

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

Sec. 59-181. Generally.

The provisions of this division apply to all lands, uses and structures in B-1, B-2, B-3, B-4 and B-8 districts.

(Ord. No. 361-03, § 3, eff. 5-23-03)

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

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

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

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	<i>Use</i>	<i>B-1</i>	<i>B-2</i>	<i>B-3</i>	<i>B-4</i>
Automobile gasoline filling station, emissions inspection		L4	L23	P	P
Automobile repair garage				L5	P
Automobile wash, laundry and/or polishing shop*		L28	L29	L30	L31
Automobile, motorcycle, light truck sales, leasing, rental*			L3	P	P
Banking and financial services	P	P	P	P	P
Bed and breakfast				P	P
Body art establishment				D4	D4
Bookstore		P	P	P	P
Brewpub				P	P
Communications service				L41	L41
Eating place		L1/ L192	L1/ L192	L43/ L192	L43
Food preparation and sales, commercial		L48	L44	P	P
Food sales or market, large		P	P	L50	L50
Food sales or market, small		P	P	L50	L50
Furniture, furnishings, retail sale, large scale			P	P	P
Garden supply store		L55*	P*	P*	P*
Home building materials and supplies, sales, or rental			P	P	P
Hotel			L61	P	P
Laboratory, research, development, technological service					P
Liquor store		D7	D7	D7	D7
Motel			L61	P	P
Office: nondental, nonmedical	L63	P	P	P	P
Pawn shop					P
Printing service, publishing, business support		L68	L68	P	P
Retail, service, repair, consumer, large scale		L73	P	L51	P
Retail, service, repair, consumer, medium scale		P	P	L51	P
Retail, service, repair, consumer, small scale	L74	P	P	L51	P
Retail, service, repair, consumer, special				P	L78

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<i>Use</i>	<i>B-1</i>	<i>B-2</i>	<i>B-3</i>	<i>B-4</i>	<i>B-8</i>
Service, repair, commercial				L84	P
Vehicle, equipment sales, leasing, service, rental*				L90	L90
Industrial, wholesale, transportation, utilities					
Assembly, without fabrication				L94	L94
Helipad, helistop, heliport*	L98	L98	L98	L98	D12
Manufacturing, fabrication, and assembly, custom				P	P
Manufacturing, fabrication, and assembly, general				L93	L6
Manufacturing, fabrication, and assembly, heavy					L100
Manufacturing, fabrication, and assembly, light				P	L6
Parking of vehicles*	P	P	P	P	P
Railway right-of-way*	P	P	P	P	P
Terminal and service facility for bus system*					L114
Terminal, freight and air courier services*				L143	P
Terminal, public transportation, local*	P	P	P	P	P
Utility, major impact	L115*	L115*	L115*	L115*	L115*
Utility, minor impact	P	P	P	L117	P
Vehicle storage, commercial*				L122	L122
Wholesale trade, general, and/or storage of toxic and/or hazardous materials				L121	L122
Wholesale trade, light, and/or storage of nontoxic, nonhazardous materials	L126	L126	L126	P	P
Arts, entertainment, recreation, institutions					
Ambulance service				P	P
Child care center	P	P	P	P	P
Church, religious institution	P	P	P	P	P
Clinic, office, laboratory, dental or medical	L133/C	P	P	P	P
Club or lodge	L136	L136	P	P	P
Community or senior center or recreational facility		P	P	P	P
Conference center, meeting hall				P	P
Fire station	P	P	P		P
Library	P	P	P	P	P
Mortuary			P	P	P

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<i>Use</i>	<i>B-1</i>	<i>B-2</i>	<i>B-3</i>	<i>B-4</i>	<i>B-8</i>
Museums, other special purpose cultural institutions	P	P	P	P	P
Police station	P	P	P	P	P
Postal facility, neighborhood	P	P	P	P	P
Recreation services, indoor		L145	P	P	P
Recreation services, outdoor*		L148	L149	L140	P
School, elementary or secondary	L154	L155	L156	P	P
School, vocational or professional	L154	L155	L156	P	P
Studio, professional		L160	L160	P	
Theater, indoor		L161	L162	P	P
University or college	L154	L155	L156	P	P
Construction, mining, agriculture					
Aquaculture		L164			L164
Contractors, special trade, general				P	P
Contractors, special trade, heavy, contractor yard*					L166
Uses allowed in all districts unless restricted by special limitations. (See chapter 59, article III, division 2)					
Residential care uses (See § 59-82)					
Uses allowed by temporary permit (See § 59-86)					
Accessory uses (See § 59-87)					

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

Sec. 59-183. Distance requirements.

