



## Denver Zoning Code Text Amendment Advancing Equity in Rezoning

Planning Board Review Draft – 11/19/2024

The Advancing Equity in Rezoning project will propose amendments to the Denver Zoning Code to expand access to the rezoning process, make the rezoning criteria clearer, and improve Community Planning and Development processes and materials to make the rezoning process more accessible to the public. This document is a draft of the proposed text amendment. It primarily modifies existing regulations pertaining to the notification requirements and process and review criteria for official map amendments (Rezoning). More information is available at <https://denvergov.org/Government/Agencies-Departments-Offices/Agencies-Departments-Offices-Directory/Community-Planning-and-Development/Denver-Zoning-Code/Text-Amendments/Advancing-Equity-in-Rezoning>

### Markup Document Conventions

- Text in red underline is proposed new language.
- Text in ~~red strikethrough~~ is proposed deleted language.
- Text in blue is existing language moved to another location.
- Text in ~~blue strikethrough~~ is existing language deleted from its original location.
- Only pages with changes relevant to this text amendment are included in the review file (with the exception of a few pages inserted for context). You may wish to look at other sections for additional context.
- While efforts are made to ensure document quality, cross-referenced section numbers, figure numbers, page numbers, and amendment numbers may appear incorrect since both new and old text appears in a draft. These will be corrected in the final, “clean” version of the text amendment that is filed for adoption by City Council.
- Additionally, please note that coordination will continue throughout the process to ensure constancy of approach and administration with other ongoing text amendments.

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# **ARTICLE 12. ZONING PROCEDURES & ENFORCEMENT**

### SECTION 12.2.9 SUMMARY TABLE OF AUTHORITY AND NOTICE

	REVIEW AND DECISION-MAKING AUTHORITY						TYPE OF PUBLIC NOTICE REQUIRED					
	<b>D = Decision-Making Authority</b> <b>R = Review and Recommendation Authority</b> <b>* = Public Hearing Required</b>						<b>■ = Notice Required</b> <b>Blank Cell = Notice Not Required</b>					
							Informational Notice			Notice of Public Hearing		
	Zoning Administrator	Manager	DRC	Board of Adjustment	Planning Board	City Council	Written and Posted Notice of Community Information Meeting	Written and Posted Notice of Receipt of Application	Posted Notice of Final Administrative Decision	Written	Posted	Published
Zoning Permit Review	D											
Zoning Permit Review with Community Information Meeting	D						■					
Zoning Permit Review with Informational Notice	D							■	■			
Site Development Plan Review	R	R	D/R See Sec. 12.4.3 for site development plans where DRC has review and recommendation authority		D* See Sec. 12.4.3 for site development plans that require public notice			■ See Sec. 12.4.3 for site development plans that require public notice	■ See Sec. 12.4.3 for site development plans that require public notice	■ See Sec. 12.4.3 for site development plans that require notice of a public hearing		
Zone Lot Amendment	D											
Administrative Adjustment	D											
Code Interpretation, Determination of Unlisted Use	D											
Comprehensive Sign Plan	D				R*			■	■	■	■	
Variance	R			D*			Refer to rules of Board of Adjustment					
Appeal of Administrative Decision	R			D*			Refer to rules of Board of Adjustment					
Special Exception	R	R		D*			Refer to rules of Board of Adjustment					
Official Map Amendment (Rezoning)		R			R*	D*	■ <del>-Written Notice Only</del>			■	■	■
Text Amendment	R	R			R*	D*				■		■
Infrastructure Master Plan	R		D									

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							Informational Notice			Notice of Public Hearing		
	Zoning Administrator	Manager	DRC	Board of Adjustment	Planning Board	City Council	Written and Posted Notice of Community Information Meeting	Written and Posted Notice of Receipt of Application	Posted Notice of Final Administrative Decision	Written	Posted	Published
Large Development Review			D				■					
Repeal of an Approved General Development Plan			D							■	■	
Regulating Plan	R	D										

thereafter by the applicant will be treated as a new application for purposes of review, scheduling, and payment of application processing fees.

## **SECTION 12.3.4 PUBLIC NOTICE REQUIREMENTS**

### **12.3.4.1 General Provisions and Intent**

All applications that require public hearings before the Planning Board, the Board of Adjustment, or the City Council shall be subject to this Section’s public notice of hearing requirements. In addition, certain applications require public notice of receipt of such application and/or notice of the final decision or appeal opportunities. Some types of applications require a public meeting prior to submission of an application, during which the community can learn more about the proposed development. Public notice is intended to provide an the opportunity for public participation or public information regarding land use and development applications under this Code.

