

BY AUTHORITY

ORDINANCE NO. 57
SERIES OF 2009

COUNCIL BILL NO. 726 (2008)
COMMITTEE OF REFERENCE:
Blueprint Denver

A BILL

For an ordinance relating to Chapter 59 (Zoning), adding the use “assisted living” correcting references to nursing homes and making conforming changes.

WHEREAS, the city council has determined on the basis of evidence and testimony presented at the public hearing that the amendment set forth herein is in conformance with the comprehensive plan, is justified by changed or changing conditions, and is reasonably necessary to the promotion of the public health, safety and general welfare.

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

Section 1. Section 59-2(30.5), of Chapter 59 (Zoning), of the Denver Revised Municipal Code (DRMC) shall be enacted to read and be read as follows:

Sec. 59-2(30.5) Assisted living facility: A residential structure or structures licensed by the state as an assisted living residence and housing more than eight (8) adults. This use is a residential facility that makes available to more than eight (8) adults not related to the owner of such facility, either directly or indirectly through a resident agreement with the resident, room and board and at least the following services: personal services; protective oversight; social care due to impaired capacity to live independently; and regular supervision that shall be available on a twenty-four-hour basis, but not to the extent that regular twenty-four hour medical or nursing care is required. Such a use shall not include residential treatment facilities for substance abusers or the mentally ill. This use shall not include the uses nursing home, hospice or residence for older adults. An assisted living facility shall not be considered a residential care use. A facility which otherwise meets this definition but has eight (8) or fewer residents shall be considered a residential care use, small, and not an assisted living facility.

Section 2. Section 59-2(233), (Residential care use, large) of Chapter 59 (Zoning), DRMC, shall be amended by adding the language underlined below and deleting the language stricken below to read and be read as follows:

Sec. 59-2(233) Residential care use, large: A residential structure which is the primary residence of nine (9) or more persons receiving residential care, a shelter for the homeless of any size, or a community corrections facility of any size. This use includes a residential

1 treatment facility for substance abusers or the mentally ill which is the primary residence of nine
 2 (9) or more persons. This use shall not include: residence for older adults; nursing home,
 3 hospice; rooming and/or boarding house; safehouse; assisted living facility or a residential
 4 structure containing residents whose principal form of support is financial assistance.

5 **Section 3.** Section 59-127, (Nursing homes in the R-2-A districts) of Chapter 59
 6 (Zoning), DRMC, shall be amended by adding the language underlined below and deleting the
 7 language stricken below to read and be read as follows:

8 **Sec. 59-127.** Nursing homes, hospices in the R-2-A districts.
 9 In the R-2-A districts, nursing homes, hospices are allowed subject to the criteria listed below
 10 and provided the provisions of section 59-41(b) are followed.

11 The zoning administrator shall determine if the proposed use will generate any traffic problems,
 12 will create any undue concentration of such ~~homes~~ uses or will in any way be incompatible with
 13 adjoining uses.

14 The zoning administrator may approve the application providing a finding is made that the
 15 proposed use will not adversely affect the appropriate use of adjacent property or create an
 16 undue concentration of such ~~homes~~ uses within a specific neighborhood area. Nursing homes
 17 existing on March 7, 1994 shall be considered to be legal, conforming uses. Additions to existing
 18 nursing homes need not comply with this section.

19 **Section 4.** Section 59-132 (Uses allowed in these districts), of Chapter 59 (Zoning),
 20 DRMC, shall be amended by adding to the residential use matrix the language underlined below
 21 to read and be read as follows:

22 **Sec. 59-132. Uses allowed in these districts.**

23 The following is a list of uses with notations as to whether they are permitted, conditional,
 24 limited, or have other requirements as listed in the matrix and the sections which follow. Uses not
 25 listed are not allowed in any of these districts. Uses left blank are not allowed in that district.
 26 Permitted uses are uses by right.

