

BY AUTHORITY

ORDINANCE NO. 361
SERIES OF 2003
REFERENCE:

COUNCIL BILL NO. 284
COMMITTEE OF

Land Use, Transportation Planning & Housing

A BILL

For an ordinance relating to zoning, repealing and re-enacting Articles I and V of Chapter 59, repealing Article III of Chapter 59 and re-enacting it as Articles III and IV, renumbering Articles IV through IX as Articles V through X, and changing use definitions and formats to make the code internally consistent and more user friendly, and deleting the RS-2 and S-T-Z zones

WHEREAS, the City Council has enacted Blueprint Denver as Denver's vision for the future; and

WHEREAS, in order to effectuate Blueprint Denver, substantive changes will need to be made to zoning in Denver; and

WHEREAS, the Denver Zoning Code (Code) has, by accretion and constant modification become internally inconsistent and unwieldy; and

WHEREAS, there is no land in Denver currently zoned S-T-Z or RS-2; and

WHEREAS, the City Council understands that before substantive changes in the zoning code can be made it must be made internally consistent and capable of being reasonably used by Denver employees and citizens alike; and

WHEREAS, the proposed changes have been reviewed by the public at several public meetings; and

WHEREAS, the Planning Board has reviewed the concept of these changes and recommended approval;

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

licensed to sell alcoholic beverages, any bookstore or theater, (b) a business operated or employing licensed psychologists, licensed physical therapists, licensed cosmetologists or licensed barbers performing functions authorized under the license held, and a business operated by or employing licensed physicians or licensed chiropractors engaged in the healing arts.

- (260) *Shelter for the homeless*: A facility which has as its primary function the provision for overnight sleeping accommodations for homeless people. Such accommodations shall be in undivided sleeping space, offered for little or no financial compensation, and shall be operated in a manner which encourages short-term occupancy by residents. Such facility may include accessory support services but shall not be operated in such a manner that changes its primary function to a use classified as follows: community corrections facility, hospital, nursing home, rehabilitation center for the handicapped, or residence for older adults. A shelter for the homeless shall be considered a large residential care use.
- (261) *Shop*: A use devoted primarily to the sale of a service or a product or products but the service is performed or the product to be sold is prepared in its finished form on the premises. Packaging is not considered to be preparation.
- (262) *Short-term occupancy*: The use of housing accommodations or rooms by a person or persons for periods less than one (1) month.
- (263) *SIC*: Standard Industrial Classification as published by the U.S. Census Bureau, has been replaced by the NAICS.
- (264) *Side line of a zone lot*: Any boundary of a zone lot which is neither a front line nor a rear line.
- (265) *Sign*: A sign is any object or device or part thereof situated outdoors or indoors which is used to advertise or identify an object, person, institution, organization, business, product, service, event or location by any means including words, letters, figures, designs, symbols, fixtures, colors, motion illumination or projected images. Signs do not include the following:
- a. Flags of nations, or an organization of nations, states and cities, fraternal, religious and civic organizations;
 - b. Merchandise, pictures or models of products or services incorporated in a window display;
 - c. Time and temperature devices not related to a product;
 - d. National, state, religious, fraternal, professional and civic symbols or crests;
 - e. Works of art which in no way identify a product.
- (266) *Sign with backing*: Any sign that is displayed upon, against or through any material or color surface or backing that forms an integral part of such display and differentiates the total display from the background against which it is placed.

1 a. *Large residential care use:* In the RS-4, R-0, R-1, R-X, R-2, R-2-A and R-2-B
2 zone districts, large residential care uses, other than a community corrections facility or a
3 shelter for the homeless, shall be located only in a structure existing on May 24, 1993, and
4 shall be limited to a maximum number of twenty (20) residents. Such structure shall not be
5 enlarged as long as it is used for a large residential care use. In the R-3, R-3-X and R-4 zone
6 districts, large residential care uses, other than a community corrections facility or a shelter
7 for the homeless, shall be limited to a maximum of forty (40) residents.

8 b. *Community corrections facility.*

9 1. Permitted location. This facility shall be allowed only in the B-5, B-7, PRV, I-0,
10 I-1 and I-2 zone districts; and shall be located more than fifteen hundred (1,500) feet
11 from a school meeting all requirements of the compulsory education laws of the state and
12 more [than] fifteen hundred (1,500) feet from a residential zone district; and shall be
13 located more than one thousand (1,000) feet from any liquor store, any drugstore licensed
14 to sell package liquors, or any retail package liquor business.