### **12.3.4.2 Types of Public Notice**

There are three types of public notice addressed by this Section:

#### **A. Notice of Public Hearings**

When required by Section 12.2.9, Summary Table of Authority and Notice, “Notice of Public Hearings” provides the public with advance notice of a required hearing at which a review- or decision-making body will take action on an application under this Code. Such notice may be provided in writing (mailed), by posting (signs), or by publication.

#### **B. Informational Notice**

When required by Section 12.2.9, Summary Table of Authority and Notice, “Informational Notice” provides the public with notice of Community Planning and Development’s receipt of an application for review (e.g., a zoning permit or site development plan), and/or the approving authority’s final decision on such application and available avenues for appeal. Such notice may be provided in writing (mailed) and/or by posting (signs).

#### **C. Notice of Community Information Meetings**

When required by Section 12.2.9, Summary Table of Authority and Notice, a “community information meeting” provides the opportunity for the public to learn directly from the applicant about a potential application before it is submitted. Notice of the community information meeting shall be provided in writing (mailed) and by posting signs.

### **12.3.4.3 Public Notice – When Required**

Required public notices are summarized in the table shown in Section 12.2.9, Summary Table of Authority and Notice. More detailed information may be included with each specific zoning procedure described in Division 4 of this Article 12.

### **12.3.4.4 Notice of Public Hearing**

#### **A. Written Notice of Public Hearings**

When required by Section 12.2.9, Summary Table of Authority and Notice, written notice of a public hearing shall be provided in compliance with the following standards:

##### **1. Official Map Amendment (Rezoning) - Written Notice of Planning Board Public Hearings**

- a. No later than 15 days before a required Planning Board public hearing on a proposed official map amendment (rezoning), the Manager shall notify the following parties:
  - i. The city council members in whose district the subject property is located.
  - ii. The at-large city council members.

- iii. Registered neighborhood organizations registered according to D.R.M.C. Section 12-94 whose boundaries encompass or are located within 200 feet of the proposed official map amendment (rezoning).
- iv. The owners and tenants (if the latter is different from owners) of any real property within the City and County of Denver, located in whole or in part within, or within 200 feet of, the proposed official map amendment (rezoning).

**2. All Other Applications - Written Notice of Planning Board Public Hearings**

- a. Except for an official map amendment (rezoning) application, no later than 15 days before a required Planning Board public hearing on an application, the Manager shall notify the following parties:
  - i. The city council members in whose district the subject property is located.
  - ii. The at-large city council members.
  - iii. Registered neighborhood organizations registered according to D.R.M.C. Section 12-94 whose boundaries encompass or are located within 200 feet of the proposed application.

**3. Written Notice of City Council Public Hearings**

No later than 21 days before a required City Council public hearing on an application, the Manager shall notify the city council members in whose district the subject property is located and the at-large city council members. In addition, if the subject application affects areas within, or within 200 feet of, a registered neighborhood organization's boundaries, the Manager shall notify such registered neighborhood organizations registered according to D.R.M.C. Section 12-94.

**4. General Requirements**

- a. The notice shall be sent via U.S. mail first class or by electronic mail if the recipient has indicated their acceptance of notice by electronic mail.
- b. Notification shall include, where applicable, the location and general description of the proposed action; the process to be followed, including the date, time and place of the scheduled public hearing and/or public meeting.

**5. Minor Defects in Notice Do Not Impair Hearing**

Minor defects in a notice shall not impair the notice or invalidate proceedings under the notice if a *bona fide* attempt has been made to comply with applicable notice requirements. Where written notice was properly mailed to the most recent addresses available to the city, failure of a party to receive written notice shall not invalidate any subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing and the location of the subject property shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the review or decision-making body shall make a finding regarding whether there was substantial compliance with the notice requirements of this Code before proceeding with the hearing.

**B. Posted Notice of Public Hearings**

When required by Section 12.2.9, Summary Table of Authority and Notice, posted notice of a required public hearing shall be provided in compliance with the following standards:

- 1. No later than 15 days prior to the required Planning Board public hearing, and no later than 21 days prior to the required City Council public hearing, the applicant shall be responsible for posting signs on the subject property providing public notice thereof.

2. Posted notice shall be in number, size, location, and content as prescribed by the Manager and shall indicate the time and place of the public meeting or hearing, and any other information prescribed by the Manager.
3. The applicant shall take all reasonable efforts to assure that posted signs remain on the site in the number and location prescribed by the Manager, and in good condition to maintain legibility, during the posting period.
4. Posted notices shall be removed by the applicant from the subject property no later than 15 days after the public hearing has been held. Failure to do so shall constitute a violation of this Code.

**C. Published Notice of City Council Public Hearing**

No later than 21 days prior to the required City Council public hearing, the Office of the City Council, together with the Denver City Clerk's Office, shall publish notice of the time and place of a required public hearing before the City Council in the official newspaper.

