



DENVER
THE MILE HIGH CITY

Community Planning and Development
Planning Services
Plan Implementation

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TO: Members of the Land Use, Transportation & Infrastructure Committee of the Denver City Council
FROM: Tina Axelrad, Principal City Planner
DATE: September 9, 2013
RE: Amendment to Denver Revised Municipal Code Regarding Protected Districts

Overview of Amendment and CPD Recommendation

This is a zoning-related amendment not to the text of the Denver Zoning Code, but to the text of a provision in the Denver Revised Municipal Code (“DRMC”) that establishes special rules for lands retaining Former Chapter 59 zoning. The City Council established these DRMC rules when they adopted the Denver Zoning Code in 2010. Specifically, DRMC Section 59-2, establishes the new Denver Zoning Code as the city’s official zoning code, establishes the old zoning code as “Former Chapter 59,” and makes clear that lands with Former Chapter 59 zoning have to follow all the standards and procedures in Former Chapter 59.

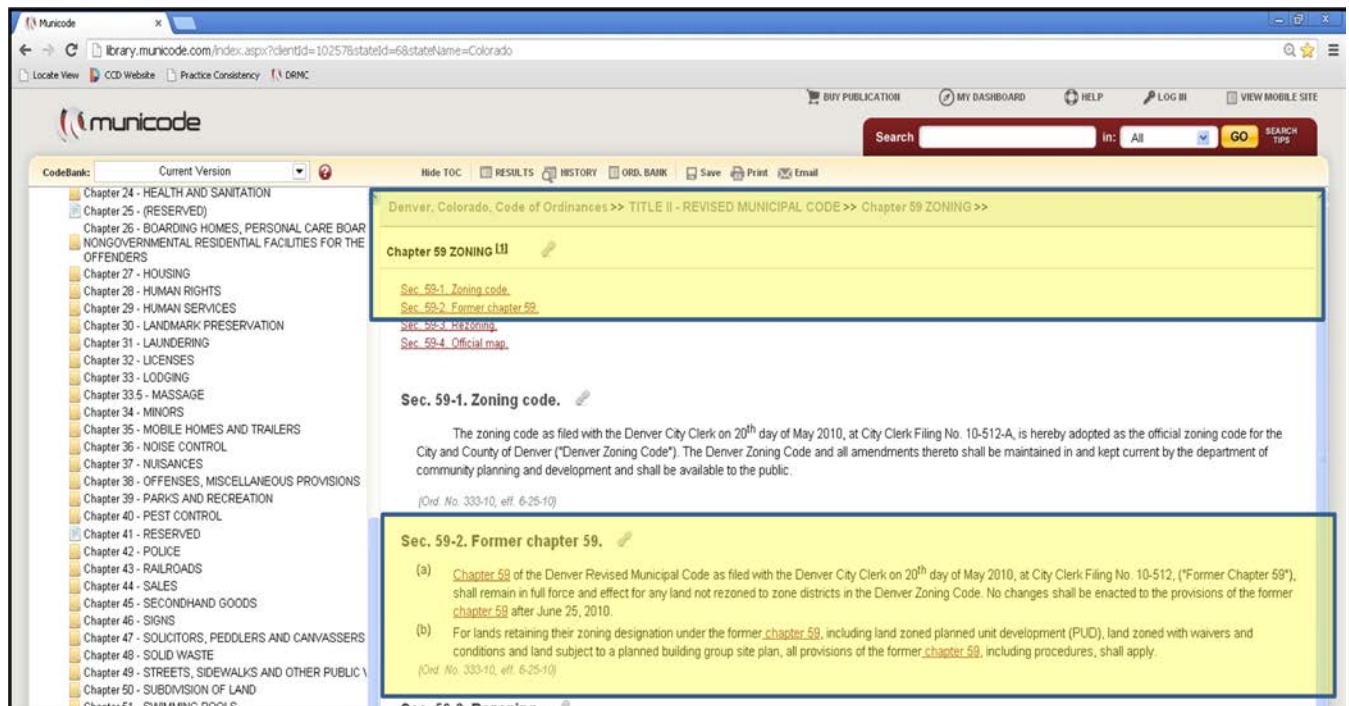
This amendment assures the continuation of building height and bulk limitations on lands with Former Chapter 59 zoning, when such lands are mapped next to lower-intensity Denver Zoning Code residential zone districts (e.g., when development occurs on R-MU-20 zoned land located next to a U-SU-C zone district). In more technical terms, residential zone districts that are currently “protected districts” under the Denver Zoning Code will also be “protected districts” when development occurs under Former Chapter 59, triggering more restrictive height and bulk standards.