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

D1

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

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

1. Adult amusement or entertainment;

2. Bookstore, adult;
 3. Eating place with adult amusement or entertainment;
 4. Photo studio, adult;
 5. Theater, adult.
- b. For the purposes of this distance limitation D1 only:
1. Learning center shall mean a commercial business that regularly provides on site, specialized or intensive educational services or tutoring to persons under eighteen (18) years of age;
 2. Arts education center shall mean a place where instruction is regularly provided to persons under eighteen (18) years of age in the fields of painting, drawing, sculpture, etching, craft work, fine arts, dance, drama, photography, music, martial arts, or other similar fields of art.
- c. Not more than two (2) of the following permitted uses may be established, operated or maintained within one thousand (1,000) feet of each other:
1. Amusement center;
 2. Amusement or entertainment on payment of a fee or admission charge, adult;
 3. Body art establishment;
 4. Bookstore, adult;
 5. Eating place with adult amusement or entertainment;
 6. Photo studio, adult;
 7. Theater, adult.

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

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

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

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-184. Limitations.

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

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

- a. If such an outdoor eating area is fifty (50) feet or more from the nearest boundary of any RS-4, R-0, R-1, R-X, R-2, R-2-A, R-2-B, R-3-X or R-3 districts, it shall be subject to the following conditions:
 - 1. The outdoor eating area shall be contiguous to the eating place to which it is accessory; and
 - 2. The outdoor eating area shall be clearly delimited by fences, walls or plant materials.
 - 3. No required off-street parking spaces shall be used for the outdoor eating area.
 - 4. In the B-2 district, where the outdoor eating area lies between fifty (50) and one hundred (100) feet of any of the residential districts listed above the use of the outdoor eating area and all activities therein shall cease by 10:00 p.m. except on Friday and Saturday nights when the use of the outdoor eating area and all activities therein shall cease by 11:00 p.m.;
 - 5. Each permit shall be valid for a period of not more than one (1) year but, upon application, may be renewed. Failure to comply with all of the above conditions shall be cause for revocation of the permit.
- b. If such an outdoor eating area is less than fifty (50) feet from the nearest boundary of any RS-4, R-0, R-1, R-X, R-2, R-2-A, R-2-B, R-3-X or R-3 district, it shall be subject to the approval of the board of adjustment under the provisions of section 59-54(3)u.

(Ord. No. 228-05, § 5, eff. 4-15-05)

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

- a. Is operated, as its primary function, for the sale at retail of new automobiles and, as secondary functions, may sell at retail other vehicles as defined above, used vehicles, vehicle accessories, oil, grease, antifreeze, tires and batteries and render services to the extent of installing the foregoing items, making minor mechanical adjustment, washing and polishing vehicles;
- b. Does not display or service any vehicles other than those defined hereinabove;

- c. Does not rebuild or overhaul engines, repair or repaint vehicle bodies, recap tires, steam-clean vehicles or motors, conduct dismantling or collision repair;
- d. Display areas need not be enclosed but all display areas shall be screened from any adjacent residential area by a sight-obscuring fence or wall at least five (5) feet high;
- e. Vehicles being displayed, serviced or stored are not parked on streets, alleys, public sidewalks or public park strips;
- f. Vehicles displayed outside a completely enclosed structure have individual signs only within such vehicles;

