

Interim Zoning Ordinance – COVID Temporary Uses in FC59 Zones

Sponsored by Councilwoman Amanda Sandoval
LUTI Committee Meeting
September 15, 2020

What is this Ordinance?

What does it Do?

- An interim zoning ordinance that supports the city's response to the COVID public health emergency
- Will only apply during the pandemic – will sunset automatically upon expiration of emergency public health orders
- City will be able to permit COVID-related temporary uses anywhere in the city, and not just on lands zoned under Denver Zoning Code

What kinds of emergency uses could this ordinance allow?

For example:

- Temporary managed campsites for homeless persons
- Temporary expansion of outdoor patios/spaces for restaurants and bars

Why do we need this ordinance?

- The DZC gives authority to zoning administrator (ZA) to recognize and permit temporary uses and activities not otherwise clearly allowed, but Former Chapter 59 (old code) does not
- While the ZA has approved numerous temporary uses on DZC-zoned lands, none of these uses were allowed on old code-zoned lands:
 - Temporary Tiny Home Villages
 - Temporary Outdoor Patio Expansions for Restaurants/Bars
- Even when ZA allows a similar use on old code lands, more limits apply:
 - Outdoor patios cannot take up required parking, or be located on someone else's property (in DZC, they can)

How does it work?

- ZA will make a determination under DZC whether a proposed temporary use in response to COVID is allowed – she must find that:
 - Use is similar to other permitted uses in character and external impacts
 - Use is consistent with code and zone district intent
 - Use is necessary to preserve / advance public health, safety, welfare
- ZA may attach conditions/limits on the use to mitigate potential impacts

How does it work?

- Any temporary COVID-related use ZA determines is allowed by the DZC can also be allowed on old-code zoned lands:
 - ZA must identify which old code zone districts
 - Ordinance allows other DZC standards/allowances to apply to the emergency use permitted on old code lands. For example, allowing the emergency use to be sited on required parking spaces.
- There is no adverse impact on legal status of any permanent land use located on the same property as the temporary use

The Ordinance – Section 1: Interim Authority Granted to ZA

16 **Section 1.** Any temporary unlisted use permitted by the zoning administrator under Section
17 12.4.6 of the official zoning code for the City and County of Denver as filed with the Denver City Clerk
18 on April 16, 2018, at City Clerk Filing No. 2010-0512-T and all amendments thereto (the “Denver
19 Zoning Code”) in response to the COVID-19 disaster emergency, may also be permitted by the zoning
20 administrator on land retaining its zoning designation under Chapter 59 of the DRMC as filed with the
21 Denver City Clerk on May 20, 2010 at City Clerk Filing No. 10-512 (“Former Chapter 59”).

The Ordinance – Section 2: Required Findings for Temporary Uses on FC59 Lands

- 22 **Section 2.** The zoning administrator may permit an unlisted temporary use on land retaining
23 its zoning designation under Former Chapter 59 based on the following criteria:
- 24 (a) the unlisted temporary use preserves and promotes the public health, safety and welfare
25 of the inhabitants of the city, and of the public generally, and encourages and facilitates the orderly
26 growth and expansion of the city;
- 27 (b) the unlisted temporary use is consistent with the subject Former Chapter 59 zone district at
28 issue; and
- 29 (c) the unlisted temporary use meets the requirements of Denver Zoning Code Section
30 12.4.6.4.B.

