

Zone Map Designation	*MU1*	*MU2*	*RU1*	*RU2*	*TSU*	*TCU*
Primary structures	*Minimum Setback Distances*					
Minimum front setbacks (2)						
From Arterial Streets	5	15	30	30	5	5
From Collector Streets	5	15	25	25	5	5
From Local Streets (3)	5	15	20	20	5	5
Minimum side setback (4)	10	10	10	10	0	0
Minimum rear setback	10	10	25	25	10	10
Accessory structures (5)						
Minimum side setback	10	10	10	10	10	10
Minimum rear setback	10	10	10	10	10	10

Notes to setbacks table:

(1) The following setbacks apply to those zone lot frontages not subject to build-to lines shown on exhibit E. All distances are in feet from zone lot lines, except that where private streets are used such front setback distances shall be measured from the flow line of the private street.

(2) Front setbacks may be increased for hospitals, nursing homes, schools, child care establishments, hotels, and residential uses as necessary to mitigate the anticipated impacts of traffic noise and glare.

(3) Front setbacks shall be zero (0) feet where front of TSU zone lot faces TSU open space and where front of TCU zone lot faces a designated pedestrian axis.

(4) Zero (0) lot line developments may be allowed in RU1, RU2 and MU2 use areas through the site plan approval process.

(5) Accessory structures entirely within the rear one-third (1/3) of a zone lot in the RU1 and RU2 use areas may be constructed without setbacks from side or rear lot lines. No accessory structure may be constructed forward of the front wall of a primary structure.

Setback areas shall remain open and unobstructed, except that minor encroachments on setback spaces that do not substantially compromise the intent of setback distances are permitted as set forth in applicable regulations.

(f) *Building form.*

(1) *Building orientation and facades.* Primary buildings in the MU1, MU2, TCU and TSU use areas except electric substations and gas metering stations shall place significant pedestrian entryways facing, and shall provide direct public access from, each public street and open space contiguous with a build-to line designated on exhibit E, except the Airport Boulevard corridor. Building facades facing any public street or open space contiguous with a build-to zone designated on exhibit E shall reinforce the importance of such areas through design, materials, scale, or facade treatment.

(2) *Building massing and bulk.* Buildings in the RU1 use area shall be subject to those bulk plane requirements set forth in section 59-120(c) as it pertains to the R-1 district, including any related restrictions on building heights, and buildings in the RU2 use area shall be subject to those bulk plane requirements set forth in subsection 59-120(c) as it pertains to the R-2-A, including any related restrictions on building heights. Where MU1, MU2, TSU and TCU use areas are contiguous to RU1 or RU2 use areas, buildings in the MU1, MU2, TSU and TCU use areas shall be subject to a bulk plane that begins ten (10) feet above ground level at the nearest boundary of the RU1 or RU2 use area and rises toward the MU1, MU2, TSU or TCU use area at the rate of one (1) foot of rise for each one-and-one-half (1.5) feet of horizontal distance, and no part of any structure may penetrate such bulk plane. Minor encroachments through bulk planes that do not substantially compromise the intent of the bulk planes are permitted as set forth in applicable regulations.

(3) *Materials.* On primary buildings, exterior building materials shall be durable, capable of easy maintenance, and of quality that protects and enhances property values and encourages high levels of facade investment throughout the Gateway district.

(4) *Rooftops.* Rooftop mechanical equipment on buildings shall be screened from view from public rights-of-way and dedicated OSU areas. Rooftop equipment to cool air or water shall be shaded from direct sunlight.

(g) *Accessory structures.* In RU2, MU1, MU2, TCU and TSU use areas, accessory structures shall be architecturally compatible with the primary structures on the zone lot in color and quality of materials.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-347. Project design.

(a) *General intent.* This section 59-347 describes the basic layout and design of site plans within the Gateway district, but does not govern overhead or underground electric transmission lines or gas transmission lines. Quality design shall be demonstrated in each site plan through site layout, circulation systems, building facades, building materials, landscape architecture and other features. Site layout shall be responsive to the site's particular constraints, problems and opportunities. All general development plans and site plans should be designed to complement existing contiguous development; reinforce the importance of public places such as streets and parks; protect existing significant natural resources and significant wildlife habitat; mitigate air and water pollution; conserve water; mitigate soil erosion; preserve stands of existing mature trees; promote pedestrian uses, bicycling and alternative transportation means other than the private automobile; and reduce overall utility resource and service costs to end users below current levels. Electric substations and gas meter stations shall not be subject to subsections 59-347(c)(2), (3), and (5).

Site plans involving uses or buildings that differ significantly in size or type from contiguous uses or buildings should be organized to avoid or mitigate significant adverse effects on such neighborhing uses. The quality and organization of site plans for early phases of a development should not significantly compromise longer-term quality or character of the development. Contiguous residential developments should generally be integrated with each other, rather than having isolated circulation systems. Tall fencing should not be used to separate contiguous residential developments from each other or to block substantially all views of a residential development from public rights-of-way or OSU areas. Fencing should avoid monotonous designs over extended distances, especially as viewed from contiguous public streets and OSU areas. Site plans should be organized to emphasize the importance of contiguous publicly dedicated streets, publicly dedicated open spaces, and TSU, TCU and business green open spaces. The layout of private and public open spaces should encourage pedestrian use. In those areas for which front build-to lines have been established, site plans should be organized to promote pedestrian activity, define street edges, and provide a sense of enclosure on the street.

(b) *Specific site layout requirements.*

(1) *General site layout requirements.*

a. *Traffic impacts.* Site plans in the MU1, MU2, TSU and TCU use areas shall be organized to mitigate the impact of traffic generated by nonresidential uses on contiguous RU1 and RU2 use areas, and to direct traffic impacts from nonresidential uses away from residential streets. Uses in the MU1, MU2, TCU or TSU use areas generating significant traffic impacts shall not be located contiguous with RU1 and RU2 use areas unless separated from such use areas by a street right-of-way or OSU trail corridor, an open space buffer, or another form of buffer adequate to mitigate noise and traffic impacts.

b. *Viable residential neighborhoods.* In MU1 and MU2 use areas, multiple unit residential developments at densities less than eighteen (18) units per net acre

shall only be permitted if all present and future phases of such development, taken alone or together with any contiguous residential uses in any use area, total at least thirty (30) acres of residential uses or an anticipated population of at least one thousand (1,000) residents. In MU2 use areas, single-family residential developments shall only be permitted if all present and future phases of such development, taken alone or together with any contiguous residential uses in any use area, total an anticipated population of at least one thousand (1,000) residents and a majority of the residential units generating such population are within one-half (½) mile of an elementary school.

c. *Off-street parking.* In MU1 and MU2 use areas, a dropoff/pickup lane and not more than one single-or double-loaded aisle of visitor/employee surface parking may be located between the front of the primary structure and the public right-of-way, except that (a) in those areas subject to front build-to zone requirements, such surface parking areas may not extend in front of that thirty-three (33) percent of the primary building frontage satisfying the build-to requirement of subsection 59-346(e)(1), and (b) such parking area may not be located within two hundred (200) feet of any of the following intersections unless the related primary use is a hotel: Tower/72nd, Tower/64th, Tower/56th, Tower/48th, Pena Blvd/56th, or Pena Blvd/48th.

d. *Service areas.* In RU2, MU1, MU2, TCU and TSU use areas, service areas, including loading docks, garbage receptacles, and utility equipment over five (5) feet tall, shall be located so as to minimize visibility from dedicated streets, OSU use areas and contiguous property, and shall be screened from all public streets and OSU use areas.

Garbage receptacles shall be located to avoid noise, odor and health and safety hazards to the occupants of nearby buildings.

e. *Utility distribution lines and facilities.* Telephone, cable television, gas, electric and similar service distribution lines serving individual users shall be installed underground. All unavoidable aboveground facilities shall be located to minimize visibility by and interference with pedestrian and bicycle traffic.

f. *Enclosure of major street spaces.* Site plans subject to mandatory front build-to lines shall be designed to create a strong defined edge to pedestrians and drivers on such designated streets. Site plans contiguous with the Airport Boulevard corridor shall create a consistent edge at the eastern and southern boundaries of the corridor discernible to drivers on Airport Boulevard, and such edge shall have an urban character south of 56th Avenue.

(2) *Additional site layout requirements for TSU, TCU and certain OSU use areas.* TSU, TCU and certain OSU use areas are subject to additional provisions intended to ensure that they become public focal points for pedestrian activity in addition to accommodating automobile traffic. Buildings within the TSU use area, buildings contiguous with pedestrian axes in the TCU use area, and buildings contiguous with business

green open spaces shall be reviewed for consistency with this intent and with applicable regulations. All other portions of this chapter shall continue to apply unless in direct conflict with a provision of this subsection 59-347(b)(2).

a. *TSU use areas.* Each TSU use area except those contiguous with 40th Avenue and 64th Avenue shall contain a town square area incorporating no more than seven (7) acres of neighborhood-scale structures in a consistent architectural style. The TSU use area contiguous with 40th Avenue and Chambers Road shall contain a town square incorporating no more than fourteen (14) net acres of neighborhood scale structures in a consistent architectural style. Each TSU use area contiguous with 64th Avenue shall contain a town square area incorporating no more than four (4) acres of neighborhood-scale structures in a consistent architectural style. Buildings in each TSU use area shall be organized around at least two (2) sides of a landscaped open space of at least one (1) acre. Such open space shall be included in the first site plan approved in each TSU use area and shall have at least twenty-five (25) percent of its perimeter contiguous with and visible from at least one (1) public street. In the event the TSU use area is contiguous with residential uses, such open space may be used to satisfy neighborhood park land requirements provided it is at least five (5) acres in size and is dedicated to the city and accepted by the city for such purposes. Open spaces less than five (5) acres in size: (a) shall be organized as a relocation and consolidation of the minimum on-site open space otherwise required of zone lots in the TSU use area; (b) shall be owned and maintained in good condition by one (1) or more private individuals, entities or associations; (c) shall not be used for drainage detention purposes unless a minimum of one (1) acre remains outside the detention area; and (d) shall remain open for public use. No more than twenty-five (25) percent of required off-street parking shall be located between primary structures and the town square open space. Once general development plans or site plans covering eight (8) acres have been approved in a TSU location shown on exhibit A, no additional general development plans or site plans for TSU uses may be approved in that general location, except for the TSU at E. 40th and Chambers Road, which may be no more than fourteen (14) net acres. Buffer shall consist of a landscaped strip at least five (5) feet wide outside the perimeter of the compound and shall provide for and maintain minimal landscaping on the remainder of the zone lot;

b. *TCU use area.* The TCU use area shall be organized as a town center mixed use area incorporating at least two (2) outdoor pedestrian axes subject to front build-to lines. A pedestrian axis shall be a street or circulation corridor no more than forty (40) feet in width designed to encourage pedestrian activities and accommodate no more than moderate amounts of automobile traffic. One (1) pedestrian axis shall constitute an east-west connection between the Community Park and Tower Road, and the second shall be a north-south pedestrian axis that connects to the east-west axis. At least that portion of the east-west axis extending one-quarter (1/4) mile east of Tower Road shall be unenclosed and shall

remain on the 50th Avenue alignment. Some portion of the north-south pedestrian axis shall be unenclosed. Parking of vehicles shall not be allowed forward of the front building line on the pedestrian axes.

Auto-oriented retail uses and large freestanding retail uses shall be generally located on the southern portion of the use area. Residential uses, if provided, shall be located generally along the northern and eastern edges of the TCU use area contiguous with RU2 and OSU use areas or shall be located above other nonresidential uses elsewhere in the TCU use area. There shall be at least one (1) through north-south street for vehicular traffic between the 50th and 52nd Avenue alignments within the TCU.

c. *Business greens.* In order to preserve and extend open space views and mountain views into areas further from the Airport Boulevard corridor, and to provide a public focal point, each OSU use area fronting on the Airport Boulevard right-of-way (except for the three (3) OSU stream corridors) shall be organized as a landscaped business green open space with a north-south width of at least eighty (80) feet in addition to the width of any street passing through such area.

Each such open space shall extend away from the Airport Boulevard corridor (a) at least one thousand (1,000) feet, or (b) until it intersects an arterial street, whichever is less. Such open space shall be organized as a relocation and consolidation of the minimum on-site open space otherwise required of zone lots contiguous with such OSU areas. The open space shall be owned and maintained in good condition by one (1) or more private individuals, entities or associations, shall remain open for public use, and may be used for stormwater drainage transmission purposes upon approval of the wastewater management division.

The exact locations of business greens shown on exhibit A may be varied up to six hundred sixty (660) feet, provided that the approval of all landowners contiguous to the original business green location shown on exhibit A is obtained and provided that any business green contiguous with a TSU use area before the variation remains contiguous with an approved TSU use area location after such variation.

(c) *Streets and circulation.*

(1) *General requirements.* The layout of nondedicated streets and access points to and from each general development plan and site plan shall accommodate safe and adequate vehicular, bicycle and pedestrian mobility. Access points shall be clearly and easily identifiable to pedestrians and automobile traffic on contiguous streets. Automobile and pedestrian circulation systems shall be efficient and shall minimize the number of potential conflict points. All streets, driveways and internal circulation systems shall be appropriately landscaped and sensitive to natural features and site topography. If any such access point or street connects with a publicly dedicated street, such connection shall be consistent with traffic safety standards established by the transportation division.

(2) *Street systems.* Streets, driveways and internal circulation systems shall form a network within those streets shown on exhibit A. In MU1, MU2 and TCU use areas, such network may include at least one (1) north-south through route for automobiles and pedestrians, and one (1) east-west through route for automobiles and pedestrians, within each land area bounded by streets shown on exhibit A.

(3) *Public transportation.* To the extent consistent with other provisions of this chapter, parkway, arterial and collector streets in all use areas shall be designed to support the use of public bus transit. Design of facilities to support public transit shall be coordinated with the Regional Transportation District. Site plans for developments along the proposed light rail transit alignment shown on "exhibit G, Light Rail Alignment" filed on April 11, 2003 with the clerk and recorder at Reception No. 2003068958 (hereinafter in this division referred to as "exhibit G") shall reserve or dedicate a right-of-way up to forty (40) feet in width for future construction of a light rail transit route. Such reserved right-of-way may be used for surface parking, a local access street, to fulfill on-site open space requirements set forth in the table, "Zone Lot Requirements" in section 59-346(b), or for other uses not inconsistent with their eventual use as a light rail corridor. Variations from the light rail alignment shown on exhibit G may be obtained with the approval of the RTD, the transportation division and the owners of affected contiguous property, so long as such variations are consistent with any intergovernmental agreements governing the alignment.

(4) *Sidewalks.* In the RU1, RU2, MU1, MU2, TSU and TCU use areas, detached sidewalks shall be constructed on both sides of all streets. In addition, site plans in all use areas shall include sidewalks to provide safe and convenient pedestrian access between buildings, from buildings to associated parking, recreational, laundry, trash and mail facilities, and from buildings to those trail corridors shown on exhibit A and contiguous with the zone lot. Where RU1 or RU2 use areas are contiguous with MU2, TCU or TSU use areas, at least one (1) sidewalk connecting the two (2) use areas shall be incorporated into the site plans in both use areas.

(5) *Bicycle access.* All site plans in the MU1, MU2, TSU and TCU use areas over two (2) acres in size shall include at least one (1) bicycle access route and bike rack. Such bicycle access routes shall connect at least one (1) building entry with a bike rack to a contiguous public street and to any contiguous trail corridor designated on exhibit A while minimizing or mitigating possible conflicts with pedestrian and automobile traffic. Bicycle access routes may be combined with sidewalks or nondedicated streets if the width of such sidewalks or nondedicated streets is increased a minimum of four (4) feet to accommodate such additional use.

(d) *Landscaping.*

(1) *General requirements.* All site plans shall include significant landscape features and materials that will enhance Denver's image as a green city, help conserve water, emphasize the importance of public streets, parks and open spaces, protect environmental conditions and microclimate, improve the appearance and value of property,

buffer land uses or buildings that differ significantly in scale or type, and preserve existing stands of mature trees. Landscaping shall conform to subsection 59-347(e)(2). below.

All areas of live material over two hundred (200) square feet located more than ten (10) feet from a building foundation (other than existing vegetation) shall be irrigated if they typically require more than fifteen (15) inches of annual precipitation to survive. All required landscaping shall be maintained in good condition, and all required landscaping that dies or becomes diseased or decayed shall be promptly replaced.