**12.3.4.5 Informational Notice – General Provisions**

**A. Written Notice of Receipt of Application**

When required by Section 12.2.9, Summary Table of Authority and Notice, written notice of receipt of application shall be provided in compliance with the following standards:

**1. Official Map Amendment (Rezoning) - Timing of Notice**

For an official map amendment (rezoning) application, Community Planning and Development shall cause written informational notice to be provided no later than 10 days after the determination that a complete application has been received in accordance with Section 12.3.3.8, Determination of Complete Application. Community Planning and Development shall cause written informational notice to be sent to the following parties:

- a. The city council members in whose district the subject property is located.
- b. The at-large city council members.
- c. Registered neighborhood organizations registered according to D.R.M.C. Section 12-94 whose boundaries encompass or are located within 200 feet of the proposed official map amendment (rezoning).
- d. The owners and tenants (if the latter is different from owners) of any real property within the City and County of Denver, located in whole or in part within, or within 200 feet of, the proposed official map amendment (rezoning).

**2. All Other Applications - Timing of Notice**

Except for an official map amendment (rezoning) application, no later than 10 days after receipt of a complete application, Community Planning and Development shall cause written informational notice to be sent to the city council members in whose district the subject property is located, to the at-large city council members, and to those neighborhood organizations registered according to D.R.M.C. Section 12-94, whose boundaries encompass or are within 200 feet of the proposed development.

**3. Notice to Landmark Preservation Commission**

If the subject property falls within an area designated as a structure or district for preservation according to the D.R.M.C., Chapter 30 (Landmark Preservation), Community Planning and Development shall notify the Denver Landmark Preservation Commission regarding the application within the same time periods specified in paragraphs 1 and 2 above.

**4. General Rules**

- a. The informational notice shall be sent via U.S. mail first class or by electronic mail if the recipient has indicated their acceptance of notice by electronic mail.

- b. Notification shall include the location and general description of the application and proposed action; and the process to be followed, including the date, time and place of any related public meeting or hearing, if such has been scheduled; and information concerning, as applicable, when and where written comments may be submitted.
- c. The failure of any real property owner, tenant, or a registered neighborhood organization, for whatever reason, to receive a notification required hereunder shall not invalidate any final action by the city.

**B. Posted Notice of Receipt of Application**

When required by Section 12.2.9, Summary Table of Authority and Notice, posted notice of receipt of an application shall be provided in compliance with the following standards:

**1. Official Map Amendment (Rezoning)**

- a. For an official map amendment (rezoning) application, no later than 10 days after receipt of a complete application, the applicant shall post the subject property in a conspicuous location for at least 15 days, or until replaced by posted notice of a required public hearing, whichever is shorter, with a sign or sign template provided by Community Planning and Development.
- b. Such sign shall include a general description of the proposed official map amendment and any other information prescribed by the Manager, and give directions for submitting comments to Community Planning and Development.

**2. All Other Applications**

- a. Except for an official map amendment (rezoning) application, Nno later than 10 days after receipt of a complete application, the applicant shall post the subject property in a conspicuous location for 10 days with a sign or sign template provided by Community Planning and Development. The start of the 10-day period shall be the first day of the posting of the sign.
- b. Such sign shall describe the proposal, give directions for submitting comments to Community Planning and Development within 30 days from the beginning of the posting period, and state that any final decision to approve the application shall be posted at the same location for 15 days as soon as it is effective.
- c. Posted notices shall be removed by the applicant from the subject property by no later than 15 days after the end of the posting period. Failure to do so shall constitute a violation of this Code.

**C. Posted Notice of Final Administrative Action**

When required by Section 12.2.9, Summary Table of Authority and Notice, posted notice of final administrative action on an application shall be provided in compliance with the following standards:

- 1. Within 7 days after reaching a final decision to approve an application subject to informational notice, Community Planning and Development shall cause the applicant to post the property with a copy of the approving decision for a period of 15 days.
- 2. The applicant shall post the property in a conspicuous location with a sign or sign template provided by Community Planning and Development.
- 3. The effective date of the final administrative action and the start of the 15-day period during which appeals may be made to the Board of Adjustment shall be the first day of the posting of the sign. Such sign shall describe how an appeal from the final administrative decision may be filed and state that any appeal must be filed within 15 days, and shall provide contact information for obtaining the standards and criteria that will govern the appeal.

### 12.3.4.6 Community Information Meeting

#### A. Timing of Community Information Meeting

When required prior to submitting an application, the applicant shall schedule a community information meeting (in-person or remotely) and provide public notice of the community information meeting according to the following standards.

