

1 BY AUTHORITY

2 ORDINANCE NO. \_\_\_\_\_

COUNCIL BILL NO. CB13-0332

3 SERIES OF \_\_\_\_\_

COMMITTEE OF REFERENCE:

4 GOVERNMENT & FINANCE COMMITTEE

5 A BILL

6 For an ordinance repealing Article 16, Sections 2-341, 2-342 and 2-343 of Chapter 2  
7 D.R.M.C., regarding Geographic Information System in its entirety.

8 WHEREAS, the City and County of Denver, through the Department of Public Works, set up  
9 a Geographic Information System for the creation and maintenance a Geographic Information  
10 System (GIS) for GIS data and the City by ordinance established requirements and procedures to  
11 be used by entities and individuals outside the City for the licensing of that GIS data in an effort to  
12 recapture some of the costs associated with creating and maintaining the GIS data.; and

13 WHEREAS, the City determined that the revenues from the licensing fees did not justify the  
14 continuation of the licensing program and that it was in the best interests of the City and the  
15 community to have the GIS information freely available as a resource to the public.

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

18 **Section 1.** That subsections 2-341, 2-342 and 343 through 360 of Article XVI, Title II,  
19 D.R.M.C. shall be and are hereby repealed by deleting the language stricken as follows:

20 ~~Section 2-341. Geographic Information System.~~

21 ~~The department of public works or such other agency as the manager of public works shall~~  
22 ~~designate may develop, implement and maintain a geographic information system ("GIS") primarily~~  
23 ~~for the use of the various agencies of the city and, if authorized by the manager of public works or~~  
24 ~~a designee, for the limited use of other persons or entities. The GIS, as the same may be further~~  
25 ~~defined in writing by the manager of public works, shall be made up of digital data ("GIS data")~~  
26 ~~electronically created, collected, formatted, manipulated or otherwise maintained by the city.~~

27 ~~Section 2-342. License required.~~

28 ~~(a) It shall be unlawful for any person or entity, other than another governmental entity, to~~  
29 ~~acquire, maintain or use for any application GIS data without first obtaining a license issued by the~~  
30 ~~manager of public works or designee and in a form prescribed by the same, under the conditions~~  
31 ~~set forth in this section and upon the payment of a fee as also provided for in this section.~~

32 ~~(b) All GIS licenses issued pursuant to this section shall be executed by the person or entity~~

1 ~~requesting the GIS data ("licensee") and shall set forth the purposes for which the licensee intends~~  
2 ~~to use the GIS data. The manager of public works or a designee shall either approve or deny the~~  
3 ~~licensee's proposed use of the data, and if such use is approved, the license shall be issued upon~~  
4 ~~the agreement of the licensee that it acknowledges and will comply with the following express~~  
5 ~~conditions and understandings:~~

6 ~~(1) The licensee will not copy, reproduce, disseminate, transmit, license, sublicense,~~  
7 ~~assign, lease, release, publish, post on the internet, transfer, sell, allow the use of, permit~~  
8 ~~access to, distribute, allow interactive rights to, or otherwise make the GIS data available to~~  
9 ~~any other person or entity in any form whatsoever, except as specifically provided for in the~~  
10 ~~license and authorized by the manager of public works or designee;~~

11 ~~(2) The licensee will keep and maintain the GIS data in a secure manner, will keep a~~  
12 ~~record of the location of the GIS data, and will return the GIS data to the city or destroy the~~  
13 ~~GIS data and inform the city of the same upon the cessation of the use of the GIS data;~~

14 ~~(3) The licensee will have an ongoing and continual duty to notify any employees,~~  
15 ~~agents, contractors or other individuals having access to the GIS data as a part of the~~  
16 ~~licensee's authorized use of the GIS data of the restrictions set forth in this section and in~~  
17 ~~the license, and to ensure that the employees, agents, contractors or other individuals~~  
18 ~~comply with the same;~~