(2) *Areas and quantities of landscaping required.* In the RU2, MU1, MU2, TSU and TCU use areas, at least seventy-five (75) percent of the zone lot areas (i) within ten (10) feet of the front line of the zone lot, or (ii) within ten (10) feet of any zone lot line contiguous with the right-of-way for Airport Boulevard corridor, Tower Road and 56th Avenue, and not occupied by a primary building or parking structure, shall be landscaped pursuant to applicable regulations. In the RU2, MU1, MU2, TSU and TCU use areas, at least forty (40) percent of the area within ten (10) feet of the side and rear walls of each primary building and parking structure shall be landscaped pursuant to applicable regulations. Where the side or rear zone lot line in the MU1, MU2, TSU or TCU use area is contiguous with an RU1 or RU2 use area, at least fifty (50) percent of the zone lot area within ten (10) feet of such side or rear zone lot lines shall be landscaped pursuant to applicable regulations. In the RU2, MU1, MU2, TSU and TCU use areas, all surface parking areas containing more than fifteen (15) spaces or four thousand five hundred (4,500) square feet of paved area shall comply with applicable parking lot landscaping regulations and all streets and driveways shall comply with applicable regulations. Special review uses may be subject to additional landscaping requirements as part of site plan review if necessary to buffer or mitigate their impacts on contiguous development.

(3) *Amount of live material required in landscaped areas.* Within each area required to be landscaped pursuant to subsection 59-347(d)(2), at least seventy-five (75) percent of the surface area shall be covered in live material within five (5) years of planting.

(4) *Plant materials.* Required plant materials shall comply with subsection 59-347(e)(2), and with size requirements established by applicable regulations.

(5) *Fencing and walls.* In RU1 and RU2 use areas, freestanding walls and fences over four (4) feet tall shall not be permitted forward of that facade of any primary building closest to the front line of the zone lot, unless approved at site plan review. In portions of the MU1, MU2, TCU and TSU use areas fronting on the rights-of-way of Tower Road, 56th Avenue or the Airport Boulevard corridor, freestanding fences and walls over four (4) feet tall shall not be permitted between that facade of any primary building closest to such major rights of-way. On any other parts of zone lots in the RU1, RU2, MU1, MU2, TSU and TCU use areas that are not within twenty (20) feet of an arterial or collector street right-of-way, fences or walls may be erected to a height not to exceed six (6) feet. For purposes of this subsection 59-347(d)(5), the term wall does

not apply to retaining walls necessitated by site grading, and the term primary building shall not include electric substations, gas metering stations, water distribution or pumping stations, or schools.

(6) *Earth berms.* Site plans in the RU1, RU2, MU1, MU2 and TCU use areas may include earth berms or terraced planting areas. Site plans in the MU1 use area and portions of the TCU use area contiguous with a pedestrian axis shall not include earth berms between a primary building and any front line of the zone lot. Maximum height of berms between a primary building and a street right-of-way shall be four (4) feet above the finished grade of any contiguous sidewalk.

(7) *Maintenance.* In the RU2, MU1, MU2, TSU and TCU use areas, it shall be a violation of this Code to fail to maintain, clean, sweep and prune all required landscaping on the zone lot and the public right-of-way planting strip or to fail to replace required live material which dies or becomes diseased.

(e) *Environmental protection.*

(1) *Air quality.* All site plans shall comply with all applicable ordinances and regulations of the department of environmental health designed to protect or improve air quality. No solid fuel-fired heating device or incinerator, as defined in section 4-2, Revised Municipal Code, shall be installed.

(2) *Water conservation.* All site plans in RU2, MU1, MU2, TSU and TCU use areas shall incorporate reasonable techniques to significantly reduce water consumption resulting directly or indirectly from the proposed development. All required landscaping on site plans in the RU2, MU1, MU2, TSU and TCU use areas shall incorporate low-water consumption species of vegetation as defined in applicable regulations. If a gray water recycling system is instituted throughout at least seventy-five (75) percent of the Gateway area and construction of such system has commenced, all developments whose present and future phases will include over twenty-five (25) residential units or twenty-five thousand (25,000) square feet of nonresidential uses shall be designed to allow their wastewater to be collected by such system.

(3) *Stormwater quality.* The design and layout of all site plans in RU2, MU1, MU2, TCU, TSU and OSU use areas shall incorporate best management practices set forth in applicable regulations to protect existing water quality and to mitigate pollution of stormwater runoff resulting directly or indirectly from the proposed development.

(4) *Tree preservation.* All stands of five (5) or more living trees with a caliper of four (4) inches or more that are not diseased or decayed shall be preserved. Decayed or diseased trees shall be removed to protect remaining trees.

(5) Historical and archaeological resources. No development may alter or demolish any structure or place designated under section 30-3, Revised Municipal Code.

(6) *Environmentally sensitive areas.* Environmentally sensitive areas, including stream floodways, important wildlife habitat and wetlands shall be protected or enhanced as set forth below:

a. *Stream floodways.* Portions of site plans within the defined floodways for First Creek and the West Branch of Second Creek shall be used only for (a) agricultural facilities; (b) recreational facilities; (c) roads, bridges, trails and paths; (d) approved drainage, irrigation and flood control facilities; (e) stream channel improvements that utilize natural materials, and (f) landscaping. Where any such use occurs within such floodways, appropriate mitigation may be required to preserve the corridor as an environmental, recreational and aesthetic amenity.

b. *Important wildlife habitat.* Site plans in riparian areas shall include reasonable measures to protect important riparian wildlife habitat and to maintain a productive, diverse and sustainable riparian wildlife population. No site plan shall include buildings or surface parking areas within two hundred (200) feet of the centerline of the First Creek channel or include lighting that would create glare within such two-hundred-foot buffer area. Where impacts to important riparian wildlife habitat are unavoidable, appropriate mitigation shall be required.

c. *Wetlands.* All development shall comply with section 404 of the federal Clean Water Act.

(7) *Hazardous waste transportation.* No residential use shall be located within three hundred (300) feet of the shortest vehicular route between any "generator," as defined in Colorado hazardous waste regulations Part 262.34 (but not including a "small quantity generator") and the nearest designated hazardous material distribution route. No such "generator" shall be located where the shortest vehicular route to any designated hazardous material distribution route would pass within three hundred (300) feet of a residential use.

(f) *Stormwater quantity control.*

(1) *Consistency with master plan.* All general development plans and site plans shall be consistent with those portions of the Urban Drainage and Flood Control District Master Plan related to Irondale Gulch, First Creek and the West Branch of Second Creek (the "master plan"), unless the manager of public works approves alternative configurations that would achieve adequate storm drainage consistent with the master plan. All general development plans and site plans shall comply with all requirements of sections 56-108 through 56-120, storm drainage management and finance, Revised Municipal Code, except those set forth in subsection 56-112(a) and the first sentence of subsection 56-112(c), Revised Municipal Code, which have been superseded by this subsection 59-347(f).

(2) *Use of designated areas.* No inconsistent use. Areas designated on exhibit F shall not be developed with permanent structures other than roads, bridges, trails and drainage, irrigation and flood control improvements, and shall not be used for any purpose inconsistent with their future use as part of the Gateway storm drainage system.

(3) *Dedication of designated areas.*

a. At the time of site plan approval or final subdivision, whichever occurs first, the applicant shall dedicate to the city those areas designated on exhibit F (i) owned by the owner of the site plan or subdivision area, and (ii) located within or contiguous with the boundaries of such site plan or subdivision.

b. Credit against park and trail land requirements. Stormwater drainage channels and detention and retention areas shown on exhibit F and located on private land (i) may be counted toward the total required acreage of the Community Park, Golf Course, and Nature Area, and (ii) may be included in neighborhood park facilities required by subsection 59-350(b)(3) pursuant to applicable regulations. If incorporated into neighborhood park facilities, each acre of land shown on exhibit F shall receive one-half (½) acre of credit toward applicable neighborhood park requirements.

(4) *On-site drainage measures.* On-site drainage detention or retention facilities shall be permitted if approved by the manager of public works and consistent with the implementation of the master plan.

(g) *Lighting.* Outdoor lighting fixtures in the RU2, MU1, MU2, TSU, TCU and OSU use areas shall be provided, maintained, designed and located to provide adequate and efficient illumination of paths to and from parking lots, sidewalks, walkways, buildings, and publicly accessible open space, and to avoid unreasonable glare onto contiguous properties, residential uses, and the First Creek and Second Creek trail corridors. Lighting fixtures in the TCU and TSU use areas shall help establish a consistent character within such area. All outdoor lighting shall comply with applicable Federal Aviation Administration lighting criteria.

(h) *Public art.* Public art selected in the manner set forth in Executive Order No. 92 and provided outdoors in a location shown on the site plan that is visible to the public from at least one (1) street or trail right-of-way (a) may be credited against the landscaping requirements for the site on a one-to-one per-square-foot basis in an amount up to ten (10) percent of the total area required for landscaping or (b) may be eligible for a density bonus pursuant to subsection 59-346(c)(2), but not both.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-348. Parking and loading.

Articles VI, off-street parking requirements and VII, off-street loading requirements of this chapter are in full force and effect in this district.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-349. Signage.

(a) *General intent.* This section 59-349 is designed to avoid visual clutter caused by signs in the Gateway district and to encourage integrated, comprehensive signage within and between contiguous site plans in the MU1, MU2, TSU and TCU use areas.

(b) *Scope and operation.* Sections 59-536 through 59-545, signs, shall apply except as modified in this section 59-349 or by regulations. Signs may be erected, altered and maintained only for and by the primary use, shall be located on the same lot as the primary use, and shall be clearly incidental, customary and commonly associated with the operation of the primary use. Accessory uses may not display exterior signs except as part of the sign allowance for a primary use. All existing Code references to uses by right shall be read to include all primary uses.

(c) *Conditions on signs subject to a permit.* The following provisions shall apply to all signs allowed by permit:

(1) Signs in the RU1 use area shall be subject to those conditions set forth in section 59-547.

(2) Signs in the RU2 use area and on zone lots containing only residential primary uses in the MU1, MU2, TSU and TCU use areas shall be subject to those conditions set forth in section 59-548 except as modified below:

a. Permitted maximum sign area for multiple-family residential uses shall be twenty (20) square feet or one (1) square foot of sign area for each dwelling unit not, however, to exceed ninety-six (96) square feet of total sign area for any use and not more than thirty-two (32) square feet of sign area to be applied to any one (1) street front.

b. Permitted maximum height above grade for ground or pedestal signs shall be six (6) feet.

(3) Signs on all zone lots in the MU2 and TSU use areas containing any nonresidential primary uses shall be subject to those conditions set forth in section 59-550 except as modified below:

a. Permitted sign types shall include wall, window, arcade, ground, pedestal. In TSU use areas, projecting signs suspended over any front setback space are permitted.

b. Permitted height above grade: (a) for ground or pedestal signs shall be twelve (12) feet; (b) for window or arcade signs shall be fifteen (15) feet; and (c) for wall signs shall be twenty-five (25) feet, except that one (1) hotel or major tenant sign is permitted below the roof line of the building to which the sign is attached. Hotel and/or tenant signs above the roof line shall be permitted if located within an architectural feature.

c. Wall sign animation is permitted in TSU use areas where such animation (a) will promote pedestrian activity and (b) will not cause significant distraction to nearby uses or vehicular traffic.

(4) Signs on all zone lots in the MU1 and TCU use areas containing any nonresidential primary uses shall be subject to those conditions set forth in section 59-551 except as modified below:

a. Permitted sign types shall include wall, window, arcade and pedestal. In portions of the TCU use area contiguous with a designated pedestrian axis, signs suspended over any front setback space are permitted.

b. Permitted height above grade (a) for ground or pedestal signs shall be sixteen (16) feet, (b) for window or arcade signs shall be twenty-five (25) feet, and (c) for wall signs shall be thirty-five (35) feet, except that one (1) hotel or one (1) major tenant sign is permitted below the roof line of the building to which the sign is attached.

c. Permitted maximum sign area for hotels shall be: (a) on zone lots having a linear street frontage of one hundred (100) feet or less, one hundred (100) square feet; (b) on zone lots having a linear street frontage of more than one hundred (100) feet, one (1) square foot of sign area for each linear foot of street front; provided, however, that computations shall be made and sign area shall be determined on each street front separately, and provided, further, that in no event shall more than three hundred (300) square feet of sign area be applied to any one (1) street front and no sign shall exceed three hundred (300) square feet in size.

d. Wall sign animation is permitted in portions of the TCU use area contiguous with a designated pedestrian axis where such animation (a) will promote pedestrian activity and (b) will not cause significant distraction to nearby uses or vehicular traffic.

e. Temporary signs shall comply with the provisions of section 59-550(j), rather than section 59-551(j).

f. Signs in the OSU use area shall be subject to those conditions set forth in section 59-553.

(d) *Outdoor general advertising devices.* Outdoor general advertising devices are prohibited throughout the Gateway district.

(e) *Common signage plan.* If the owners or agents of two (2) or more zone lots in the MU1, MU2, TSU or TCU use areas include in the site plans for each such zone lot a common signage plan conforming to applicable regulations, and all such included zone lots are contiguous disregarding intervening local streets and alleys, then a twenty-five (25) percent increase in the maximum total sign area shall be allowed for each such zone lot. Once adopted, such common signage plan may be amended only with the written consent of the owners of all zone lots included in the common signage plan. Such common signage plan shall be subject to such reasonable restrictions as to location and organization as the department of zoning administration may adopt to promote public safety, reduce visual clutter and increase visual interest. (Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-350. Parks, trails, open spaces and school sites.

(a) *General intent.* A comprehensive system of parks, trails and open spaces shall be dedicated and shall include a network of large and small parks, on- and off-street pedestrian and bicycle trails, off-street equestrian trails, and specialized open spaces. The park, trail and open space system shall provide a range of recreational opportunities, connect with existing trails and open spaces, and preserve environmentally sensitive areas. The Gateway "major

park and trail system" shall consist of those OSU use areas shown on "exhibit H, major park and trail system" filed in filed on April 11, 2003 with the clerk and recorder at Reception No. 2003068958 (hereinafter in this division referred to as "exhibit H").

In addition, in areas of the Gateway district not governed by preexisting school site dedication agreements, adequate sites for public elementary schools, middle schools and high schools shall be dedicated. In such areas, the burden of providing the portion of the land for schools necessitated by residential development in the Gateway shall be equitably apportioned among owners of Gateway land developed for residential purposes on the basis of anticipated school age population in those residential areas.

(b) *Types of park and trail contribution required.*

(1) *Major park and trail system.* All landowners other than public utilities and Denver public schools shall either dedicate land or pay a fee equal to the fair market value of land, as set forth in subsection 59-350(c), to help achieve the Gateway major park and trail system.

(2) *Neighborhood parks and facilities.* In addition, all landowners outside that area designated on exhibit H as the "Green Valley Ranch" area whose land is developed for residential uses shall either dedicate land for neighborhood parks or shall incorporate private neighborhood park and recreational facilities, at the landowner's option.

(c) *Required contributions to major park and trail system.*

(1) *Green Valley Ranch area.* The owners of those parcels of land designated on exhibit H as the Highline Canal (one hundred (100) feet wide) and Lower First Creek (ten-year flood channel plus seventy-five-foot wide strip on either side) areas shall dedicate those areas to the city, and such dedication shall be deemed to fully satisfy the park and trail contribution requirements for the Green Valley Ranch area. The owners of that parcel of land within the Green Valley Ranch area designated on exhibit H as the Community Park shall reserve that parcel from development for a period of fifteen (15) years from the effective date of the ordinance from which this section derives in order to provide time for such parcel to be purchased and dedicated as a Community Park pursuant to this subsection 59-350(c).

(2) *Other areas.*

a. *Standards for required contributions.* All owners of land outside the Green Valley Ranch area shall be required to dedicate land or pay a fee equal to the fair market value of such land, pursuant to this subsection 59-350(c), to achieve the major park and trail system. Each owner's obligation shall be calculated by applying the following factors to the land uses shown on the owner's site plan, and shall be known as the owner's "required contribution":

Residential Development	*Required Contribution (Land area or equivalent fee)*
Single-unit dwelling up to 7 units per net acre	.0183 acre per unit

Residential Development	*Required Contribution (Land area or equivalent fee)*
Single- or multiunit dwelling between 7 and 18 units per net acre	.0153 acre per unit
Multiunit dwelling above 18 units per net acre	.0122 acre per unit
Nonresidential development	2% of net site plan area

b. *Credit for land dedications.* The owners of those parcels of land outside the Green Valley Ranch area designated on exhibit H as the Second Creek, Upper First Creek, Highline Lateral and Community Park parcels shall dedicate the following amounts of land within such parcels, and shall receive the following amounts of credit toward satisfaction of their required contributions:

Parcel	*Width or Area Dedicated*	*Width or Area Credited*
Second Creek	80-foot wide strip along drainageway	80 feet per linear foot of drainageway dedicated
Upper First Creek	10-year flood channel plus 75-foot wide strip on either side of drainageway	150 feet per linear foot of drainageway dedicated
Highline Lateral	80-foot wide strip along drainageway	80 feet per linear foot of drainageway dedicated
Community Park	5 acres	5 acres

In addition, the owners of those parcels of land outside the Green Valley Ranch area designated on exhibit H as the Dogwood Gulch, Blue Gramma Draw, N. Montbello Trib, and S. Montbello Trib parcels shall dedicate forty (40) feet of land along such drainageways, shall construct a ten-foot wide pedestrian/bicycle trail within such dedication, and shall receive credit equal to forty (40) feet times the length of the parcel dedicated toward satisfaction of their required contributions.

