



DENVER
THE MILE HIGH CITY

Community Planning and Development

Planning Services

Plan Implementation

201 W Colfax Ave, Dept 205

Denver, CO 80202

p: 720-865-2915

f: 720-865-3056

www.denvergov.org/planning

TO: Members of the Denver City Council
FROM: Tina Axelrad, Principal City Planner; Michelle Pyle, Associate City Planner;
Caryn Wenzara, Principal City Planner
DATE: December 16, 2010
RE: Denver Zoning Code - Amendment 5

Staff Report and Recommendation

Pursuant to Section 12.4.11 (Text Amendment) of the Denver Zoning Code, the City Council is scheduled to review Amendment 5 to the Denver Zoning Code on December 20, 2010. On November 9, 2010, the Land Use, Transportation and Infrastructure Committee of City Council voted to forward the proposed text amendment to the full council for its final decision at a public hearing.

Based on the criteria for review stated for text amendments in Section 12.4.11.9 of the Denver Zoning Code, CPD staff recommends that the City Council approve this Amendment 5 to the Denver Zoning Code, which addresses various improvements to introductory language, building form and design standards, general design standards, use allowances and limitations, and zoning procedures.

I. Summary and Purpose

The enacting ordinance for the Denver Zoning Code (effective June 25, 2010) provided for a 6-month transition period that allows applicants to choose whether they follow Former Chapter 59 or the Denver Zoning Code to obtain a zoning permit. During this transition period, City staff have been monitoring, discussing and tracking potential improvements to the Code. The intention is to take these amendments through the adoption process so that they are effective in time for the end of the transition period on December 31, 2010. The priorities are improving usability and clarity; and correcting unintended changes in regulations, allowances and procedures. This amendment also corrects errata such as formatting, spelling, headings, cross-references and graphics.

Attached to this staff report, for your review and consideration, please find a summary list of the revisions as well as redlined pages showing the actual edits to the code text, filed with the City Clerk on November 18, 2010.

II. Criteria for Review and CPD Analysis

The criteria for review of a proposed text amendment are found in Section 12.4.11.9 of the Denver Zoning Code. CPD analyzed the proposed text amendment for compliance with the review criteria stated below and finds that the proposed Amendment 5 satisfies each of the criteria.

A. Amendment 5 is Consistent with the City's Adopted Plans

Amendment 5 improves usability and clarity, and corrects unintended changes in zoning regulations, allowances and procedures. This amendment also corrects errata such as formatting, spelling, headings, cross-references and graphics. The City Council recently adopted the code based – in significant part – on a finding that it was consistent with and implements the city's adopted plans. Accordingly, Amendment 5 does not alter significant substantive components of the code, and therefore does not call into question the original finding that the Denver Zoning Code is consistent with adopted plans. CPD recommends that the City Council find that Amendment 5 is consistent with the city's adopted plans.

B. Amendment 5 Furthers the Public Health, Safety, and General Welfare

Amendment 5 furthers the general welfare of Denver by providing further clarity in the rules applicable to all land use and development in the city. In addition, Amendment 5 serves the public health, safety and general welfare because it will correct unintended changes in regulations, allowance and procedures that inadvertently changed property entitlements or removed a protection to the community. CPD recommends that the City Council find that Amendment 5 furthers the public health, safety and general welfare of Denver residents and businesses.

C. The Proposed Text Amendment Results in Regulations that are Uniform within Each Zone District

Amendment 5 includes improvements to organization; corrections to cross references, and consistency in regulations that will result in improved ability to administer the Code uniformly. CPD recommends that the City Council find that Amendment 5 results in regulations that are uniform within each zone district.

IV. CPD Staff Recommendation

On October 26, 2010, the Denver Planning Board held a public hearing on Text Amendment 5. The Planning Board voted unanimously to recommend approval to the Manager of the Department of Community Planning and Development, and to the City Council.

Based on the criteria for review as described above, CPD Staff recommends that the City Council **approve** Amendment 5.



