

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2024

COUNCIL BILL NO. CB24-1303
COMMITTEE OF REFERENCE:
Land Use, Transportation & Infrastructure

A BILL

For an ordinance amending Chapter 59 of the Denver Revised Municipal Code, concerning accessory dwelling units.

WHEREAS, the City Council has determined on the basis of evidence and testimony presented at the public hearing that the amendment set forth in this ordinance is in conformance with Comprehensive Plan 2040; is reasonably necessary to promote the public health, safety, and general welfare; and will result in uniformity of zone district regulations.

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

Section 1. That section 59-2, D.R.M.C. concerning Former Chapter 59 is amended by deleting the language stricken and adding the language underlined in subsections (b) and (c) to read as follows:

Sec. 59-2. – Former chapter 59.

(b) For lands retaining their zoning designation under the former chapter 59, including land zoned planned unit development (PUD), land zoned with waivers and conditions and land subject to a planned building group site plan, all provisions of the former chapter 59, including procedures, shall apply, except as explicitly stated in sections 59-2(c)(8), 59-2(c)(14), 59-2(c)(15), 59-2(c)(16), 59-2(c)(17), 59-2(c)(23), and 59-3(b) below.

(c) No changes shall be enacted to the text provisions of the former chapter 59 after June 25, 2010; however, regulation of lands retaining their zoning designation under the former chapter 59 is subject to ~~shall incorporate~~ the following requirements and allowances of the ~~Denver Zoning Code~~:

(1) For purposes of applying the limitations on bulk planes and building heights in section 59-96 of the former chapter 59, the "protected districts" identified therein

1 shall also include the zone districts defined as "protected districts" in section 13.3
2 of the Denver Zoning Code.

3 (2) Reserved.

4 (3) For purposes of applying the "exception to use enclosure requirement" for
5 mixed use zone districts (C-MU, R-MU, and T-MU zones) in section 59-302(4)b.1,
6 and 2 of the former chapter 59, the residential districts identified therein shall also
7 include the zone districts defined as "protected districts" in section 13.3 of the
8 Denver Zoning Code.

9 (4) For purposes of applying the restrictions on the siting of outdoor animal runs
10 within twenty (20) feet of a habitable residential structure stated in section 59-2(16)
11 of the former chapter 59, the residential zone districts identified therein shall also
12 include the zone districts defined as "protected districts" in section 13.3 of the
13 Denver Zoning Code.

14 (5) For purposes of applying the five-foot side setback for structures that are
15 not single-unit or two-unit dwellings, and which have ground floor commercial or
16 which are four (4) or more stories in height, as required in the mixed use zoning
17 districts in section 59-312(3) of the former chapter 59, the residential zone districts
18 identified therein shall also include all SU and TU zone districts as established on
19 the official zoning map under the Denver Zoning Code.

20 (6) For purposes of applying various zoning protections to residentially zoned
21 properties, the terms "residential district(s)," "residential zone district(s),"
22 "residential zone(s)," "residentially zoned lot," and "residentially zoned zone lot"
23 used throughout former chapter 59 shall also include the zone districts defined as
24 a "residential zone district or residential district" in division ~~section~~ 13.3 of the
25 Denver Zoning Code.

26 (7) Gardens shall be allowed as an accessory use common, customary and
27 incidental to a primary residential use, and shall comply with all limitations
28 generally applicable to accessory uses stated in former chapter 59, sections 59-
29 87 and 59-88. In addition, marijuana grown as part of a garden accessory to a

1 primary residential use shall comply with all applicable limitations found in the
2 Denver Zoning Code, including, but not limited to, section 11.8 (Uses accessory to
3 primary residential uses—Limitations).

4 (8) Any portion of a general development plan approved under former chapter
5 59 may be repealed in accordance with Section 12.4.12 of the Denver Zoning
6 Code.

7 (9) For purposes of regulating "Cluster multiple-unit dwellings" throughout the
8 former chapter 59, each "separate, independent dwelling unit" that comprises a
9 "Cluster multiple unit dwelling" use in section 59-2(72) of former chapter 59 may
10 contain a "Household" as defined in section 11.12.2.1.B.3 of the Denver Zoning
11 Code.