If such dedication exceeds the owners' required contributions pursuant to subsection 59-350(a)(2)a. above, then the owner shall be deemed to have an "acreage excess" and shall be entitled to compensation for the fair market value of the excess acreage pursuant to subsection 59-350(c)(4) below. If such dedication does not fully satisfy the owners' required contributions pursuant to subsection 59-350(c)(2)a. above, then the owner shall be deemed to have an "acreage deficit" and shall be obligated to pay an additional fee pursuant to subsection 59-350(c)(3) below.

(3) *Payment of cash in lieu of dedication.* Each owner whose land is located outside of the Green Valley Ranch area and who has not dedicated land pursuant to subsection 59-350(c)(2) above shall pay to the city a fee equal to the product of (1) the owner's required contribution, and (2) the average fair market value per acre of those land areas included in the Gateway major park and trail system. Each owner whose land is located outside of the Green Valley Ranch area and who has an acreage deficit pursuant to subsection 59-350(c)(2) above shall pay to the city a fee equal to the

product of (1) the owner's acreage deficit, and (2) the average fair market value per acre of those land areas included in the Gateway major park and trail system. Such value shall be determined by an independent appraiser and shall be adjusted every three (3) years to reflect current market conditions (the "average value"). For purposes of calculating payments of cash-in-lieu-of-dedication during the period from January 1, 1994, through December 31, 1994, the average fair market value per acre of those land areas included in the Gateway major park and trail system shall be eleven thousand eight hundred and eighty dollars ($11,880.00). For purposes of calculating payments of cash-in-lieu-of-dedication during the period from January 1, 1995, through December 31, 1995, the value stated in the previous sentence shall be adjusted by the change in the Consumer Price Index for the Denver-Boulder area between 1993 and 1994, based on the most recent Consumer Price Index figures available on January 1, 1995.

(4) *Use of cash-in-lieu payments.* Fees paid pursuant to subsection 59-350(c)(3) above shall be deposited into an interest-bearing account designated for the Gateway major park and trail system and shall be expended within ten (10) years of such payment. Funds from such account shall be used only to acquire portions of the Gateway major park and trail system that benefit properties whose owners have paid such fees. Payments from the account may be made only to the owner of the Community Park parcel within the Green Valley Ranch area or to Gateway landowners who have an "acreage excess" pursuant to subsection 59-350(c)(2) above, and only upon such owner's transfer to the city of a portion of the Community Park or acreage excess area equal in size to (1) the payment made, divided by (2) the average value.

(5) *Timing of dedications and payments.* Dedications required by subsection 59-350(c)(2) shall be due at the time of the first site plan approval of land including or adjacent to the park or trail parcel. A pro rata portion of all payments in lieu of dedications shall be due at the time of building permit issuance.

(6) *Use of designated areas.* OSU areas designated on exhibit H shall not be developed with permanent structures except retaining walls required for drainage or grading purposes or improvements required for public street or trail crossings, and shall not be used for any purpose inconsistent with their future use as part of the major park and trail system.

(d) *Required contributions for neighborhood parks.*

(1) Standards for contribution. In addition to contributing to the dedication or acquisition of land for the major park and trail system, all owners outside the Green Valley Ranch area whose site plans include residential uses shall dedicate land for one (1) or more neighborhood park facilities except as set forth in subsections 59-350(d)(3) and (4) below. Land for neighborhood parks shall be dedicated at the following rates:

Required Contribution

Type of Residential Unit	*(Land area or equivalent fee)*
Single-unit dwelling up to 7 units per net acre	.0042 acre per unit
Single- or multiunit dwelling between 7 and 18 units per net acre	.0035 acre per unit
Multiunit dwelling above 18 units per net acre	.0028 acre per unit

Some portion of each neighborhood park facility shall be located within one-half (1/2) mile of the residential uses included in its size calculation. Neighborhood park facilities dedicated to the city shall be at least five (5) acres in size and shall be contiguous with and visible from a public street.

(2) *Credit for land in floodplains.* Land located within the 100-year floodplain may be included in a neighborhood park facility provided that such park facility complies with applicable regulations regarding the design and use of such areas. Each one (1) acre of land located in the 100-year floodplain and incorporated in a neighborhood park facility shall be treated as the equivalent of one-half (1/2) acre of land for purposes of fulfilling the dedication requirement of subsection 59-350(d)(1) above.

(3) *Joint design with public school facility.* If a site plan incorporates a neighborhood park facility located contiguous with that portion of a public school site designed for outdoor recreation, then the land dedication obligations set forth in subsection 59-350(d)(1), above shall be reduced by forty (40) percent.

(4) *Credit for private facilities.* Private parks or recreational facilities that are located within one-half (1/2) mile of the residential uses they serve, that fulfill the purpose of a neighborhood park, and that reduce demand for public neighborhood parks shall be eligible for credit against some or all of the land dedication obligations for neighborhood parks required by subsection 59-350(d)(1) with the approval of the manager of parks and recreation.

(5) *Combined neighborhood parks.* Two (2) or more applicants may construct a combined neighborhood park to satisfy their requirements under this subsection 59-350(d), provided that the resulting neighborhood park is of adequate size to satisfy their combined neighborhood park dedication obligations and some part of the facility is located within one-half (1/2) mile of the residential uses included in its size calculation. In addition, an applicant who dedicates and develops a neighborhood park that exceeds its required size may, at its option, allocate credit for the excess acreage to other applicants for site plans within one-half (1/2) mile of the neighborhood park who choose to use such credits to satisfy all or a portion of their neighborhood park obligations.

(e) *School sites.* In areas of the Gateway district not covered by school site dedication agreements executed before January 1, 1992, all applicants for site plan approvals that include residential uses shall dedicate land, or shall contribute funds for the acquisition of land, for

public elementary school, middle school and/or high school sites to serve such residential uses. Dedication obligations for school sites shall be calculated according to the factors below, or a fee equal to the fair market value of such land shall be paid, at the option of Denver public schools.

(1) *Dedication requirement for school sites.*

Creates a demand for:

	Elementary School Site	*Middle School Site*	*High School Site*
Each Unit of this Type	*Acres*	*Acres*	*Acres*
Single-Family	.0092	.0025	.0040
Multifamily 1-2 bedrooms	.0015	.00044	.0006
Multifamily 3 bedrooms	.0023	.00081	.0010
Multifamily 4 bedrooms	.0031	.0012	.0014

(2) *Dedication requirement for administrative space.* Each acre of residential development land creates a demand for one hundred eighty (180) square feet of administrative/support/repair facilities.

The location of the high school shall be as shown on exhibit A, and the location of each required elementary school, middle school and administrative/support/repair facility site shall be determined at the time of general development plan or site plan approval in cooperation with Denver Public Schools. Once the high school site shown on exhibit A has been dedicated, the portion of any required fee that is based on demands for a high school site shall be paid to the owner that dedicated such high school site.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-351. Development review and approval process.

(a) *Intent.* The intent of this development review and approval process is to provide for prompt and thorough review of development applications; to encourage integrated and master planned developments with high quality design, materials and building systems; and to discourage piecemeal development patterns and their negative aesthetic, economic and environmental effects. Development review and approval requires approval of a subdivision plat pursuant to chapter 50, Revised Municipal Code, unless the land has been previously subdivided. In addition, development review and approval always requires approval of a detailed site plan by the planning office, and in certain circumstances requires approval of a general development plan by the planning board. Where a subdivision plat, a general development plan and/or a site plan are required, they may be processed simultaneously. Unless otherwise noted, the discretion of the planning office shall in all instances be limited to those decisions reasonably necessary to promote the public health, safety and welfare and to encourage development in substantial compliance with the Gateway Plan.

(b) *Preapplication conference.*

(1) *General.* Prospective applicants shall schedule a preapplication conference with the planning office prior to submitting any application for development approval. The

preapplication conference shall be attended by the prospective applicant, the planning office, the department of zoning administration, and representatives from any other invited city department or service provider.

(2) *Submittal.* The prospective applicant shall bring to the preapplication conference a sketch plan of the proposed development showing landownership, existing roadways abutting the property, existing land uses and buildings abutting and across any street from the property, general topography of the site, proposed development areas, proposed uses and proposed internal streets.

(3) *Procedure.* At the preapplication conference, the prospective applicant will describe its general intent for development of the land. The planning office shall explain the subdivision procedures and Gateway district procedures, and their applicability to the subject proposal, and will provide the prospective applicant with a copy of those regulations adopted by the planning board to implement the Gateway district.

(4) *Scoping.* At the preapplication conference, the planning office and department of zoning administration shall review with the prospective applicant potential development issues, and shall determine whether any of the following issues are relevant to the proposed development or site:

a. One-hundred-year floodplains;

b. Floodways for First Creek and the West Branch of Second Creek;

c. Regional stormwater detention and retention facilities and drainageways shown in the Urban Drainage and Flood Control District Master Plan;

d. Sites for the parks, nature area, golf course, town squares or business greens shown in exhibit A;

e. View corridors defined in chapter 10, Revised Municipal Code;

f. Proposed route for light rail line shown on exhibit G;

g. Proposed routes for transportation of hazardous wastes to hazardous waste distribution routes established by Colorado state police;

h. Sites for schools and other public buildings;

i. Access constraints;

j. Utility service constraints; and/or

k. Historic landmarks or archacological sites.

If the planning office determines, based on existing information about the proposed development and existing site conditions on and around the property, that any of the development issues listed above are relevant to the proposed development, the planning office may require the applicant to submit, together with the standard subdivision, general development plan or site plan submittals, a map that shows the relevant conditions or information.

(c) *General development plan approval.*

(1) *Requirement.* No site plan may be approved for a development involving (i) a site larger than ten (10) acres, or (ii) a request for any use by special review, or (iii) a request to transfer density between two (2) or more zone lots, until a general development plan for the property involved has first been submitted to the department of zoning administration and approved by the planning board. All general development plans submitted for review and approval shall contain a minimum of ten (10) contiguous acres of land area within the Gateway district, unless the director of planning determines that approval of a smaller minimum size will not compromise the goal of integrated development planning. Planning board review of aboveground electric substations and gas metering stations shall include all matters governed by this division 18 except the authority to recommend denial of such uses altogether. Authority to recommend approval or denial of such use shall rest with the manager of public works.

(2) *Applicant.* The applicant for a general development plan shall be an owner or an agent of an owner, and each application form shall be signed by all owners of the general development plan area or their agents.

(3) *Time of submittal.* A general development plan may be submitted at any time.

(4) *General submittal requirements.* Each general development plan application shall include the following submittals, each prepared in accordance with technical standards then in effect:

a. Application form;

b. Vicinity map showing location of the site within the Gateway area;

c. General development plan map showing:

1. Existing buildings, improvements, stands of mature trees and uses on the property and within two hundred (200) feet of its boundaries;

2. Existing drainageways, detention areas, retention areas and wetland areas on the property and within two hundred (200) feet of its boundaries;

3. Existing easements and rights-of-way on the property and within two hundred (200) feet of its boundaries;

4. Use area designations on the property;

5. General location, heights and densities of development containing proposed special review uses;

6. General locations of proposed drainageways and utility easements;

7. General alignments of proposed arterial and collector street rights-of-way and proposed access points to boundary streets;

8. General locations of pedestrian/bicycle/equestrian trails;

9. Areas of existing mature trees; and

10. Those additional map items, if any, identified at the preapplication conference;

d. Narrative statement of intent covering general land uses, special review uses and intended character of development;

e. Boundary survey and legal description for the property, including gross land area;

f. Title insurance commitment or other proof of ownership;

g. Tax certificate showing no delinquent unpaid taxes on the property;

h. List of names and addresses of all owners of record and lienholders of record on the property;

i. List of names and addresses of all owners of record and lienholders of record on contiguous property, and map of the properties affected by such ownership or lienhold interests; and

j. Processing fee.

(5) *Optional submittals.* In addition, a general development plan application may include, at the option of the applicant:

a. A request for one (1) or more uses by special review available to the property as shown in section 59-344(b);

b. A request for the simultaneous processing and approval of a subdivision plat of the property;

c. A request for one (1) or more administrative exceptions as described in subsection 59-351(i) below; and/or

d. A request for a density transfer pursuant to subsection 59-356(c)(3).

(6) *Additional information required.* If the department of zoning administration determines that the proposed general development plan differs substantially from the information provided by the applicant at the preapplication conference and raises development issues that could have been addressed by the submittal of additional information on the preapplication scoping list, it may request submittal of such additional information as part of the application.

(7) *Referral and comment.* When all elements of a general development plan have been submitted by the applicant to the department of zoning administration, the department shall refer the application to the development review committee and to those city departments and governmental and quasi-governmental agencies whose interests or service areas are affected by the application.

Such departments and agencies, including those represented on the committee, shall have twenty-one (21) calendar days in which to forward to the development review committee their recommendations regarding the application. Failure of any department or agency to forward its recommendations to the development review committee within twenty-one (21) calendar days shall constitute approval by such department or

agency unless it has previously requested an extension of time for review from the department of zoning administration and the applicant has consented to such extension of time.

When all referral responses have been received, but no later than twenty-eight (28) days after receipt of the completed application, the development review committee shall (i) notify the applicant of such referral responses and the measures necessary to address them, (ii) notify the applicant of the committee's preliminary recommendation to the planning board, and (iii) schedule a hearing before the planning board at the earliest available date acceptable to the applicant that will allow for posting of the property as described in subsection 59-351(c)(8) below. Applicants shall have the right to meet with the development review committee and city departments and other agencies to which the plan has been referred during the twenty-one-day review period to discuss and respond to comments and concerns.

(8) *Notice, hearing and disposition.*

a. The land included in the general development plan shall be posted for at least fifteen (15) calendar days prior to the planning board hearing. The posted notices shall be in number, size and location as required by the department of zoning administration and shall indicate the boundaries of the property included in the general development plan, the general uses allowed under the plan, the time and place of the planning board hearing, and any other information prescribed by the department of zoning administration. Posted notices shall be removed by the applicant from the subject area within fifteen (15) calendar days after said public hearing has been held, and failure to remove such notices in a timely manner shall constitute a violation of this chapter.

b. The department of zoning administration shall mail notices of the time and place of the planning board hearing to the following at least fifteen (15) days before the date of the public hearing:

1. All owners of land included in the general development plan other than the applicant;

2. Owners of contiguous property;

3. Registered neighborhood groups on file with the planning office whose boundaries include any land in the Gateway district or within two hundred (200) feet of any boundary of the Gateway district;

4. The city councilperson in whose district the property is located;

5. The City of Aurora planning department, if the proposed general development plan will include any land within one-quarter (1/4) mile of any boundary of any portion of Adams County other than the Rocky Mountain Arsenal; and

6. Other agencies or entities identified during preapplication scoping because their interests are affected.

c. A planning board hearing shall be held at which all persons shall have an opportunity to be heard. A decision of the planning board to approve, approve with stipulations, or deny the general development plan shall be forwarded to the zoning administrator for action in accordance with such decision within ninety (90) calendar days after the receipt of the completed application by the department of zoning administration, unless the applicant consents to an extension of such time.

(9) *Criteria for review.* The criteria for review of the general development plan at the planning board hearing shall be:

a. Substantial consistency with the Denver comprehensive plan, including the Gateway Plan;

b. Substantial compliance with Gateway district provisions and with applicable mandatory regulations previously adopted;

c. Substantial compliance with applicable codes, rules, regulations and standards of the development review committee or any agencies or entities with regulatory jurisdiction over the general development plan property; and

d. Compatibility of any general development plan that includes requests for uses by special review or administrative modifications with existing contiguous uses and approved contiguous general development plans and site plans.

(10) *Recording.* All approved general development plans, and all approved amendments to such general development plans, when corrected by the applicant to include any stipulations imposed by the clerk and recorder by the department of zoning administration, and a notice of such approved general development plan or amendment specifying the land within its boundaries shall be recorded in the real property records with a notation that all land within such boundaries shall be subject to the provisions of such general development plan or amendment unless or until amended.

(11) *Amendments.* An approved general development plan may be amended at any time, and may be amended simultaneously with the processing of a site plan application or a site plan amendment. The applicant for an amendment must be an owner or an agent of an owner of the property covered by the amendment. If the applicant is an agent of the owner, adequate evidence of the agent's authority to act may be required.