Key: P = Permitted L = Uses permitted with limitations C = Uses permitted with conditions SR = Uses permitted after special review * = Need not be enclosed (blank) = Not permitted	Zone District			
Use	R-3-X	R-3	R-4	R-4-X
Residential				

<u>Assisted living facility</u>	<u>SR</u>	<u>SR</u>	<u>SR</u>	<u>SR</u>
Dwelling, multiple unit	P	P	P	P
Dwelling, single unit	P	P	P	P
Nursing home, hospice	SR	SR	SR	C
Residence for older adults	P	P	P	P
Residential, institutional/special	L13	P	L13	L13
Rooming and/or boarding house		P	P	P

1 **Section 5.** The title of Section 59-134 (Conditional uses in the R-4-X district, special
2 review of nursing homes in all these districts), of Chapter 59 (Zoning), DRMC, shall be amended
3 by adding the language underlined below to read and be read as follows:

4 **Sec. 59-134. Conditional uses in the R-4-X district, special review of nursing homes,**
5 **hospices and assisted living facilities in all these districts.**

6 **Section 6.** Section 59-134(2), of Chapter 59 (Zoning), DRMC, shall be amended by
7 adding the language underlined below and deleting the language stricken below to read and be
8 read as follows:

9 **Sec. 59-134(2)** In the R-3, R-3-X, R-4, and R-4-X, nursing homes, hospices and assisted living
10 facilities shall be permitted subject to the criteria listed below and provided the provisions of
11 section 59-41(b) are followed.

12 The zoning administrator shall determine if the proposed use will generate any traffic problems,
13 will create any undue concentration of ~~such~~ nursing homes, hospices or assisted living facilities
14 or will in any way be incompatible with adjoining uses. The zoning administrator may approve the
15 application, providing a finding is made that the proposed use will not adversely affect the
16 appropriate use of adjacent property or create an undue concentration of such ~~homes~~ uses
17 within a specific neighborhood area. Nursing homes, hospices existing on March 7, 1994 shall
18 be considered to be legal, conforming uses. Additions to nursing homes need not comply with
19 this section.

20 **Section 7.** Section 59-147 (Uses allowed in this district), of Chapter 59 (Zoning),
21 DRMC, shall be amended by adding to the residential use matrix the language underlined below
22 to read and be read as follows:

23 **Sec. 59-147. Uses allowed in this district.**

24 The following is a list of uses with notations as to whether they are permitted, limited, or
25 have other requirements as listed in the matrix and the sections which follow. Uses not listed are
26 not allowed in this district. Permitted uses are uses by right.

Key: P = Permitted L = Uses permitted with limitations SR = Uses permitted after special review * = Need not be enclosed	
Use	R-5
Residential	
<u>Assisted living facility</u>	<u>P</u>
Nursing home, hospice	L11/SR
Residence for older adults	P
Residential, institutional/special	L13

1 **Section 8.** Section 59-148 L11, of Chapter 59 (Zoning), DRMC, shall be amended by
 2 adding the language underlined below to read and be read as follows:

3 Sec.59-148 L11 Limited to nursing home, hospice with a capacity of twenty-five (25) or fewer
 4 residents. Special Review: Nursing home, hospice with a capacity of greater than twenty-five
 5 (25) residents; subject to the requirements for neighborhood notification and special review as
 6 set forth in the B-2 district.

7 **Section 9.** Section 59-163 (Uses allowed in these districts), of Chapter 59 (Zoning),
 8 DRMC, shall be amended by adding to the residential use matrix the language underlined below
 9 to read and be read as follows:

10 **Sec. 59-163. Uses allowed in these districts.**

11 The following is a list of uses with notations as to whether they are permitted, limited, or
 12 have other requirements as listed in the matrix and the sections which follow. Uses not listed are
 13 not allowed in any of these districts. Permitted uses are uses by right.

Key: P = Permitted L = Uses permitted with limitations SR = uses permitted with special review * = Need not be enclosed	
Use	H-1-A, H-1-B, H-2
Residential	
<u>Assisted living facility</u>	<u>P</u>
Dwelling, multiple unit	P
Dwelling, single unit	P
Nursing home, hospice	P

Residence for older adults	P
Residential, institutional/special	L13
Rooming and/or boarding house	L14

1 **Section 10.** Section 59-182 (Uses allowed in these districts), of Chapter 59 (Zoning),
2 DRMC, shall be amended by adding to the residential use matrix the language underlined below
3 to read and be read as follows:

4 **Sec. 59-182. Uses allowed in these districts.**

5 The following is a list of uses with notations as to whether they are permitted, conditional,
6 limited, or have other requirements as listed in the matrix and the sections which follow. Uses not
7 listed are not allowed in any of these districts. Uses left blank are not allowed in that district.
8 Permitted uses are uses by right.

