

1 BY AUTHORITY

2 ORDINANCE NO.  
3 SERIES OF 2011

COUNCIL BILL NO. 11-\_\_\_\_\_  
COMMITTEE OF REFERENCE:  
LAND USE, TRANSPORTATION &  
INFRASTRUCTURE

6 **A BILL**

7 **For an ordinance relating to the Denver Zoning Code, to: improve usability and**  
8 **organization; make clarifying changes and substantive changes based on**  
9 **experience with the Code over the previous eight months.**

10  
11 **WHEREAS**, City Council enacted the new Denver Zoning Code, which was effective June 25,  
12 2010;

13 **WHEREAS**, during the period between enactment and today, it has become apparent that  
14 various changes were necessary to the new Denver Zoning Code to improve usability and  
15 organization and to make clarifying changes and substantive changes based on experience with  
16 the Code over the previous eight months;

17 **WHEREAS**, the City Council has determined on the basis of evidence and testimony presented  
18 at the public hearing that the amendment set forth herein is in conformance with the Denver  
19 Comprehensive Plan 2000 and all amendments thereto, and is reasonably necessary to the  
20 promotion of the public health, safety and general welfare.

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

23 **Section 1.** Articles 3 through 9 and Article 13 of the Denver Zoning Code are hereby  
24 amended by making the following usability, organization and clarification amendments to the  
25 Design Standard Exceptions as follows:

- 26 1. Re-organize;
- 27 2. Move parapet wall and safety railing height exception for zone districts greater than 3-story  
28 from Art 13 into each Article 3-9;
- 29 3. Clarify how build-to range works with designated Parkway setback;
- 30 4. Clarify how the build-to range works in G-MU-3 and G-RO-3 which are subject to a Primary  
31 Street, block sensitive setback;
- 32 5. Move the setback exception for designated Parkways from Art 13 into each of the Articles 3-  
33 9; and
- 34 6. Clarify that front porch building coverage exception is per dwelling unit.

**Section 2.** Articles 3 through 9 of the Denver Zoning Code are hereby amended by making the following usability, organization and clarification amendments to the Setback Encroachments:

1. Re-organize;
2. Add graphics;
3. Add intent statements;
4. Change dimensions from inches to feet;
5. Change "eave" to "roof overhang" and define so it encompasses eave, rake, overhang; and
6. Clarify that "outside stairways" may include landings but not above grade walkways.

**Section 3.** Article 13 is hereby amended to update/clarify definitions related to exceptions and setback encroachments.

**Section 4.** Articles 3 through 9 of the Denver Zoning Code are hereby amended by amending the Design Standard Exceptions to clarify which height exceptions apply to which zone districts.

**Section 5.** Articles 3 through 9 of the Denver Zoning Code are hereby amended by making the following substantive amendments to the Setback Encroachments:

1. Add "pediments" to allowance of "belt courses, sills, lintels, pilasters";
2. Add restriction to "brick and stone veneer" that it is for re-siding of existing structures only;
3. Separate "canopy" into two sections to address lower scale residential zone districts from other zone districts;
  - a. For SU, TU, TH, RH districts allow canopy as cover over an entrance for weather protection and allow in side interior but restrict size; and
  - b. Allow canopy encroachment into Side Street;
4. Eliminate distinction between permanent and non-permanent building elements for controlling light and change dimensions to follow those for what was known as permanent;
5. Combine above grade stairway with porch encroachment;
6. Porch, decks, etc: clarify that it may be covered but sides shall be at least 50% open;
7. Add projecting windows as allowed setback encroachment (except in side interior) and specify a size limit;
8. Add restrictions that had been applied in past and through the ZPIN process for air conditioners located in setback; and
9. Add Pedestrian Bridge, for connections to mass transit stations.

**Section 6.** Article 13 of the Denver Zoning Code is hereby amended by making the following usability, organization and clarification amendments to the Rules of Measurement as follows:

1. Re-organize;
2. Add and update graphics;
3. Add intent statements;
4. Clarify language or add language to explain graphic; and
5. Add, update, clarify definitions related to rules of measurement.