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

- a. Is contained in a structure the gross floor area of which may not exceed one-fourth the area of the zone lot on which the structure is located;
- b. Does not rent or sell motor vehicles;
- c. Does none of the following: overhaul engines or transmissions, body or fender work, auto glass work, painting, welding, tire recapping or auto dismantling;
- d. All discarded parts and materials are deposited into a completely enclosed container concealed from adjacent properties;
- e. Parks no vehicles being serviced or stored for customers, on streets, alleys, public sidewalks or public park strips;
- f. Is provided with barriers of such dimensions that occupants of adjacent structures are not unreasonably disturbed, either by day or night, by the movement of vehicles and light facilities are so arranged that they neither unreasonably disturb occupants of adjacent residential properties nor interfere with traffic;
- g. Extinguishes all flood lights at close of business or 11:00 p.m., whichever is earlier;
- h. Trailer rentals permitted as an accessory use subject to the following limitations:
 - (1) one (1) trailer permitted on the zone lot for each four thousand (4,000) square feet of land area in the zone lot, not, however, exceeding five (5) trailers at any one (1) time and
 - (2) each trailer not to exceed eight (8) feet in height, length and width;
- i. Fuel pumps and trailer storage need not be enclosed;
- j. A single bay carwash containing either manual or automatic equipment is permitted as an accessory use subject to the following conditions:
 - 1. The carwash bay is limited in size to a single vehicle.
 - 2. Adequate landscaping and solid fencing shall be installed to control the effects of noise where such bay is located adjacent to a residential use or a residential district.

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

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

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

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

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

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

L13 Limited to parish house.

L14 Fraternity, sorority house not permitted.

L16 Limited to

- a. Veterinarian clinic for the diagnosis and treatment of household pets; including observation kennels contained within a completely enclosed structure;
- b. Pet grooming shop for household pets only and employing not more than five (5) persons; no animals kept on the premises after 8:00 p.m.;
- c. Pet supply store, including sale of fish, canaries, parakeets and puppies as an accessory use; however, in the B-2 district sale of puppies is not permitted, and in the B-3 district not more than ten (10) puppies shall be kept on the premises at one (1) time;

L21 Limited to auctioneer for automobiles.

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

- a. One trailer permitted on the zone lot for each four thousand (4,000) square feet of land area in the zone lot, not, however, exceeding five (5) trailers at any one (1) time; and
- b. Each trailer not to exceed eight (8) feet in height, length and width; fuel pumps and trailer storage need not be enclosed.

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

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

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

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

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

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

- a. A minimum of five (5) parking spaces is provided on the same zone lot for each washing stall;
- b. All off-street parking areas shall be hard-surfaced and dust-free;
- c. All lights used to illuminate the area shall be directed away from adjacent residential properties.

L41 Limited to radio and television broadcasting, including transmitter.

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

- a. The outdoor eating area shall be contiguous to the eating place to which it is accessory; and
- b. The eating area shall be clearly delimited.
- c. Any part of the serving area located outside of the completely enclosed structure shall have a hard, all weather surface.

L44 Must be operated primarily at retail with no more than twenty-five (25) percent of the total volume of the operation being wholesale uses.

(Ord. No. 895-03, § 31, eff. 12-2-03)

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

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

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

L55 Handling packaged fertilizer and no other type of fertilizer.

L61 Limited to extended stay facility.

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

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

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

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

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

L84 Limited to metal sharpening, mirror silvering.

L90 Limited to:

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

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

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

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

L100 Limited to tire recapping shop.

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

L115 Limited to water reservoir, need not be enclosed.

L117 Electric substation excluded.

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

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

L126 Limited to newspaper distribution station.

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

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

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

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

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

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

L149 Limited to:

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

- c. Miniature golf or putting course.

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

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

L156

- a. School charging a regular tuition for instruction in ballet, tap, ballroom, square, modern and acrobatic dancing; not including public dancing or a public dance hall as defined in chapter 7, section 7-51; provided, however, that the premises on which such use is operated shall be soundproofed to that the sounds created by such use are not audible beyond the boundaries of the zone lot on which the use is operated;
- b. Any school not permitting the use of machinery; other than office machines and mechanical or machinery parts of household appliances used for instruction of or practice by the student.