##### 1. Large Development Review

The applicant shall schedule a community information meeting following the DRC's preliminary determination of the LDR scope according to Section 12.4.12.6, and prior to application for Large Development Review according to Section 12.4.12.8.

##### 2. Residential Care

The applicant shall schedule a community information meeting prior to application for a zoning permit.

##### 3. Temporary Managed Community

The applicant shall schedule a community information meeting following a pre-application meeting according to Section 11.11.17.3.C.1 unless the pre-application meeting requirement is waived according to Section 12.3.2.2.A, and prior to application for a zoning permit.

#### B. Required Public Notice

##### 1. Written Notice of Community Information Meeting

The applicant shall send written notice at least 21 days prior to the date of the community information meeting in compliance with the following standards:

- a. The written notice of the community information meeting shall be sent to:
  - i. Owners and tenants (if the latter is different from owners) of the subject site and any real property located within 400 feet of the subject site;
  - ii. The City Council members in whose districts the subject site is located, and the at-large City Council members;
  - iii. Any neighborhood organizations registered according to D.R.M.C. Section 12-94, whose boundaries encompass or are within 400 feet of the subject site;
  - iv. Other community organizations that are not registered neighborhood organizations and are either located within 400 feet of the subject site or operate within the statistical neighborhood or neighborhoods that contain the subject site or district boundary. Applicants shall use reasonable efforts to identify such organizations, examples of which may include schools, religious assemblies, and other community-based nonprofit organizations.
- b. In addition to the written notice required by Section 12.3.4.6.A.1, above, written notice for a Large Development Review shall also be sent to:
  - i. Any neighboring municipality or county that is contiguous to any boundary of the LDR area;
  - ii. Denver Public Schools if the LDR area anticipates residential development; and
  - iii. Any special district of which any part of the district's boundaries is included in the LDR area.
- c. The written notice shall be sent via U.S. mail first class or by electronic mail if the recipient has indicated their acceptance of notice by electronic mail.
- d. Notification shall include the location and general description of the proposed application, the location (in-person or remotely), time and date of the community

information meeting, and, if applicable, the process to be followed, including date, time and place of any related public meeting or hearing, if such has been scheduled.

- e. The failure of any real property owner, tenant, registered neighborhood organization, or non-RNO organization, for whatever reason, to receive a notification required hereunder shall not invalidate any final action by the city.

## **2. Posted Notice of Community Information Meeting**

Posted notice of the community information meeting shall be provided in compliance with the following standards:

- a. No later than 21 days prior to the date of the required community information meeting, the applicant shall be responsible for posting one or more signs on the subject property providing public notice thereof.
- b. Posted notice shall be in number, size, location, and content as prescribed by the Manager and shall indicate the time and place (in-person or remotely) of the community information meeting, and any other information prescribed by the Zoning Administrator.
- c. The applicant shall take all reasonable efforts to assure that posted signs remain on the site in the number and location prescribed by the Manager, and in good condition to maintain legibility, during the posting period.
- d. Posted notices shall be removed by the applicant from the subject property no later than 15 days after the community information meeting has been held. Failure to do so shall constitute a violation of this Code.

## **3. Conduct of Community Information Meeting, General**

The Manager shall publish guidelines for the conduct of community information meetings specific to the application types for which such meetings are required.

## **SECTION 12.3.5 EFFECT OF APPROVED APPLICATIONS, PLANS AND PERMITS**

All applications, plans and permits approved under this Article 12 and this Code shall be binding upon the applicants, their successors and assigns, shall limit and control the issuance and validity of all subsequent site development plans and zoning permits, and shall restrict and limit the construction, location, use, and operation of all land and structures in accordance with such plans or permits. See also Section 12.3.7, Modification and Amendment of Approved Applications, Plans and Permits, below.

## **SECTION 12.3.6 LAPSE OF APPROVAL PROVISIONS AND EXTENSION OF APPROVAL PERIOD**

### **12.3.6.1 In General - Lapse of Approved Applications, Plans and Permits**

An application, site development plan, or zoning permit approved under this Code may lapse if certain actions related to the approved application are not taken within a specified time period as set forth in Division 12.4, Zoning Application and Review Procedures. Specific actions that must be taken with regard to each application, plan or permit to avoid lapsing of the approval are set forth in Division 4 of this Article for each type of zoning application.

### **12.3.6.2 Beginning of Approval Period - General Rule**

Unless otherwise specified in Division 4 of this Article 12, the approval period of an approved application, plan or permit, after which lapse will occur, shall begin on the date of the decision-making body's final action, which shall be interpreted to mean:

- A. Except as stated in Section 12.3.6.2.B regarding site development plans, for approved plans or permits that this Code requires to be recorded: the date of recordation.