12 (10) For purposes of regulating "Dwelling, multiple unit" throughout the former
13 chapter 59, each "separate independent dwelling unit" that comprises a "Dwelling,
14 multiple unit" use in section 59-2(95) of former chapter 59 may contain a
15 "Household" as defined in section 11.12.2.1.B.3 of the Denver Zoning Code.

16 (11) For purposes of regulating "Dwelling, single unit" throughout the former
17 chapter 59, each "housekeeping unit" that comprises a "Dwelling, single unit" use
18 in section 59-2(96) of former chapter 59 may contain a "Household" as defined in
19 section 11.12.2.1.B.3 of the Denver Zoning Code.

20 (12) The home occupations in sections 59-89(1)g (Foster family care), and 59-
21 89(1)k (Rooming and/or boarding) of the former chapter 59 are not permitted
22 whenever a dwelling unit exceeds the number of unrelated adults as defined in
23 "Household" from the Denver Zoning Code.

24 (13) The definition of residence for older adults in section 59-2(230) of former
25 chapter 59 shall only apply to a residence for older persons serving nine (9) or
26 more residents; a residence for older adults serving less than nine (9) residents
27 shall be determined as either a "Dwelling, single unit" or "Dwelling, multiple unit"
28 based on the type of structure containing the use, and shall only be permitted as

1 a " Dwelling, single unit" or " Dwelling, multiple unit" in zone districts allowing the
2 use.

3 (14) For purposes of administering former chapter 59, section 59-51, the
4 creation and alternatives of the board of adjustment shall follow the procedures
5 and requirements of Denver Zoning Code section 12.2.6.2.

6 (15) Regarding variances for land retaining its zoning designation under former
7 chapter 59 and containing only a single unit dwelling use or only a two-unit multiple
8 unit dwelling use, the community planning and development department and the
9 board of adjustment shall apply the concurring vote required for a variance,
10 applicability and limitations, review process, review criteria, and requirements and
11 limitations after approval provisions in the Denver Zoning Code, sections
12 12.2.6.9.A. and 12.4.7, in place of former chapter 59, sections 59-54(2) and 59-
13 55(a).

14 (16) The zoning administrator may grant administrative adjustments for the
15 zoning standards stated in the Denver Zoning Code section 12.4.5.2.B-G, and
16 Table 12.4.5.H.3-1 for land retaining its zoning designation under former chapter
17 59 and containing only a single unit dwelling use or only a two-unit multiple dwelling
18 use, using the review process and review criteria of Denver Zoning Code, section
19 12.4.5. The zoning administrator shall determine whether an administrative
20 adjustment listed in Denver Zoning Code Table 12.4.5.2 applies to a specific
21 standard in former chapter 59.

22 (17) The zoning administrator may grant an administrative adjustment to former
23 chapter 59 standards, procedures, or definitions to comply with federal or state law
24 by applying the applicability, extent of adjustment authorized, and review criteria
25 in section 12.4.5.2.A of the Denver Zoning Code.

26 (18) A temporary managed community is allowed as a temporary use by zoning
27 permit in all zone districts in the former chapter 59, subject to all applicable
28 limitations, definitions, and procedures of the Denver Zoning Code regarding a
29 Temporary Managed Community use. The use limitations of Denver Zoning Code
30 section 11.11.17.2 for a temporary managed community in SU, TU, and RH zone

1 districts apply to a temporary managed community use in the following
2 circumstances:

3 a. Land retaining R-X, R-0, R-1, R-2, R-2-A, or R-2-B zone districts
4 under the former chapter 59;

5 b. Land retaining R-X, R-0, R-1, R-2, R-2-A, or R-2-B zone districts
6 under the former chapter 59, and subject to waivers or conditions; or

7 c. Land retaining a planned unit development (PUD) zone district under
8 the former chapter 59 if the PUD's district plan describes the types of uses
9 allowed as those allowed in the R-X, R-0, R-1, R-2, R-2-A, or R-2-B zone
10 districts.