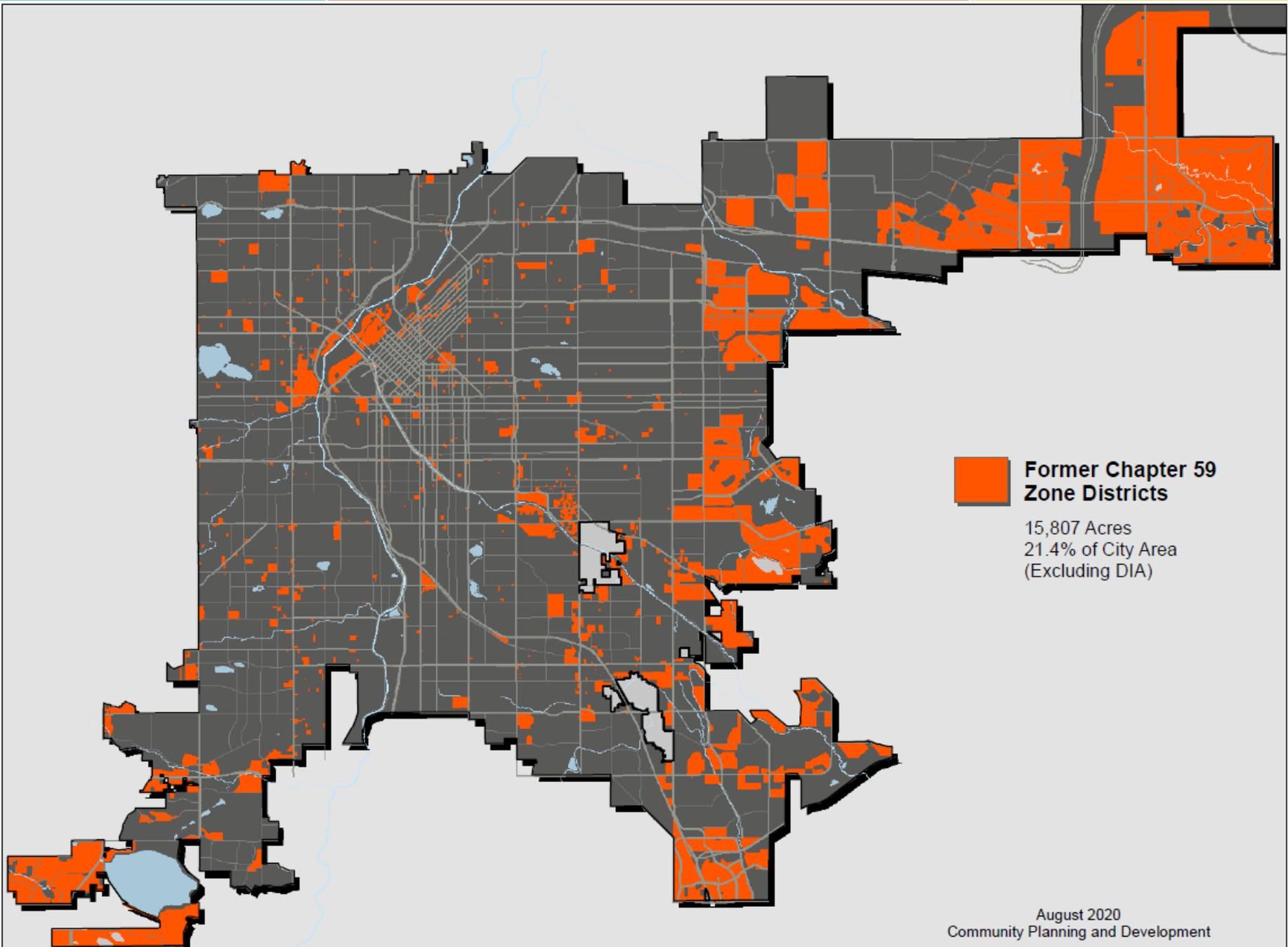
The Ordinance – Section 3: Specific Conditions Must Attach to Use Allowance

31 **Section 3.** The zoning administrator shall include the following information with any unlisted
32 temporary use determination that authorizes the unlisted temporary use in a Former Chapter 59 zone
33 district as allowed in Section 1 above:

- 1 (a) the Former Chapter 59 zone districts where the unlisted temporary use may be permitted;
- 2 (b) the Former Chapter 59 zoning procedure required to permit the unlisted temporary use;
- 3 (c) any conditions or limitations on the unlisted temporary use; and
- 4 (d) any allowances for the temporary unlisted use that would otherwise be allowed in a Denver
5 Zoning Code zone district, such as permitting the operation of the temporary unlisted use on land
6 otherwise required by Former Chapter 59 for on-site parking.

The Ordinance – Section 4: Automatic Sunset When Emergency is Over

7 **Section 4.** This interim zoning regulation shall be effective upon final publication, and shall
8 automatically be repealed twenty-one days after expiration or rescission of all comprehensive city
9 and state public health orders issued as a result of the COVID-19 disaster emergency, such as the
10 Colorado Department of Public Health and Environment’s Stay at Home Order, Safer at Home in
11 the Vast, Great Outdoors Order or Protect Your Neighbor Order, or Denver Department of Public
12 Health & Environment public health orders such as the face covering order.