DENVER ZONING CODE
SUMMARY OF PROPOSED TEXT AMENDMENT 5
December 16, 2010

This document contains a summary of proposed text amendments to the Denver Zoning Code. This summary attempts to capture the major substantive and organizational changes proposed; however, interested persons are encouraged to check the redlined text for the actual edits to the code text. The redlined text of Amendment 5 changes is available for public review at the city's website: <http://denvergov.org/Zoning/Rezoning/TextAmendments/tabid/437326/Default.aspx>. In addition, this summary does not capture minor corrections of errata, terminology (e.g. replace "floor" with "story"), and organization which are also included in the final Amendment 5 ordinance presented to City Council.

- Group 1: Article 1, General Provisions and Articles 3-9
- Group 2: Articles 3-7
- Group 3: Article 9, Special Contexts and Districts
- Group 4: Article 10, General Design Standards
- Group 5: Uses in Article 3 - 9 and Article 11, Use Limitations and Definitions
- Group 6: Article 12, Zoning Procedures and Enforcement
- Group 7: Article 13, Definitions

Group 1

Where? Article 1, General Provisions; Articles 3-9, Neighborhood Contexts and Special Context, Applicability and General Standards

Why? Improve way-finding to other parts of the code, describe how the pieces work together and clarify which standards have to be followed based on feedback from customers; bring forward provision from Former Chapter 59.

| Type | Item | Articles |
|---|---|--|
| Organizational, Clarifications, Cross-References | <ol style="list-style-type: none"> 1. Replace “effective date” with “June 25, 2010” 2. Move number of structures allowed per zone lot from Articles 3-9 to Article 1 3. Re-organize and add section headings 4. Add cross-references, such as number of structures allowed per zone lot 5. Add Detached Accessory Structures building form summary table 6. Delete encroachment and height exceptions as covered in other section of articles | Art 1 Art 1 Art 3-9 Art 3-9 Art 3-7 Art 3-7 |
| Carry Forward Former Chapter 59 | <ol style="list-style-type: none"> 1. Add number of uses allowed per zone lot, carrying forward Former Chapter 59 | Art 3-9 |
| Substantive | na | na |

Group 2

Where? Articles 3-7, 9 Neighborhood Contexts, Building Form and Design Standards

Why? Clarify standards based on feedback from customers, add cross-references, use consistent terminology; bring forward provisions from Former Chapter 59.

| Type | Item | Articles |
|--|--|---|
| Clarifications, Cross-References, Terminology | <ol style="list-style-type: none"> 1. Collapse table rows for Stories and Feet (blue text indicates the text was moved from a formally separate row) 2. Clarify attached garage standards by replacing “front” with primary street” and “dwelling” with “primary structure” and re-word the standard for garage projections 3. Add “Residential” for the “Dwelling Units per Primary Structure” requirement such that churches and other civic and public uses allowed in residential zone districts do not have to meet a minimum dwelling unit requirement. 4. Add additional cross-references in form tables to improve user-friendliness 5. Consistent terminology for “zone lot depth” 6. Rename Detached Utility Building to “Other Detached Accessory Structures” 7. Required Build-To Alternatives: Clarify the maximum a combination of build-to alternatives may count toward meeting the minimum build-to and clarify the garden wall is an alternative to build-to minimum percentage standard. | <p>Art 3-6</p> <p>Art 3-6</p> <p>Art 3-6, 9</p> <p>Art 3-7</p> <p>Art 3-7, 9 Art 3-7, 9</p> |
| Carry Forward Former Chapter 59 | <ol style="list-style-type: none"> 1. Add provisions for maximum 1-story in rear 35% or 20% of zone lot depth in all E-SU, -TU, -TH, -MU2.5, U-SU, -TU, -RH, and G-RH-3 zone districts to carry forward former Chapter 59 2. Clarify attached garage standards to make more clear that can follow the Detached Garage building form standards for side and rear setbacks, to carry forward Former Chapter 59 3. Setbacks for detached accessory structures: allow side interior of 0’ if entirely in rear 35% and rear, no alley of 5’ 4. Add prohibition on rooftop and/or second story decks in rear 35% of zone lot depth in all SU, TU, TH U-RH and E-MU-2.5 zone districts to carry forward Former Chapter 59 | <p>Art 4-6</p> <p>Art 3-6</p> <p>Art 3-5</p> |
| Substantive | na | |

Group 3

Where? Article 9 Special Contexts and Districts

Why?