L160 Limited to fine arts studio.

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

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

- a. Shall be operated within the same structure and under the same management as the theater;
- b. Shall occupy a floor area not exceeding ten (10) percent of the lobby area or shall contain no more than ten (10) amusement devices, whichever is more restrictive;
- c. Shall be used by theater customers who have purchased a ticket and shall not be made available to the general public; and
- d. Shall be operated in compliance with all other applicable ordinances of the city.

L164 In the B-2 district, limited to greenhouse structures existing as of September 1, 2009, must be enclosed, no fish processing on site. In the B-8 district, limited to tropical fish hatchery.

(Ord. No. 586-09, § 2, eff. 10-23-09)

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

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

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

- a. If the facility is visible from a public street or a residential district, an opaque screen shall be provided along the visible portion of the drive through queuing and operating lane. Such screen shall at least meet the requirements for screening found in the rules and regulations for the landscaping of parking areas.
- b. There shall be no glare from permanent lighting or vehicle headlights projected onto residential uses. To ensure glare is controlled, all external lights shall have fully shielded fixtures. Light trespass onto residential uses shall not exceed three-tenths (0.3) of a foot candle.
- c. The manager of public works shall only approve curb cuts providing access to the site that do not unreasonably interfere with automobile or pedestrian traffic and shall only approve queuing lanes if they are adequate to prevent backups onto public streets.
- d. No device that amplifies sound shall be so designed or operated that the amplified sound can be perceived on any residentially zoned lot.
- e. All parts of any drive-through facility shall be separate from parking circulation aisles.
- f. Any drive-through facility located on a zone lot that is adjacent to a residentially zoned zone lot and which has any portion of the facility located eighty-five (85) feet or less from the residentially zoned zone lot may only be open during the hours of 5:30 am to 11:00 pm, Sunday through Thursday and 5:30 am to midnight Friday and Saturday.
- g. This limitation L192 applies only to drive through facilities that commence operations after June 1, 2006.

(Ord. No. 326-06, § 4, eff. 5-26-06)

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

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

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

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-186. Permitted structures.

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

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

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

- (1) B-1 district. All structures in the B-1 district shall be set in a distance of not less than ten (10) feet from each front and rear line of the zone lot.
- (2) B-2 district. All structures in the B-2 district shall be set in a distance of not less than five (5) feet from each front and ten (10) feet from each rear line of the zone lot.
- (3) B-3 district. All structures in the B-3 district shall be set in a distance of not less than five (5) feet from each front and rear line of the zone lot and a distance of not less than five (5) feet from each side line of the zone lot which abuts a street or alley right-of-way.
- (4) Provided, however, that electric substations, gas regulator stations, utility pumping stations, detached structures and fixtures for the disposal of trash or garbage may be located within five (5) feet of the rear line of the zone lot; and provided further, that if a zone lot has more than one (1) rear line by reason of abutting alleys, the aforesaid setbacks shall be required from only one (1) rear line. The space resulting from the foregoing setbacks shall be open and unobstructed, except that the rear setback space, and, in the case of the B-2 district only, the front setback space, may be utilized for the parking of vehicles; provided, however:
 - a. Belt courses, sills and lintels may project eighteen (18) inches into front and rear setback spaces;
 - b. Cornices, eaves and gutters may project three (3) feet into front setback space and five (5) feet into rear setback space;
 - c. Outside stairways may project five (5) feet into front setback space and ten (10) feet into rear setback space; access ramps for the handicapped may encroach into any required building setback space, providing no alternative location is available and providing the ramp construction is compatible with the character of the structure;
 - d. Unwalled porches, terraces and balconies may extend five (5) feet into front and rear setback spaces;
 - e. Fences or walls not exceeding four (4) feet in height may be erected on any part of the zone lot between the front line of the zone lot and the front setback line for structures, and on any other part of the zone lot may be erected to a height of not to exceed six (6) feet. The height of such walls or fences shall be determined as stated in section 59-2(112.1) fence and wall height measurement; (Ord. No. 363-06, § 10, eff. 6-16-06)
 - f. In the B-1 district only, building accessories designed and intended to control light entering a building and being a permanent part of such building may project five (5) feet into front setback space and ten (10) feet into rear setback space;