Key: P = Permitted L = Uses permitted with limitations C = Uses permitted with conditions SR = Uses permitted after special review D = Uses permitted with distance requirements * = Need not be enclosed (blank) = Not permitted	Zone District				
Use	B-1	B-2	B-3	B-4	B-8
Residential					
<u>Assisted living facility</u>		SR	P	P	P
Dwelling, multiple unit	P	P	P	P	P
Dwelling, single unit	P	P	P	P	P
Nursing home, hospice		SR			
Residence for older adults			P	P	P
Residential, institutional/special	L13	L13	L13	L13	L13
Rooming and/or boarding house				L14	

9 **Section 11.** Section 59-193, (Nursing homes in the B-2 districts) of Chapter 59 (Zoning),
10 DRMC, shall be amended by adding the language underlined below and deleting the language
11 stricken below to read and be read as follows:

12 **Sec. 59-193.** Nursing homes, hospices and assisted living facilities in the B-2 districts.

13 In the B-2 districts, nursing home, hospices and assisted living facilities are allowed subject to
14 the criteria listed below and provided the provisions of section 59-41(b) are followed.

1 The zoning administrator shall determine if the proposed use will generate any traffic problems,
 2 will create any undue concentration of such ~~homes~~ uses or will in any way be incompatible with
 3 adjoining uses.

4 The zoning administrator may approve the application providing a finding is made that the
 5 proposed use will not adversely affect the appropriate use of adjacent property or create an
 6 undue concentration of such ~~homes~~ uses within a specific neighborhood area. Nursing homes
 7 existing on March 7, 1994 shall be considered to be legal, conforming uses. Additions to existing
 8 nursing homes need not comply with this section.

9 **Section 12.** Section 59-217 (Uses allowed in these districts), of Chapter 59 (Zoning),
 10 DRMC, shall be amended by adding to the residential use matrix the language underlined below
 11 to read and be read as follows:

12 **Sec. 59-217. Uses allowed in these districts.**

13 The following is a list of uses with notations as to whether they are permitted, conditional,
 14 limited, require short review or have other requirements as listed in the matrix and the sections
 15 which follow. Uses not listed are not allowed in these districts. Permitted uses are uses by right.

Key: P = Permitted L = Uses permitted with limitations C = Uses permitted with conditions D = Uses permitted with distance requirements * = Need not be enclosed	
Use	B-5, B-5-T
Residential	
<u>Assisted living facility</u>	<u>P</u>
Dwelling, multiple unit	P
Dwelling, single unit	P
Residential, institutional/special	L13
Residence for older adults	P

16 **Section 13.** Section 59-262 (Uses allowed in these districts), of Chapter 59 (Zoning),
 17 DRMC, shall be amended by adding to the residential use matrix the language underlined below
 18 to read and be read as follows:

19 **Sec. 59-262. Uses allowed in these districts.**

20 The following is a list of uses with notations as to whether they are permitted, conditional,
 21 limited, or have other requirements as listed in the matrix and the sections which follow. Uses not

- 1 listed are not allowed in any of these districts. Uses left blank are not allowed in that district.
- 2 Permitted uses are uses by right.

Key: P = Permitted L = Uses permitted with limitations D = Uses permitted with distance requirements * = Need not be enclosed (blank) = Not permitted	Zone District			
Use	B-A-1	B-A-2	B-A-3	B-A-4
Residential				
<u>Assisted living facility</u>	P			
Dwelling, multiple unit	P			
Dwelling, single unit	P			
Residence for older adults	P		P	
Residential, institutional/special	L13			
Rooming and/or boarding house	P			

3 **Section 14.** Section 59-273 (Uses allowed in these districts), of Chapter 59 (Zoning),
 4 DRMC, shall be amended by adding to the residential use matrix the language underlined below
 5 to read and be read as follows:

6 **Sec. 59-273. Uses allowed in these districts.**

7 The following is a list of uses with notations as to whether they are permitted, limited, or
 8 have other requirements as listed in the matrix and the sections which follow. Uses not listed are
 9 not allowed in any of these districts. Permitted uses are uses by right.