Former Chapter 59 – Old Code Zoned Lands

Year	Acres – Excluding DIA		Assessor Parcels	
	#	%	#	%
2010	16,635	22.50%	55,040	23.5%
2020	15,807	21.38%	179,207	76.5%

CPD Recommendation

Staff recommends that the Council adopt this interim zoning ordinance, based on a finding that all review criteria have been met.

Review Criteria (DZC Sec. 12.4.11)

1. Consistency with Adopted Plans
 - Comprehensive Plan 2040 (2019)
 - Blueprint Denver (2019)
 - Housing an Inclusive Denver (2018)
2. Public Health, Safety and Welfare
3. Uniformity of District Regulations and Restrictions

Comprehensive Plan



- **Equitable, Affordable and Inclusive: Goal 2, Strategy B** - Ensure city policies and regulations encourage every neighborhood to provide a complete range of housing options (p. 28).
- **Equitable, Affordable and Inclusive: Goal 5, Strategy B** - Stabilize residents and businesses at risk of displacement through programs and policies that help them to stay in their existing community (p. 29).
- **Equitable, Affordable and Inclusive: Goal 8, Strategy C** - Ensure that city regulations enable a range of flexible housing options to meet the needs of those experiencing or transitioning out of homelessness (p. 30).

Comprehensive Plan



- **Strong and Authentic Neighborhoods: Goal 2, Strategy B** - Ensure neighborhoods offer a mix of housing types and services for a diverse population (p. 34).
- **Strong and Authentic Neighborhoods: Goal 1, Strategy A** - Build a network of well-connected, vibrant, mixed-use centers and corridors (p. 34).
- **Strong and Authentic Neighborhoods: Goal 4, Strategy A** - Grow and support neighborhood-serving businesses (p. 35).

Comprehensive Plan

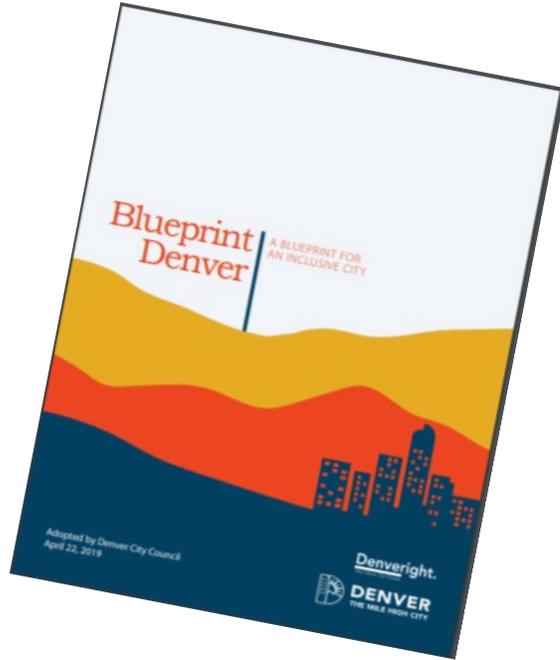


- **Connected, Safe and Accessible Places: Goal 3, Strategy A** - Create streets to foster economic activity, contribute to great urban design and accommodate green infrastructure, including street trees (p. 40).



- **Economically Diverse and Vibrant: Goal 3, Strategy A** - Promote small, locally-owned businesses and restaurants that reflect the unique character of Denver (p. 46).
- **Economically Diverse and Vibrant: Goal 10, Strategy B** - Support the creation, expansion and economic vitality of Denver food businesses (p. 48).

Blueprint Denver



- **Land Use and Built Form: Housing Policy 1, Strategy C** - Ensure city codes and land use regulations support modern and equitable approaches to housing options for people experiencing homelessness and people in need of supportive housing (p. 82).
- **Land Use and Built Form: Economics Policy 6, Strategy A** - Support locally-owned businesses—new and old—to expand and evolve to meet the changing needs of residents and visitors. Support could include assisting businesses, especially in the most underserved or distressed neighborhoods, with regulatory processes, education, training, helping with marketing or increasing access to capital (p. 93).
- **Mobility: Policy 3, Strategy D** - Develop policies for shared spaces in appropriate locations to safely accommodate all users, flexible spaces and opportunities for events (p. 109).
- **Mobility: Policy 11, Strategy A** - Develop policies that consider the highest and best use of the curb space based on context and what benefits the most number of people (p. 113).
- **Quality of Life Infrastructure: Policy 5, Strategy E** - Identify opportunities to creatively use right-of-way as special shared streets that prioritize pedestrians, provide amenities and encourage gathering and socializing (p. 121).