- Clarify how screening requirements in Article 9 and Article 10 work together
- Carry forward Chapter 59 provisions

| Type | Item | Articles |
|--|---|---|
| Clarifications, Cross-References, Terminology | 1. Clarify applicability of landscaping and screening requirements | Industrial |
| Carry Forward Former Chapter 59 | 1. Allow 10' primary street setback encroachment for surface parking to carry forward Former Chapter 59 2. Revise the Office, All Others parking ratio from 2.5 to 2 per 1,000sf in I-A and I-B Zone Districts to carry forward Former Chapter 59 3. Clarify applicability of DO-1 Uptown Design Overlay for properties not rezoned under new code as done for Use Overlays | Industrial Industrial Overlay |
| Substantive | na | |

Group 4

Where? Article 10 General Design Standards

Why?

- Clarify applicability; improve cross references and terminology; and improve organization for ease of use
- Carry forward Chapter 59
- Change minimum landscape island width to address technical feedback on appropriate width for tree planting
- Apply sign standards for new Master Planned Context Zone Districts

| Type | Item | Division |
|--|---|----------|
| Clarifications, Cross-References, Terminology | 1. Address various errata in cross references and terminology | 10.4 |
| | 2. Add “M” zone districts to perimeter parking lot landscaping requirements | 10.5 |
| | 3. Clarify applicability of landscaping requirements | 10.5 |
| | 4. Revise text to make more clear maximum fence height limits | 10.5 |
| | 5. Reorganize fence and wall standards for greater ease of use. | 10.5 |
| | 6. Reorganize sign standards for greater ease of use | 10.10 |
| | 7. Move applicability provision up in billboard standards to make it clearer that billboards are allowed only in the Billboard Overlay Use Zone District. | 10.10 |
| | 8. Correct graphic to match text that shows minimum parking island width at 6ft, not 8ft | 10.5 |
| Carry Forward Former Chapter 59 | 1. Add fence and wall design standards applicable in mixed-use commercial zones | 10.5 |
| | 2. Clarify that development in I-MX zone is subject to standards for fences and walls in industrial zones | 10.5 |
| | 3. Revise chain link/wire mesh fence material standards to allow without landscaping | 10.5 |
| | 4. In residential fence standards, delete requirement for open-style fences adjacent to south side of public sidewalks. | 10.5 |
| | 5. Allow parking of automobile trailers less than 22 feet in length and, detached camper units in the front half of a residential zone lot when there is no alley abutting the rear half of the lot | 10.9 |
| | 6. Apply comparable sign standards in G-RO-3, G-RO-5, CMP-H2, CMP-EI2, CMP-ENT, S-CC-3x, S-CC5x, and E-CC-5x. | 10.10 |
| | 7. Apply comparable sign standards in Downtown zone districts (D-LD, D-AS, D-CV) | 10.10 |
| Substantive | 1. Apply sign standards to New Master planned Context Zone Districts: M-RX-5A, M-GMX and M-CC-5 | 10.10 |

Group 5

Where? Articles 3-9: All Use Tables; Article 11: Use Limitations

Why? Clarity and corrections based on staff review and code user/customer feedback

| Type | Item |
|-------------------------------|--|
| Errata, Clarifications | <ol style="list-style-type: none"> 1. Various Errata Corrections to “P” vs. “L” in Use Tables to Accurately Capture Whether Limits Apply <ol style="list-style-type: none"> a. Arts 3-8: Food market, liquor stores, retail sales – all others, helipad b. Industrial Zone District uses (Art 9): Animal sales, food market, retail sales – all others, general manufacturing c. Master Planned Zone Districts (Art 9): Public safety facilities, helipads 2. Garden as Accessory Use Revise definition to remove embedded standards that were contrary to use limitations applicable to this use in residential zones. 3. Greenhouse as Accessory Use Revise definition to remove embedded standards that were contrary to use limitations applicable to this use in residential zones. 4. Railroad Facilities Correct limitation to remove redundant exclusion of RR tracks (definition already excludes these). 5. Railway ROW Revise definition to make clear this use includes rail tracks, guideways, and overhead power lines. |