If the applicant for an amendment does not own all of the property covered by the approved general development plan being amended, the applicant shall notify all other owners of such property that an application for amendment is being filed, shall include in such notice the telephone number of the planning office, and shall certify to the planning office that all such owners have been notified. Such notification and certification shall be completed before the application for amendment shall be considered complete.

In order to initiate an amendment, the applicant shall submit to the department of zoning administration those general development plan submission items listed in

subsections 59-351(c)(4), (5), and (6) that would change if the proposed amendment were approved. Review of applications for amendments shall be governed by those criteria set forth in subsection 59-351(c)(9) and 59-351(d). Approved amendments shall be recorded as set forth in subsection 59-351(c)(10).

The zoning administrator shall decide whether a proposed amendment is a "major" or "minor" amendment.

a. *Major amendments.* Proposed amendments that would:

1. Approve a use by special review, or modify the size, location or impacts of an approved use by special review, or significantly modify or reallocate the allowable height or density of a development; or

2. Increase potential traffic by more than ten (10) percent; or

3. Significantly alter the location or amount of land dedicated to parks, trails, open space, natural areas or public facilities; or

4. Modify any other aspect of the general development plan that would significantly change its character;

Shall be termed "major amendments." Applications for major amendments shall be referred to the development review committee for review and recommendation to the planning board. The zoning administrator shall determine the length of such referral and comment period, which shall in no event exceed twenty-one (21) days. The planning board shall give notice and hold a hearing pursuant to subsection 59-351(c)(8), shall approve, approve with stipulations, or deny such major amendments and forward its decision to the zoning administrator for action in accordance with such decision. The zoning administrator shall notify the applicant of such decision within ninety (90) days of receipt of the completed application, or within such shorter time as the zoning administrator may establish at the time the application is received.

b. *Minor amendments.* Amendments that are not major amendments shall be termed "minor amendments" and shall be referred to the director of planning for review. The zoning administrator may also refer the application to other departments or agencies for comment. After consultation with the director of planning, the zoning administrator shall approve, approve with stipulations, or deny such amendment within twenty (20) calendar days after the date of applicant's submission of a complete application for amendment.

(12) *Effect of recorded plans.* All general development plans and general development plan amendments recorded under this division 18 shall be binding upon the applicants and their successors and assigns, and shall limit and control the issuance and validity of all zoning permits and certificates and the construction, location, use and operation of all land and structures included within the general development plan or general development plan amendment.

(d) *Requests for uses by special review.* In areas where a use by special review is shown on the use matrix, an applicant may request approval of such use by special review as part of a general development plan application or amendment. In considering a request for a use by special review, the planning board shall attempt to (a) avoid substantial adverse effects on contiguous properties, uses and residents, (b) avoid substantial or permanent impairment of the value of contiguous properties and uses, (c) avoid creating areas of single-family detached or single-family attached housing that are too small, taken alone or together with contiguous residential uses, to function as viable residential communities and to support residential services, and (d) avoid traffic and pedestrian circulation problems. After review of the request for uses by special review, the planning board shall make a determination of approval, approval with stipulations, or denial of each requested use.

(e) *Site plan approval.*

(1) *Requirement.* No development may proceed on lands within the Gateway district until a site plan for the property involved has first been submitted to and approved by the department of zoning administration. Applications for site plan approval must cover at least one (1) acre of land unless the director of planning determines that a smaller site plan would not compromise the goals of integrated development and adequate service. An application that is inconsistent with an approved or requested general development plan covering the site plan property shall be deemed to be an incomplete site plan application, and shall not be processed until an application to amend the applicable general development plan has been initiated.

(2) *Subdivision.* A subdivision plat of the site plan property shall be processed simultaneously with site plan approval, unless the site plan property is already subject to an approved subdivision plat.

(3) *Applicant.* The applicant for a site plan shall be an owner or an agent of an owner, and each application form must be signed by all owners of the site plan area or their agents.

(4) *Time of submittal.* A site plan may be submitted at any time unless a general development plan is required, in which case a site plan may be submitted simultaneously with, or at any time after, the submission of a general development plan application covering the property.

(5) *Submittal requirements.* Submittal requirements and technical standards for site plan applications shall be established by regulations, and shall include all items necessary to implement the intent of the Gateway district as it affects such site.

(6) *Optional submittals.* In addition, a site plan application may include, at applicant's option:

a. A request for uses by temporary permit available to the property as listed in section 59-344(f);

b. A request for one (1) or more administrative exceptions as described in subsection 59-351(i) below;

c. Documentation necessary to support any request for an intensity bonus pursuant to subsection 59-346(c)(2);

d. A proposed development agreement covering public improvements to be constructed by applicant and other issues related to financing of development on the site plan property;

e. A request for reduction of minimum required off-street parking in an MU1, TSU or TCU use area because of provision of on-site, on-street parking pursuant to subsection 59-348(d); and/or

f. A request for approval of a common signage plan;

g. A request for wall sign animation in a TSU or TCU use area.

(7) *Additional submittals.* If the zoning administrator determines that, due to unusual conditions or circumstances, the impact of the proposed development on existing or proposed land uses on contiguous property, existing or proposed public facilities, or the environment cannot be properly evaluated without the submission of additional information, the administrator may require the submission of such materials, and the application shall not be considered complete until the requested items have been received.

(8) *Referral and comment.* When all elements of a site plan have been submitted by the applicant to the department of zoning administration, such department shall refer the application to those city departments and governmental and quasi-governmental agencies whose interests or service areas are affected by the application and to the development review committee. Such departments and agencies shall have twenty-one (21) calendar days in which to forward to the development review committee their recommendations regarding the site plan application. Failure of any department or agency to forward its recommendations to the development review committee within twenty-one (21) calendar days shall constitute approval by such department or agency unless it has previously requested an extension of time for review from the department of zoning administration and the applicant has consented to such extension of time. If the zoning administrator determines that the site plan application may have significant impacts on nearby residential areas due to requests for administrative modification or other features, the administrator may send notices to any or all of those individuals or entities described in subsection 59-351(c)(8)b. offering them an opportunity to comment on the application, and may forward any responses received to the development review committee. Applicants shall have the right to meet with the development review committee and city departments and other agencies to which the plan has been referred during the twenty-one-day review period to discuss and respond to comments and concerns.

(9) *Criteria for review.* The criteria for review of the site plan by the development review committee shall be:

a. Substantial consistency with the Denver comprehensive plan, including the Gateway Plan;

b. Substantial compliance with Gateway district provisions and with applicable mandatory regulations previously adopted;

c. Substantial compliance with applicable codes, rules, regulations and standards of the agencies and entities represented on the development review committee or any agencies or entities with regulatory jurisdiction over the site plan property; and

d. Substantial consistency with any approved general development plan that includes the site plan property.

(10) *Disposition.* When all referral responses have been received, the applicant shall be notified of any required changes and shall be encouraged to submit revised materials incorporating any necessary changes. Applicant may prepare a revised site plan in response to referral concerns, and may request additional referral and review of such revised plan prior to a recommendation by the development review committee. No later than forty-five (45) days after receipt of the completed application, the development review committee shall adopt a recommendation of approval, approval with stipulations, or denial, and shall forward that recommendation to the zoning administrator for action in accordance with the committee's decision. Such forty-five-calendar-day period may be extended with the consent of the applicant, and shall be extended by any period of delay caused by applicant's delay in responding to questions or providing required materials or information.

Upon receipt of such recommendation, the zoning administrator shall consult with the director of planning, and together shall approve, approve with stipulations, or deny the site plan application, and such decision shall be final. Except where disposition of a site plan is awaiting the decision of the planning board with regard to a related general development plan, any site plan application which has not received a decision of approval, approval with stipulations, or denial within sixty (60) days after applicant's submission of a complete site plan application shall be deemed approved. If applicant fails to submit required materials within seven (7) days after receiving staff comments, or otherwise fails to move forward promptly with the application, the sixty-day approval period shall be extended an amount equal to such delay.

(11) *Recording.* All approved site plans, and all approved amendments to such site plans, shall be recorded with the clerk and recorder by the department of zoning administration, and a notice of such approved site plan or amendment specifying the land within its boundaries shall be recorded in the real property records with a notation that all land within such boundaries shall be subject to the provisions of such site plan or amendment unless or until amended. No site plan may be recorded until any general development plan covering the site plan property has been recorded pursuant to subsection 59-351(c)(10), and until after a subdivision plat for the site plan property has been recorded.

(12) *Amendments.* Any approved site plan may be amended at any time, and may be amended simultaneously with the processing of a general development plan amend-

ment. The applicant for an amendment must comply with the provisions of subsection 59-351(e)(3) In order to initiate an amendment, the applicant shall submit to the department of zoning administration those site plan submission items listed in subsection 59-351(e)(5), (6), and (7) that would change if the proposed amendment were approved. Review of applications for amendments shall be governed by those criteria set forth in subsection 59-351(e)(9), and any approved amendments shall be recorded as set forth in subsection 59-351(e)(11) The zoning administrator shall decide whether a proposed amendment is a "major" or "minor" amendment.

a. *Major amendments.* Applications that substantially affect the character of the site plan or its impact on neighboring properties shall be termed major amendments. Applications for major amendments shall be referred to the development review committee for review and recommendation to the zoning administrator. The zoning administrator shall consult with the director of planning, and together shall approve, approve with stipulations, or deny such major amendment within thirty (30) calendar days after the submission of a complete application for amendment.

b. *Minor amendments.* Amendments that are minor or technical in nature and do not significantly affect the character of the approved site plan shall be termed "minor amendments" and shall be referred to the director of planning for review. Amendments to permitted signs, fencing or walls shall be considered minor amendments. The zoning administrator may also refer the application to other departments or agencies for comment. After consultation with the director of planning, the zoning administrator shall approve, approve with stipulations, or deny such amendment within twenty (20) calendar days after the submission of a complete application for amendment.

(13) *Effect of recorded plans.* All site plans and site plan amendments recorded under this division 18 shall be binding upon the applicants and their successors and assigns, shall limit and control the issuance and validity of all zoning permits and certificates, and shall limit and control the construction, location, use and operation of all land and structures included within the site plan or site plan amendment.

(f) *Vesting of rights.*

(1) *Basic vesting period.* For a period of three (3) years commencing (i) upon recording of an approved general development plan or site plan, or (ii) ninety (90) days after approval of a general development plan or site plan, whichever is later, the ability of the applicant to complete the proposed development pursuant to the approved plan shall not be impaired or reduced by any city action directed at the approved plan unless such action is required to address a serious issue of public health or safety that was not known to the development review committee at the time of site plan approval. In the case of general development plans covering more than one hundred (100) acres,

such basic vesting period shall be extended by one (1) month for each additional ten (10) acres (above the first one hundred (100)) included in the approved general development plan.

(2) *Additional vesting periods.* The basic vesting period shall be extended by one (1) year for each two hundred fifty thousand dollars ($250,000.00) of investment by the applicant or its agents or successors in the design or engineering of physical infrastructure improvements on or contiguous with the site plan property and serving the site plan property or the performance of technical studies for the site plan property required by the planning office as part of the development review and approval process, up to a maximum additional vesting period of two (2) years, as documented by invoices and evidences of payment provided by the applicant or its agents or successors and acceptable to the zoning administrator.

The basic vesting period shall also be extended by one (1) year for each one million dollars ($1,000,000.00) of investment by the applicant or its agents or successors in the actual construction and installation of infrastructure on or contiguous with the site plan property and serving the site plan property, up to a maximum of five (5) additional years, as documented by invoices and evidences of payment provided by the applicant or its agents or successors and acceptable to the director of planning.

The establishment of a vested property right shall not preclude the application of ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation within the city.

(g) *Simultaneous processing.* A site plan application or subdivision may be processed simultaneously with a general development plan application. If a general development plan or amendment and a site plan or amendment are being processed simultaneously, the zoning administrator shall not act with regard to approval of the site plan or amendment until receiving the decision of the planning board regarding approval of the general development plan or amendment.

(h) *Appeals.*

(1) *Appeal of general development plan denial or stipulations.* An applicant whose application for approval of a general development plan or amendment has been denied or approved with stipulations that the applicant finds unacceptable may appeal the decision to the board of adjustment-zoning.

(2) *Appeal of site plan denial or stipulations.* An applicant whose application for approval of a site plan or amendment has been denied or approved with stipulations that the applicant finds unacceptable may appeal such decision to the planning board, and the planning board shall render a decision on the appeal within thirty (30) calendar days after the date on which the applicant files the appeal. If an applicant is dissatisfied with the planning board's decision, the applicant may appeal the decision of the planning board to the board of adjustment-zoning.

(i) *Administrative modifications.* An applicant may include in an application for a general development plan or amendment or an application for a site plan or amendment a request for an administrative modification of any requirements of the Gateway district that do not result in substantial inconsistencies with the Gateway Plan and do not involve (a) changes that would create use area designations substantially inconsistent with exhibit A or (b) changes that would allow uses not permitted in the area in question, or (c) changes that would cause maximum development intensities to exceed those set forth in exhibit C, or (d) changes that would cause maximum building heights to exceed those set forth in exhibit D by more than twenty (20) percent, or to exceed one hundred seventy-five (175) feet, or (e) changes that would allow park and trail system dedication or to be substantially inconsistent with exhibit A or section 59-350, or (f) changes that would allow park and trail dedication amounts or fee requirements to fall below those described in section 59-350.

Any administrative modification approved by the director of planning may be included in any general development plan application or amendment and any site plan application or amendment. Such applications shall not be considered to violate those criteria set forth in subsections 59-351(c)(9) or 59-351(e)(9) solely because of any approved administrative modification, but shall be subject to all other review and approval procedures set forth above. The director of planning may condition the granting of an administrative modification upon the inclusion in the application of reasonable conditions intended to mitigate any adverse impacts caused by those portions of applicant's design or layout that relate to the administrative modification.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-352. Authority to adopt regulations.

The planning board is hereby authorized to adopt more specific mandatory regulations and technical standards and non-mandatory guidelines to implement this division 18. All such regulations, standards and guidelines shall be consistent with the Denver comprehensive plan, including the Gateway concept plan element, and with the specific intents set forth in the different sections of this division 18. Adoption of such regulations, standards and guidelines shall comply with section 12-18. Prior to the adoption of any such regulation, standard or guideline, the planning board shall conduct at least one (1) public hearing and shall mail notice of the time and place of such hearing to the following individuals and entities at least twenty (20) days before the date of the public hearing:

(1) All owners of land included in the Gateway district;

(2) Registered neighborhood groups on file with the planning office whose boundaries include any land in the Gateway district or within two hundred (200) feet of any boundary of the Gateway district; and

(3) The city councilperson in whose district the Gateway district is located. The planning board is further authorized to adopt by reference regulations, technical standards and

non-mandatory guidelines developed by other city, governmental or quasi-governmental agencies, when in the board's judgment such regulations, technical standards or guidelines would appropriately implement the intents set forth in this division 18.

(Ord. No. 03-361, § 3, eff. 5-23-03)

DIVISION 19. O-1 AND O-2 DISTRICTS

Sec. 59-353. Generally.

The provisions of this division apply to all lands, uses and structures in O-1 and O-2 districts.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-354. Uses allowed in these districts.

(a) The following is a list of uses with notations as to whether they are permitted, limited, or have other requirements as listed in the matrix and the sections which follow. Uses not listed arc not allowed in any of these districts. Uses left blank are not allowed in that district. Permitted uses are uses by right.

