

BY AUTHORITY

ORDINANCE NO. 333
SERIES OF 2010

COUNCIL BILL NO. 10-431
COMMITTEE OF REFERENCE:
BLUEPRINT

A BILL

For an ordinance relating to Chapter 59 (Zoning), Denver Revised Municipal Code, enacting a new zoning code and official zoning map and preserving the former zoning code for use where land is not being re-zoned.

WHEREAS, the City adopted Ordinance No. 392, Series of 1956, enacting both an entirely new zoning code (“1956 Code”) and new zoning map (“1956 Map”) for the entire city; and

WHEREAS, that 1956 Code and 1956 Map reflected the contemporary best planning practices based on the then-current conditions and emerging trends of the mid-1950’s, which included economic growth, population growth, increasing automobile use, and suburbanization; and

WHEREAS, over the intervening years, 1956 Code and 1956 Map have been amended in large and small ways, always with the intent to reflect contemporary best practices and changing conditions; and

WHEREAS, the resulting document is long, complex, and hard to use; it does not lend itself to modern standards of electronic communications and user-friendliness; and it does not encourage redevelopment that is sympathetic to neighborhood character or the types of redevelopment desired in emerging areas; and

WHEREAS, calls for a comprehensive overhaul of the 1956 Code and 1956 Map are long-standing and increasingly urgent, as evidenced by recommendations of the 1989 Comprehensive Plan; Denver Comprehensive Plan 2000; Blueprint Denver: An Integrated Land Use & Transportation Plan, adopted in 2002; and numerous neighborhood plans, small area plans, station area plans and other planning documents; and

WHEREAS, in early 2005, Mayor John Hickenlooper appointed a Zoning Code Task Force comprised of: representatives of City Council; registered neighborhood organizations; the historic preservation community; the development community, including the Board of Realtors, architects and planners; and a Citizen Advisory Group of citizens and property owners; and

WHEREAS, for nearly five years, the Zoning Code Task Force, with the assistance of zoning consultants, City staff, and the Citizen Advisory Group, has gone out into the community to listen to problems with the 1956 Code and 1956 Map, as amended, and to how people want their city and neighborhood to look; has developed ideas and proposals, which were then taken back out for additional public feedback, debate and discussion; and

1 **WHEREAS**, the current law regarding amendments to the zoning code and official map is
2 contained in Section 59-646 of the Denver Revised Municipal Code (DRMC), which declares, in
3 part, that amendments to the zoning code and official map shall be made only to correct errors or
4 to respond to changing conditions and only as reasonably necessary to promote public health,
5 safety or general welfare; and

6 **WHEREAS**, City Council has determined that the need to correct errors and respond to
7 changing conditions, as described in recitals above, should not be done by piecemeal
8 amendment, but by adoption of an entirely new zoning code and official map; and

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

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

15 **Section 1.** Chapter 59 (Zoning) of the DRMC shall be amended by deleting the current
16 Chapter 59 in its entirety and enacting and adding a new Chapter 59 to read and be read as
17 follows:

18 **Chapter 59**
19 **ZONING**

20 **Sec. 59-1. Zoning Code.**

21 The zoning code as filed with the Denver City Clerk on 20th day of May 2010 at City Clerk Filing
22 No.10-512-A, is hereby adopted as the official zoning code for the City and County of Denver
23 (“Denver Zoning Code”). The Denver Zoning Code and all amendments thereto shall be
24 maintained in and kept current by the Department of Community Planning and Development and
25 shall be available to the public.

26 **Sec. 59-2. Former Chapter 59.**

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

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1 (b) For lands retaining their zoning designation under the Former Chapter 59, including land
2 zoned Planned Unit Development (PUD), land zoned with waivers and conditions and land
3 subject to a Planned Building Group Site Plan, all provisions of the Former Chapter 59, including
4 procedures, shall apply.

5 **Sec. 59-3 Rezoning**

6 (a) Any land rezoned after June 25, 2010 shall not be rezoned to zone districts in the Former
7 Chapter 59, except that:

8 (1) Land retaining PUD zoning under the Former Chapter 59 may be re-zoned to new PUD
9 under the Former Chapter 59;

10 (2) Land retaining a zoning designation with waivers and conditions under the Former
11 Chapter 59 may be rezoned under the Former Chapter 59, but only to the extent that the
12 waivers and/or conditions may be eliminated or modified. The underlying zone district may
13 not be changed to another zone district under the Former Chapter 59.

14 (b) Except as explicitly stated in 59-3(a), any land that remains zoned to zone districts in the
15 Former Chapter 59 after June 25, 2010, if rezoned after June 25, 2010, may only be rezoned to
16 zone districts in the Denver Zoning Code utilizing the procedures of the Denver Zoning Code.

17 **Sec 59-4. Official Map**

18 (a) The digital maps created and maintained by the Department of Community Planning and
19 Development and published by Technology Services' Geographic Information Systems Office
20 delineating the boundaries of the various zone districts, together with all matters and things
21 shown on such maps, are hereby adopted and approved, incorporated herein and made a part
22 hereof and collectively shall constitute the official zoning map of the City and County of Denver
23 ("Official Map"). The Official Map may be amended from time to time as provided in the Denver
24 City Charter and the Former Chapter 59 or the Denver Zoning Code, as applicable. All
25 amendments to the Official Map shall be maintained in and kept current by the Department of
26 Community Planning and Development and made available to the public.