- g. In the B-1 district only, building accessories designed and intended to control light entering a building and not being a permanent part of such building, by being removable therefrom and by not being attached to a load-bearing member thereof, may project any distance into any setback space;
- h. Any structure or part thereof which is below the grade of any setback space may project any distance into such setback space.
- i. Canopies may project any distance into the front setback space.
- j. Flush mounted solar panels may encroach any distance into the setback space. (Ord. No. 53-08, § 17, eff. 2-8-08)

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

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

(Ord. No. 53-08, § 18, eff. 2-8-08)

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

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

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

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

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

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

- (2) In the B-1 district, and notwithstanding paragraph (1) above, the sum total of the gross floor area of all structures on a zone lot may be as much as two (2) times the area of the zone lot on which the structures are located or two and two-tenths (2.2) times the area of the zone lot on which the structures are located if qualifying under the provisions of article IV, chapter 27 (affordable housing), provided that all of the extra floor area in excess of two (2) times the area of the zone lot shall be dedicated to residential uses and provided further that all of the following conditions are met:
 - a. The zone lot is at least one (1) acre in size and is at least two hundred (200) feet wide at the front setback line for structures;
 - b. All structures are set in at least twenty (20) feet from each side line and set in from the front and rear lines as provided in subsection (b);
 - c. Not more than ten (10) percent of the zone lot area is used for surface parking and roads; and
 - d. All structures on the zone lot cover not more than thirty (30) percent of the ground area.
 - (3) In the B-4 district the sum total of the gross floor area of all structures on a zone lot shall not be greater than twice the area of the zone lot on which the structures are located. Provided that, upon qualifying under the provisions of article IV, chapter 27 (affordable housing), the sum total of the gross floor area of all structures on a zone lot shall not be greater than two and two-tenths (2.2) times the area of the zone lot on which the structures are located, provided further that all of the extra floor area in excess of two (2) times the area of the zone lot shall be dedicated to residential uses.
- (g) *Maximum gross floor area in structures in the B-8 district:*
- (1) *Basic maximum gross floor area.* The sum total of the gross floor area of all structures on a zone lot shall not be greater than four (4) times the area of the zone lot on which the structures are located.
 - (2) *Floor area premiums.* In addition to the basic maximum gross floor area permitted under subsection (1) above, a premium of additional floor area may be constructed under the following circumstances:
 - a. *Premium for unenclosed plaza.* Six (6) square feet of floor area for each square foot of unenclosed plaza area continuously open to the street.
 - b. *Premium for enclosed plaza.* Six (6) square feet of floor area for each square foot of enclosed plaza if at least one (1) entrance has a width of forty (40) feet. Three (3) square feet of floor area for each square foot of enclosed plaza area if at least one (1) entrance has a width of less than forty (40) feet but not less than twenty (20) feet. No premium if all entrances are less than twenty (20) feet wide. The

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

- c. *Premium for unenclosed arcade.* Three (3) square feet of floor area for each square foot of unenclosed arcade area continuously open to the street, provided that the following requirements are met:
1. If the arcade has a depth of twelve (12) feet or less, average height is not less than twelve (12) feet;
 2. If the arcade is deeper than twelve (12) feet, but not more than twenty (20) feet, the average height equals or exceeds the depth;
 3. If the arcade is deeper than twenty (20) feet, the average height is twenty (20) feet or more.

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

- d. *Premium for enclosed arcade.* Two (2) square feet of floor space for each square foot of enclosed arcade area, provided that all of the following requirements are met:
1. It has at least two (2) entrances opening directly to the street or to a plaza at two (2) different locations;
 2. The minimum width of each of at least two (2) entrances is twenty (20) feet;
 3. The minimum width between all bounding walls is twenty (20) feet;
 4. The average minimum height is twelve (12) feet.