Blueprint Denver, cont...

Equity Concepts



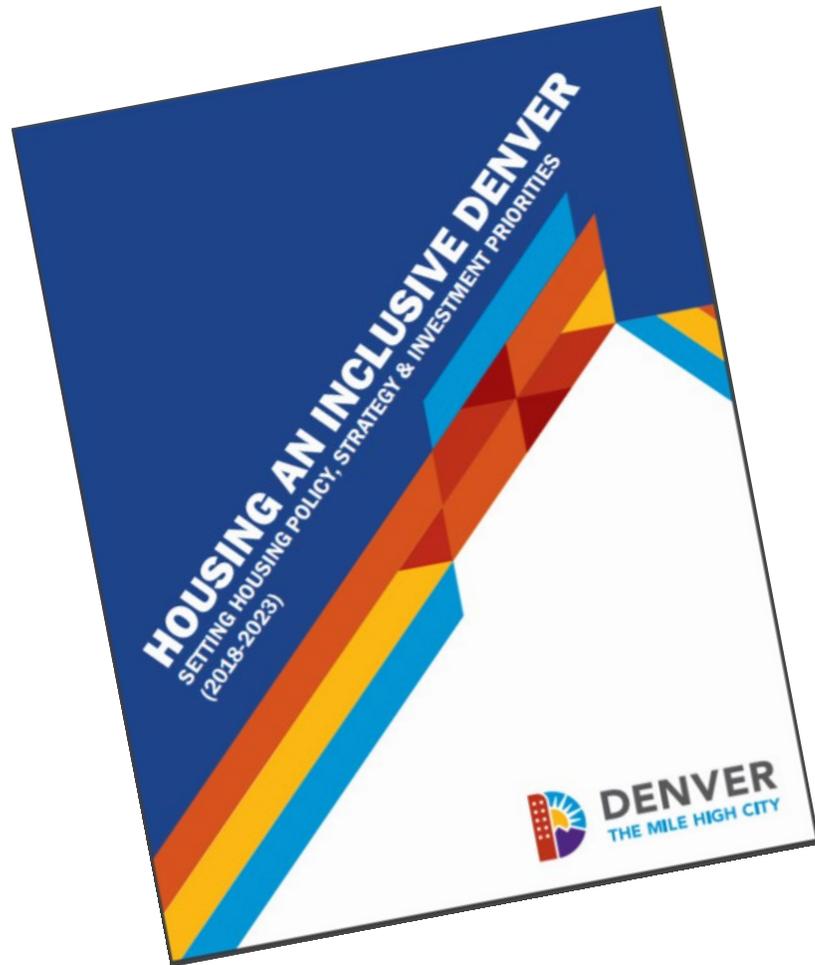
Reducing Vulnerability to Displacement:

- Help residents and businesses stay in their neighborhood
- Maintain the diversity of the population and employment opportunities
- Sustain longstanding social networks

Expanding Housing and Jobs Diversity:

- Provide equitable access to employment and housing
- Encourage complete neighborhoods where families and households of all types and incomes can live
- Offer housing options in every neighborhood

Housing an Inclusive Denver



- **Fundamental Value 3: Support Housing as a Continuum** - Focus on residents and their unique housing and service needs, from those experiencing homelessness, to those seeking affordable and workforce rental housing, and attainable homeownership (p. 23).

Review Criteria (DZC Sec. 12.4.11)

1. Consistency with Adopted Plans
 - Comprehensive Plan 2040 (2019)
 - Blueprint Denver (2019)
 - Housing an Inclusive Denver (2018)
2. Public Health, Safety and Welfare
 - Furthers public health, safety and welfare by allowing temporary housing/shelter and other uses directly related to the city's COVID emergency response in all parts of the city equally.
3. Uniformity of District Regulations and Restrictions
 - Will result in processes and regulations for temporary emergency uses that are generally uniform within each zone district in which this temporary use is permitted, while allowing for necessary flexibility during this state of emergency.