CPD staff recommends that the LUTI Committee send this amendment to the full City Council for its consideration and final action. CPD staff recommends approval of this amendment because it is reasonably necessary for the public health, safety and general welfare, is in conformance with the City’s Comprehensive Plan 2000, and assures uniformity of zoning regulations within each zone district.

Purpose and Summary of DRMC Amendment

The purpose of this amendment is to ensure the continuation of building height and bulk limitations on new development under Former Chapter 59 zoning when located next to Denver Zoning Code “protected (residential zone) districts.”

The general provisions governing development on lands retaining Former Chapter 59 zoning are found in the DRMC, Section 59-2. The key provision is found in Section 59-2(b), which states that for lands retaining Former Chapter zoning, “all provisions of Former Chapter 59, including procedures, shall apply.” The intent of DRMC, Section 59-2(b), is to maintain the status quo for lands that retained Former Chapter 59 zoning; in other words, not to change in any substantial way how zoning works for these lands.



DRMC, Sec. 59-2, Relevant Provisions

One challenge in maintaining the status quo is what happens when land with Former Chapter 59 zoning is mapped next to land with Denver Zoning Code zoning? Is the status quo established by Former Chapter 59 maintained in that circumstance? In the vast majority of instances, the answer is "yes." Recently, however, a gap in maintaining the status quo was discovered through zoning review of a project on land with Former Chapter 59 zoning. Contrary to maintaining the status quo, the application of Former Chapter 59 zoning in that case revealed a change in the resulting zoning entitlement.

The gap occurs when land in zone districts defined as "controlled" in Former Chapter 59 (e.g., R-MU-20) is mapped next to land rezoned to lower-intensity residential zone districts under the Denver Zoning Code (e.g., U-SU-C). "Protected districts" in Former Chapter 59 do not include residential zone districts protected under the Denver Zoning Code (because they didn't exist when Former Chapter 59 was the official zoning code!). Consequently, building height and bulk protections for the lower-intensity residential zones (e.g., U-SU-C) are not triggered when new development occurs in the adjacent Former Chapter 59 "controlled district" (e.g., R-MU-20).

The map on the next page shows where in the City of Denver this mapping situation occurs. Areas on the map shown in red indicate where development under the Former Chapter 59 could occur *without* triggering the protective height and bulk standards for adjacent DZC zoned residential lands (shown on map in yellow).



Where could this problem occur? (Red areas)

This amendment fixes that oversight and creates a new rule in the DRMC that links the two codes together in this specific mapping circumstance. Specifically, this amendment will revise DRMC, Section 59-2, to add a new subsection "(c)" shown as underlined red text below:

(a) Chapter 59 of the Denver Revised Municipal Code as filed with the Denver City Clerk on 20th day of May 2010 at City Clerk Filing No, 10-512, ("Former Chapter 59"), shall remain in full force and effect for any land not re-zoned to zone districts in the Denver Zoning Code. No changes shall be enacted to the provisions of the Former Chapter 59 after June 25, 2010.

(b) For lands retaining their zoning designation under the Former Chapter 59, including land zoned Planned Unit Development (PUD), land zoned with waivers and conditions

and land subject to a Planned Building Group Site Plan, all provisions of the Former Chapter 59, including procedures, shall apply.

(c) For purposes of applying the limitations on bulk planes and building heights in Section 59-96 of the Former Chapter 59, the "protected districts" identified therein shall also include the zone districts defined as "protected districts" in Section 13-3 of the Denver Zoning Code.

Criteria for Review and CPD Recommendation

The criteria for review of a proposed amendment to the DRMC are found in the City Charter, Section 3.2.9, which authorizes the City Council to adopt and amend zoning regulations and the official zoning map for the purposes of "promoting health, safety, morals or the general welfare of the community." In adopting or amending the city's zoning relations or map, such council action must be "in accordance with a Comprehensive Plan" prepared by CPD and adopted by City Council. Finally, all zoning regulations must be "uniform for each class or kind of buildings through each [zone] district, but the regulations in one District may differ from those in other Districts."