Key: *P = Permitted* *L = Uses permitted with limitations* *SR = Uses permitted after special review* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone District*	
Use	*O-1*	*O-2*
Retail, service, office		
Garden supply store	L56	
Industrial, wholesale, transportation, utilities		
Airport*	P	P
Parking of vehicles*	P	
Railway right-of-way*	P	P
Terminal, public transportation, local*	P	
Utility, major impact	L115	L115
Utility, minor impact	P	
Wholesale trade, light, and/or storage of nontoxic, nonhazardous materials	L126	
Arts, entertainment, recreation, institutions		
Cemetery*	P	
Community or senior center or recreational facility	P	
Correctional institution	P	
Fire station	P	
Golf course*	P	
Library	P	
Museums, other special purpose cultural institutions	P	
Parks, public, open space, associated buildings*	P	
Police station	P	
Recreation services, outdoor*	P	

Key: *P = Permitted* *L = Uses permitted with limitations* *SR = Uses permitted after special review* ** = Need not be enclosed* *(blank) = Not permitted*	*Zone District*	
Use	*O-1*	*O-2*
School, elementary or secondary	L153	
School, vocational or professional	L146	
Construction, mining, agriculture		
Agriculture, limited*		P
Husbandry*		L169
Nursery, plant	L56	L169
Oil, gas, production, drilling*		SR
Construction, temporary structures . . . (See § 59-81)		
Residential care uses (See § 59-82)		
Power, gas, telecommunications (See § 59-83 and 84)		
Uses allowed by temporary permit (See § 59-86)		
Accessory uses (See § 59-87)		
Home occupations (See § 59-89)		

(Ord. No. 895-03, § 45, eff. 12-2-03; Ord. No. 459-06, § 14, eff. 7-21-06)

(b) *Excavation of soil, both incidental and necessary to a construction project located no more than two (2) miles away from the construction site shall be permitted in the O-2 district as follows.* Each permit shall specify the boundary of the excavation area, the destination site, the existing and proposed land contours, the period of operation and any other information as required by the administrator. Such applications shall be referred to the planning office, the wastewater management division of public works, the urban drainage and flood control district and other agencies as deemed appropriate. The review by such agencies shall address such issues as flood and erosion problems, reclamation and revegetation requirements, traffic problems, wildlife preservation, character and appearance of resulting topography and other features as deemed important by the reviewing agencies. No permit shall be issued unless the administrator finds that the issues identified in the review have been resolved and that the applicant has obtained a mined land reclamation board permit from the State of Colorado. Each such permit shall be valid for a period of twelve (12) calendar months and shall be renewable. No later than six (6) months after issuance of any such permit, the reviewing agencies shall examine the excavation site to determine the level of compliance with permit requirements. Notwithstanding the provisions of section 59-40(b), fees relating to permits or certificates, the fee for this temporary use permit shall be one hundred dollars ($100.00).
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-355. Limitations.

The following define the limitations enumerated in the use chart in section 59-354(a):

L56 Limited to plant husbandry and/or the sale of produce and plants raised on the premises.

L115 Limited to water reservoir, need not be enclosed, and, in the O-1 district only, water filtration plant.

L126 Limited to newspaper distribution station.

L146 Limited to airline related training and not providing residential accommodations.

L153 Not providing residential accommodations.

L169 Limited to plant husbandry, excluding greenhouses, and animal husbandry, excluding the raising of fur bearing animals and the operation of a feed lot.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-356. Permitted structures.

(a) *Zone lot for structures in the O-1 district.* In the O-1 district a separate ground area, herein called the zone lot, shall be designated, provided and continuously maintained for each structure containing a use by right or a use by temporary permit and lawful accessory uses. Each zone lot shall have at least one (1) front line. Upon application to and approval by the department of zoning administration, the boundaries and area of a designated zone lot may be amended if full compliance with all requirements of this chapter can be maintained.

(b) *Zone lot in the O-2 district.* In the O-2 district a separate ground area herein called the zone lot shall be designated, provided and continuously maintained for each use by right and any lawful accessory uses. Every zone lot shall provide a minimum street frontage of three hundred thirty (330) feet, and shall contain not less than ten (10) acres.

(c) *Location of structures in the O-1 district.* In the O-1 district, all structures shall be set in a distance of not less than twenty (20) feet from each front, rear and side line of the zone lot; provided, however, that no setback shall be required for electric substations, gas regulator stations and utility pumping stations except from such lines of the zone lot as abut public right-of-way. The space resulting from the foregoing setbacks shall be open and unobstructed; provided, however:

(1) Fences or walls not exceeding six (6) feet in height may be erected on any part of the zone lot. The height of such walls or fences shall be determined as stated in section 59-2(112.1) fence and wall height measurement.
(Ord. No. 363-06, § 15, eff. 6-16-06)

(2) Any structure or part thereof which is below the grade of any setback space may project any distance into such setback space.

(3) Canopies may project any distance into the front setback space.

(4) Flush mounted solar panels may encroach any distance in the setback space.
(Ord. No. 53-08, § 31, eff. 2-8-08)

(d) *Location of structures in the O-2 district.* In the O-2 district, except as otherwise hereinafter provided, the space resulting from the following setbacks shall be open and unobstructed:

Front setback. All structures hereinafter allowed in this district shall be set in a distance of not less than fifty (50) feet from each front line of the zone lot, except fences and walls which may be built to a height of five (5) feet on any front line of the zone lot, and flush mounted solar panels which may encroach any distance into the setback space.
(Ord. No. 53-08, § 35, eff. 2-8-08)

(e) *Permitted structures (accessory) in the O-2 district.* In the O-2 district all structures hereinafter specifically enumerated shall be allowed as accessory uses in this district:

(1) Residence for owner and/or residence for operator and/or employees;

(2) Silo, barn, shed, corral, pens and any other permanent or temporary building or improvement required for the proper functioning of any enumerated use by right.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 895-03, §§ 46, 47, eff. 12-2-03)

Sec. 59-357. Permitted signs.

The provisions of article V of this chapter on permitted signs shall be in full force and effect in these districts.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-358. Off-street parking requirements.

The provisions of article VI of this chapter on off-street parking requirements shall be in full force and effect in these districts.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-359. Off-street loading requirements.

The provisions of article VII of this chapter on off-street loading requirements shall be in full force and effect in these districts.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-360. Special zone lot plan for planned building groups in the O-1 district.

The provisions of article VIII of this chapter on special zone lot plan for planned building groups shall be in full force and effect in the O-1 district, but shall apply only to buildings open to the public.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-361. Special zone lot plan for planned building groups in the O-2 district.

The provisions of article VIII of this chapter on special zone lot plan for planned building groups shall be of no force and effect in this district.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-362. Review of oil and gas permit applications.

(a) All use permit applications for oil and gas uses allowed by section 59-354 shall be reviewed by the development review committee established by section 59-518, with the addition of a representative from the building inspection division of community planning and development, designated by the manager of community planning and development, and a representative from the department of aviation, designated by the manager of aviation. The committee shall have the authority to request additional information from the applicant when necessary to complete its review.
(Ord. No. 625-05, § 20, eff. 9-2-05)

(b) The director of planning shall adopt and maintain oil and gas permit application rules and regulations establishing standards and procedures for examinations by the development review committee. The oil and gas permit application rules and regulations shall make due provision for at least:

(1) Adequate financial assurances to insure the city against any claims which may arise due to the applicant's operation under any and all permits issued by the city;

(2) Appropriate protection of the natural environment and adjacent land uses; and

(3) Avoidance of any adverse impact on other uses by right allowed by this division 19.

(c) The permit application approved by the development review committee shall regulate the use and development of the subject property.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Secs. 59-363—59-365. Reserved.

DIVISION 20. P-1 DISTRICT

Sec. 59-366. Generally.

The provisions of this division apply to all lands, uses and structures in P-1 districts. (Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-367. Uses allowed in this district.

The following is a list of uses with notations as to whether they are permitted, conditional, limited, require short review or have other requirements as listed in the matrix and the sections which follow. Uses not listed are not allowed in this district. Permitted uses are uses by right.

*Key: P = Permitted L = Uses permitted with limitations * = Need not be enclosed*	
Use	
Industrial, wholesale, transportation, utilities	
Parking of vehicles*	L109
Railway right-of-way*	P

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-368. Limitations.

The following define the limitations enumerated in the use chart in section 59-367:

L109

a. Parking garage: a parking garage which is not used for the sale, repair, servicing, maintenance or dismantling of any vehicles, equipment, materials, fuel or supplies therefor and which provides entrances and exits so located as to minimize traffic congestion and the effect of headlights at night;

b. Parking lot: a parking lot operated and maintained in accordance with all of the following conditions:

1. Is not used for the sale, repair or dismantling of any vehicles, equipment, materials or supplies;
2. Is properly graded for drainage; surfaced with concrete, asphaltic concrete, asphalt, oil or any other dust-free surfacing and maintained in good condition, free of weeds, dust, trash or debris;
3. Is provided with entrances and exits so located as to minimize traffic congestion and the effect of headlights at night;
4. Is provided with wheel or bumper guards so located and arranged that no part of any parked vehicle will extend beyond the boundaries of the parking lot;

5. Lighting facilities are so arranged that they neither unreasonably disturb occupants of adjacent residential properties nor interfere with traffic;

6. Has a fence on each boundary of the parking lot which abuts a residential district; the fence is between three (3) and five (5) feet high at the grade of the parking lot at the fence line and is designed to obscure from abutting residential districts the direct light from automobile headlights; the fence is designed to be, and can and will be, maintained in a slightly condition and will not be used as a support for any signs except those signs permitted in the district;

7. Has only one (1) attendant shelter building containing not more than fifty (50) square feet of gross floor area and set in a distance of not less than twenty (20) feet from any boundary of the parking lot which abuts a residential district.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-369. Permitted structures.

(a) *Zone lot for structures.* A separate ground area, herein called the zone lot, shall be designated, provided and continuously maintained for each structure containing a use by right. Each zone lot shall have at least one (1) front line and shall be occupied only by the structure containing the use by right. Upon application to and approval by the department of zoning administration, the boundaries and area of a designated zone lot may be amended if full compliance with all requirements of this chapter can be maintained.

(b) *Location of structures.* The space resulting from the following setbacks shall be open and unobstructed.

(1) *Front setback.* All structures shall be set in a distance of not less than twenty (20) feet from each front line of the zone lot; provided, however, that on the two (2) shorter dimensions of a block oblong in shape, the front setback may be reduced to ten (10) feet.

(2) *Rear setback.* If no alley abuts the rear line of the zone lot, all structures shall be set in a distance of not less than twenty (20) feet from each rear line of the zone lot. If an alley abuts the rear line of the zone lot, all structures shall be set in a distance of not less than twenty (20) feet from the center line of the abutting alley; provided, however, that if a zone lot has more than one (1) rear line by reason of abutting alleys, the aforesaid setback shall be required from only one (1) rear line and the other rear line or lines shall, for the purposes of setbacks, be deemed side lines of the zone lot.

(3) *Side setback.* On zone lots less than thirty (30) feet in width, all structures shall be set in a distance of not less than three (3) feet from each side line of the zone lot. On zone lots thirty (30) or more feet in width, all structures shall be set in a distance of not less than five (5) feet from each side line of the zone lot.

(4) *Permitted encroachments on setback space.* Fences or walls not exceeding six (6) feet in height may be erected on any part of the zone lot. The height of such walls or fences shall be determined as stated in section 59-2(112.1) fence and wall height measurement. Flush mounted solar panels may encroach any distance into any setback space. (Ord. No. 363-06, § 16, eff. 6-16-06; Ord. No. 53-08, § 36, eff. 2-8-08)

(c) *Bulk of structures.* No part of any structure (except flagpoles, antennas, chimneys, flues, vents, flush mounted solar panels or accessory water tanks) shall project up through bulk limits which are defined by planes starting at horizontal lines which are co-directional to the front, rear and side lines of the zone lot and pass through points ten (10) feet above the midpoint of each such front, rear and side line and which planes extend up over the zone lot at an angle of forty-five (45) degrees with respect to the horizontal (a pitch of one (1) foot additional rise for each foot additional setback).

(Ord. No. 53-08, § 37, eff. 2-8-08)

Sec. 59-370. Permitted signs.

The provisions of article V of this chapter on permitted signs shall be in full force and effect in this district.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-371. Off-street loading requirements.

The provisions of article VII of this chapter on off-street loading requirements shall be of no force and effect in this district.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-372. Special zone lot plan for planned building groups.

The provisions of article VIII of this chapter on special zone lot plan for planned building groups shall be of no force and effect in this district.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-373. Landscaping requirements.

The provisions of section 59-585(11) of this chapter on landscaping requirements shall be in full force and effect in this district.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 625-05, § 18, eff. 9-2-05)

Secs. 59-374—59-439. Reserved.

DIVISION 21. OVERLAY DISTRICTS

Sec. 59-440. General.

The provisions of this division 21 apply to all lands, uses and structures in areas approved by city council as overlay districts. Such lands, uses and structures are also subject to the provisions of their underlying zoning designation; provided, however, that where the provisions of this division 21 are more restrictive than the provisions of the underlying zoning designation, the provisions of this division 21 shall apply.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-441. Intent and purpose of overlay districts.

Overlay districts are intended to serve one (1) or more of the following purposes: to implement land use and urban design recommendations and standards set forth in neighborhood or small area plans, which plans have been adopted as part of the city's comprehensive plan; to provide uniformity in the design standards applicable to arterial corridors having varied underlying zoning; to provide uniform standards for mitigating the impact of intensive commercial uses adjacent to low density residential uses; to provide for the enactment of urban design standards for specific segments of designated parkways and boulevards, and areas with cohesive design characteristics; and to reinforce the desired character for newly developing areas.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-442. Effect of underlying zone district designation.

All of the provisions of the underlying zone district shall be in full force and effect, unless such provisions are specifically varied by the provisions of the applicable overlay district; provided, however, an overlay district shall not be used to add to the specific permitted uses in the underlying district, nor shall it be used to prohibit specific permitted uses in the underlying district.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-443. Preapplication conference.

Prior to filing an application for approval of an overlay district, the applicant shall make a request to the planning office for a preapplication conference. The planning office shall conduct the preapplication conference to discuss the overlay district guidelines with the applicant.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-444. Application.

(a) *Amendment procedure:* All provisions of article X (amendment procedure) of this chapter shall apply except section 59-648(c) (application for amendment; contents).

(b) *Contents:* Each application for approval of an overlay district shall be filed in writing with the department of zoning administration and shall contain the applicant's name, address, and interest in the application; shall contain the names and addresses of all owners of land and structures within the proposed overlay district, keyed to the map required in subsection (b)(2)a. below; shall identify which owners are represented by the applicant; shall contain such information and representations required by this chapter or deemed necessary for proper review and evaluation of the application; and shall include at least the following details:

(1) A legal description of the area proposed for designation as an overlay district.

(2) A map, drawn to a scale of not less than one (1) inch per two hundred (200) feet, showing the following:

a. The proposed boundaries of the overlay district;

b. The present zone district classifications and uses within the proposed overlay district boundaries and within two hundred (200) feet of those boundaries;

c. All public rights-of-way within the proposed overlay district boundaries and within two hundred (200) feet of those boundaries; and

d. Other information as necessary to determine how the proposed overlay district affects the existing uses within the overlay district boundaries and within two hundred (200) feet of those boundaries.

(3) A written description of the specific restrictions, standards or guidelines to be implemented by the overlay district and the effect of those restrictions, standards or guidelines on the development or redevelopment of properties within the overlay district. If the purpose of the overlay district is to implement a plan that has been developed for the specific area covered by the overlay district and has been adopted by the planning board, the city council, or both, a copy of such plan may be substituted for the written description.

(4) A written statement generally describing how the proposed overlay district will promote or implement the goals and objectives of the comprehensive plan.

(5) If the area proposed for designation as an overlay district includes a PUD district which, at the time of application for the overlay district, has vested property rights under section 59-29, such application must contain the written consent of the owners of land and structures within the PUD district. If such written consent cannot be obtained, the PUD district must be deleted from the boundaries of the proposed overlay district.

(6) Evidence that all owners of land and structures within the proposed district who are not represented by the applicant have been notified by mail of: the applicant's intent to request overlay district zoning; the application, review and approval process for overlay district designation; and the specific effects of overlay district zoning on properties within the proposed overlay district. For purposes of notification, owners are to be determined from the tax roll for the preceding tax year in the office of the deputy county treasurer. In the case of a structure containing individual units owned

by different owners, a copy of the notification shall be sent by mail to the individual unit owner, or to the corporation, organization or association which either owns or controls the common areas.

(7) Other information deemed necessary to evaluate the application as the department of zoning administration, the planning office, the planning board or a member of the city council may, within twenty-one (21) days after the submission of the application, request in writing of the applicant.

(c) *Review:*

(1) Upon receipt of a completed application, the department of zoning administration shall transmit a copy of such application to the planning office, city council, public works and to such other agencies, either public or private, as may be deemed by the department to have an interest.

(2) The planning board shall review the application at a meeting to be held within forty-five (45) days following the date on which the completed application was received by the department of zoning administration.

(3) Within forty-five (45) days following the date on which such completed application was received by the department of zoning administration, the planning office and other agencies to which the application was submitted shall transmit to the department of zoning administration recommendations or comments, including planning board or planning office recommendations for approval, approval with stipulations, or denial, copies of which shall be forwarded by the zoning administration to the applicant. The failure of the planning office and other agencies to act within the time herein prescribed shall not be deemed a recommendation of the district as submitted.

(d) *Designation on official maps*: Once an overlay district is approved by the city council, the department of zoning administration shall amend the official maps so as to identify the overlay district boundaries and designation, together with the underlying zoning designation.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-445. Effect of overlay district designation.

