

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2010

COUNCIL BILL NO. CB10-0431
COMMITTEE OF REFERENCE:
BLUEPRINT

4
5 **A BILL**

6 **For an ordinance relating to Chapter 59 (Zoning), Denver Revised Municipal**
7 **Code, enacting a new zoning code and official zoning map and preserving the**
8 **former zoning code for use where land is not being re-zoned.**
9

10 **WHEREAS**, the City adopted Ordinance No. 392, Series of 1956, enacting both an entirely new
11 zoning code (“1956 Code”) and new zoning map (“1956 Map”) for the entire city; and

12 **WHEREAS**, that 1956 Code and 1956 Map reflected the contemporary best planning practices
13 based on the then-current conditions and emerging trends of the mid-1950’s, which included
14 economic growth, population growth, increasing automobile use, and suburbanization; and

15 **WHEREAS**, over the intervening years, 1956 Code and 1956 Map have been amended in large
16 and small ways, always with the intent to reflect contemporary best practices and changing
17 conditions; and

18 **WHEREAS**, the resulting document is long, complex, and hard to use; it does not lend itself to
19 modern standards of electronic communications and user-friendliness; and it does not encourage
20 redevelopment that is sympathetic to neighborhood character or the types of redevelopment
21 desired in emerging areas; and

22 **WHEREAS**, calls for a comprehensive overhaul of the 1956 Code and 1956 Map are long-
23 standing and increasingly urgent, as evidenced by recommendations of the 1989 Comprehensive
24 Plan; Denver Comprehensive Plan 2000; Blueprint Denver: An Integrated Land Use &
25 Transportation Plan, adopted in 2002; and numerous neighborhood plans, small area plans,
26 station area plans and other planning documents; and

27 **WHEREAS**, in early 2005, Mayor John Hickenlooper appointed a Zoning Code Task Force
28 comprised of: representatives of City Council; registered neighborhood organizations; the historic
29 preservation community; the development community, including the Board of Realtors, architects
30 and planners; and a Citizen Advisory Group of citizens and property owners; and

31 **WHEREAS**, for nearly five years, the Zoning Code Task Force, with the assistance of zoning
32 consultants, City staff, and the Citizen Advisory Group, has gone out into the community to listen
33 to problems with the 1956 Code and 1956 Map, as amended, and to how people want their city

1 and neighborhood to look; has developed ideas and proposals, which were then taken back out
2 for additional public feedback, debate and discussion; and

3 **WHEREAS**, the current law regarding amendments to the zoning code and official map is
4 contained in Section 59-646 of the Denver Revised Municipal Code (DRMC), which declares, in
5 part, that amendments to the zoning code and official map shall be made only to correct errors or
6 to respond to changing conditions and only as reasonably necessary to promote public health,
7 safety or general welfare; and

8 **WHEREAS**, City Council has determined that the need to correct errors and respond to changing
9 conditions, as described in recitals above, should not be done by piecemeal amendment, but by
10 adoption of an entirely new zoning code and official map; and

11 **WHEREAS**, the City Council has determined on the basis of evidence and testimony presented at
12 the public hearing that the amendment set forth herein is in conformance with the Denver
13 Comprehensive Plan 2000, is justified by changed or changing conditions, and is reasonably
14 necessary to the promotion of the public health, safety and general welfare.

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

17 **Section 1.** Chapter 59 (Zoning) of the DRMC shall be amended by deleting the current
18 Chapter 59 in its entirety and enacting and adding a new Chapter 59 to read and be read as
19 follows:

20 **Chapter 59**
21 **ZONING**

22 **Sec. 59-1. Zoning Code.**

23 The zoning code as filed with the Denver City Clerk on 20th day of May 2010 at City Clerk Filing
24 No. 10-512-A, is hereby adopted as the official zoning code for the City and County of Denver
25 (“Denver Zoning Code”). The Denver Zoning Code and all amendments thereto shall be
26 maintained in and kept current by the Department of Community Planning and Development and
27 shall be available to the public.

28 **Sec. 59-2. Former Chapter 59.**

29 (a) Chapter 59 of the Denver Revised Municipal Code as filed with the Denver City Clerk on 20th
30 day of May 2010 at City Clerk Filing No. 10-512, (“Former Chapter 59”), shall remain in full force
31 and effect for any land not re-zoned to zone districts in the Denver Zoning Code. No changes
32 shall be enacted to the provisions of the Former Chapter 59 after June 25, 2010.

1 (b) For lands retaining their zoning designation under the Former Chapter 59, including land
2 zoned Planned Unit Development (PUD), land zoned with waivers and conditions and land subject
3 to a Planned Building Group Site Plan, all provisions of the Former Chapter 59, including
4 procedures, shall apply.

5 **Sec. 59-3. Rezoning.**

6 (a) Any land rezoned after June 25, 2010 shall not be rezoned to zone districts in the Former
7 Chapter 59, except that:

8 (1) Land retaining PUD zoning under the Former Chapter 59 may be re-zoned to new PUD
9 under the Former Chapter 59;

10 (2) Land retaining a zoning designation with waivers and conditions under the Former Chapter
11 59 may be rezoned under the Former Chapter 59, but only to the extent that the waivers
12 and/or conditions may be eliminated or modified. The underlying zone district may not be
13 changed to another zone district under the Former Chapter 59.

14 (b) Except as explicitly stated in 59-3(a), any land that remains zoned to zone districts in the
15 Former Chapter 59 after June 25, 2010, if rezoned after June 25, 2010, may only be rezoned to
16 zone districts in the Denver Zoning Code utilizing the procedures of the Denver Zoning Code.