Key: P = Permitted L = Uses permitted with limitations D = Uses permitted with distance requirements * = Need not be enclosed	Zone District
USE	MS-1, MS-2, MS-3
Residential	
Artist studio	P
<u>Assisted living facility</u>	P
Dwelling, multiple unit	P
Dwelling, single unit	P
Nursing home, hospice	P
Residence for older adults	P

Residential, institutional/special	P
Rooming and/or boarding house	P

1 **Section 15.** Section 59-303 (Uses allowed in these districts), of Chapter 59 (Zoning),
2 DRMC, shall be amended by adding to the residential use matrix the language underlined below
3 to read and be read as follows:

4 **Sec. 59-303. Uses allowed in these districts.**

5 The following is a list of uses with notations as to whether they are permitted, conditional,
6 limited, or have other requirements as listed in the matrix and the sections which follow. Uses not
7 listed are not allowed in any of these districts. Uses left blank are not allowed in that district.
8 Permitted uses are uses by right.

Key: P = Permitted L = Uses permitted with limitations SR = Uses permitted after special review D = Uses permitted with distance requirements * = Need not be enclosed (blank) = Not permitted	Zone District						
	R-MU-		C-MU-			T-MU-	OS
Use	20	30	10	20	30	30	1
Residential							
Artist studio		P	P	P	P	P	
<u>Assisted living facility</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	
Dwelling, multiple unit	P	P	P	P	P	P	
Dwelling, single unit	P	P		P	P		
Nursing home, hospice	P	P		P		P	
Live/work residential	P	P	P	P	P	P	
Residence for older adults	P	P	P	P	P	P	
Residential, institutional/special	P	P	P	P	P	P	
Rooming and/or boarding house	L14/SR	L14/SR	P	P	P	P	

9 **Section 16.** Section 59-316(a) (Off-street parking requirements, residential uses), of
10 Chapter 59 (Zoning), DRMC, shall be amended by adding to the residential parking matrix the
11 language underlined below and deleting from the residential parking matrix the language stricken
12 below to read and be read as follows:

13 **Sec. 59-316. Off-street parking requirements.**

REQUIRED OFF-STREET PARKING AMOUNT BY USE

Use	Amount of Off-Street Parking Required
(a) Residential Uses	
1. Artist studio	1.0 space for each unit
1A. Assisted living facility	<u>.75 of a space provided per unit in an assisted living facility provided that the zoning administrator may increase or decrease the required amount by up to one half (.5) space per unit subject to the administrative review and public notice procedures in section 59-41. The zoning administrator may approve such increase or reduction only upon finding that the assisted living facility generates less or more parking need or demand due to the specific nature and character of the facility, its occupants, and/or visitors. If a reduction is permitted under this provision, no additional parking reduction otherwise available under this chapter will be granted. Any person, or the City, may apply for an increase or decrease from the base requirement upon an application for a use permit for such a facility.</u>
2. Residence for consuls or clergy, monastery, convent, similar institution of religious training	1.0 space for each 600 square feet of gross floor area
3. Live/work residential	As required by 59-316(3)(a)4, below plus 1.0 space for each employee not residing in the dwelling unit
4. Dwelling, multiple unit	2.0 space for each dwelling unit in a multiple unit dwelling containing three or more bedrooms; 1.5 spaces for each dwelling unit in a multiple unit dwelling containing two bedrooms; 1.0 spaces for each dwelling unit in a multiple unit dwelling containing one bedroom or each studio unit
5. Nursing home, hospice	1.0 space for each 600 square feet of gross floor area contained in the structure(s) containing the use. Requests for up to 50 percent reduction of parking spaces may be made to the zoning administrator subject to the administrative review and public notice procedures in section 59-41. The zoning administrator may approve such reduction only upon finding that the nursing home/hospice generates less parking need or demand due to the specific nature and character of the facility, its occupants, and/or visitors. If a reduction is permitted under this provision, no additional parking reduction otherwise available under this chapter (e.g., under section 59-316) will be granted.
6. Residence for older persons- adults	1.0 space for each 3 dwelling units
7. Rooming and	1.0 space for each 300 square feet of gross floor area

boarding house	
8. Dwelling, single unit	1.0 space for each single unit dwelling located on a public or private street thirty (30) feet or more in width; 2.0 spaces for each single unit dwelling located on a public or private street less than thirty (30) feet in width