All applications to the department of zoning administration for permits within a specific overlay district shall generally conform to the applicable provisions of that overlay district and shall be reviewed by the department and by the planning office to assure such general conformity. Such review shall be completed within ten (10) days of the receipt of such application by the department, unless other review provisions are set forth in the applicable section for a specific overlay district. Review by the planning office shall result in a written recommendation to the department of approval, approval with conditions, or denial. Applications which are incomplete or receive recommendations of approval with conditions or denial may be revised and resubmitted for one (1) or more subsequent reviews, each not to exceed ten (10) days, unless otherwise provided for in the section regulating the applicable overlay

district. Once the department has received a recommendation of approval from the planning office, the department may process and approve the application subject to all other applicable requirements.
(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 895-03, § 48, eff. 12-2-03)

Sec. 59-446. OD-1 overlay district.

(a) *Creation.* There is hereby created an overlay district designated as OD-1.

(b) *Housing requirement.* All new buildings with a gross floor area greater than three (3) times the gross floor area of the zone lot shall be required to have at least fifty (50) percent of the gross floor area of such building constructed for residential uses.

(c) *Parking restrictions.* Surface parking lots and structures shall be allowed only as conditional uses and shall only be approved provided that:

(1) Such lot or structure serves a specific, identified business or residential facility that is a use by right or conditional use then permitted and operating in the underlying zone district; and

(2) Any parking lot or structure that is not located on the same zone lot as the use it serves, and that provides amounts of parking beyond those required to meet the minimum off-street parking requirements for such use pursuant to chapter 59, article VI of the Revised Municipal Code:

a. Shall have some portion of such parking lot or structure located within two hundred (200) feet of the zone lot containing the use it serves; and

b. Shall not be separated from the use it serves by an intervening zone lot with a residential use; and

c. Shall not offer parking to the public in return for a fee; and

d. Shall include signage stating that parking is available only for the specific, identified business or residential facility that it serves and that public parking is not permitted.

(3) Any parking lot or structure that is not located on the same zone lot as the use it serves, and that provides parking to nonresidential uses in amounts beyond those required to meet the minimum off-street parking requirements for such use pursuant to chapter 59, article VI of the Revised Municipal Code, shall not be located on any zone lot that contains a residential structure on January 1, 1994.

(d) *Open space required.* Notwithstanding the provisions of the underlying zone district, each zone lot shall provide at least twenty (20) percent of the area of the zone lot in unobstructed open space which shall not include space provided for off-street parking.

(e) *Setback areas.* Notwithstanding the provisions of the underlying zone district, open porches and stoops associated with building entries may project any distance into the front setback space.

(f) *Off-street parking requirements.* Notwithstanding the provisions of the underlying zone district, off-street parking requirements shall be those applicable to the R-4-X zone district.

(g) *Design standards.* All new structures and all structures renovated where (i) the renovation is valued at more than fifty (50) percent of the replacement cost of the existing building excluding land costs, and (ii) the renovation includes alterations to the exterior of the building other than restoration of original design features with original materials, shall be subject to design standards and design review procedures set forth below, provided, however, that if property is subject to the design standards or design review procedures of the Civic Center overlay district, or is a designated historic structure, or is a contributing structure in a designated historic district, such property shall not be subject to the design standards and design review procedures set forth below. Design review procedures, where applicable, shall be conducted by the planning office staff. The zoning administrator shall not issue permits for building use until the planning director certifies that any applicable requirements have been met.

(1) *Lower floor design standards.* All new structures and all renovated structures meeting the conditions set forth in the first paragraph of this section 59-446(g) shall be subject to rules and regulations establishing design standards applicable to the lower eighty (80) feet of the building above street level, unless the applicant elects to participate in the design review process set forth in subsection b. below. The design standards are intended to promote consistent, continuous and active street frontages and to reflect Denver's history of primarily solid and masonry building materials. The planning office is authorized to develop design standards that address:

a. The percentage of the building that must be built within a short distance of property lines along public streets and sidewalks;

b. Building and building entry orientation;

c. Appearance of parking garages;

d. The percentage of glass to solid materials;

e. The required use of scaling elements, insets, and projections to break up flat or monotonous facades, to emphasize entries, and to respond to older buildings nearby; and

f. Building and glazing materials.

(2) *Optional lower floor design review.* As an alternative to compliance with specific design standards adopted pursuant to subsection a. above, any new structure or any renovated structure meeting all of the conditions set forth in the first paragraph of this section 59-446(g) may elect to have the lower eighty (80) feet of the building above street level reviewed by planning staff through a design review process guided by the following standards:

a. To allow more variation and architectural creativity than the design standards described in subsection 59-446(g)(1);

b. To provide human scale through change, contrast, and intricacy in facade form, color and/or material where lower levels of buildings face public streets and sidewalks;

c. To spatially define the street space in order to promote pedestrian activity; and

d. To require building facades to respond to existing building types in the area.

(3) Design review shall be completed within thirty (30) days of the submission of a completed application to the zoning administration, or the facade design shall be considered approved. Such thirty-day review period shall be extended by an amount of time equal to any delay caused by the applicant, and may also be extended with the applicant's consent.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 625-05, § 22, eff. 9-2-05)

Sec. 59-447. OD-2 overlay district.

(a) *Creation.* There is hereby created an overlay district designated as OD-2.

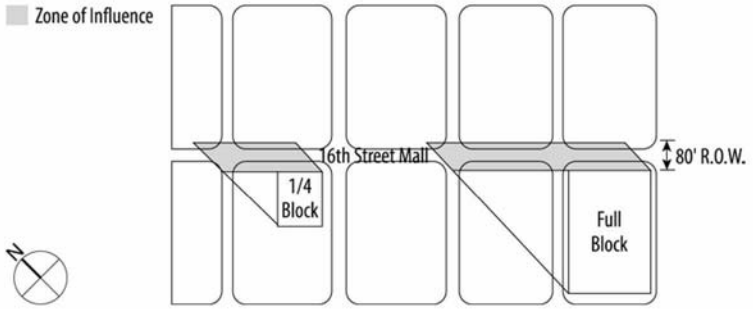
(b) *Definitions.* For purposes of this section 59-446(b), the following definitions shall apply:

(1) "Zone of influence" shall mean that portion of the public right-of-way of the 16th Street pedestrian and transit mall lying between two (2) lines extended due north from the easternmost and westernmost points of a zone lot located between 15th and 16th Streets, regardless of whether or not such zone lot extends across a public alley. If a zone lot extends across a public street right-of-way, then a separate zone of influence shall be established for each part of the property separated by a public street right-of-way. The 16th Street pedestrian and transit mall is eighty (80) feet wide.

(2) "Project zone of influence" shall mean the zone of influence for the proposed structure or project.

(3) "Overlapping zone of influence" shall mean any zone of influence that overlaps all or a portion of the project zone of influence, regardless of whether or not such zone of influence is related to a zone lot that is (i) adjacent to the project zone lot or (ii) located within the OD-2 District.

Illustration of Project Zone of Influence



(4) "Excluded zone of influence" shall mean a zone of influence for a zone lot where the maximum permitted gross floor area from all sources except sunlight bonuses could not at any point exceed the height of a plane originating at the southwest right-of-way of the 16th Street pedestrian and transit mall and rising over the property southwesterly at an angle of sixty (60) degrees from the horizontal.

(5) "Test time" shall mean 1:00 p.m., Mountain Daylight Time, on September 21.

(6) "Minimum required amount" shall mean:

a. For a zone lot of more than fifteen thousand (15,000) square feet: three-tenths (.3).

b. For a zone lot of fifteen thousand (15,000) square feet or less: two-tenths (.2).

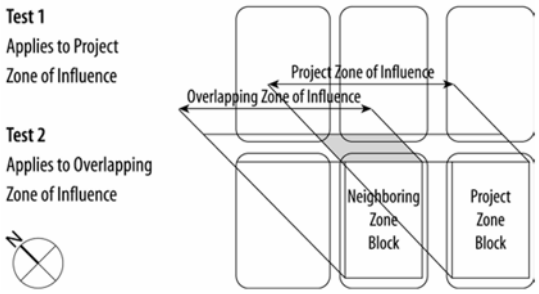
(c) *Sunlight preservation on the 16th Street pedestrian and transit mall.* No structure or multiple structure project shall be constructed unless it complies with subsection a. below or is otherwise permitted under subsection b. below or the project zone of influence is an excluded zone of influence.

(1) *Minimum sunlight preservation requirement.*

Test 1. All structures and projects shall be designed so that, after their construction, at least the minimum required amount of each project zone of influence shall remain in sunlight at the test time; and

Test 2. All structures and projects located on zone lots of more than fifteen thousand (15,000) square feet shall be designed so that at least the minimum required amount of each overlapping zone of influence that extends further west and/or further east than the project zone of influence shall remain in sunlight at the test time.

Illustration of Test 1 and Test 2



(2) *Inability to meet minimum requirements.*

a. Inability to meet Test 1.

1. If, prior to the proposed construction, less than the minimum required amount of each project zone of influence remains in sunlight at the test time,

then the requirements of Test 1 above shall not apply to such project zone of influence, but the proposed structure or project shall not be permitted to cast additional shadows within such project zone of influence; or

2. If the proposed structure or project is located on a zone lot of fifty-three thousand (53,000) square feet or more and, prior to the proposed construction, less than forty-two (42) percent of each project zone of influence remains in sunlight at the test time, and the proposed structure or project does not cast any shadow at the test time that exceeds a length of two hundred twenty-five (225) feet measured along the south right-of-way line of the 16th Street pedestrian and transit mall, then the minimum required amount of sunlight under Test 1 shall be reduced as required to accommodate the proposed structure or project, but not below a minimum of eighteen (18) percent.

In such case, the basic sunlight premium set forth in subsection (4)a. below shall still apply, but additional sunlight premiums set forth in subsection (4)b. below shall not apply.

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

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

1. The resulting area of sunlight within any single overlapping zone of influence is less than fifteen (15) percent; or

2. The resulting area of sunlight within that portion of the 16th Street pedestrian and transit mall lying between lines extended due north from the easternmost point of any overlapping zone of influence and from the westernmost point of any overlapping zone of influence is less than eighteen (18) percent.

(d) *Premium for sunlight preservation.* A structure or multiple structure project constructed after October 10, 1994, that complies with the requirements of section 59-446(c)(3) above shall receive floor area premiums as set forth below:

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

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

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

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

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

where:

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

B: .70 where the project zone lot is more than 12,500 square feet; and

.80 where the project zone lot is 12,500 square feet or less;

C: is the area of the project zone of influence; and

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

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

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-448. OD-3 overlay district.

(a) *Creation.* There is hereby created an overlay district designated as OD-3.

(b) *Height control.* The height of any structure in the OD-3 District shall not exceed four hundred (400) feet. Flush mounted solar panels shall not be included in building height measurements anywhere in the OC-3 district.

(Ord. No. 53-08, § 38, eff. 2-8-08)

(c) *Exception for rehabilitated structure designated for preservation.*

(1) If the applicant or a predecessor in interest of the applicant has invested or contributed at least three million dollars ($3,000,000.00) for the rehabilitation of a structure designated pursuant to chapter 30 of the Revised Municipal Code (the "rehabilitated structure") and the applicant or the owner of the rehabilitated structure has presented documentation that such investment or contribution has been spent for the rehabilitation of such structure on or before October 10, 1994; and

(2) If such investment in or contribution to the rehabilitated structure was made as part of a documented master development plan made by the applicant or a predecessor in interest of the applicant that included property other than the zone lot containing such rehabilitated structure and anticipated the development of a structure or project with a maximum height of more than four hundred (400) feet; and

(3) If the applicant has identified one (1) parcel of property that (i) is owned by the applicant, (ii) is no larger than one and one-half (1 ½) acre in size, (iii) is located entirely within four hundred (400) feet of the zone lot containing the rehabilitated structure, and (iv) is located entirely within five hundred (500) feet of an area where buildings of unlimited height are permitted (the "excluded property"); and

(4) If the applicant is willing to design and locate development on the excluded property in order to preserve views of the primary facades of the rehabilitated structure from those portions of the public street which the entrance facade of the rehabilitated structure faces that are located within two hundred (200) feet of such structure;

(5) Then such maximum height restriction shall not apply to any structure or project on the excluded property for which a permit for use and construction is issued on or before October 10, 2004.

(d) For purposes of this section 59-488, the term "primary facades" shall mean the facade containing the main entrance to the rehabilitated structure and the two (2) side facades generally contiguous with the entrance facade. For purposes of this section, the investment in or contribution to the rehabilitated structure may include the costs of rehabilitating such structure, the consideration paid for undeveloped floor area related to the zone lot containing the rehabilitated structure, the cost of any additions to the rehabilitated structure, and consultant's fees and expenses related to such rehabilitation and additions.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-449. OD-4 overlay district.

(a) *Creation.* There is hereby created an overlay district designated as OD-4.

(b) *Height control.* The height of any structure in the OD-4 District shall not exceed two hundred (200) feet. Flush mounted solar panels shall not be included in building height measurements anywhere in the OD-4 district.

(Ord. No. 53-08, § 39, eff. 2-8-08)
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-450. OD-5 overlay district.

(a) *Creation.* There is hereby created an overlay district designated as OD-5.

(b) *Maximum height of structures.* The maximum height of structures shall not be greater than eighty (80) feet subject to the design review approval and procedures in section 59-212. Flush mounted solar panels shall not be included in building height measurements anywhere in the OD-5 district.

(Ord. No. 53-08, § 40, eff. 2-8-08)

(c) *Off-street parking requirements.*

(1) The provisions of section 59-585 (use and maintenance of off-street parking space) shall be in full force and effect in this overlay district.

(2) Any structure lawfully erected prior to January 1, 1930, or any additions to those structures erected thereafter in conformity with applicable municipal ordinances, shall comply with the provisions of article VI (off-street parking requirements) with the exception that the parking classes listed in section 59-586 (required off-street parking) shall not apply and shall be replaced by the following:

a. One (1) off-street parking space shall be provided for each one thousand (1,000) square feet of gross floor area contained in any structure or structures on a zone lot no greater than one hundred fifty (150) feet by one hundred twenty-five (125) feet, provided however that the gross floor area devoted to residential uses shall have off-street parking spaces provided at a ratio of one (1) off-street parking space per residential unit in addition to the off-street parking requirements for the gross floor area devoted to nonresidential uses, provided further that, upon qualifying under the provisions of article IV, chapter 27 (affordable housing), a twenty (20) percent reduction in the total number of required parking spaces shall be granted. This shall be calculated by first calculating the number of parking spaces otherwise required, multiplying that figure by eight-tenths (.8) and rounding up to the nearest whole number.

b. One (1) off-street parking space shall be provided for each seven hundred fifty (750) square feet of gross floor area contained in any structure or structures on a zone lot greater than one hundred fifty (150) feet by one hundred twenty-five (125) feet, provided however that the gross floor area devoted to residential uses shall have off-street parking spaces provided at a ratio of one (1) off-street parking space per residential unit in addition to the off-street parking requirements for the gross floor area devoted to nonresidential uses, provided further that, upon qualifying under the provisions of article IV, chapter 27 (affordable housing), a twenty (20) percent reduction in the total number of required parking spaces shall be granted. This shall be calculated by first calculating the number of parking spaces otherwise required, multiplying that figure by eight-tenths (.8) and rounding up to the nearest whole number.

c. All required off-street parking spaces shall be designed in accordance with chart no. 1 contained in article VI of this chapter 59;

d. Off-street parking requirements for renovated structures lawfully erected prior to January 1, 1930, or any additions to those structures erected thereafter, may be met off the zone lot upon approval by the zoning administrator.

(d) *Rules and regulations.* The planning office has authority to adopt rules and regulations further establishing criteria, standards, and procedures for design review as required by section 59-212.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-451. OD-6 overlay district.

(a) *Creation.* There is hereby created an overlay district designated as OD-6.

(b) *Applicability.*

(1) The provisions of the OD-6 district shall be in full force and effect for any structure erected after July 1, 1998.

(2) The provisions of this subsection shall not apply to:

a. Any structure erected in conformity with applicable municipal ordinances prior to July 1, 1998; and

b. Additions to structures existing on July 1, 1998, not exceeding twenty (20) percent of the gross floor area of the structure then existing on July 1, 1998.

(c) *Parking restrictions.* All aboveground off-street parking space shall be set back from any front line abutting the long dimension of any block oblong in shape, a distance equal to one-half (½) the depth of the zone lot. The space resulting from the foregoing setback shall be landscaped in accordance with the standards set forth in section 59-585(10)b.2. for street frontage landscaped planting strips. Access ways and driveways to the off-street parking space shall not exceed twenty-five (25) percent of the zone lot width.