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

- e. *Premium for low level light area.* Two (2) square feet of floor space for each square foot of low level light area occurring between zero (0) and forty (40) feet above ground level and having at least twenty-five (25) percent of its perimeter open and unobstructed to the street or plaza. One (1) square foot of floor space for each square foot of low level light area occurring more than forty (40) feet but not more than eighty (80) feet above ground level, and having at least twenty-five (25) percent of its perimeter open and unobstructed to the street or plaza. No premium credit for any setback area occurring more than eighty (80) feet above ground level. Two (2) or more contiguous low level light areas occurring at different heights may be combined for the purpose of perimeter computation. No low level light area premium shall be given to any area for which a plaza premium or another low level light area premium has been given.
- f. *Premium for moderately priced dwelling units.* A floor area premium equal to forty (40) percent of the zone lot area if the structure qualifies under the provisions of article IV, chapter 27 (affordable housing), provided all of said floor area premium is dedicated to residential uses.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-187. Permitted signs.

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

(Ord. No. 03-361, § 3, eff. 5-23-03)

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

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

(Ord. No. 03-361, § 3, eff. 5-23-03)

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

The provisions of article VII of this chapter on off-street loading requirements shall be in full force and effect in these districts.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-190. Special zone lot plan for planned building groups.

The provisions of article VIII of this chapter on special zone lot plan for planned building groups shall be in full force and effect in these districts.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-191. Effect of B-2 or B-3 district designation.

The designation of an area as a segment of the B-2 or B-3 districts shall cause the conditions and requirements set forth in section 59-192 to come into full force and effect unless the area so designated is less than one (1) acre in size. Such designation shall not create any right to erect or alter any structures or to apply for a permit therefor, nor shall such right exist until the filing, approval, registration and recording of a district development plan as hereinafter set forth. Whenever a failure to comply with the provisions of section 59-192 occurs, no permits shall be issued for the erection or alteration of any structures in the applicable district segment and all issued permits therefor shall be terminated and canceled until the area designated as a segment of the B-2 or B-3 district has been examined by council and zoned or rezoned for its most appropriate use. Any applicant for the designation of an area as a segment of the B-2 or B-3 districts and any person who applies for a permit to alter or erect a structure in such area, whether under disability or otherwise and including the successors and assigns thereof, shall be deemed conclusively to have assented to all of these conditions. Whenever deemed advisable by the department of zoning administration, the department may file in the office of the city clerk an appropriate notice indicating that an area has been designated as a segment of the B-2 or B-3 district.

(Ord. No. 03-361, § 3, eff. 5-23-03)

Sec. 59-192. Development plan.

(a) *Filing.* Following the passage of an ordinance designating an area as a B-2 or B-3 district, a complete B-2 or B-3 district development plan covering the entire district or any portion thereof shall be filed with the department of zoning administration by the owner or owners of the area to be developed. Such development plan may be based, in whole or in part, on the provisions of article VIII of this chapter on special zone lot plan for planned building groups and if so based, shall comply with all the requirements of this article; in any event, such development plan must comply with the requirements set forth in section 59-619(2). Upon, but not before, the approval, registration and recording of the development plan as hereinafter set forth, the applicants for such plan shall be entitled to apply for such permits and certificates as are made necessary by such plan.

(b) *Contents.* The development plan shall be certified by the applicants and shall show in exact and final detail the following details drawn to scale:

- (1) The land area included within the district, the land area of all abutting districts and the zoning classification thereof, all public and private rights-of-way and easements bounding and intersecting the district and the abutting districts which are proposed to be continued, created, relocated and/or abandoned;
- (2) The proposed finished grade of the district, shown in contour intervals of not to exceed two (2) feet;
- (3) A description of the proposed zone lot or zone lots and the boundaries thereof;
- (4) The location of each existing and each proposed structure in the district, the use or uses to be contained therein, the number of stories, gross floor area and location of entrances and loading points therefor;
- (5) The location of all outside facilities for waste disposal;
- (6) All curb cuts, driving lanes, parking areas, loading areas, public transportation points and illumination facilities for the same;
- (7) All pedestrian walks, malls and open areas for use by tenants or members of the public;
- (8) The location and height of all walls, fences and screen planting;
- (9) The location, size, height and orientation of all signs other than signs flat on building facades;
- (10) The types of surfacing, such as paving, turfing or gravel, to be used at the various locations;
- (11) The location of fire hydrants.

