

1 **BY AUTHORITY**

2 ORDINANCE NO.
3 SERIES OF 2024

COUNCIL BILL NO. CB24-xxxx
COMMITTEE OF REFERENCE:
Land Use, Transportation & Infrastructure

4
5 **A BILL**

6 **For an ordinance amending Chapter 59 of the Revised Municipal Code,**
7 **concerning regulation of land retaining zoning designation under former chapter**
8 **59 to align with certain regulations of the Denver Zoning Code.**
9

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

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

16 **Section 1.** That section 59-2, D.R.M.C. concerning former chapter 59 is amended by
17 deleting the language stricken and adding the language underlined in subsections (b) and (c) to read
18 as follows:

19 **Sec. 59-2. – Former chapter 59.**

20 (b) For lands retaining their zoning designation under the former chapter 59,
21 including land zoned planned unit development (PUD), land zoned with waivers and
22 conditions and land subject to a planned building group site plan, all provisions of the
23 former chapter 59, including procedures, shall apply, except as explicitly stated in
24 sections 59-2(c)(8), 59-2(c)(14), 59-2(c)(15), 59-2(c)(16), 59-2(c)(17), 59-2(c)(23), 59-
25 2(c)(29) and 59-3(b) below.

26 (c) No changes shall be enacted to the text of the former chapter 59 after June
27 25, 2010; however, regulation of lands retaining their zoning designation under the former
28 chapter 59 is subject to the following requirements and allowances:

29 (1) For purposes of applying the limitations on bulk planes and building heights
30 in section 59-96 of the former chapter 59, the "protected districts" identified therein
31 shall also include the zone districts defined as "protected districts" in section 13.3
32 of the Denver Zoning Code.

1 (2) Reserved.

2 (3) For purposes of applying the "exception to use enclosure requirement" for
3 mixed use zone districts (C-MU, R-MU, and T-MU zones) in section 59-302(4)b.1,
4 and 2 of the former chapter 59, the residential districts identified therein shall also
5 include the zone districts defined as "protected districts" in section 13.3 of the
6 Denver Zoning Code.

7 (4) For purposes of applying the restrictions on the siting of outdoor animal runs
8 within twenty (20) feet of a habitable residential structure stated in section 59-2(16)
9 of the former chapter 59, the residential zone districts identified therein shall also
10 include the zone districts defined as "protected districts" in section 13.3 of the
11 Denver Zoning Code.

12 (5) For purposes of applying the five-foot side setback for structures that are
13 not single-unit or two-unit dwellings, and which have ground floor commercial or
14 which are four (4) or more stories in height, as required in the mixed use zoning
15 districts in section 59-312(3) of the former chapter 59, the residential zone districts
16 identified therein shall also include all SU and TU zone districts as established on
17 the official zoning map under the Denver Zoning Code.

18 (6) For purposes of applying various zoning protections to residentially zoned
19 properties, the terms "residential district(s)," "residential zone district(s),"
20 "residential zone(s)," "residentially zoned lot," and "residentially zoned zone lot"
21 used throughout former chapter 59 shall also include the zone districts defined as
22 a "residential zone district or residential district" in division ~~section~~ 13.3 of the
23 Denver Zoning Code.

24 (7) Gardens shall be allowed as an accessory use common, customary and
25 incidental to a primary residential use, and shall comply with all limitations
26 generally applicable to accessory uses stated in former chapter 59, sections 59-
27 87 and 59-88. In addition, marijuana grown as part of a garden accessory to a
28 primary residential use shall comply with all applicable limitations found in the
29 Denver Zoning Code, including, but not limited to, section 11.8 (Uses accessory to
30 primary residential uses—Limitations).

1 (8) Any portion of a general development plan approved under former chapter
2 59 may be repealed in accordance with Section 12.4.12 of the Denver Zoning
3 Code.

4 (9) For purposes of regulating "Cluster multiple-unit dwellings" throughout the
5 former chapter 59, each "separate, independent dwelling unit" that comprises a
6 "Cluster multiple unit dwelling" use in section 59-2(72) of former chapter 59 may
7 contain a "Household" as defined in section 11.12.2.1.B.3 of the Denver Zoning
8 Code.

9 (10) For purposes of regulating "Dwelling, multiple unit" throughout the former
10 chapter 59, each "separate independent dwelling unit" that comprises a "Dwelling,
11 multiple unit" use in section 59-2(95) of former chapter 59 may contain a
12 "Household" as defined in section 11.12.2.1.B.3 of the Denver Zoning Code.

13 (11) For purposes of regulating "Dwelling, single unit" throughout the former
14 chapter 59, each "housekeeping unit" that comprises a "Dwelling, single unit" use
15 in section 59-2(96) of former chapter 59 may contain a "Household" as defined in
16 section 11.12.2.1.B.3 of the Denver Zoning Code.