- C. If located within an LDF, IMP or GDP area, the special exception shall be consistent with the LDF, IMP or GDP;
- D. The special exception is in compliance with all applicable regulations in this Code, including but not limited to, any specific use limitations stated in Articles 3 through 9, and in Article 11, Use Limitations and Definitions;
- E. The establishment, maintenance, and operation of the special exception will not be detrimental to or endanger the public health, safety, or general welfare of the community;
- F. The use and enjoyment of other existing uses on the surrounding property will not be substantially impaired by the establishment, maintenance, and operation of the special exception;
- G. The establishment of the special exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
- H. The aggregate impacts of similar special exceptions shall not result in harmful external effects or environmental impacts; and
- I. Any potential adverse impacts from the proposed special exception can and will be adequately mitigated.

#### 12.4.9.4 Requirements and Limitations After Zoning Permit Issuance

##### A. Expiration and Extensions

1. Except as otherwise allowed in subsection A.2. below, a zoning permit with special exception review shall expire 12 months from the date of the Board of Adjustment's decision unless the special exception use begins operating, or a valid building permit is issued. Upon a showing of good cause, the Zoning Administrator may extend the permit for the special exception for additional time periods not to exceed a total of 12 additional months.
2. If a zoning permit with special exception review is granted upon review and approval of a Site Development Plan according to Section 12.4.3 of this Code, then the zoning permit authorizing construction or a permitted use shall expire at the same time as the approved Site Development Plan.

##### B. Limit on Reapplication for Denied Special Exceptions

No application for a zoning permit with special exception review denied by the Board of Adjustment shall be considered for a period of 1 year from the date of the original denial unless the Zoning Administrator determines that the application contains substantial changes that address the reasons for denial of the application.

### SECTION 12.4.10 OFFICIAL MAP AMENDMENT (REZONING)

#### 12.4.10.1 Applicability

An official map amendment may be required ~~to correct an error in the map or, because of changed or changing conditions in a particular area or in the city generally,~~ to rezone an area to implement adopted plans, ~~to provide for a community need not anticipated by adopted plans,~~ or to change the regulations and restrictions of an area as reasonably necessary to promote the public interest, health, safety or general welfare.

#### 12.4.10.2 Zone Districts Not Available for Rezoning

Except as otherwise provided in Section 9.4.2.1 and Section 12.3.3.9, no land may be rezoned into any zone district not established in this Code. In addition, the following zone districts established in this Code, while mapped on the Official Zoning Map, shall not be applied to any lands after June 25, 2010:

- A. D-AS Downtown Arapahoe Square zone district
- B. O-1 zone district
- C. Adult Use Overlay District (UO-1)
- D. Billboard Use Overlay District (UO-2)

### **12.4.10.3 Adjacency and Location Requirements**

#### **A. Requirements**

Official Map amendments for the following zone districts shall meet the following requirements:

- 1. Applications proposed to be zoned to the D-C, D-TD, D-LD, D-CV, D-GT, D-AS-12+, or D-AS-20+ zone districts shall be adjacent to the same zone district sought for the subject property. For the purposes of this provision, adjacency shall not be destroyed by the existence of a dedicated public right-of-way.
- 2. Applications proposed to be zoned to the DIA zone district shall be adjacent to an existing DIA zone district if the application is not initiated by the Manager of Aviation. For the purposes of this provision, adjacency shall not be destroyed by the existence of a dedicated public right-of-way.
- 3. Applications proposed to be zoned to all Master Planned Context zone districts shall be located within a General Development Plan area where the GDP area is a minimum of 50 acres, and shall not include lands located within ¼ mile of an existing or planned Rail Transit Station Platform.

#### **B. Exceptions to Additional Requirements**

The following Official Map amendments are exempt from this section's requirements:

- 1. An Official Map amendment determined by the City Attorney to be a legislative zone map amendment.
- 2. An Official Map amendment applying zoning to lands newly included within the city's corporate boundaries after City Council approval of a minor boundary adjustment.

### **12.4.10.4 Review Process**

#### **A. Initiation**

##### **1. Official Map Amendment Applications for PUD Districts or Zone Districts with Waivers and/or Conditions**

All official map amendment applications for a PUD District, or for a zone district with waivers and/or conditions under Section 12.4.10.6, must be initiated by all the owners of the entire land area subject to the rezoning application, or their representatives authorized in writing to do so.

##### **2. All other Official Map Amendment Applications**

Except for official map amendment applications for a PUD District, or for a zone district with waivers and/or conditions under Section 12.4.10.6, the following parties may initiate an official map amendment:

- a. The City Council or an individual City Council member
  - i. The City Council or an individual City Council member may, but is not required to, follow the public notice or procedures in this Section 12.4.10.4. However, the City Council or any individual City Council member shall comply with the public notice and process provisions required by the Charter for an official map amendment (rezoning).