19 ~~(4) The licensee acknowledges and understands that the GIS data is not a legally~~  
20 ~~recorded map, survey, or legal document and that the GIS data may contain errors; the GIS~~  
21 ~~data is for reference only and the licensee will not use or rely upon the GIS data in any other~~  
22 ~~way;~~

23 ~~(5) The licensee acknowledges and understands that the city has provided the GIS data~~  
24 ~~on an "as is" basis and makes no representations, guarantees or warranties regarding the~~  
25 ~~GIS data whatsoever, including but not limited to representations, guarantees or warranties~~  
26 ~~that the GIS data is fit for any purpose or is accurate, complete or correct; and further that~~  
27 ~~the city expressly disclaims any and all liability of any nature whatsoever arising out of any~~  
28 ~~use of the GIS data by the licensee or by any other person or entity;~~

29 ~~(6) The licensee shall defend, release, indemnify and save and hold harmless the city~~  
30 ~~and its officers, agents and employees from any and all claims, damages, demands,~~  
31 ~~liabilities, losses, actions, suits, costs, expenses, legal fees, judgments, causes of action, or~~  
32 ~~other legal, equitable or administrative proceedings of any kind whatsoever, of or by anyone~~  
33 ~~whomsoever, regardless of the legal theory(ies) upon which premised, which in any way~~

1 result from, are connected with, or arise out of, directly or indirectly, the actions or omissions  
2 of the licensee in connection with any use of the GIS data obtained by the licensee from the  
3 city, whether such use is authorized or unauthorized, by the licensee or any other person or  
4 entity, including actions or omissions of the licensee's officers, employees, agents,  
5 representatives, invitees, licensees, subconsultants, or any other individual obtaining  
6 access to the GIS data provided by the city to the licensee;

7 (7) The licensee will, upon request from the city, use its best efforts to assist the city in  
8 identifying any unauthorized use of the GIS data by any person or entity that may have  
9 gained possession of the GIS data provided by the city to the licensee;

10 (8) The licensee acknowledges and understands that any use it makes of the GIS data  
11 that is not in compliance with this section or provided for by the license will cause  
12 irreparable harm and significant injury to the city and that the city may seek and obtain  
13 injunctive relief against the licensee for acting or threatening to engage in or facilitate the  
14 unauthorized use of the GIS data, in addition to any other equitable or legal remedies that  
15 may be available to the city; and

16 (9) If any copying or reproduction of the GIS data is specifically provided for in the  
17 license and authorized by the manager of public works or designee, the licensee shall affix  
18 a copyright and limitation on use notice, in the form, manner and location as is specified in  
19 the license, to all copies or reproductions of the GIS data that the licensee generates.

20 (c) The GIS data shall be available in such formats or products and for such fees as are set  
21 forth in the GIS fee schedule, as the same may be made and amended from time to time pursuant  
22 to the authority of the manager of public works to charge a fee for the use of GIS data under this  
23 section. The GIS fee schedule shall be posted or available for review at the office of the manager  
24 of public works.

25 Sections 2-343—2-360 Reserved.

26 COMMITTEE APPROVAL DATE: May 22, 2013

27 MAYOR-COUNCIL DATE: May 28, 2013 by Consent

28 PASSED BY THE COUNCIL \_\_\_\_\_ 2013

29 \_\_\_\_\_ - PRESIDENT

30 APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_ 2013

31 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
32 EX-OFFICIO CLERK OF THE  
33 CITY AND COUNTY OF DENVER

34 NOTICE PUBLISHED IN THE DAILY JOURNAL \_\_\_\_\_ 2013; \_\_\_\_\_ 2013

1 PREPARED BY: Steven J. Hahn, Asst. City Attorney: DATE: May 30, 2013

2 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of  
3 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
4 ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to §  
5 3.2.6 of the Charter.

6 Douglas J. Friednash

7 City Attorney

8 BY: \_\_\_\_\_, \_\_\_\_\_ City Attorney

9 DATE: \_\_\_\_\_