17 **Sec 59-4. Official Map.**

18 (a) The digital maps created and maintained by the Department of Community Planning and
19 Development and published by Technology Services' Geographic Information Systems Office
20 delineating the boundaries of the various zone districts, together with all matters and things shown
21 on such maps, are hereby adopted and approved, incorporated herein and made a part hereof
22 and collectively shall constitute the official zoning map of the City and County of Denver ("Official
23 Map"). The Official Map may be amended from time to time as provided in the Denver City Charter
24 and the Former Chapter 59 or the Denver Zoning Code, as applicable. All amendments to the
25 Official Map shall be maintained in and kept current by the Department of Community Planning
26 and Development and made available to the public.

27 (b) All land located within the City and County of Denver shown on the Official Map as being
28 zoned to a zone district in the Denver Zoning Code is hereby rezoned as designated on the
29 Official Map. All land within the City and County of Denver not being rezoned to a zone district in
30 the Denver Zoning Code shall retain its zoning under the Former Chapter 59 as shown on the
31 Official Map, until and unless rezoned.

32

1 **Section 2.**

2 (a) The Denver Zoning Code, as enacted by Section 1 above, shall be effective June 25,
3 2010, (“Effective Date”) provided, however, that up to and including 4:00.00 pm, Mountain
4 Standard Time, December 30, 2010, any person may apply for a zoning permit as required by
5 Section 59-26(d) under the Former Chapter 59 or under the Denver Zoning Code.

6 (b) In order for an application for a zoning permit relating to land re-zoned to zone districts
7 under the Denver Zoning Code to be processed under the provisions of the Former Chapter 59, a
8 substantially complete application, including any applicable fees, must be filed prior to or at
9 4:00.00 pm, Mountain Standard Time, December 30, 2010. For the purposes of this Section 2,
10 “substantially complete application” shall mean an application that is submitted in the required
11 form, including all information necessary to decide whether the application complies with the
12 requirements of the Former Chapter 59, including all items or exhibits specified during any pre-
13 application conference and is accompanied by the applicable application processing fee.

14 (c) Any application for a zoning permit relating to land re-zoned to zone districts in the
15 Denver Zoning Code submitted under the Former Chapter 59 that is not approved by December
16 30, 2011, shall be void. No extensions of time shall be granted.

17 (d) Any zoning permit to erect or alter a structure approved under the Former Chapter 59
18 relating to land re-zoned to zone districts in the Denver Zoning Code shall be valid for a period of
19 180 days from the date of approval after which period the zoning permit shall lapse and become
20 void unless a building permit has been issued within the 180 day period. Once a building permit
21 has been issued the zoning permit shall remain valid unless:

- 22 (i) The building permit is canceled; or
- 23 (ii) Construction has not started within 180 days of the issuance of the building permit; or
- 24 (iii) Once construction has started, there is a lapse in continuous and ongoing construction
25 activity of more than 30 days. Continuous and ongoing construction activity means that
26 regular construction activity is occurring on the site at least five days a week, weather
27 permitting.

28 In the event one of the three above contingencies occurs, the building permit and the zoning
29 permit shall be void. No extensions of time shall be granted. Once a zoning permit issued under
30 the Former Chapter 59 becomes void, all new permits issued for the same property shall be
31 issued pursuant to the Denver Zoning Code.

32 (e) Any special plan registered and recorded under the Former Chapter 59 relating to land
33 re-zoned to zone districts in the Denver Zoning Code, not including any district plan for a Planned

1 Unit Development, shall be considered void if (i) a building permit has not been issued and if
2 construction has not commenced within 18 months of recording of the special plan; or (ii) once
3 construction has started there is any lapse in continuous and ongoing construction activity of more
4 than 30 days. Continuous and ongoing construction activity means that regular construction
5 activity is occurring on the site at least five days a week, weather permitting. Once such special
6 plan registered and recorded under the Former Chapter 59 becomes void, all new permits and
7 special plans issued for the same land shall be issued pursuant to the Denver Zoning Code.

8 **Section 3.** Notwithstanding anything herein, any land with legally vested rights may be
9 developed in accordance with such vested rights.

10 **Section 4.** Administrative Alternatives.

11 (a) Upon written application for an administrative alternative to the Denver Zoning
12 Code's building form standards, and only from June 25, 2010, until 4:00.00 pm, Mountain
13 Standard Time, December 30, 2010, the Zoning Administrator may approve administrative
14 alternatives to the building form standards in the Denver Zoning Code, provided the applicant
15 demonstrates:

16 (1) The alternative building form standard has broad applicability; and

17 (2) The alternative building form standard affects the engineering of the building or
18 the change would create greater compatibility with the existing context.

19 (b) The Zoning Administrator may request more information of the applicant before
20 rendering a decision.

21 (c) The Zoning Administrator shall approve the proposed administrative alternative,
22 approve it with conditions or deny the alternative. All final action shall be in writing. In making a
23 final decision on the administrative alternative, the Zoning Administrator shall consult with, at a
24 minimum, the Manager of Community Planning and Development, the Director of Development
25 Services, the Manager of Plan Implementation and the City Attorney, or their designees.

26 (d) The decision of the Zoning Administrator may be appealed to the Board of
27 Adjustment under the provisions of Section 12.4.8 of the Denver Zoning Code.

28 (e) The City Council may by ordinance extend the application of this Section 4 until June
29 30, 2011.

30

1 COMMITTEE APPROVAL DATE: April 28, 2010.

2 MAYOR-COUNCIL DATE: May 18, 2010.

3 PASSED BY THE COUNCIL: _____, 2010

4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____, 2010

6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____, 2010; _____, 2010

10 PREPARED BY: Kerry A. Buckey, Assistant City Attorney DATE: May 20, 2010

11 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
12 the 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 David R. Fine, City Attorney

16 BY: _____, Assistant City Attorney Date: _____, 2010