**Section 7.** Article 13 of the Denver Zoning Code is hereby amended by making the following substantive amendments to the Rules of Measurement as follows:

1. Add rules of measurement for standards in the building form tables:
  - (a) Height in feet, allowable increases;
  - (b) Height in feet, minimum;
  - (c) Mezzanine, specific to maximum number of stories;
  - (d) Front and rear percentage of zone lot depth;
  - (e) Setback encroachments;
  - (f) Side Interior setback when min/min combined; and
  - (g) Surface parking between building and street;
2. Change existing rules of measurement:
  - (a) To allow building specific base plane for multiple buildings in MU/RO-3 zone districts;
  - (b) To allow the long side of an oblong block to be the “Side Street” for certain corner lots;
  - (c) Block Sensitive Setback:
    - i. Clarify how to select the abutting zone lots which will be used to establish the setback;
    - ii. Clarify how a setback of less than 20’ may be an outlier or the predominant pattern; and
    - iii. Change block sensitive setback to remove the maximum setback; and
  - (d) CC, MX, MS Zone Lot Determination: Add Industrial Blueprint Street Types to the existing table for the criteria used to determine Primary and Side Street.

**Section 8.** Article 10 of the Denver Zoning Code is hereby amended by making the following usability, organization and clarification amendments to the General Design Standards as follows:

1. Add cross-references to standards outside the DZC (e.g., Building Code standards for ADA accessible parking);
2. Clarify applicability of required surfacing materials for surface parking areas; and
3. Remove duplicative allowance for vehicle-parking on a different zone lot.

**Section 9.** Article 10 of the Denver Zoning Code is hereby amended by making the following substantive amendments to the General Design Standards as follows:

1. When there are multiple buildings on a zone lot, allow surface parking between a building and a Side Street in the MS zone districts when build-to standards are all met; and
2. Extend allowance for landscaping exceptions based on excessive improvement costs when landscaping is triggered by a change in use of an existing building.

**Section 10.** Articles 3 through 9, Article 11 and Article 13 of the Denver Zoning Code are hereby amended by making the following usability, organization and clarification amendments to the Use Tables and Use Limitations as follows:

1. Correct use table where intent is to treat the same use similarly (in terms of allowance and limitations) in the same zone districts across different neighborhood contexts;
2. Correct use tables to align the “P” and “L” entries to match use limitation in Article 11;
3. Correct use tables to align use table references (e.g., ZP v. ZPIN v. ZPSE) to process required in the limitations text;
4. Correct and clarify use limitations to ensure clear directives for administration and enforcement:
  - (a) Clarify standards to state an ADU use is not allowed on the same zone lot as a Tandem House;
  - (b) Clarify code’s approach to requiring enclosure of uses unless otherwise specifically allowed (indicated by an “\*” in the use tables); and
  - (c) Reorganize limitations for “Community Center” use to make clear in which zone districts the limits apply;
5. Add the following uses to all use tables or add new use limitations (and revise definitions accordingly):
  - (a) “Rooming and boarding house” as primary use and allow in mixed use zone districts;
  - (b) Commercial Vehicle Storage; and
  - (c) Accessory Auto Rental Services;
6. Clarify all primary and accessory Agricultural use definitions to more clearly distinguish between them:
  - (a) Agriculture, Limited (primary) – deleted as distinct use; folded into either “animal husbandry” or “plant husbandry” uses;
  - (b) Aquaculture (primary) – standard removed from definition and added as limitation;

(c) Greenhouse (accessory) – deleted as distinct use and folded into accessory “garden” use; and

(d) Greenhouse (primary) – deleted as distinct use and folded into “plant nursery” use;

7. Clarification of general provisions applicable to all accessory uses;

8. Clarify treatment of accessory nonresidential uses in zones that allow the same use as a primary use by adding new use table entry: “Not applicable – See Allowed Primary Uses.” New entry means the use must be established as a primary, rather than as an accessory use;

9. Clarify distinctions between specific types of temporary outdoor retail sales and correct limitations and definitions, accordingly;

10. Add descriptor to all use definitions in Article 13. As applicable, defined term is noted as either “use definition” or “use category” or a “specific use type within the \_\_\_\_ use category”; and

11. Clarify or correct definitions of:

(a) Dwelling, Accessory Unit, Attached;

(b) Household;

(c) Office, Dental/Medical and/or Clinic;

(d) Single Room Occupancy Hotel;

(e) Use by-right; and

(f) Use, Permitted.