17 (12) ~~Reserved. The home occupations in sections 59-89(1)g (Foster family~~
18 ~~care), and 59-89(1)k (Rooming and/or boarding) of the former chapter 59 are not~~
19 ~~permitted whenever a dwelling unit exceeds the number of unrelated adults as~~
20 ~~defined in "Household" from the Denver Zoning Code.~~

21 (13) The definition of residence for older adults in section 59-2(230) of former
22 chapter 59 shall only apply to a residence for older persons serving nine (9) or
23 more residents; a residence for older adults serving less than nine (9) residents
24 shall be determined as either a "Dwelling, single unit" or "Dwelling, multiple unit"
25 based on the type of structure containing the use, and shall only be permitted as
26 a "Dwelling, single unit" or "Dwelling, multiple unit" in zone districts allowing the
27 use.

28 (14) For purposes of administering former chapter 59, section 59-51, the
29 creation and alternatives of the board of adjustment shall follow the procedures

1 and requirements of Denver Zoning Code section 12.2.6.2.

2 (15) Regarding variances for land retaining its zoning designation under former
3 chapter 59 and containing only a single unit dwelling use or only a two-unit multiple
4 unit dwelling use, the community planning and development department and the
5 board of adjustment shall apply the concurring vote required for a variance,
6 applicability and limitations, review process, review criteria, and requirements and
7 limitations after approval provisions in the Denver Zoning Code, sections
8 12.2.6.9.A. and 12.4.7, in place of former chapter 59, sections 59-54(2) and 59-
9 55(a).

10 (16) The zoning administrator may grant administrative adjustments for the
11 zoning standards stated in the Denver Zoning Code section 12.4.5.2.B-G, and
12 Table 12.4.5.H.3-1 for land retaining its zoning designation under former chapter
13 59 and containing only a single unit dwelling use or only a two-unit multiple dwelling
14 use, using the review process and review criteria of Denver Zoning Code, section
15 12.4.5. The zoning administrator shall determine whether an administrative
16 adjustment listed in Denver Zoning Code Table 12.4.5.2 applies to a specific
17 standard in former chapter 59.

18 (17) The zoning administrator may grant an administrative adjustment to former
19 chapter 59 standards, procedures, or definitions to comply with federal or state law
20 by applying the applicability, extent of adjustment authorized, and review criteria
21 in section 12.4.5.2.A of the Denver Zoning Code.

22 (18) A temporary managed community is allowed as a temporary use by zoning
23 permit in all zone districts in the former chapter 59, subject to all applicable
24 limitations, definitions, and procedures of the Denver Zoning Code regarding a
25 Temporary Managed Community use. The use limitations of Denver Zoning Code
26 section 11.11.17.2 for a temporary managed community in SU, TU, and RH zone
27 districts apply to a temporary managed community use in the following
28 circumstances:

- 29 a. Land retaining R-X, R-0, R-1, R-2, R-2-A, or R-2-B zone districts
30 under the former chapter 59;

1 b. Land retaining R-X, R-0, R-1, R-2, R-2-A, or R-2-B zone districts
2 under the former chapter 59, and subject to waivers or conditions; or

3 c. Land retaining a planned unit development (PUD) zone district under
4 the former chapter 59 if the PUD's district plan describes the types of uses
5 allowed as those allowed in the R-X, R-0, R-1, R-2, R-2-A, or R-2-B zone
6 districts.

7 (19) One accessory dwelling unit use is permitted as accessory to each primary
8 dwelling unit containing a primary single unit dwelling in all zone districts in the
9 former chapter 59 that allow new single unit dwellings.

10 (20) Where permitted in the former chapter 59, all accessory dwelling unit uses
11 and detached accessory structures containing an accessory dwelling unit use are
12 subject to the following:

13 a. Mobile homes, recreational vehicles, and trailers shall not be used
14 as accessory dwelling units.

15 b. The limits on minimum square feet of gross floor area per occupant
16 of an accessory dwelling unit use stated in Sec. 59-87(c)(1)h.1 of former
17 chapter 59 are not required.

18 c. The requirement for roof and exterior wall materials of an accessory
19 dwelling unit to be comparable in composition and appearance to that of the
20 use by right stated in Sec. 59-87(c)(1)h.3.ix of former chapter 59 are not
21 required.

22 (21) In addition to the requirements stated in subsection (c)(20) above, on land
23 retaining RS-4, R-X, R-0, R-1, R-2, R-2-A, or R-2-B zone districts, with or without
24 waivers or conditions, under the former chapter 59, accessory dwelling unit uses
25 and structures containing an accessory dwelling unit use shall meet the following
26 requirements:

27 a. The maximum building height of a detached accessory structure
28 containing an accessory dwelling unit use shall be twenty four feet

1 measured according to section 59-2(52) (building height measurement) of
2 the former chapter 59.