A. The DRMC Amendment is Consistent with the City's Adopted Comprehensive Plan

The DRMC amendment regarding "protected districts" is consistent with the city's adopted plans and policies in the following ways:

Denver Comprehensive Plan 2000:

Land Use

- Strategy 2-A: (*paraphrased*) [P]roposed revisions should ensure that the Denver Zoning Ordinance will be flexible and accommodating of current and future land use needs...
- Strategy 3-B: "Encourage quality infill development that is consistent with the character of surrounding neighborhoods...."

This amendment is consistent with the city's adopted plans because it continues the City Council's intent to maintain the status quo of zoning entitlement and limitations on all lands retaining Former Chapter 59 zoning. This amendment keeps in place the same building height and bulk limitations that apply to development in "controlled districts" under Former Chapter 59, when that development is located next to lower-intensity residential zone districts that are "protected districts" under the Denver Zoning Code.

B. The DRMC Amendment Furthers the Public Health, Safety, and General Welfare

The DRMC amendment is reasonably necessary for the public health, safety, and general welfare because it assures the continuation of zoning protections for lower-intensity residential zone districts, thereby furthering Comprehensive Plan objectives to encourage context-sensitive infill development.

C. The DRMC Amendment Results in Regulations that are Uniform within Each Zone District

The DRMC amendment will result in uniformity and consistency of treatment of development within each zone district, whether the zone district is a carry-over from Former Chapter 59 or a more recent Denver Zoning Code district. This amendment ensures essentially the same building height and bulk limitations related to "protected districts" apply whether development occurs under the Former Chapter 59 or the Denver Zoning Code.

Public Outreach and Comments

Below is a summary of the public outreach for this amendment.

- *August 6, 2013*: Notified by email all Registered Neighborhood Organizations (RNOs) about the Planning Board hearing on August 21, 2013.
- *August 14, 2013*: Posted a copy of the redlined code text changes and this CPD staff report on the CPD website for public review.
- *September 4, 2013*: Notified by email all Registered Neighborhood Organizations about the LUTI Committee meeting on September 17, 2013.

As of the time of this staff report, written support of the DRMC amendment has been received from Inter-Neighborhood Cooperation (INC). The INC comment is attached to this staff report.

Denver Planning Board Recommendation

At its regular August 21, 2013, meeting, the Denver Planning Board considered this amendment after a public hearing and voted 6-0 to recommend approval by the City Council. There was public testimony from a representative from Curtis Park Neighbors RNO, in support of the amendment, and testimony from a private citizen living in Jefferson Park, also in favor of the amendment.

CPD Recommendation

Based on the criteria for review as described above, CPD recommends that the LUTI Committee forward the amendment to the full City Council for consideration and final action.

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2013

COUNCIL BILL NO. 13-_____
COMMITTEE OF REFERENCE:
Land Use Transportation and
Infrastructure

A BILL

For an ordinance amending Section 59-2, Denver Revised Municipal Code by adding subsection (c) relating to Former Chapter 59 controlled districts.

WHEREAS, the City Council has determined on the basis of evidence and testimony presented at the public hearing that the amendment set forth herein is in conformance with the Denver Comprehensive Plan 2000, is justified by changed or changing conditions, and is reasonably necessary to the promotion of the public health, safety and general welfare.

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

Section 1. Section 59-2 of the Denver Revised Municipal Code is hereby amended by adding subsection (c) to read and be read as follows:

(c) For purposes of applying the limitations on bulk planes and building heights in Section 59-96 of the Former Chapter 59, the "protected districts" identified therein shall also include the zone districts defined as "protected districts" in Section 13-3 of the Denver Zoning Code.

COMMITTEE APPROVAL DATE: _____, 2013.

MAYOR-COUNCIL DATE: _____, 2013.

PASSED BY THE COUNCIL _____ 2013

_____ - PRESIDENT

APPROVED: _____ - MAYOR _____ 2013

ATTEST: _____ - CLERK AND RECORDER,
EX-OFFICIO CLERK OF THE
CITY AND COUNTY OF DENVER

NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2013 _____ 2013

PREPARED BY: Kerry A. Buckey, Assistant City Attorney 7/25/2013

Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed

1 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
2 § 3.2.6 of the Charter.

3

4 Douglas J. Friednash, City Attorney

5 BY: _____, _____ City Attorney Date: _____