15 2. The proposed number of residents shall not exceed one (1) person per two
16 hundred (200) square feet of gross floor area with a maximum of forty (40) residents in
17 the permitted zone districts; provided, however, if a proposed facility is located in the I-1
18 or I-2 zone districts, such facility may have up to sixty (60) residents.

19 c. *Shelter for the homeless.*

20 1. Permitted location. Shelters for the homeless shall be allowed only in the R-3, R-
21 4, R-5, B-A-1, B-3, B-A-3, B-4, B-5, B-7, B-8, I-0, I-1, I-2 and O-1 zone districts.

22 2. Number of beds. The number of beds in the shelter shall not exceed two hundred
23 (200).

24 3. Shelters allowed in churches. Shelters operated within and by a church need not
25 comply with the provisions of this subsection provided the following limitation is
26 satisfied. Such shelter may be operated for up to seventy-five (75) days in either
27 consecutive or nonconsecutive order per calendar year with any number of residents, or it
28 may be operated throughout the entire year with one (1) of the following: a maximum of
29 eight (8) residents or any number of persons bearing to each other a relationship as
30 defined in section 59-2(96), single unit dwelling. If such limitation is exceeded, the
31 shelter must comply only with the requirements of section 59-82(d)(4)a., spacing and
32 density regulations, and need not comply with any other requirements of section 59-82,
33 residential care uses.

34 4. Spacing required from a school. Proposed shelters for the homeless shall be
35 located more than five hundred (500) feet from a school meeting all the requirements of
36 the compulsory education laws of the state.

37 5. Applications for a permit for a shelter shall contain information addressing the
38 following matters:

- 1 i. Maximum resident capacity;
- 2 ii. Characteristics of the client group;
- 3 iii. Accessibility of the site to other services and facilities which are needed
- 4 by residents of the proposed shelters;
- 5 iv. General hours of operation;
- 6 v. Services provided;
- 7 vi. The adequacy of off-street parking to serve the staff and residents, such as
- 8 parking to be located either on the site and/or nearby sites;
- 9 vii. If a new building is to be constructed, the compatibility of its proposed
- 10 architectural characteristics and site design to the surrounding neighborhood;
- 11 viii. The availability of restroom facilities serving the shelter residents while
- 12 the shelter is closed including, but not limited to, restroom facilities provided by the
- 13 city;
- 14 ix. The placement and supervision of waiting areas so that the operation of
- 15 the shelter should not normally create obstructions or problems in the use of adjacent
- 16 public rights-of-way;
- 17 x. Evidence that the proposed shelter for the homeless will comply with the
- 18 limitations on external effects as established for uses by right in the district in which
- 19 it is to be located; and
- 20 xi. Other characteristics of the operation which the applicant may deem to be
- 21 of significance.

22 6. No permit shall be approved unless the zoning administrator finds that the
 23 proposed shelter will not substantially or permanently injure the appropriate use of
 24 conforming residential properties located within five hundred (500) feet of the proposed
 25 use. Evidence of such injury shall clearly establish the anticipated specific problems
 26 attributed to residents of the proposed shelter for the homeless while in or around the
 27 shelter as distinct from the general problems attributed to persons using or passing
 28 through the subject area.

29 7. Notwithstanding the restriction of section 59-82(e)(4) and 59-82(e)(5) below, the
 30 permanent increase in the number of shelter residents or in the amount of floor area of
 31 such shelter exceeding ten (10) percent shall require the approval of a use permit
 32 according to the procedure established in section 59-82(d) above. In reviewing requests
 33 for such increases, the review committee and the zoning administrator shall consider the
 34 matters listed in section 59-82(d) above.

35 (e) *Administration.* All residential care uses shall comply with the following provisions,
 36 except as otherwise provided for herein:

37 (1) *Residential care use/neighborhood communication and enforcement.* The applicant or
 38 operator of a residential care use shall designate a staff member who shall be available on a

1 continuous basis to receive questions and concerns from interested neighbors. Any issues not
2 satisfactorily resolved through the applicant and facility staff shall be reported to the zoning
3 administrator. The zoning administrator shall promptly notify all registered neighborhood
4 organizations whose boundaries encompass the facility, the applicant, and the facility of the
5 complaint; promptly investigate any complaint; and, if necessary, facilitate a meeting with the
6 applicant, the operator and the complainant no later than forty-five (45) days after receipt of the
7 complaint. The department of zoning administration shall notify the applicant, the operator and
8 the complainant of the result of the investigation and any resolution of the issue. If the issue
9 cannot be resolved at the meeting and if the complaint involves a violation of this section of the
10 Code or any conditions placed on the permit, then the zoning administrator shall either issue a
11 cease and desist order, issue a summons and complaint into court, or take other appropriate
12 action. The zoning administrator shall also forward the complaint to the appropriate licensing
13 and other governmental agencies. The results of the agency investigations shall be forwarded to
14 the zoning administrator, the complainant and the registered neighborhood organization.