(d) *Height control.* The height of any structure in the OD-6 district shall not exceed thirty-five (35) feet except that a building containing residential uses may be erected to a height not exceeding forty-five (45) feet, if fifty (50) percent or more of the provided off-street parking is located in an underground parking facility or a completely enclosed structure. Flush mounted solar panels shall not be included in building height measurements anywhere in the OD-7 district.

(Ord. No. 53-08, § 41, eff. 2-8-08)

(e) *Bulk of structures.* Except for eaves, church spires, church towers, flagpoles, antennas, chimneys, flues, flush mounted solar panels or vents, no part of any structure, including elevator penthouses, air conditioners and other mechanical equipment, shall project through bulk planes which are described as follows and shown in figure 1:

(Ord. No. 53-08, § 42, eff. 2-8-08)

(1) *Ground-level point.* The starting point for locating the bulk plane shall be the midpoint of a specific lot line, or alley center line adjoining the lot. The elevation of the ground at the midpoint shall be used as the first measuring point for the bulk plane. In case a retaining wall is located on the lot line, the midpoint elevation shall be taken from the base of the wall. The midpoint elevation shall be established prior to any grading or construction.

(2) *Aboveground horizontal line.* The starting line for bulk planes shall be as follows:

a. For the side area of a zone lot: at a horizontal line which is located directly above the side lot line and passes through a point twenty (20) feet above the midpoint elevation of such side lot line;

b. For the front area of the zone lot: at a horizontal line which is located directly above the front lot line and which passes through a point twenty (20) feet above the midpoint of such front lines; and

c. For the rear area of the zone lot:

1. With no abutting alley: at a horizontal line which is located directly above the rear lot line and which passes through a point twenty (20) feet above the midpoint elevation of such rear lot line; or

2. With an abutting alley: at a horizontal line which is located directly above the center line of the abutting alley or alleys and which passes through a point twenty (20) feet above the midpoint elevation of such center line between the boundary lines of the zone extended.

(3) *Sloping plane.* The bulk planes start at the horizontal lines described above and extend upwards over the lot at an angle of forty-five (45) degrees with respect to the horizontal (a pitch of one (1) foot additional rise for each additional foot of setback from the horizontal line) until such planes intersect the bulk plane from the opposite lot line.

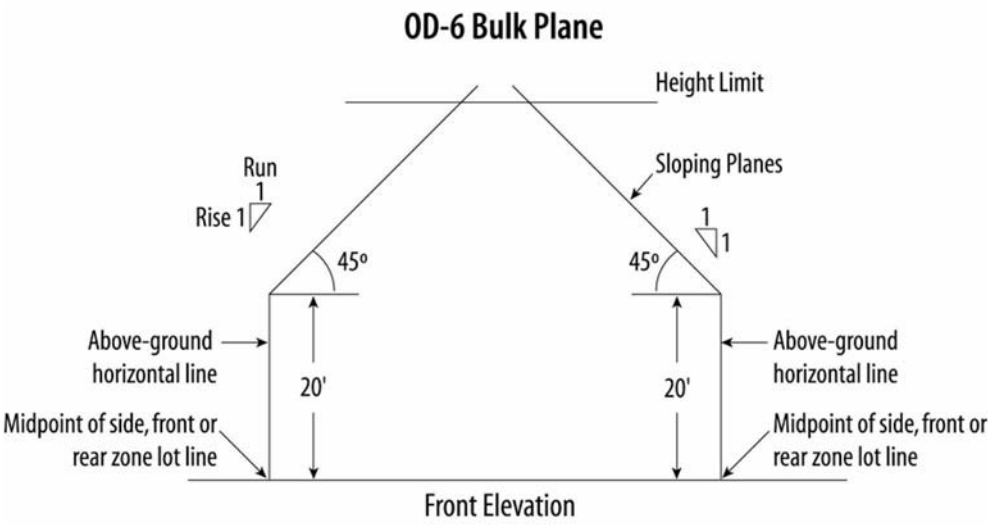


Figure 1: OD-6 Bulk Plane

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-452. OD-7 overlay district.

(a) *Creation.* There is hereby created an overlay district designated as OD-7.

(b) *Applicability.*

(1) The provisions of the OD-7 district shall be in full force and effect for any structure erected after July 1, 1998.

(2) The provisions of this subsection shall not apply to:

a. Any structure erected in conformity with applicable municipal ordinances prior to July 1, 1998; and

b. Additions to structures existing on July 1, 1998, not exceeding twenty (20) percent of the gross floor area of the structure then existing on July 1, 1998.

(c) *Parking restrictions.* All aboveground off-street parking space shall be set back from any front line abutting the long dimension of any block oblong in shape, a distance of not less than twenty (20) feet. The space resulting from the foregoing setback shall be landscaped in accordance with the standards set forth in section 59-585(10)b.2. for street frontage landscaped planting strips. Access ways and driveways to the off-street parking space shall not exceed twenty-five (25) percent of the zone lot width.

(d) *Height control.* The height of any structure in the OD-7 District shall not exceed fifty-five (55) feet. Flush mounted solar panels shall not be included in building height measurements anywhere in the OD-7 district.
(Ord. No. 53-08, § 43, eff. 2-8-08)

(e) *Bulk of structures.* Except for eaves, church spires, church towers, flagpoles, antennas, chimneys, flues, flush mounted solar panels or vents, no part of any structure, including elevator penthouses, air conditioners and other mechanical equipment, shall project through bulk planes which are described as follows and in figure 2:
(Ord. No. 53-08, § 44, eff. 2-8-08)

(1) *Ground-level point.* The starting point for locating the bulk plane shall be the midpoint of a specific lot line, or alley center line adjoining the lot. The elevation of the ground at the midpoint shall be used as the first measuring point for the bulk plane. In case a retaining wall is located on the lot line, the midpoint elevation shall be taken from the base of the wall. The midpoint elevation shall be established prior to any grading or construction.

(2) *Aboveground horizontal line.* The starting line for bulk planes shall be as follows:

a. For the side area of a zone lot: at a horizontal line which is located directly above the side lot line and which passes through a point twenty (20) feet above the midpoint elevation of such side lot line;

b. For the front area of the zone lot: at a horizontal line which is located directly above the front lot line and which passes through a point twenty (20) feet above the midpoint of such front lines; and

c. For the rear area of the zone lot:

1. With no abutting alley: at a horizontal line which is located directly above the rear lot line and which passes through a point twenty (20) feet above the midpoint elevation of such rear lot line; or

2. With an abutting alley: at a horizontal line which is located directly above the center line of the abutting alley or alleys and passes through a point twenty (20) feet above the midpoint elevation of such center line between the boundary lines of the zone extended.

(3) *Sloping plane.* The bulk planes start at the horizontal lines described above and extend upwards over the lot at an angle of sixty-three (63) degrees, twenty-six (26) minutes with respect to the horizontal (a pitch of two (2) feet additional rise for each additional foot of setback from the horizontal line) until such planes intersect the bulk plane from the opposite lot line.

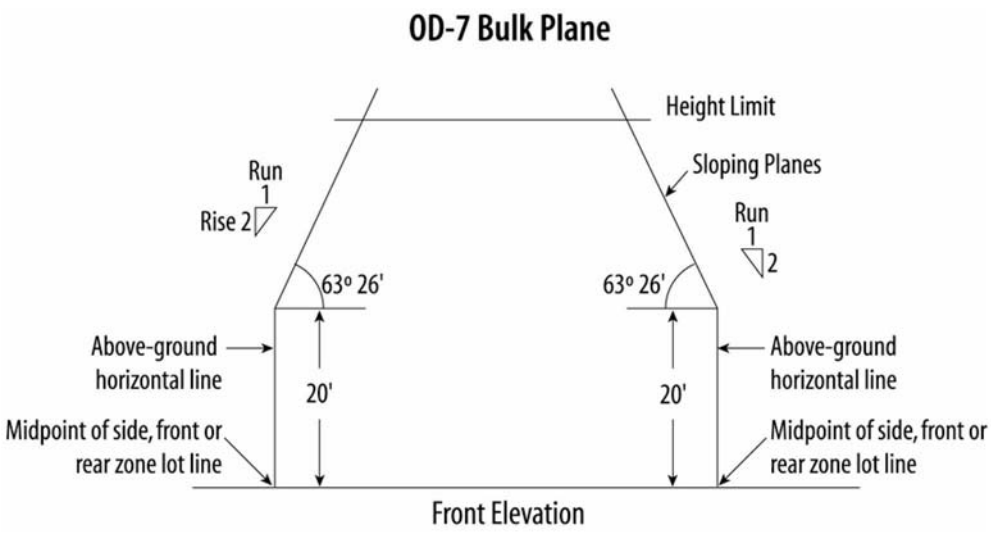


Figure 2: OD-7 Bulk Plane

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-453. OD-8 overlay district.

(a) *Creation.* There is hereby created an overlay district designated as OD-8.

(b) *Applicability.*

(1) The provisions of the OD-8 district shall be in full force and effect for any structure erected after July 1, 1998.

(2) The provisions of this subsection shall not apply to:

a. Any structure erected in conformity with applicable municipal ordinances prior to July 1, 1998; and

b. Additions to structures existing on July 1, 1998, not exceeding twenty (20) percent of the gross floor area of the structure then existing on July 1, 1998.

(c) *Parking restrictions.* All aboveground off-street parking space shall be set back from any front line abutting the long dimension of any block oblong in shape, a distance of not less than twenty (20) feet. The space resulting from the foregoing setback shall be landscaped in accordance with the standards set forth in section 59-585(10)b.2. for street frontage landscaped planting strips. Access ways and driveways to the off-street parking space shall not exceed twenty-five (25) percent of the zone lot width.

(d) *Height control.* The height of any structure in the OD-8 District shall not exceed seventy-five (75) feet. Flush mounted solar panels shall not be included in building height measurements anywhere in the OD-8 district.

(Ord. No. 53-08, § 45, eff. 2-8-08)
(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-454. OD-9 overlay district.

(a) *Creation.* There is hereby created an overlay district designated as OD-9.

(b) *Intent.* The OD-9 district is intended to preserve the general character of the neighborhood and promote development consistent with the vision, goals, and recommendations of the neighborhood plan.

(c) *Applicability.*

(1) The provisions of the OD-9 district shall be in full force and effect for any structure erected after September 1, 1999.

(2) The provisions of this subsection shall not apply to:

a. Any structure erected in conformity with applicable municipal ordinances prior to September 1, 1999; and

b. Additions to structures existing on September 1, 1999, not exceeding twenty (20) percent of the gross floor area of such existing structure.

(d) *Parking restrictions.* All abovegrade off-street parking spaces shall be set back from any front line abutting the long dimension of any block oblong in shape, a distance equal to one-half (1/2) the depth of the zone lot, unless the exception below applies. The space resulting from the foregoing setback shall be landscaped in accordance with the standards set forth in section 59-585(10)b.2., landscape plan, for street frontage landscaped planting strips. All parking shall be adequately screened from adjacent properties and the public right-of-way. Access ways and driveways to all off-street parking spaces shall not exceed twenty-five (25) percent of the zone lot width.

Exception. Notwithstanding the above, structures containing above grade off-street parking spaces where the top of the parking structure projects no more than three (3) feet, six (6) inches above grade level, as measured from the midpoint elevation of a side lot line, may occur in the front one-half (1/2) of the zone lot. Structures containing fully above grade off-street parking

space may occur in the front one-half (½) of the zone lot if all frontages within ten (10) feet of the public street contain uses by right other than parking. All parking spaces shall be screened from the public right-of-way and adjacent properties as set forth above.

(e) *Open space required.* Notwithstanding the provisions of the underlying zone district, each zone lot shall provide at least twenty-five (25) percent of the area of the zone lot in unobstructed open space which shall not include space provided for off-street parking.

(f) *Front setback.* The zoning administrator shall establish the front setback requirement for any situation not otherwise described below. The zoning administrator shall establish the front setback requirement in historic districts designated for preservation according to chapter 30 of the Revised Municipal Code.

(1) *Long dimension of the block.* All structures shall be set in a distance of not less than fifteen (15) feet from each front line of the zone lot facing the long dimension of any block oblong in shape; provided, however, that if the front setbacks of existing structures abutting on either side of the proposed structure are greater than fifteen (15) feet, the minimum front setback of the proposed structure shall be the average of the front setbacks of those abutting structures. If a proposed structure is to be located on a corner lot and a structure abutting the proposed structure is greater than fifteen (15) feet, the minimum front setback of the proposed structure shall be the average of the setbacks of the abutting structure and the structure located on the zone lot next to the abutting structure on the same face block as the subject zone lot. In calculating the front setback, the following shall be disregarded: structures located in the rear one-half (½) of the lot, structures with setbacks of ten (10) feet or less, structures with illegal front additions or porch enclosures, and structures for which front setback variances have been obtained.

(2) *Shorter dimension of the block.* On the two (2) shorter dimensions of any block oblong in shape, the front setback may be reduced to five (5) feet for structures which face on the longer dimension of the block and to ten (10) feet for structures which face on the shorter dimension of the block.

(g) *Height control.* The height of any structure in the OD-9 district shall not exceed thirty-five (35) feet. Flush mounted solar panels shall not be included in building height measurements anywhere in the OD-9 district.

(Ord. No. 53-08, § 46, eff. 2-8-08)

(h) *Bulk of structures.* Except for eaves, church spires, church towers, flagpoles, antennas, chimneys, flues, flush mounted solar panels or vents, no part of any structure, including elevator penthouses, air conditioners and other mechanical equipment, shall project through bulk planes which are described as follows and shown above in figure 1, OD-6 bulk plane:

(Ord. No. 53-08, § 47, eff. 2-8-08)

(1) *Ground level point.* The starting point for locating the bulk plane shall be the midpoint of a specific lot line, or alley center line adjoining the lot. The elevation of the ground at the midpoint shall be used as the first measuring point for the bulk plane. In case

a retaining wall is located on the lot line, the midpoint elevation shall be taken from the base of the wall. The midpoint elevation shall be established prior to any grading or construction.

(2) *Aboveground horizontal line.* The starting line for bulk planes shall be as follows:

a. *For the side area of the zone lot:* at a horizontal line which is located directly above the side lot line and passes through a point twenty (20) feet above the midpoint elevation of such side lot line;

b. *For the front area of the zone lot:* at a horizontal line which is located directly above the front zone lot line and which passes through a point twenty (20) feet above the midpoint of such front lines; and

c. *For the rear area of the zone lot:*

1. With no abutting alley: at a horizontal line which is located directly above the rear lot line and which passes through a point twenty (20) feet above the midpoint elevation of such rear zone lot line; or

2. With an abutting alley: at a horizontal line which is located directly above the center line of the abutting alley or alleys and which passes through a point twenty (20) feet above the midpoint elevation of such center line between the boundary lines of the zone lot extended.

(3) *Sloping plane.* The bulk planes start at the horizontal lines described above and extend upwards over the zone lot at an angle of forty-five (45) degrees with respect to the horizontal (a pitch of one (1) foot additional rise for each additional foot of setback from the horizontal line) until such planes intersect the bulk plane from the opposite zone lot line.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-455. OD-10 overlay district.

(a) *Creation.* There is hereby created an overlay district designated as OD-10.

(b) *Limitation on the establishment of zone lots in the overlay district.* Any zone lots in this overlay district which exist on the date of passage of this paragraph may be amended or subdivided only if each of the zone lots which are created or result therefrom is not less than seventy-five (75) feet wide at the front setback line for structures and are not less than nine thousand three hundred (9,300) square feet in area. The requirements of this overlay district shall not apply to applications to amend the boundaries of a zone lot filed with the department of zoning administration prior to April 10, 2000.

(c) *Exceptions inapplicable.* The exceptions from zone lot width and area requirements for zone lots in sections 59-120(a)(2)c. and 59-120(a)(2)d. of this Code shall not apply in this overlay district, provided however, zone lots containing at least twenty-seven thousand nine hundred (27,900) square feet existing on March 7, 2000 may be amended into zone lots in compliance with the zone lot width reduction for flag lots contained in sections 59-120(a)(2)c., if the resultant zone lots contain at least nine thousand three hundred (9,300) square feet.

(d) *Corner lots.* For corner lots, the shorter dimension of the lot shall be the width of the lot.

(e) *Planned building groups.* In a planned building group, the zone lot for structures designed or used as single unit dwellings shall contain not less than eighteen thousand six hundred (18,600) square feet, plus nine thousand three hundred (9,300) square feet for each single unit dwelling unit in excess of two (2) single unit dwellings.
(Ord. No. 361-03, § 3, eff. 5-23-03)

Secs. 59-456—59-510. Reserved.

DIVISION 22. PLANNED UNIT DEVELOPMENT (PUD) DISTRICT

Sec. 59-511. Generally.

The provisions of this division apply to all lands, uses and structures in PUD districts.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-512. Description of district.