Group 5, continued

| Type | Item |
|---|---|
| <p>Carry Forward Former Chapter 59</p> | <ol style="list-style-type: none"> 1. <i>Animal Husbandry</i> Revise limits in I-B and OS-B and prohibit use in O-1 2. <i>Animal Keeping Accessory to Primary Residential Uses</i> Change from “L-ZP” to “L-ZPIN” and make all animal exceptions (keeping of animals not specifically listed in Sec. 11.8.6) subject to informational notice requirements. 3. <i>Arts, Entertainment, Recreations, Indoors</i> Prohibit use in G-MU and add limits in the G-RO zone districts to align with “professional studio” allowance 4. <i>Body Art Establishments</i> Correct limit of ‘no more than 1’ to ‘no more than 2’ body art establishments locating within 1,000 feet of each other 5. <i>Day Care Center</i> Allow as “L-ZP” in SU and TU residential zone districts (vs. L-ZPIN) 6. <i>Eating and Drinking Establishments</i> Correct use table entries in MX/MS-2x zone districts to state “L-ZPIN” review type for “business use exception.” 7. <i>Home Occupations</i> <ol style="list-style-type: none"> a. Add purpose and intent statement b. Add limitation making all permits personal to applicant c. Revise limits for large day care homes d. Allow large day care homes in as L-ZPIN in S-SU-Fx and S-SU-lx zones e. Add use table row for “Unlisted Home Occupations” type and allow as “L-ZPIN” making all Zoning Administrator determinations of similar (unlisted) home occupations subject to informational notice f. Reorganize Division 11.9 for greater ease of use. g. Revise to allow up to 2 roomers/boarders with single-dwelling unit uses in zone districts other than SU districts h. Revise definition to delete incorrect references to “commercial use” and “retail sales”; replace words “commercial use” with “business use.” 8. <i>Junkyard, Recycling Center, and Recycling Plant/Scrap Processor</i> Clarify applicability of screening requirement in Industrial Zone Districts and correct relevant section references 9. <i>Junkyard</i> Change use allowance in I-A from “L-ZP” to “NP” in the I-1 zone district 10. <i>Manufacturing, General</i> Change use allowance in I-MX zone from “P-ZP” to “L-ZP” |

11. *Nonresidential Uses in Existing Structures in Residential Zone Districts*
Revise to make clear that customary and incidental accessory uses are allowed with this primary use

12. *Residential Care Uses*

Add limit making all permits personal to applicant/operator

13. *Temporary Outdoor Seasonal Sales (Including Farmers Markets and Flea Markets)*

a. Revise cell entries to delete ZPIN review (CC/MX/MS-3 and more intense districts).

b. Revise limitations to make clear that ZPIN review process only applies in the least intensive mixed-use zones (MX/MS-2, -2x, -2A zones).

c. Revise use table entries for this use to correct level of review

14. *Wholesale Trade or Storage, Light*

a. Prohibit use in the RX district

b. Apply ZPSE review only in D-AS, and D-GT zone districts and not in all CC/MX/MX zones

c. Apply ZPIN review (rather than ZPSE) when this use is established on zone lots fronting 56th Avenue, Tower Road or Pena Road from "ZPSE." to "ZPIN"

d. Delete limitation requiring an accessory office use in the RX, CC, MS, and MX zone districts, which unintentionally introduced a new limitation on both existing and new storage service uses in Denver if retained

