

**BY AUTHORITY**

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2023

COUNCIL BILL NO. CB23-0482  
COMMITTEE OF REFERENCE:  
Land Use, Transportation & Infrastructure

**A BILL**

**For an ordinance amending Chapter 59 of the Denver Revised Municipal Code, concerning unenclosed eating places.**

**WHEREAS**, the City Council has determined on the basis of evidence and testimony presented at the public hearing that the amendment set forth in this ordinance is in conformance with Comprehensive Plan 2040; is reasonably necessary to promote the public health, safety, and general welfare; and will result in uniformity of zone district regulations.

**NOW THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

**Section 1.** Section 59-2(c)(2) is deleted in its entirety.

**Section 2.** That section 59-2, D.R.M.C. concerning Former Chapter 59 is amended by adding new paragraphs (c)(19) - (23) to read as follows:

**Sec. 59-2. – Former chapter 59.**

(c) No changes shall be enacted to the provisions of the former chapter 59 after June 25, 2010; however, regulation of lands retaining their zoning designation under the former chapter 59 shall incorporate the following requirements of the Denver Zoning Code:

(19) The following sections of the Denver Zoning Code regarding use limitations apply to a permitted unenclosed eating place use on land retaining its zoning designation under former chapter 59 (“Unenclosed Eating Place”) in place of any zoning standards and limitations in former chapter 59 for an Unenclosed Eating Place:

- a. Denver Zoning Code sections 11.10.14.2, and 11.10.14. 3.A and B.
- b. Denver Zoning Code section 11.10.14.3.D, except for an Unenclosed Eating Place in the following former chapter 59 zone districts:

1 B-4; B-8; B-8-A; B-8-G; B-5; B-5-T; B-7; B-A-3; MS-1; MS-2; MS-3; PRV; or  
2 Gateway use areas MU1, MU2, TCU, or TSU; and

3 c. Denver Zoning Code section 11.10.14.3.E, except for an Unenclosed  
4 Eating Place in the following former chapter 59 zone districts: B-3; B-4; B-  
5 8; B-8-A; B-8-G; B-5; B-5-T; B-7; CCN; B-A-2; B-A-3; B-A-4; MS-1; MS-2;  
6 MS-3; PRV; or Gateway use areas MU1, MU2, TCU, or TSU;

7 (20) The zoning administrator may grant an administrative adjustment for the  
8 requirements of 11.10.14.3.B.2 - 8 for an Unenclosed Eating Place in accordance  
9 with the administrative adjustment process and applicable review criteria of Denver  
10 Zoning Code section 12.4.5.

11 (21) The zoning administrator may grant an Unenclosed Eating Place the  
12 available incentives of Denver Zoning Code section 11.10.14.3.C in accordance  
13 with the process of this section, except for the following incentives:

14 a. An Unenclosed Eating Place permitted in a mixed use district of  
15 former chapter 59 may remove required off-street parking spaces only in  
16 the amount specified in Denver Zoning Code section 11.10.14.3.C.3.b.iii.

17 b. An Unenclosed Eating Place permitted in any zone district of former  
18 chapter 59, other than a mixed use district, may remove required off-street  
19 parking spaces only in the amount specified in Denver Zoning Code section  
20 11.10.14.3.C.3.b.v

21 (22) An Unenclosed Eating Place must follow the zoning permit with information  
22 notice process when the use would otherwise be subject to the approval of the  
23 board of adjustment under former chapter 59 sec. 59-54(3)u.

24 (23) Any use that the board of adjustment may authorize as an outdoor eating  
25 exception under former chapter 59 sec. 59-54(3)u must follow the applicable  
26 provisions in subsection (19) – (23) above.

27 **Section 3.** This ordinance is effective on July 5, 2023.

1 COMMITTEE APPROVAL DATE: May 2, 2023

2 MAYOR-COUNCIL DATE: May 9, 2023

3 PASSED BY THE COUNCIL: \_\_\_\_\_,

4 \_\_\_\_\_ - PRESIDENT

5 APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_,

6 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
7 EX-OFFICIO CLERK OF THE  
8 CITY AND COUNTY OF DENVER

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: \_\_\_\_\_ ; \_\_\_\_\_,

10 PREPARED BY: Adam C. Hernandez, Assistant City Attorney DATE: May 11, 2023

11 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the  
12 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
13 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §  
14 3.2.6 of the Charter.

15  
16 Kerry Tipper, Denver City Attorney

17  
18 BY: Anshul Bagga, Assistant City Attorney DATE: May 11, 2023,