11 (19) One accessory dwelling unit use is permitted as accessory to each primary
12 dwelling unit containing a primary single unit dwelling in all zone districts in the
13 former chapter 59 that allow new single unit dwellings ~~The maximum gross floor~~
14 ~~area of an attached accessory dwelling unit permitted in former chapter 59 is the~~
15 ~~same as the applicable maximum gross floor area for an attached accessory~~
16 ~~dwelling unit of a primary single unit dwelling use in a Denver Zoning Code multi-~~
17 ~~residential zone district.~~

18 (20) Where permitted in the former chapter 59, all accessory dwelling unit uses
19 and detached accessory structures containing an accessory dwelling unit use are
20 subject to the following: ~~The maximum gross floor area of a detached accessory~~
21 ~~dwelling unit permitted in former chapter 59 is the same as the applicable~~
22 ~~maximum gross floor area for a detached accessory dwelling unit of a primary~~
23 ~~single unit dwelling use in a Denver Zoning Code multi-residential zone district.~~

24 a. Mobile homes, recreational vehicles, and trailers shall not be used
25 as accessory dwelling units.

26 b. The limits on minimum square feet of gross floor area per occupant
27 of an accessory dwelling unit use stated in Sec. 59-87(c)(1)h.1 of former
28 chapter 59 are not required.

1 c. The requirement for roof and exterior wall materials of an accessory
2 dwelling unit to be comparable in composition and appearance to that of the
3 use by right stated in Sec. 59-87(c)(1)h.3.ix of former chapter 59 are not
4 required.

5 (21) In addition to the requirements stated in subsection (c)(20) above, on land
6 retaining RS-4, R-X, R-0, R-1, R-2, R-2-A, or R-2-B zone districts, with or without
7 waivers or conditions, under the former chapter 59, accessory dwelling unit uses
8 and structures containing an accessory dwelling unit use shall meet the following
9 requirements: The maximum building footprint of an accessory dwelling unit
10 permitted in former chapter 59 is the same as the maximum building footprint
11 allowed for a detached accessory dwelling unit on a zone lot greater than seven
12 thousand (7,000) square feet in a Denver Zoning Code zone district.

13 a. The maximum building height of a detached accessory structure
14 containing an accessory dwelling unit use shall be twenty four feet
15 measured according to section 59-2(52) (building height measurement) of
16 the former chapter 59.

17 b. With the exception of eaves, flag poles, antennas, chimneys, flues,
18 vents, flush mounted solar panels, and evaporative coolers, no part of any
19 structure shall project through bulk planes which shall be applied as follows:

20 1. On a zone lot forty feet wide or less, the bulk plane shall begin
21 at a horizontal line which is located directly above the side lot line
22 and which passes through a point twelve feet above the midpoint of
23 such lot line.

24 2. On a zone lot greater than forty feet wide, the bulk plane shall
25 begin at a horizontal line which is located directly above the side lot
26 line and which passes through a point ten feet above the midpoint of
27 such lot line.

28 c. A detached accessory structure containing an accessory dwelling
29 unit use shall be located within the rear thirty five percent of the zone lot.

1 d. The minimum side setbacks of a detached accessory structure
2 containing an accessory dwelling unit use shall be the same as those for
3 the primary structure in the applicable zone district.

4 e. In the RS-4, R-X, R-0, and R-1 zone districts, the minimum rear
5 setback of a detached accessory structure containing an accessory
6 dwelling unit use shall vary based on its location in the applicable Future
7 Neighborhood Context set forth in the most recently adopted version of
8 Blueprint Denver:

9 1. Blueprint Denver suburban neighborhood context: twenty feet
10 where the accessory dwelling unit structure is greater than
11 seventeen feet in height—otherwise, ten feet.

12 2. Blueprint Denver urban edge neighborhood context: twelve
13 feet where no alley abuts the rear zone lot line and the accessory
14 dwelling unit structure is greater than seventeen feet in height—
15 otherwise, five feet.

