

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 ($\frac{1}{4}$) mile on either side of the centerline of Tower Road between First Creek and the 58th Avenue alignment, no more than one-eighth ($\frac{1}{8}$) mile either side of the centerline of Tower Road between the 62nd and 66th Avenue alignments, no more than one-eighth ($\frac{1}{8}$) mile north and south of the centerline of the 64th Avenue alignment from one-quarter ($\frac{1}{4}$) mile west of Tower Road to one-quarter ($\frac{1}{4}$) mile east of Tower Road, and no more than one-quarter ($\frac{1}{4}$) 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 ($\frac{1}{8}$) 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.

<i>Key:</i> <i>P = Permitted</i> <i>L = Uses permitted with limitations</i> <i>SR = Uses permitted after special re-view</i> <i>D = Uses permitted with distance re-quirements</i> <i>* = Need not be enclosed</i> <i>(blank) = not permitted</i>	<i>Gateway use district</i>						
	<i>Use</i>	<i>OSU</i>	<i>RU1</i>	<i>RU2</i>	<i>MU1</i>	<i>MU2</i>	<i>TCU</i>
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, emis-sions 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

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<i>Use</i>	<i>OSU</i>	<i>RU1</i>	<i>RU2</i>	<i>MU1</i>	<i>MU2</i>	<i>TCU</i>	<i>TSU</i>
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

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<i>Use</i>	<i>OSU</i>	<i>RU1</i>	<i>RU2</i>	<i>MU1</i>	<i>MU2</i>	<i>TCU</i>	<i>TSU</i>
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

<i>Temporary use</i>	<i>RU1</i>	<i>RU2</i>	<i>MU1</i>	<i>MU2</i>	<i>TSU</i>	<i>TCU</i>	<i>OSU</i>
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

<i>Temporary use</i>	<i>RU1</i>	<i>RU2</i>	<i>MU1</i>	<i>MU2</i>	<i>TSU</i>	<i>TCU</i>	<i>OSU</i>
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

<i>Use Area</i>	<i>Minimum Zone Lot Size (Square Feet)</i>	<i>Minimum Zone Lot Width at Front Setback (1) (Feet)</i>	<i>Minimum On-Site Unobstructed Open Space (2) (Percent of Zone Lot Area)</i>
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

<i>Amenity Provided</i>	<i>Amount of Bonus</i>
Construction of improvements to Town Square or Business Green open spaces within one-half (1/2) 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.

<i>Amenity Provided</i>	<i>Amount of Bonus</i>
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 ($\frac{1}{4}$) 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)

<i>Zone Map Designation</i>	<i>MU1</i>	<i>MU2</i>	<i>RU1</i>	<i>RU2</i>	<i>TSU</i>	<i>TCU</i>
<i>Primary structures</i>	<i>Minimum Setback Distances</i>					
<i>Minimum front setbacks (2)</i>						
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
<i>Minimum side setback (4)</i>	10	10	10	10	0	0
<i>Minimum rear setback</i>	10	10	25	25	10	10
<i>Accessory structures (5)</i>						
<i>Minimum side setback</i>	10	10	10	10	10	10
<i>Minimum rear setback</i>	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 ($\frac{1}{3}$) 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 neighboring 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 ($\frac{1}{2}$) 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 ($\frac{1}{4}$) 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 ($\frac{1}{2}$) 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":

<i>Residential Development</i>	<i>Required Contribution (Land area or equivalent fee)</i>
Single-unit dwelling up to 7 units per net acre	.0183 acre per unit

<i>Residential Development</i>	<i>Required Contribution (Land area or equivalent fee)</i>
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:

<i>Parcel</i>	<i>Width or Area Dedicated</i>	<i>Width or Area Credited</i>
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

<i>Type of Residential Unit</i>	<i>(Land area or equivalent fee)</i>
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:

	<i>Elementary School Site</i>	<i>Middle School Site</i>	<i>High School Site</i>
<i>Each Unit of this Type</i>	<i>Acres</i>	<i>Acres</i>	<i>Acres</i>
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 archaeological 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 ($\frac{1}{4}$) 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)