**Section 11.** Articles 3 through 9, Article 11 and Article 13 of the Denver Zoning Code are hereby amended by making the following substantive amendments to the Use Tables and Use Limitations as follows:

1. In a SU zone, eliminate choice of using the tandem building form to reestablish a pre-existing two-unit or multi-unit dwelling uses. In a TU zone, eliminate choice of using the rowhouse building form to reestablish a pre-existing multi-unit dwelling use;

2. Change ZPIN to ZPSE process for review of telecommunication towers in or adjacent to Residential Zone Districts or within 500 feet of another tower;

3. Revise allowed uses and use restrictions applicable to building forms in the RX Zone District to underscore zone district intent that this is primarily a residential zone district:

(a) Allow lodging uses, in addition to residential uses, in second story and above;

(b) Add maximum 10,000 square feet GFA for buildings with no residential or lodging uses; and

(c) Revise allowed commercial uses to generally align with uses allowed in the MX/MS-2 zone districts;

1 4. Allow Retail Sales, Service and Repair Uses in the I-A Zone District without limitations  
2 (change from “L-ZP” to “P-ZP”); and

3 5. Allow large-scale retail sales (not including liquor sales) in the I-B zone subject to limitations.

4 **Section 12.** Article 12 of the Denver Zoning Code is hereby amended by making the  
5 following usability, organization and clarification amendments to the Procedures as follows:

6 1. Nonconforming Use: Clarify option for owner to provide a mitigation plan if a zoning violation  
7 occurs on property containing a nonconforming use; and

8 2. Code Interpretations: Clarify that process applies to any interpretation of code, including but  
9 not limited to determinations of unlisted uses.

10 **Section 13.** Article 12 of the Denver Zoning Code is hereby amended by making the  
11 following substantive amendments to the Procedures as follows:

12 1. Fences/Walls: No zoning permit for fences and walls 4 feet or less in height unless the  
13 fence/wall is on property that (a) abuts a designated Parkway; or (b) contains a designated  
14 landmark structure or a structure located within a designated historic district;

15 2. Administrative Adjustment: Allow for an administrative adjustment to determine the Primary  
16 Street zone lot line on corner lots of oblong or square blocks, based on compatibility analysis;

17 3. Compliant Use: Address what happens to a Compliant Use when a violation of the Denver  
18 Zoning Code occurs on the same property (same treatment as a nonconforming use).

19 **Section 13.** Article 4 of the Denver Zoning Code is hereby amended by correcting the  
20 summary table of primary building forms by zone district.

21 **Section 14.** Article 8 of the Denver Zoning Code is hereby amended by clarifying  
22 applicability of build-to standards in Downtown zone districts.

23 **Section 15.** Article 8 of the Denver Zoning Code is hereby amended by correcting the  
24 definition of “Residential Zone District” to capture residential zone districts under Former Chapter  
25 59.

26 **Section 16.** Articles 3-6 of the Denver Zoning Code are hereby amended by amending  
27 Detached Garage and Other Accessory Structures building forms to allow 3’ Side Interior  
28 setback on Zone Lot Widths 30’ and less – consistent with primary structure allowance.

29 **Section 17.** Articles 3-9 of the Denver Zoning Code are hereby amended by amending  
30 Rowhouse building form in Mixed Use Commercial zones to change vehicle access to ‘to be  
31 determined at site plan review’ consistent with all other building forms in those zone districts.

1           **Section 18.** Article 7 of the Denver Zoning Code is hereby amended by adding a Design  
2 Standard Alternative for C-MS-8, C-MS-12 Primary Street Upper Story Setback to be a 15'  
3 setback for portions of building placed at 0' setback.  
4 All of the above changes as filed with the Denver City Clerk on \_\_\_\_\_, 2011 at City Clerk  
5 Filing No. 10-512-?.  
6 COMMITTEE APPROVAL DATE: 4/12/2011.  
7 MAYOR-COUNCIL DATE: 4/19/2011.  
8 PASSED BY THE COUNCIL \_\_\_\_\_ 2011  
9 \_\_\_\_\_ - PRESIDENT  
10 APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_ 2011  
11 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
12 EX-OFFICIO CLERK OF THE  
13 CITY AND COUNTY OF DENVER  
14  
15 NOTICE PUBLISHED IN THE DAILY JOURNAL \_\_\_\_\_ 2011 \_\_\_\_\_ 2011  
16 PREPARED BY: Kerry A. Buckey, Assistant City Attorney 4/11/2011  
17  
18 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of  
19 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
20 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to  
21 § 3.2.6 of the Charter.  
22  
23 David R. Fine, City Attorney  
24 BY: \_\_\_\_\_, \_\_\_\_\_ City Attorney Date: \_\_\_\_\_