- b. The Manager.
- c. All of the owners of the entire land area subject to the application for an official map amendment or their representatives authorized in writing to do so.
- d. One or more of the owners of the real property subject to the application for amendment, or their representatives authorized in writing to do so, accompanied by a petition requesting the amendment and which petition, at the time of submittal, contains the signatures of the owner or owners of 51 percent or more of the total area of the zone lots subject to the application for amendment.

#### **B. Pre-Application Meeting**

1. A pre-application meeting is mandatory for an official map amendment (Rezoning). See Section 12.3.2, Pre-Application Meeting/Concept Plan Review.
2. The Development Review Committee (DRC) shall determine at the pre-application meeting whether a Large Development Review (LDR) is required under Section 12.4.12.

#### **C. Application and Fees - General**

1. All applications for official map amendments shall be filed in writing with the Manager. The applicant shall pay all required fees at the same time the application is submitted. See Section 12.3.3, Submission of Applications. This provision does not apply to map amendments initiated by the Manager.

#### **D. Review and Referral by Manager**

All applications for official map amendments shall be subject to the following review process:

##### **1. Referral and Examination of Application**

Upon receipt of a complete application, the Manager shall transmit copies of the application to other agencies that might be affected by the proposed application. If considered necessary, any such agency may require the applicant to furnish additional information of a pertinent and reasonable nature. Any such agency may transmit comments and recommendations concerning the application to the Manager. Any agency wishing to comment shall do so within ~~21~~14 days from the referral of the complete application. Non-response by a reviewing agency within the ~~21~~14-day time period, or any extension agreed to by the Manager, shall be deemed a recommendation of approval by such agency.

##### **2. Disposition of Application**

- a. Except as allowed in subsection D.2.b. below, when the Manager determines an application for an official map amendment, including agency comments and recommendations, is ready for Planning Board action, the Manager shall submit the application to the Planning Board together with the Manager's written recommendation to the Planning Board.
- b. Where an amendment is necessary only to correct an error in the official map, the Manager may submit the application, including agency comments and recommendations, directly to the Council Committee for its consideration under Section 12.4.10.4.F, below.

#### **E. Public Hearing and Recommendation by Planning Board**

1. The Planning Board shall notice and hold a public hearing on the application for an official map amendment according to Section 12.3.4, Public Notice Requirements. The Planning Board shall consider the recommendation of the Manager and any comments, in addition to the review criteria below, in recommending approval, approval with conditions, or denial of an official map amendment.

2. The Planning Board’s recommendation shall be forwarded to the City Council for consideration within 30 calendar days after the closing of the public hearing, unless the applicant consents to an extension of such time.

**F. Consideration of Application by Council Committee**

1. City Council shall appoint a committee of its members to examine all applications for official map amendment and the related department reports, Manager's recommendation, and the Planning Board’s recommendation. The Council committee may at that time require additional information from the applicant, from anyone submitting comments, or from city agencies, including information previously waived.
2. The Council committee shall direct any further action on the application under this Section and, when deemed ready for hearing, shall forward the application to the City Council.

**G. Public Hearing and Final Decision by City Council**

1. The Manager shall submit the complete application with such supporting material as designated by the Council committee.
2. The City Council shall notice and hold a public hearing on the proposed official map amendment according to Section 12.3.4, Public Notice Requirements. The City Council shall consider the recommendations of the Planning Board and Manager, and any other comments received, in addition to the review criteria below, in approving, approving with conditions, or denying an official map amendment.

**12.4.10.5 Protest Petition**

**A. Effect of Protest to Amendment**

1. Pursuant to section 3.2.9 of the Charter, if a protest to an official map amendment signed by the owners of 20 percent or more either of (1) the area of the lots included in such proposed change; or (2) the total land area located within the City and County of Denver from the perimeter of the area proposed for change to a distance of 200 feet outside of the perimeter of the area proposed for change, is filed with the City Council per subsection B. below, then the amendment shall not become effective except by the favorable vote of 10 members of the City Council.
2. For the purpose of defining owners and the area of land represented by the owner, land owned by more than one owner shall be divided to the extent of each owner’s percentage of ownership interest in determining whether a protest has the required percentage of signatures.
3. The Manager shall determine the adequacy of all protest petition signatures.

**B. Filing of Protests; Time Limitations; Withdrawal**

All protests to an official map amendment and any withdrawal of the protest or specific petition signatures shall be filed with the City Council on or before, and not later than, noon 7 days prior to the date for the public hearing before City Council on the official map amendment. No protests shall be signed until the official map amendment council bill is ordered published by City Council.