The PUD district is an alternative to conventional land use regulations, combining use, density and site plan considerations into a single process, and substituting procedural protections for the requirements in this chapter. The PUD district is specifically intended to encourage diversification in the use of land and flexibility in site design with respect to spacing, heights and setbacks of buildings, densities, open space and circulation elements; innovation in residential development that results in the availability of adequate housing opportunities for varying income levels; more efficient use of land and energy through smaller utility and circulation networks; pedestrian considerations; and development patterns in harmony with nearby areas and with the goals and objectives of the comprehensive plan for the city.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-513. Permitted uses.

A PUD district shall permit any use which is a permitted use in any zone district of the city when such use is provided for, enumerated, and approved in the PUD zone district plan and written stipulations.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-514. Preapplication conference.

Prior to filing an application for approval of a PUD district, the applicant shall make a request to the planning office for a preapplication conference. The planning office shall conduct the preapplication conference to discuss the PUD procedures and guidelines with the applicant.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-515. Application.

(a) *Contents.* Each application for approval of a PUD district shall be filed with the department of zoning administrator by the owner or agent of the owner of the entire land area to be included within the project; shall contain the applicant's name, address, and interest in the application; shall contain the names and addresses of all the owner of the property, and the holders of deeds of trust, identifying which owners and holders of deeds of trust are represented by the applicant; shall be signed by all the owners or their representatives; shall

contain such information and representations required by this chapter or deemed necessary for proper review and evaluation of the application; and shall include at least the following details:

(1) A legal description and map of the property drawn to scale which shall include: the land area within the PUD district, the use and present zone classification of the designated area, the zone classification and use of all abutting districts within two hundred (200) feet of the subject property, and all public and private rights-of-way and easements bounding and intersecting the designated area which are proposed to be continued, created, relocated and/or abandoned.

(2) A district plan, drawn at a scale of not less than one (1) inch per two hundred (200) feet, and a written description of the proposed development. The district plan and/or the description shall show or stipulate the general location, arrangement, extent, and character for the following where applicable:

a. Adjacent streets and alleys;

b. Land uses by type, including the gross acreage or square footage of each proposed use;

c. Structures or building envelopes by type of use, maximum height of structures, maximum gross floor area for each land use, and land coverage of buildings and impervious areas;

d. Residential densities by housing type and maximum number of dwelling units;

e. Interior streets and drives;

f. Parking, loading and outdoor storage areas and access thereto, including areas for storage of boats, campers, trailers and recreation vehicles;

g. Public and private open and recreation space;

h. Landscaped areas including typical materials;

i. Buffer areas and fencing including purpose and timing of construction;

j. Pedestrian circulation;

k. Existing and proposed utilities and easements;

l. School sites;

m. Dimensions of separations between buildings, streets and other features;

n. Land dedications and public improvements;

o. Areas subject to flooding, retention areas and surface drainage;

p. Location, size and lighting of signs;

q. Treatment of sound, vibration, glare, radiation, fumes, and heat emission which will extend beyond the zone lot;

r. Other elements such as architectural concepts, building elevations, facade treatments, and exterior building materials as necessary to establish how the proposed PUD uses and structures relate to the neighboring property.

(3) A written statement generally describing the proposed PUD and the market which it is intended to serve; its relationship to the comprehensive plan; and how the proposed PUD district is to relate to the use of neighboring property. Where the applicants' objectives are not in substantial conformance with the comprehensive plan, the statement shall include the changed or changing conditions that justify approval of the proposed PUD district.

(4) A development schedule showing the approximate date of proposed construction and whether or not the project is intended to be developed in stages.

(5) Other information deemed necessary to evaluate the application as the department of zoning administration, planning office or a member of the city council may, within twenty-one (21) days after the submission of the application, request in writing of the applicant.

(b) *Waiver of specific submissions.* Any information required by subsection (a) may be waived by the joint action of the zoning administration and the director of planning on the basis that the information is not necessary to a review of the proposed PUD. Such waiver shall be in writing and shall specify the reasons for such waiver.

(c) *Review.*

(1) Upon receipt of a completed application, the department of zoning administration shall transmit a copy of such application to the planning office, city council, public works and to such other agencies, either public or private, as may be deemed by the department to have an interest. The director of planning and the chairman of the planning board shall jointly make a determination as to which one (1) of the review processes detailed in (c)(2) through (c)(5) below shall apply.

(2) Process A: Planning office review. When an application meets all of the criteria set forth in a. through c. below, the planning office shall forward to the zoning administration a recommendation of approval or approval with stipulations.

a. No major issues exist with the proposed planned unit development application and the application represents less than a ten (10) percent increase in gross floor area over what currently exists on the property;

b. The applicant has submitted letters and/or petitions which demonstrate general support for the application from property owners located within two hundred (200) feet of the subject property, registered neighborhood associations, and other neighborhood interests deemed to be affected by the application, even if the documented support is not unanimous; and

c. The planning office staff has reviewed the application and has developed a recommendation of approval, or approval with stipulations, and the applicant has agreed to amend the application to positively address these stipulations.

(3) Process B: Planning office meeting. When an applicant does not meet one (1) or more of the criteria described in the planning office review process above and there is sufficient evidence to suggest that issues which may exist with the proposed planned unit development application have been responsibly addressed, a planning office meeting shall be held at which parties and interested citizens shall have an opportunity to be heard. Such meeting shall be held within thirty (30) days following the date on which the completed application was received by the department of zoning administration. The property under consideration for a change in zoning classification shall be posted for at least fifteen (15) days prior to the planning office meeting. The posted notices shall be in number, size and location as prescribed by the department of zoning administration and shall indicate the present zoning classification, the time and place of the planning office public meeting, and any other information prescribed by the department of zoning administration. Posted notices shall be removed by the applicant within fifteen (15) days after such public meeting has been held. Failure to do so shall constitute a violation of this chapter.

a. If it is determined that issues identified in (3) above have been resolved, the planning office shall forward to the zoning administration a recommendation of approval or approval with stipulations.

b. If it is determined that issues discussed at the planning office meeting described above have not been resolved, the planning office shall forward the application for review under the procedure described in (c)(4) below.

(4) Process C: Planning board committee meeting. A committee consisting of three (3) planning board members appointed by the chairman of the planning board shall hold a meeting at which parties and interested citizens shall have an opportunity to be heard. If a planning office meeting described in (c)(3) above is first held, such meeting shall be held within thirty (30) days following the date of the planning office meeting. If a planning office meeting is not first held, such meeting shall be held within thirty (30) days following the date on which the completed application was received by the department of zoning administration. The property under consideration for a change in zoning classification shall be posted consistent with requirements set forth in (3) above.

(5) Process D: Planning board meeting. If the issues have not been resolved under any of the above review processes, a full planning board meeting at which parties and interested citizens shall have the opportunity to be heard shall be held within forty-five (45) days following the date on which the completed application was received by the department of zoning administration. The property for which the application is being considered shall be posted consistent with requirements set forth in (3) above.

(6) Within thirty (30) days following the date on which such completed application was received by the department of zoning administration, all agencies to which the application was submitted, excepting the planning office, shall transmit to the department of zoning administration recommendations or comments, copies of which shall be forwarded by the zoning administration to the applicant. The recommendation of the planning office and, if applicable, the planning board shall be transmitted to the department of zoning administration within seven (7) days of the completion of the applicable review process. The failure of reviewing agencies to act within the time herein prescribed shall not be deemed a recommendation of the application as submitted.

(d) *Disposition:*

(1) The only provisions of article X (amendment procedure) of this chapter which shall apply are section 59-646 (declaration of public policy), section 59-647(7) (public hearing required, notice given), section 59-647(8) (effect of protests to amendments), section 59-647(9) (filing of protests; time limitation; withdrawal); and section 59-650 (disposition of applications); provided that section 59-650(b) (legislative disposition) shall not apply if waived by the chairperson of the reviewing committee.

(2) If section 59-650(b) is not waived, the complete application with all waivers, stipulations and other supporting material shall be presented to an appropriate committee of city council by the zoning administrator for preliminary review. The council committee may at that time require additional information from the application or from city agencies, including information previously waived under section 59-515(b).

(3) After receipt of a notice for waiver of section 59-650(b), or after review by the council committee, the zoning administrator shall file the complete application with all stipulations and such supporting material as designated by the council committee with the city clerk.

(4) The decision of council shall be based on written findings of fact, which shall be signed by the president or president pro-tem of council and recorded in the office of the city clerk.

(e) *Registration and recording.* All approved plans shall be registered and recorded with the city clerk by the department of zoning administration and the official map shall be amended to designate the area included in the approved plan as "planned unit development district #_____."

(f) *Successive applications.* No application for the change of a zoning classification to a PUD district shall be made by a property owner or his agent concerning any land area, which land area or any portion thereof shall have been the subject of a public hearing conducted by council within the immediately preceding twelve (12) months' period and which resulted in a rejection of the proposed PUD district.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-516. PUD amendment.

(a) All district plans and documents registered and recorded under this division may be amended in whole or in part pursuant to the same procedure and subject to the same limitations and requirements by which such plans and documents were approved, registered and recorded; provided, however, that each application for amendment shall include the entire land area of the registered and recorded plan, and shall be filed with the department of zoning administration by any owner or agent of an owner of the property to which the amendment applies.

(b) Notwithstanding the provisions of section 59-516(a), relating to including in the application the entire land area of the registered and recorded plan and relating to the requirement that the application be filed by the owner or agent of any owner to which the amendment applies and the provisions of section 59-515 relating to the requirements that the application contain the names and addresses of all the owners of property and the holders of deeds of trust and that the application be signed by all owners or their representatives; where a PUD was adopted on or before June 1, 2002, and where by its terms such PUD states that it may be amended by metes and bounds parcel, as described in such PUD, any application to amend such PUD by subarea, platted lot or metes and bounds parcel, including an amendment to rezone any such subarea, platted lot or metes and bounds parcel to any other classification:

(1) Shall include only that portion of the land area of the registered and recorded plan to which the proposed amendment applies;

(2) Shall contain only the names and addresses of the owners and holders of deeds of trust of the property within the subarea, platted lot or metes and bounds parcel to which the proposed amendment applies; and

(3) Shall be filed and signed only by all the owners or agents of the owners of the property within the subarea, platted lot or metes and bounds parcel to which the proposed amendment applies.

(c) All required notices relating to an application to amend any such PUD as described in section 59-516(b) shall state that the PUD being amended allows for amendment by subarea, platted lot or metes and bounds parcel.

(d) Areas covered by all plans registered and recorded under this division may be considered by city council for rezoning to a more appropriate classification under article X (amendment procedures) if significant progress in the development called for in the plans and documents has not been demonstrated within three (3) years following registration and recording of the plans and documents; provided that the owners of property subject to such amendment or rezoning have been first notified in writing by the zoning administrator that city council is considering such rezoning.
(Ord. No. 03-361, § 3, eff. 5-23-03; Ord. No. 895-03, § 49, eff. 12-2-03)

Sec. 59-517. Filing of site plan for approval.

After registration and recording of the approved district plan and documents, the owner shall submit a site plan to the director of planning, provided that such site plan may be

submitted after the filing of a final PUD application with the zoning administration. The site plan shall include the entire PUD area and may consist of one (1) or more stages; provided however, that the approval of any one (1) stage may be contingent on improvements that involve other or all stages. The site plan shall contain such information and documentation as shall be prescribed in the PUD site plan rules and regulations. Any registered and recorded district plan which consists solely of an existing building or buildings with no proposed relocation of any exterior walls is excluded from this requirement for the submittal of a site plan. If the required site plan has not been submitted within thirty (30) months following the registration and recording of an approved district plan and documents, the owners of the property subject to the PUD district shall be notified, in writing by the zoning administrator, of the potential rezoning provisions of section 59-516.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-518. Review of site plan.

(a) *Development review committee.* There shall be a development review committee consisting of the director of planning, the manager of public works, the zoning administrator, the chief of the fire department, the manager of parks and recreation, and the manager of the water board or their designated representatives. Additional public or private agencies and other interested persons or organizations may participate at their request.

(b) *Site plan rules and regulations.* The director of planning shall adopt and maintain PUD site plan rules and regulations establishing standards and procedures for its examinations. The PUD site plan rules and regulations shall be open to public inspection and shall make due provisions for at least:

(1) Adequate design of grades, paving, gutters and drainage of private streets according to section 41-20;

(2) Proper arrangement of signs and lighting devices with respect to traffic-control devices and adjacent residential areas;

(3) Adequate amounts and safe locations of play areas for children and other recreational areas according to the concentration of occupancy in residential areas;

(4) Fences, walls or year-round natural screen planting and landscaping when necessary to shield adjacent residential areas from commercial, industrial and parking areas;

(5) Adequate treatment of drainage to handle storm waters, prevent erosion and minimize the formation of dust;

(6) Adequate identification of buildings, particularly in projects where two (2) or more buildings use one (1) street address or where two (2) or more buildings are located on private streets or drives. For these cases the rules and regulations shall apply to all existing and future projects and shall require the following:

a. The installation of temporary signs identifying each individual building at the beginning stage of its construction;

b. The installation of permanent identifying signs on each building which will allow quick identification by emergency service personnel and visitors; and

c. The installation of legible maps at the main vehicle entry points and/or signs showing all private streets or drives and their alignment throughout the project.

(7) Proper access to and arrangement of parking and loading areas; and

(8) Adequate amounts of, and appropriate materials for, landscaping.

(c) *Waiver of specific submissions.* Any information required by the PUD site plan rules and regulations may be waived by the action of the development review committee on the basis that the information is not necessary to review of the proposed PUD. Such waiver shall be in writing and shall specify the reasons for such waiver.

(d) *Review of site plan.* A site plan shall be reviewed by the development review committee. This committee shall have the authority to request additional information from the applicant when necessary to complete its review. Site plans for areas east of Chambers Road, but excluding those areas southeast of the intersection of Tower Road and 48th Avenue, shall be subject to the site plan review process set forth in section 59-351, development review and approval process, of this chapter.

(e) *Conformance with district plan and documents.* Site plans shall conform to approved district plans and documents, provided however, that the zoning administrator, director of planning, and manager of public works jointly may authorize minor deviations from district plans and documents during the PUD site plan review when such deviations appear necessary in light of technical or engineering considerations, and provided that the council member in whose district the PUD is located and all directly affected registered neighborhood organizations are first notified. Such minor deviations shall not be permitted if any of the following circumstances are resultant:

(1) A change in the character of the development;

(2) A change in the land uses;

(3) A change in the general location of land uses;

(4) An increase in the maximum height of any building by more than the lesser of five (5) feet or five (5) percent;

(5) An increase in the number of dwelling units, or in the ratio of the gross floor area of structures to the land area;

(6) A reduction in the setbacks from property lines;

(7) An increase in ground coverage by structures or surface parking;

(8) A reduction by more than five (5) percent in the land area designated for landscaping;

(9) A reduction in the ratio of off-street parking and loading space to gross floor area or number of dwelling units in structures;

(10) A change in the limitations on the number, size or lighting of signs;

(11) A change affecting the access from and through public rights-of-way; provided, however, that curb cut locations may shift unless specifically established by the district plan; or

(12) A substantive change in any element submitted in accordance with section 59-515(a)(2)r.

(f) *Disposition.* The development review committee shall evaluate the site plan for conformance with the approved district plan and documents and according to its site plan rules and regulations; shall return one (1) or more copies of the site plan to the applicant, marked to show approval, denial or approval subject to modifications, which modifications shall be clearly and permanently marked on such plan; and shall, when the plan is acceptable to the development review committee, but not prior to the registration and recording of the approved district plan and documents provided for in section 59-515(e), record a copy of such portions of the plan as may be appropriate in the office of the city clerk and file a copy with the department of zoning administration. The development review committee's file shall reflect the reason for any modifications required by the committee or made by the applicant.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-519. Effect and limitations on approval.

(a) When the requirement for the submittal of a site plan is waived as provided in section 59-517, "Filing of site plan for approval," the approved district plan and documents shall regulate the use and development of the subject property. Unless waived by the provisions of section 59-517, "Filing of site plan for approval," a PUD site plan approved and recorded pursuant to these provisions shall, with the approved district plan, regulate the use and development of the subject property.

(b) The department of zoning administration shall review all permits issued and shall inspect the location of footings or foundations for each structure approved in the plan. If the department finds that development is not proceeding in accordance with the PUD plans and documents as finally approved, it shall immediately issue an order stopping any or all work on the PUD which does not comply with such plans, until such time as any noncompliance is remedied.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-520. Site plan amendments.

All site plans registered and recorded hereunder may only be amended pursuant to the same procedure and subject to the same limitations and requirements by which such plans were approved.
(Ord. No. 03-361, § 3, eff. 5-23-03)

Secs. 59-521—59-535. Reserved.

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