27 (b) All land located within the City and County of Denver shown on the Official Map as being
28 zoned to a zone district in the Denver Zoning Code is hereby rezoned as designated on the
29 Official Map. All land within the City and County of Denver not being rezoned to a zone district in
30 the Denver Zoning Code shall retain its zoning under the Former Chapter 59 as shown on the
31 Official Map, until and unless rezoned.

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1 **Section 2.**

2 (a) The Denver Zoning Code, as enacted by Section 1 above, shall be effective June 25,
3 2010, (“Effective Date”) provided, however, that up to and including 4:00.00 pm, Mountain
4 Standard Time, December 30, 2010, any person may apply for a zoning permit ~~as required by~~
5 ~~Section 59-26(d)~~ under the Former Chapter 59 or under the Denver Zoning Code.

6 (b) In order for an application for a zoning permit relating to land re-zoned to zone
7 districts under the Denver Zoning Code to be processed under the provisions of the Former
8 Chapter 59, a substantially complete application, including any applicable fees, must be filed
9 prior to or at 4:00.00 pm, Mountain Standard Time, December 30, 2010. For the purposes of this
10 Section 2, “substantially complete application” shall mean an application that is submitted in the
11 required form, including all information necessary to decide whether the application complies
12 with the requirements of the Former Chapter 59, including all items or exhibits specified during
13 any pre-application conference and is accompanied by the applicable application processing fee.

14 (c) Any application for a zoning permit relating to land re-zoned to zone districts in the
15 Denver Zoning Code submitted under the Former Chapter 59 that is not approved by December
16 30, 2011, shall be void. No extensions of time shall be granted.

17 (d) Any zoning permit to erect or alter a structure approved under the Former Chapter 59
18 relating to land re-zoned to zone districts in the Denver Zoning Code shall be valid for a period of
19 180 days from the date of approval after which period the zoning permit shall lapse and become
20 void unless a building permit has been issued within the 180 day period. Once a building permit
21 has been issued the zoning permit shall remain valid unless:

- 22 (i) The building permit is canceled; or
- 23 (ii) Construction has not started within 180 days of the issuance of the building permit; or
- 24 (iii) Once construction has started, there is a lapse in continuous and ongoing construction
25 activity of more than 30 days. Continuous and ongoing construction activity means that
26 regular construction activity is occurring on the site at least five days a week, weather
27 permitting.

28 In the event one of the three above contingencies occurs, the building permit and the zoning
29 permit shall be void. No extensions of time shall be granted. Once a zoning permit issued under
30 the Former Chapter 59 becomes void, all new permits issued for the same property shall be
31 issued pursuant to the Denver Zoning Code.

32 (e) Any special plan registered and recorded under the Former Chapter 59 relating to
33 land re-zoned to zone districts in the Denver Zoning Code, not including any district plan for a

1 Planned Unit Development, shall be considered void if (i) a building permit has not been issued
2 and if construction has not commenced within 18 months of recording of the special plan; or (ii)
3 once construction has started there is any lapse in continuous and ongoing construction activity
4 of more than 30 days. Continuous and ongoing construction activity means that regular
5 construction activity is occurring on the site at least five days a week, weather permitting. Once
6 such special plan registered and recorded under the Former Chapter 59 becomes void, all new
7 permits and special plans issued for the same land shall be issued pursuant to the Denver
8 Zoning Code.

9 (f) Any zoning permits for uses approved under the Former Chapter 59, relating to land re-
10 zoned to zone districts in the Denver Zoning Code shall run with the land. The status of uses
11 permitted under such permits, once legally established, shall be conforming, compliant or
12 nonconforming as provided in the Denver Zoning Code.

13 **Section 3.** Notwithstanding anything herein, any land with legally vested rights may be
14 developed in accordance with such vested rights.

15 **Section 4.** Administrative Alternatives.

16 (a) Upon written application for an administrative alternative to the Denver Zoning
17 Code's building form standards, and only from June 25, 2010, until 4:00.00 pm, Mountain
18 Standard Time, December 30, 2010, the Zoning Administrator may approve administrative
19 alternatives to the building form standards in the Denver Zoning Code, provided the applicant
20 demonstrates:

- 21 (1) The alternative building form standard has broad applicability; and
22 (2) The alternative building form standard affects the engineering of the building or
23 the change would create greater compatibility with the existing context.

24 (b) The Zoning Administrator may request more information of the applicant before
25 rendering a decision.

26 (c) The Zoning Administrator shall approve the proposed administrative alternative,
27 approve it with conditions or deny the alternative. All final action shall be in writing. In making a
28 final decision on the administrative alternative, the Zoning Administrator shall consult with, at a
29 minimum, the Manager of Community Planning and Development, the Director of Development
30 Services, the Manager of Plan Implementation and the City Attorney, or their designees.

31 (d) The decision of the Zoning Administrator may be appealed to the Board of
32 Adjustment under the provisions of Section 12.4.8 of the Denver Zoning Code.

1 (e) The City Council may by ordinance extend the application of this Section 4 until
2 June 30, 2011.