**12.4.10.6 Waivers of Rights and Obligations and Approval of Reasonable Conditions**

- A. Whenever an application for an official map amendment, in whole or in part, is based upon a written representation by the applicant(s) that the applicant(s) wishes to waive certain rights or obligations under the proposed district classification, the City Council may adopt such waiv-

ers as a part of the ordinance amending the official map if such waivers are approved in writing by the applicant(s).

- B. Whenever public necessity, convenience, general welfare or good zoning practice justify the attachment of reasonable conditions to an official map amendment, the City Council may adopt such conditions as a part of the ordinance amending the official map if such conditions are approved in writing by the applicant(s).
- C. Upon adoption of an ordinance pursuant to subsections A. or B. above, no zoning permits shall be issued except in strict compliance with the approved waivers or conditions. Any person who applies for a permit to alter or erect a structure in such area shall be deemed to have assented to all of these waivers and conditions.
- D. Every official map amendment based, in whole or in part, upon waivers as set forth in subsection A. or conditions as set forth in subsection B. above, shall contain an exact description of any such waivers or conditions. Such ordinance may be amended by City Council upon application for an amendment either by the original applicant or by a successor in interest; provided, however, that prior to such amendment, public notice shall be given similar in all respects to the public notice required for an official map amendment. Nothing contained in this Section shall be construed as a requirement that all applications for rezoning must contain waivers or have conditions.
- E. When City Council approves a text amendment to the standards applicable in a zone district (see Section 12.4.11), such text amendment applies equally to all previously approved official map amendments to that zone district, including official map amendments that were based, in whole or in part, upon waivers or conditions.

#### 12.4.10.7 General Review Criteria Applicable to All Zone Map Amendments

The City Council may approve an official map amendment if the proposed rezoning complies with all of the following criteria:

##### A. Consistency with Adopted Plans

The proposed official map amendment is consistent with the City's adopted plans, ~~or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of the adoption of the City's plan.~~

##### 1. Community Need Exception

The City Council may approve an official map amendment that does not comply with subsection 12.4.10.7.A if the proposed official map amendment is necessary to provide for an extraordinary community need that was not anticipated at the time of the adoption of the city's plans.

##### B. ~~Uniformity of District Regulations and Restrictions~~

~~The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.~~

##### C. ~~Public Interest Health, Safety and General Welfare~~

The proposed official map amendment is in the public interest ~~furtheres the public health, safety and general welfare of the City.~~

##### D. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed zone district.

#### **12.4.10.8 Additional Review Criteria for Non-Legislative Rezoning**

In addition to compliance with the general review criteria stated in Section 12.4.10.7, the City Council may approve an official map amendment that the City Attorney has determined is not a legislative rezoning only if the City Council finds the application meets the following criteria:

##### **A. Justifying Circumstances**

One of the following circumstances exists:

1. ~~The existing zoning of the land was the result of an error;~~
2. ~~The existing zoning of the land was based on a mistake of fact;~~
3. ~~The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage;~~
4. ~~Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include:~~
  - a. ~~Changed or changing conditions in a particular area, or in the city generally; or,~~
  - b. ~~A City adopted plan; or~~
  - c. ~~That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.~~
5. ~~It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (Overlay Zone Districts), of this Code.~~

##### **B. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements**

~~The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed zone district.~~

#### **12.4.10.9 Additional Review Criteria for Rezoning to PUD District**

In addition to the general review criteria stated in Section 12.4.10.7, for all proposed official map amendments requesting a PUD District, the City Council shall find:

- A. The PUD District is consistent with the intent and purpose of such districts stated in Article 9, Division 9.6 (Planned Unit Development) of this Code;
- B. The PUD District and the PUD District Plan comply with all applicable standards and criteria stated in Division 9.6;
- C. The development proposed on the subject property is not feasible under any other zone districts, and would require an unreasonable number of variances or waivers and conditions;
- D. The PUD District and the PUD District Plan establish permitted uses that are compatible with existing land uses adjacent to the subject property; and
- E. The PUD District and the PUD District Plan establish permitted building forms that are compatible with adjacent existing building forms, or which are made compatible through appropriate transitions at the boundaries of the PUD District Plan (e.g., through decreases in building height; through significant distance or separation by rights-of-way, landscaping or similar features; or through innovative building design).

#### **12.4.10.10 Appeal**

A decision by the City Council on a proposed official map amendment may be appealed to District Court.

#### **12.4.10.11 Requirements and Limitations After Rezoning Approval**

##### **A. Registration and Recording of Official Map Amendments**

###### **1. Recording Required**

The Manager shall record the final action of the City Council on an official map amendment in the real property records of the Denver County Clerk and Recorder, and shall cause the amendment of the official zone map to designate the subject property according to the amendment.