15 (2) *Biennial renewal of the permit.* Every permit for a residential care use authorized herein
16 shall be effective for a period of two (2) years from the date of authorization, such permit to be
17 renewable biennially by the department of zoning administration. A notice shall be sent, as
18 provided under section 12-94, registration and notification of neighborhood organizations, and
19 appropriate city council members sixty (60) days prior to the renewal date. Such notification
20 shall solicit comments regarding the operation of the facility. If the zoning administrator
21 determines that the above notification will cause a danger to residents in certain care situations,
22 the zoning administrator may waive the notification requirement. The renewal of each permit
23 shall be accomplished upon a finding by the zoning administrator that all conditions imposed on
24 the use have been complied with, and that the facility will not substantially or permanently injure
25 the appropriate use of nearby conforming property.

26 (3) *Continuation of certain existing uses.*

27 a. An institution or any other use operating as a residential care use and existing as
28 of April 1, 1993, shall be classified as a legal, nonconforming use and may continue its
29 operation providing it has a valid zoning permit or has applied for a zoning permit by a date
30 one hundred twenty (120) days after May 24, 1993. Such legal, nonconforming use shall be
31 issued a permit upon compliance with section 59-82(d)(4)d., limitations on external effects,
32 only and shall not be required to comply with any other provisions of section 59-82. This
33 provision, however, does not apply to uses in a planned unit development zone district or to a
34 use under adverse administrative action by the city as of April 1, 1993.

35 b. Any church containing an existing shelter for the homeless as of May 24, 1993,
36 shall notify the department of zoning administration within one hundred twenty (120) days of
37 May 24, 1993.

1 (4) Any exterior additions or exterior structural modifications which increase the gross floor
2 area of an existing structure shall require the approval of a use permit according to the procedure
3 established in section 59-82(d)(1) and 59-82(d)(2) above.

4 (5) Any increase in the number of permitted residents shall require the approval of a use
5 permit according to the procedure established in this section 59-82.

6 (6) Any change in the type of resident of the residential care use either existing as of May 24,
7 1993, or approved under the provisions of this section shall meet all applicable requirements
8 except the spacing and density requirements set forth in section 59-82(d)(4)a.

9 (7) Termination.

10 a. Any of the following shall provide a basis to terminate the right to operate as a
11 residential care use:

12 1. Failure to comply with the conditions of this section, including the failure to
13 obtain a permit.

14 2. Changing one (1) type of a residential care use to another type of residential care
15 use without complying with the requirements herein.

16 3. The vacancy for a period of twelve (12) months of a structure or that portion of a
17 structure occupied by a residential care use.

18 4. Facilities which begin operations after the expiration of the one hundred twenty
19 (120) day period following May 24, 1993, without applying for a permit, shall be
20 terminated and the operator may not apply for a permit for that site for a period of one (1)
21 year after such termination.

22 b. Destruction of the structure containing the use shall not terminate a
23 nonconforming residential care use:

24 **Sec. 59-83. Certain power, gas and other facilities.**

25 (a) Above-ground facilities, including high-voltage transmission lines (one hundred fifteen
26 (115) kilovolts or more), electric substations, gas metering stations and other similar facilities are
27 permitted as a conditional use, subject to the procedure listed below. The expansion of
28 transmission line capacity shall not require a zoning permit provided such expansion can be
29 accomplished within an existing right-of-way or with existing structures or poles.

30 (b) *Notification:* Upon the submittal of an application the zoning office shall notify all
31 registered neighborhood organizations whose boundaries fall within two hundred (200) feet of
32 the proposed facility, and all council members in whose districts the proposed facility would be
33 located. Such notification shall be made within ten (10) days after receipt of an application and
34 shall solicit written comments regarding the proposed facility. Within this ten-day period the
35 following additional actions shall be completed:

36 (1) For transmission lines, the applicant shall place a notice, including a map of proposed
37 transmission line routes, in a newspaper of general distribution.