3 b. With the exception of eaves, flag poles, antennas, chimneys, flues,
4 vents, flush mounted solar panels, and evaporative coolers, no part of any
5 structure shall project through bulk planes which shall be applied as follows:

6 1. On a zone lot forty feet wide or less, the bulk plane shall begin
7 at a horizontal line which is located directly above the side lot line
8 and which passes through a point twelve feet above the midpoint of
9 such lot line.

10 2. On a zone lot greater than forty feet wide, the bulk plane shall
11 begin at a horizontal line which is located directly above the side lot
12 line and which passes through a point ten feet above the midpoint of
13 such lot line.

14 c. A detached accessory structure containing an accessory dwelling
15 unit use shall be located within the rear thirty five percent of the zone lot.

16 d. The minimum side setbacks of a detached accessory structure
17 containing an accessory dwelling unit use shall be the same as those for
18 the primary structure in the applicable zone district.

19 e. In the RS-4, R-X, R-0, and R-1 zone districts, the minimum rear
20 setback of a detached accessory structure containing an accessory
21 dwelling unit use shall vary based on its location in the applicable Future
22 Neighborhood Context set forth in the most recently adopted version of
23 Blueprint Denver:

24 1. Blueprint Denver suburban neighborhood context: twenty feet
25 where the accessory dwelling unit structure is greater than
26 seventeen feet in height—otherwise, ten feet.

27 2. Blueprint Denver urban edge neighborhood context: twelve
28 feet where no alley abuts the rear zone lot line and the accessory

1 dwelling unit structure is greater than seventeen feet in height—
2 otherwise, five feet.

3 3. Blueprint Denver urban neighborhood context: five feet where
4 no alley abuts the rear zone lot line or where garage doors face an
5 alley—otherwise, zero feet.

6 f. In the R-2, R-2-A, and R-2-B zone districts, the minimum rear
7 setback shall be five feet where no alley abuts the rear zone lot line or where
8 garage doors face an alley. Otherwise the minimum rear setback shall be
9 zero feet.

10 g. The maximum building footprint of a detached accessory structure
11 containing an accessory dwelling unit use shall be:

12 1. Eight hundred sixty four square feet when located on a zone
13 lot with an area of seven thousand square feet or less; or

14 2. One thousand square feet when located on a zone lot with an
15 area greater than seven thousand square feet.

16 h. The maximum gross floor area of an accessory dwelling unit use
17 located within a primary structure or a detached accessory structure shall
18 be:

19 1. On a zone lot with seven thousand square feet or less: Eight
20 hundred sixty four square feet; or

21 2. On a zone lot greater than seven thousand square feet: one
22 thousand square feet.

23 i. In the RS-4, R-X, R-0, and R-1 zone districts, the ownership and
24 owner occupancy requirements shall be the same as those for an accessory
25 dwelling unit use in a single-unit zone district in the Denver Zoning Code.

26 j. In the R-2, R-2-A, and R-2-B zone districts, an accessory dwelling
27 unit use is not required to be operated and maintained under the same

1 ownership as the primary dwelling unit to which it is accessory.

2 k. In the R-2, R-2-A, and R-2-B zone districts, an owner of the existing
3 primary dwelling unit is not required to occupy the existing primary dwelling
4 unit as the owner's primary residence.

5 (22) In addition to the requirements stated in subsection (c)(20) above, on land
6 retaining R-3, R-3-X, R-4, R-4-X, R-5, B-1, B-2, B-3, B-4, B-5, B-5-T, B-7, B-8, B-
7 8-A, B-8-G, B-A-1, B-A-3, B-A-4, CCN, MS-1, MS-2, MS-3, R-MU-20, R-MU-30,
8 C-MU-10, C-MU-20, C-MU-30, H-1-A, H-1-B, H-2, and Gateway (within Gateway
9 use areas allowing single unit dwelling uses) zone districts, with or without waivers
10 or conditions, a structure containing an accessory dwelling use shall comply with
11 the regulations in former chapter 59, sections 59-87(c) and 59-312, with the
12 following exceptions:

13 a. An accessory dwelling unit use is not required to be operated and
14 maintained under the same ownership as the primary dwelling unit to which
15 it is accessory.

16 b. An owner of the existing primary dwelling unit is not required to
17 occupy the primary dwelling unit as the owner's primary residence.

18 c. The maximum gross floor area of an accessory dwelling unit use
19 located in a primary structure shall be seventy five percent of primary use
20 gross floor area or eight hundred sixty four square feet, whichever is
21 greater.