(c) *Review.* All development plans filed hereunder shall be reviewed for completeness by the department. If such plans are found to be incomplete they shall be rejected. The department shall review the plans for compliance with the standards hereinbefore set forth in sections 59-287 to 59-253, inclusive. If such plans are found to comply, they shall be transmitted to the

planning office for further review. Such review shall be based upon the provisions of section 59-619(2) on site facilities, and upon the other provisions of article VII of this chapter on special zone lot plan for planned building groups, whenever such additional provisions are applicable, and no development plan hereunder shall be approved unless in full compliance with such section and article. Within not more than sixty (60) days from the date on which a B-2 district development plan is filed with department of zoning administration, or within not more than six (6) months from the date on which a B-3 development plan is filed with department of zoning administration, the reviewing department shall approve or disapprove such plan in writing, stating, in the case of a disapproval, the reasons for such disapproval, and in all cases giving due notice to the applicants. Within not more than thirty (30) days after a disapproval of a B-2 development plan, or within not more than forty-five (45) days after a disapproval of a B-3 development plan, as aforesaid, the applicants filing a development plan which has been disapproved may file with the reviewing department which disapproved the plan an amendment to such plan or an amended plan which amendment or amended plan shall be limited exclusively to changes made necessary to accomplish compliance with the grounds for disapproval stated by the reviewing department. An amendment or amended plan for a B-2 district shall be approved or disapproved within not more than thirty (30) days after filing thereof. An amendment or amended plan for a B-3 district shall be approved or disapproved within not more than forty-five (45) days after filing thereof. Due notice shall be given to the applicants.

(d) *Disposition.* After completing its review of a development plan, the planning office shall return such plan and all pertinent data, together with a notice of recommendation, to the department of zoning administration. All approved development plans shall be registered and recorded as hereinafter set forth.

(e) *Registration and recording.* Upon receipt of an approved development plan from the planning office, the department of zoning administration shall register a copy thereof among its records and shall record a copy thereof, or such other record thereof as deemed proper by the department, in the office of the city clerk.

(f) *Effect of registration and recording.* All development plans registered and recorded hereunder shall be binding upon the applicants therefor, their successors and assigns, shall limit and control the issuance and validity of all zoning permits and zoning certificates and shall restrict and limit the construction, location, use and operation of all land and structures included within such plans to all conditions and limitations set forth in such plans; provided, however, that upon application to and approval by the department of zoning administration and the planning office, minor changes in location or floor area of structures may be permitted if such minor changes will not cause any of the following circumstances to occur:

- (1) A change in the character of the development;
- (2) An increase in the intensity of use;
- (3) An increase in the problems of circulation, safety and utilities;
- (4) An increase in the external effects on adjacent property;

- (5) A reduction in the required setbacks from property lines;
- (6) A reduction in the required ratio of off-street parking and loading space to gross floor area in structures;
- (7) A change in the subject, size, lighting, flashing, animation or orientation of originally approved signs.

(g) *Amendment.* All development plans registered and recorded hereunder may be amended pursuant to the same procedure and subject to the same limitations and requirements by which such plans were approved, registered and recorded.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-193. Nursing homes, hospices and assisted living facilities in the B-2 districts.

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

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

The zoning administrator may approve the application providing a finding is made that the proposed use will not adversely affect the appropriate use of adjacent property or create an undue concentration of such uses within a specific neighborhood area. Nursing homes existing on March 7, 1994 shall be considered to be legal, conforming uses. Additions to existing nursing homes need not comply with this section.

(Ord. No. 895-03, § 35, eff. 12-2-03; Ord. No. 468-05, § 16, eff. 7-15-05; Ord. No. 57-09, § 11, eff. 1-30-09)

Secs. 59-194—59-200. Reserved.