

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2020

COUNCIL BILL NO. 20-0961
COMMITTEE OF REFERENCE:
Land Use, Transportation & Infrastructure

A BILL

For an ordinance enacting an interim zoning regulation to allow certain temporary unlisted uses in Former Chapter 59 zone districts due to the COVID-19 disaster emergency.

WHEREAS, on March 11, 2020, the Governor of the State of Colorado issued an Executive Order declaring a state of disaster emergency due to the risk of spread of the novel coronavirus, now designated COVID-19; and

WHEREAS, on March 12, 2020, the Mayor of the City and County of Denver declared a state of local disaster emergency pursuant to C.R.S. § 24-33.5-701, *et seq.*, due to the risk of spread of COVID-19, which has been extended by the City Council for the City and County of Denver through September 28, 2020, due to the risk of spread of COVID-19; and

WHEREAS, the Executive Director of the Denver Department of Public Health & Environment, pursuant to section 24-16 of the Denver Revised Municipal Code, has issued numerous public health orders to implement measures to mitigate the spread of COVID-19 and to protect the City and its residents, including the City’s most vulnerable populations.; and

WHEREAS, the Colorado Department of Public Health and Environment issued Public Health Order 20-28, Safer at Home and in the Vast, Great Outdoors (as amended), which, among other provisions, strongly urges governmental entities to make shelter available to people experiencing homelessness as soon as possible and to the maximum extent practicable; and

WHEREAS, additionally, Public Health Order 20-28, Safer at Home and in the Vast, Great Outdoors (as amended) allows for the expansion of restaurants to existing, licensed outdoor space for limited in-person dining, with the approval of the local government’s permitting, building, and fire code oversight for any new outdoor dining space prior to use; and

WHEREAS, the Denver Zoning Code (defined below) allows the zoning administrator to permit uses otherwise not listed in the Denver Zoning Code, and the zoning administrator has permitted temporary unlisted uses regarding outdoor expansion spaces for restaurants and bars, and intends to permit certain temporary uses in response to the COVID-19 disaster emergency; and

WHEREAS, City Council adopted Ordinance No. 333 in 2010 enacting the Denver Zoning Code and zoning map; however, Ordinance 333 did not re-zone the entire city to zone districts under

1 the Denver Zoning Code, and so portions of the city retained zoning designations under the former
2 version of the zoning code; and

3 **WHEREAS**, Former Chapter 59 (defined below) remains in full force and effect for any land
4 not re-zoned to zone districts in the Denver Zoning Code; and

5 **WHEREAS**, Former Chapter 59 does not authorize the zoning administrator to determine
6 unlisted temporary uses and so the uses currently and intended to be permitted by the zoning
7 administrator do not apply to land subject to Former Chapter 59; and

8 **WHEREAS**, it is appropriate for the City Council to establish an interim zoning regulation that
9 will allow zoning administrator determinations of unlisted temporary uses to apply to land retaining
10 zoning under Former Chapter 59, as this allows the City to meet certain objectives of the Colorado
11 Department of Public Health and Environment’s Public Health Order 20-28 to lands zoned under
12 Former Chapter 59, is in accordance with Comprehensive Plan 2040, and furthers the public health,
13 safety and general welfare of the city.

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

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 Zoning
19 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”).

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 of
25 the inhabitants of the city, and of the public generally, and encourages and facilitates the orderly growth
26 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.

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.

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 the
11 Vast, Great Outdoors Order or Protect Your Neighbor Order, or Denver Department of Public Health
12 & Environment public health orders such as the face covering order.

13
14 COMMITTEE APPROVAL DATE: September 15, 2020.

15 MAYOR-COUNCIL DATE: N/A

16 PASSED BY THE COUNCIL: _____
17 _____ - PRESIDENT

18 APPROVED: _____ - MAYOR _____

19 ATTEST: _____ - CLERK AND RECORDER,
20 EX-OFFICIO CLERK OF THE
21 CITY AND COUNTY OF DENVER

22 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____; _____

23 PREPARED BY: Adam C. Hernandez, Assistant City Attorney DATE: September 17, 2020

24
25 Pursuant to Section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
26 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
27 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
28 § 3.2.6 of the Charter.

29 Denver City Attorney

30 BY:  _____, Assistant City Attorney DATE: Sep 17, 2020