1 **Section 17.** Section 59-324 (Use by right, use by special review and existing use.), of
2 Chapter 59 (Zoning), DRMC, shall be amended by adding to the residential use matrix the
3 language underlined below to read and be read as follows:

4 **Sec. 59-324. Use by right, use by special review and existing use.**

Key: P = Permitted SR = Uses permitted after special review * = Need not be enclosed (blank) = Not permitted	Key for Subareas: 1 = Auraria Business and Research Park, Auraria Village, 16 th - 20 th Common, Prospect, Water Street and Rockmount. 2 = Rice Yards, Cherry Creek, West Bank, Diamond Hill and Front View Crescent. 3 = Sports Complex. 4 = Denver Union Terminal. 5 = Glenn Court/Stoneman's Row. 6 = Saint Patrick's/Guadalupe, Overlook. 7 = Gates Crescent.						
Use	PRV Subarea						
	1	2	3	4	5	6	7
Residential							
Artist studio	P	P	P	P	P	P	SR
<u>Assisted living facility</u>	<u>L18/SR</u>	<u>L18/SR</u>	<u>L18/SR</u>	<u>L18/SR</u>	<u>L18/SR</u>	<u>L18/SR</u>	<u>SR</u>
Dwelling, multiple unit	L18/SR	L18/SR	L18/SR	L18/SR	L18/SR	L18/SR	SR
Dwelling, single unit	P	P	P	P	P	P	SR
<u>Residence for older adults residence</u>	L18/SR	L18/SR	L18/SR	L18/SR	L18/SR	L18/SR	SR
Rooming and/or boarding	P	P	P	P	P	P	SR

house							
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1 **Section 18.** Section 59-586(1)c., of Chapter 59 (Zoning), of the Denver Revised
 2 Municipal Code (DRMC) shall be enacted to read and be read as follows:

3 **Sec. 59-586(1)c.** There shall be three quarters (.75) of a space provided per unit in an assisted
 4 living facility provided that the zoning administrator may increase or decrease the required
 5 amount by up to one half (.5) space per unit subject to the administrative review and public
 6 notice procedures in section 59-41. The zoning administrator may approve such increase or
 7 reduction only upon finding that the assisted living facility generates less or more parking need or
 8 demand due to the specific nature and character of the facility, its occupants, and/or visitors. If a
 9 reduction is permitted under this provision, no additional parking reduction otherwise available
 10 under this chapter will be granted. Any person, or the City, may apply for an increase or
 11 decrease from the base requirement upon an application for a use permit for such a facility.

12 **Section 19.** Section 59-588(a) (Class one), of Chapter 59 (Zoning), DRMC, shall be
 13 amended by adding the language underlined below and deleting the language stricken below to
 14 read and be read as follows:

- 15 **Sec. 59-588(a) Class one:**
 16 (1) Assisted living facility
 17 (42) Dwelling, multiple unit;
 18 (23) Residence for Older adults ~~residence.~~

19 COMMITTEE APPROVAL DATE: 12/10/2008.
 20 MAYOR-COUNCIL DATE: 12/16/2008.

21 PASSED BY THE COUNCIL January 26 2008

22 Joanne Robb - PRESIDENT

23 APPROVED: John H. Hatcher - MAYOR January 27 2008

24 ATTEST: Anthony M. Kelly - CLERK AND RECORDER,
 25 EX-OFFICIO CLERK OF THE
 26 CITY AND COUNTY OF DENVER

27 NOTICE PUBLISHED IN THE DAILY JOURNAL Dec. 26 2008; Jan. 30, 2008

28 PREPARED BY: Kerry A. Buckey, Assistant City Attorney 5/30/2008

29 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
 30 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
 31 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
 32 § 3.2.6 of the Charter.
 33

34 David R. Fine, City Attorney

35 BY: David R. Fine Asst City Attorney Date: 18 Dec 2008