Group 5, continued

| Type | Item |
|--------------------|--|
| Substantive | <ol style="list-style-type: none"> <li data-bbox="444 352 1390 653"> <p>1. <i>Live/Work Dwelling</i> Allow live/work dwelling uses in I-A and I-B zones, with new limits: (i) “work” part of use limited to “artist studio” only; (ii) “live” part of use limited in number of unrelated persons who may reside on site; and (iii) “live” part of use will not be treated as “residential use” (to protect Industrial zone district intent). Revise “art, entertainment, and recreation, indoor” use in I-A and I-B to remove these same three limits – the use is still allowed in the I-A and I-B zones, but cannot include a dwelling unit.</p> <li data-bbox="444 688 1390 1121"> <p>2. <i>Outdoor Eating/Serving Areas Accessory to Eating/Drinking Establishments</i></p> <ol style="list-style-type: none"> <li data-bbox="516 751 1390 919">a. Revise limitations to carry forward Former Chapter 59 limits on operating hours (10pm/11pm) for use between 50 and 100 feet from Protected Zone Districts (outdoor areas less than 50 feet away from a protected zone district are already subject to BOA special exception review in the subject zones). <li data-bbox="516 926 1390 1016">b. Revise limitations to carry forward Former Chapter 59 direction to the BOA for review of outdoor eating/seating areas less than 50 feet from a Protected Zone District in certain zones. <li data-bbox="516 1022 1390 1121">c. Revise use table entries for this use to correct application of limitations and type of use review to carry forward former Chapter 59 to maximum extent possible. <li data-bbox="444 1157 1390 1255"> <p>3. <i>Residence for Older Adults</i> Add limit on number of dwelling units per zone lot occupied by this use.</p> |

Group 6

Where? Article 12, Procedures and Enforcement

Why? Clarity and corrections based on staff review and code user/customer feedback

| Type | Item |
|--|--|
| Clarifications | <ol style="list-style-type: none"> 1. Revise “Compliant Structure” Definition to add “Pedestrian Access, Primary Street” to list of building form standards triggering compliant structure status. 2. Revise the Effect of Approval General Standards to make clear that concurrent approvals or permits are subject, in combination, to the longest expiration period applicable. |
| Carry Forward Former Chapter 59 | <ol style="list-style-type: none"> 3. Revise ‘Standards Applicable to Compliant Structures’ by adding standard clearly allowing expansion or enlargement of a compliant structure, provided the expansion or enlargement does not increase the degree of existing noncompliance or create a new area of noncompliance or nonconformity. 4. Revisions to “Compliant Uses” Standards: <ol style="list-style-type: none"> a. Add new standards giving Zoning Administrator limited authority to approve expansions of a compliant use (same allowance as for nonconforming use). b. Add new standards giving the Board of Adjustment variance authority to approve all other expansions of a compliant use (same allowance as for nonconforming use). c. Add standards specifying when destruction, damage, or structural obsolescence leads to termination of a compliant use. The parameters are the same as the termination standards that apply to nonconforming uses. 5. Revisions to “Nonconforming Structure” Standards by correcting the citation to and description of the 1994 ordinances applicable to the D-C and D-TD zones districts, wherein noncompliance with such ordinances will not prevent reconstruction of a nonconforming structure that is accidentally destroyed or damaged. |
| Substantive | na |

Group 7

Where? Article 13, Definitions

Why? Clarity and corrections based on staff review/comments and code user feedback

| Type | Item |
|--|---|
| Clarifications | <ol style="list-style-type: none">1. Copy use definitions changed in Article 11, from Group 5 into Article 13, Definitions2. Errata Corrections in Definitions of Terms for Clarification<ol style="list-style-type: none">a. Former Chapter 59b. Mixed Use Commercial Zone Districts (add M-CC and M-GMX)c. New Construction or Developmentd. Protected District (missing E-SU-B zone)e. Structure, Compliant |
| Carry Forward Former Chapter 59 | na |
| Substantive | <ol style="list-style-type: none">1. Revisions to Definitions of Terms Related to Other Amendment 5 Changes<ol style="list-style-type: none">a. Accessory Structureb. Façade and Front Facadec. Rooftop and/or Second Story Decksd. Truck tractors |