16 3. Blueprint Denver urban neighborhood context: five feet where
17 no alley abuts the rear zone lot line or where garage doors face an
18 alley—otherwise, zero feet.

19 f. In the R-2, R-2-A, and R-2-B zone districts, the minimum rear
20 setback shall be five feet where no alley abuts the rear zone lot line or where
21 garage doors face an alley. Otherwise the minimum rear setback shall be
22 zero feet.

23 g. The maximum building footprint of a detached accessory structure
24 containing an accessory dwelling unit use shall be:

25 1. Eight hundred sixty four square feet when located on a zone
26 lot with an area of seven thousand square feet or less; or

27 2. One thousand square feet when located on a zone lot with an
28 area greater than seven thousand square feet.

1 h. The maximum gross floor area of an accessory dwelling unit use
2 located within a primary structure or a detached accessory structure shall
3 be:

4 1. On a zone lot with seven thousand square feet or less: Eight
5 hundred sixty four square feet; or

6 2. On a zone lot greater than seven thousand square feet: one
7 thousand square feet.

8 i. In the RS-4, R-X, R-0, and R-1 zone districts, the ownership and
9 owner occupancy requirements shall be the same as those for an accessory
10 dwelling unit use in a single-unit zone district in the Denver Zoning Code.

11 j. In the R-2, R-2-A, and R-2-B zone districts, an accessory dwelling
12 unit use is not required to be operated and maintained under the same
13 ownership as the primary dwelling unit to which it is accessory.

14 k. In the R-2, R-2-A, and R-2-B zone districts, an owner of the existing
15 primary dwelling unit is not required to occupy the existing primary dwelling
16 unit as the owner's primary residence.

17 (22) In addition to the requirements stated in subsection (c)(20) above, on land
18 retaining R-3, R-3-X, R-4, R-4-X, R-5, B-1, B-2, B-3, B-4, B-5, B-5-T, B-7, B-8, B-
19 8-A, B-8-G, B-A-1, B-A-3, B-A-4, CCN, MS-1, MS-2, MS-3, R-MU-20, R-MU-30,
20 C-MU-10, C-MU-20, C-MU-30, H-1-A, H-1-B, H-2, and Gateway (within Gateway
21 use areas allowing single unit dwelling uses) zone districts, with or without waivers
22 or conditions, a structure containing an accessory dwelling use shall comply with
23 the regulations in former chapter 59, sections 59-87(c) and 59-312, with the
24 following exceptions: The limits on occupancy of an accessory dwelling unit
25 permitted in former chapter 59 is the same as any applicable limits on occupancy
26 for an accessory dwelling unit in the Denver Zoning Code.

27 a. An accessory dwelling unit use is not required to be operated and
28 maintained under the same ownership as the primary dwelling unit to which
29 it is accessory.

1 b. An owner of the existing primary dwelling unit is not required to
2 occupy the primary dwelling unit as the owner's primary residence.

3 c. The maximum gross floor area of an accessory dwelling unit use
4 located in a primary structure shall be seventy five percent of primary use
5 gross floor area or eight hundred sixty four square feet, whichever is
6 greater.

7 d. There shall be no maximum gross floor area applied to an accessory
8 dwelling unit use located in a detached accessory structure.

9 (23) Where a special zone lot plan for a planned building group approved under
10 former chapter 59 specifies a total number of dwelling units or a maximum density
11 of dwelling units, the zoning administrator may allow one or more accessory
12 dwelling units in excess of the specified number of dwelling units or the specified
13 maximum density according to one of the following procedures: ~~Roof and exterior~~
14 ~~wall materials of an accessory dwelling unit permitted in former chapter 59 is the~~
15 ~~same as any applicable roof and exterior wall materials for an accessory dwelling~~
16 ~~unit in the Denver Zoning Code.~~