22 d. There shall be no maximum gross floor area applied to an accessory
23 dwelling unit use located in a detached accessory structure.

24 (23) Where a special zone lot plan for a planned building group approved under
25 former chapter 59 specifies a total number of dwelling units or a maximum density
26 of dwelling units, the zoning administrator may allow one or more accessory
27 dwelling units in excess of the specified number of dwelling units or the specified
28 maximum density according to one of the following procedures:

1 a. By zoning permit according to the procedures of the former chapter
2 59 zoning code for an accessory dwelling unit use located within a primary
3 structure or detached accessory structure that is allowed by the approved
4 planned building group, and the building footprint of the approved structures
5 will not be expanded; or

6 b. By the minor change procedure for a planned building group
7 described in section 59-621 for an accessory dwelling unit use located
8 within a primary structure or a new or expanded detached accessory
9 structure and the building footprint will be expanded beyond those shown in
10 the approved planned building group. Accessory dwelling unit uses and
11 detached accessory structures containing an accessory dwelling unit use
12 will not be considered a change in the character of development for the
13 purposes of administering 59-621(1) or an increase in the intensity of use
14 for the purposes of administering 59-621(3).

15 (24) The following sections of the Denver Zoning Code regarding use limitations
16 apply to a permitted unenclosed eating place use on land retaining its zoning
17 designation under former chapter 59 ("Unenclosed eating place") in place of any
18 zoning standards and limitations in former chapter 59 for an unenclosed eating
19 place:

20 a. Denver Zoning Code sections 11.10.14.2, and 11.10.14.3.A and B.

21 b. Denver Zoning Code section 11.10.14.3.D, except for an unenclosed
22 eating place in the following former chapter 59 zone districts: B-4; B-8; B-8-
23 A; B-8-G; B-5; B-5-T; B-7; B-A-3; MS-1; MS-2; MS-3; PRV; or Gateway use
24 areas MU1, MU2, TCU, or TSU; and

25 c. Denver Zoning Code section 11.10.14.3.E, except for an unenclosed
26 eating place in the following former chapter 59 zone districts: B-3; B-4; B-8;
27 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; MS-
28 3; PRV; or Gateway use areas MU1, MU2, TCU, or TSU;

29 (25) The zoning administrator may waive or modify ~~grant an administrative~~

1 ~~adjustment~~ for the requirements of 11.10.14.3.B.2—8 for an unenclosed eating
2 place in accordance with the ~~administrative adjustment~~ process and applicable
3 review criteria of Denver Zoning Code section 11.10.14.3.C ~~12.4.5~~.

4 (26) The zoning administrator may grant an unenclosed eating place the specific
5 ~~available~~ incentives of Denver Zoning Code section 11.10.14.3.C listed below in
6 accordance with the process of this section 11.10.14.3, ~~except for the following~~
7 ~~incentives~~:

8 a. An unenclosed eating place permitted in a main street mixed use
9 district of former chapter 59 may reduce ~~remove~~ required off-street parking
10 spaces ~~only~~ in the amount specified for main street zone districts in the
11 ~~Denver Zoning Code section 11.10.14.3.C.3.b.iii~~.

12 b. An unenclosed eating place permitted in any zone district of former
13 chapter 59, other than a main street mixed use district, may reduce ~~remove~~
14 required off-street parking spaces ~~only~~ in the amount specified for zone
15 districts in the Suburban neighborhood context in the Denver Zoning Code
16 ~~section 11.10.14.3.C.3.b.v~~.

17 (27) An unenclosed eating place must follow the zoning permit with information
18 notice process when the use would otherwise be subject to the approval of the
19 board of adjustment under former chapter 59 section 59-54(3)u.

20 (28) Any use that the board of adjustment may authorize as an outdoor eating
21 exception under former chapter 59 section 59-54(3)u must follow the applicable
22 provisions in subsection (24)—(28) above.

23 (29) At the request of an applicant, the zoning administrator may use the review
24 process and criteria in Denver Zoning Code Section 12.3.7.2.A.3 to process an
25 application from an individual property owner for an amendment to either (i) a
26 development plan meeting the requirements below, or (ii) a zone lot within a
27 development plan meeting the requirements below if the zone lot does not contain
28 a single unit dwelling use or a multiple unit dwelling use with two units:

29 a. A development plan approved by the development review committee

1 or the zoning administrator; and

2 b. A development plan that under former chapter 59 required all owners
3 within the entire land area of the approved plan to apply for an amendment.

4 **Section 2. Effective Date**

5 This ordinance shall be effective February 3, 2025.

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1 COMMITTEE APPROVAL DATE: [fill in]

2 MAYOR-COUNCIL DATE: [fill in]

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: [fill in]

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: _____, Assistant City Attorney DATE: _____,

DRAFT