###### **2. Approved PUD District Plans**

The Manager shall record all approved PUD District Plans in the real property records of the Denver County Clerk and Recorder along with the ordinance approving such PUD District Plan, and the Manager shall cause the amendment of the official zone map to designate the area included in the approved PUD District Plans as follows:

- a. For approved PUD Districts with General PUD District Plans: "PUD-G # \_\_\_\_\_."
- b. For approved PUD Districts with Detailed PUD District Plans: "PUD-D # \_\_\_\_\_."

##### **B. Effect and Limitations on Approval**

###### **1. Effect of Rezoning Approval - In General**

Approval of an official zone map amendment does not automatically confer any right to development or construction. Development shall comply with all applicable standards and procedures in this Code and the D.R.M.C.

###### **2. Effect of Approved Detailed PUD District Plans**

- a. The standards and provisions of an approved Detailed PUD District Plan shall constitute the zoning regulations for use and development of the subject property. Approval of a Detailed PUD District Plan shall constitute site development plan review for zoning compliance purposes only under Section 12.4.3, and zoning permits may be issued and site work commenced according to the approved Detailed PUD District Plan.
- b. An approved Detailed PUD District Plan shall expire after 18 months from the date of City Council approval if an approved zoning permit and building permit (as applicable) has not been obtained and if construction (as applicable) has not started. See Article 13, for definition of "start of construction."
- c. The Zoning Administrator may extend the original 18-month expiration time frame for Detailed PUD District Plans for up to an additional 12 months according to Section 12.3.6.3., Extension of Approval Period.

###### **3. Effect of Approved General PUD District Plans**

- a. Within a PUD District subject to an approved General PUD District Plan, no zoning permits may be issued and no work may commence until a site development plan has been approved according to Section 12.4.3, Site Development Plan Review, or unless a Detailed PUD District Plan for a portion or portions of the PUD District has been approved by City Council according to Section 9.6.1.3.A of this Code.
- b. A site development plan within a PUD District may be for the entirety of the district, or for only one or more phases of the entire PUD District area. The approval of a site development plan for any one phase of the PUD District may be contingent on improvements that involve other or all phases. In any site development plan application for less than the entirety of the PUD District, the applicant shall submit plan

exhibits that clearly show the relation of the subject site development phase(s) to the remainder of the PUD District area.

- c. The standards and provisions of the approved PUD District subject to a General PUD District Plan, together with all approved site development plans for the PUD District, shall constitute the zoning regulations regulating all use and development of the subject property.

#### **4. City Council Authority to Rezone in Case of No Progress in a PUD District with a General PUD District Plan**

Areas covered by an approved PUD District with a General PUD District Plan may be considered by City Council for rezoning to a more appropriate classification under this Section if a complete site development plan for at least one phase of the PUD District has not been submitted within 30 months following approval of the PUD District with a General PUD District Plan; provided all owners of property subject to such amendment or rezoning have been first notified in writing by Community Planning and Development that the City Council is considering such rezoning.

#### **5. Modifications or Amendments to Approved PUD Districts**

- a. See Section 12.3.7, Modification or Amendment of Applications, Plans and Permits, for regulations governing permitted modifications and amendments to approved PUD Districts and associated PUD District Plans.
- b. All approved amendments to a recorded PUD District Plan shall be recorded.

#### **12.4.10.12 Limits on Re-Application for Denied Official Map Amendments**

No application for an official map amendment shall be made concerning any land area, or any portion thereof, that was the subject of a public hearing conducted by City Council within the immediately preceding 12 months period and which public hearing resulted in a rejection of the proposed official map amendment. However, this limitation shall not apply to those land areas or portions thereof for which a different zone district classification is proposed than that which was denied by City Council.

### **SECTION 12.4.11 TEXT AMENDMENT**

#### **12.4.11.1 Applicability**

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the City, the text of this Code shall not be amended except to correct a manifest error in the chapter, or because of changed or changing conditions in a particular area or in the city generally, including any change to the regulations and restrictions of an area thereof, or to implement adopted plans, or as otherwise reasonably necessary to the promotion of the public health, safety or general welfare.

#### **12.4.11.2 Text Amendments to Create New Use Overlay Zones Not Allowed**

After June 25, 2010, no new Use Overlay District may be established through a text amendment to this Code.

#### **12.4.11.3 Review Process**

##### **A. Initiation**

A proposed text amendment may be initiated by:

##### **1. City Council**

- a. According to its authority under the City Charter, the City Council or any individual member of the City Council may initiate a text amendment. The City Council or an individual City Council member may, but is not required to, follow the public notice or procedures in this Section 12.4.11.3. However, the City Council or any individual