17 a. By zoning permit according to the procedures of the former chapter
18 59 zoning code for an accessory dwelling unit use located within a primary
19 structure or detached accessory structure that is allowed by the approved
20 planned building group, and the building footprint of the approved structures
21 will not be expanded; or

22 b. By the minor change procedure for a planned building group
23 described in section 59-621 for an accessory dwelling unit use located
24 within a primary structure or a new or expanded detached accessory
25 structure and the building footprint will be expanded beyond those shown in
26 the approved planned building group. Accessory dwelling unit uses and
27 detached accessory structures containing an accessory dwelling unit use
28 will not be considered a change in the character of development for the
29 purposes of administering 59-621(1) or an increase in the intensity of use
30 for the purposes of administering 59-621(3).

1 (24) The following sections of the Denver Zoning Code regarding use limitations
2 apply to a permitted unenclosed eating place use on land retaining its zoning
3 designation under former chapter 59 ("Unenclosed eating place") in place of any
4 zoning standards and limitations in former chapter 59 for an unenclosed eating
5 place:

- 6 a. Denver Zoning Code sections 11.10.14.2, and 11.10.14.3.A and B.
- 7 b. Denver Zoning Code section 11.10.14.3.D, except for an unenclosed
8 eating place in the following former chapter 59 zone districts: B-4; B-8; B-8-
9 A; B-8-G; B-5; B-5-T; B-7; B-A-3; MS-1; MS-2; MS-3; PRV; or Gateway use
10 areas MU1, MU2, TCU, or TSU; and
- 11 c. Denver Zoning Code section 11.10.14.3.E, exceptforan unenclosed
12 eating place in the following former chapter 59 zone districts: B-3; B-4; B-8;
13 B-8-A; B-8-G; B-5; B-5-T; B-7; CCN; B-A-2; B-A-3; B-A-4; MS-1; MS-2; MS-
14 3; PRV; or Gateway use areas MU1, MU2, TCU, or TSU;

15 (25) The zoning administrator may grant an administrative adjustment for the
16 requirements of 11.10.14.3.B.2—8 for an unenclosed eating place in accordance
17 with the administrative adjustment process and applicable review criteria of Denver
18 Zoning Code section 12.4.5.

19 (26) The zoning administrator may grant an unenclosed eating place the
20 available incentives of Denver Zoning Code section 11.10.14.3.C in accordance
21 with the process of this section, except for the following incentives:

- 22 a. An unenclosed eating place permitted in a mixed use district of
23 former chapter 59 may remove required off-street parking spaces only in
24 the amount specified in Denver Zoning Code section 11.10.14.3.C.3.b.iii.
- 25 b. An unenclosed eating place permitted in any zone district of former
26 chapter 59, other than a mixed use district, may remove required off-street
27 parking spaces only in the amount specified in Denver Zoning Code section
28 11.10.14.3.C.3.b.v.

1 (27) An unenclosed eating place must follow the zoning permit with information
2 notice process when the use would otherwise be subject to the approval of the
3 board of adjustment under former chapter 59 section 59-54(3)u.

4 (28) Any use that the board of adjustment may authorize as an outdoor eating
5 exception under former chapter 59 section 59-54(3)u must follow the applicable
6 provisions in subsection (24)—(28) above.

7 **Section 2. Effective Date**

8 This ordinance shall be effective December 16, 2024.

9 COMMITTEE APPROVAL DATE: October 8, 2024

10 MAYOR-COUNCIL DATE: October 15, 2024

11 PASSED BY THE COUNCIL: _____,

12 _____ - PRESIDENT

13 APPROVED: _____ - MAYOR _____,

14 ATTEST: _____ - CLERK AND RECORDER,
15 EX-OFFICIO CLERK OF THE
16 CITY AND COUNTY OF DENVER

17 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____ ; _____,

18 PREPARED BY: Adam C. Hernandez, Assistant City Attorney DATE: October 17, 2024

19 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the
20 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
21 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
22 3.2.6 of the Charter.

23
24 Kerry Tipper, Denver City Attorney

25
26 BY: _____, Assistant City Attorney DATE: _____,