



TO: Denver Planning Board
FROM: Brandon Shaver, Senior City Planner
DATE: November 26, 2024
RE: Denver Zoning Code – Advancing Equity in Rezoning Text Amendment

Staff Report and Recommendation

Based on the review criteria for text amendments set forth in the Denver Zoning Code (DZC), Section 12.4.11 (Text Amendment), Community Planning and Development (CPD) staff recommends approval of a text amendment to update the map amendment (rezoning) process and review criteria. A marked up version of the proposed text amendment is available on the Community Planning and Development [website](#) and is also included as a supplement to this staff report.

Project Purpose & Summary

In late 2021, Community Planning and Development kicked off a regulatory project named Advancing Equity in Rezoning (AEIR) to refresh the rezoning process to better incorporate Denver’s values and priorities as articulated in [Comprehensive Plan 2040](#) and [Blueprint Denver](#), both adopted in 2019. The project was aimed at improving transparency and access to the rezoning process, consider the impact of rezonings on neighboring residents and properties, and explore how rezonings can lead to equitable outcomes that better serve all community members.

After selecting a diverse task force with a range of interests and experiences with the rezoning process, city staff began convening the group to identify and analyze issues, evaluate alternatives, and develop a preferred approach and necessary tools before drafting a text amendment for public review. In addition to the task force, the project team engaged with the public, Planning Board, City Council and other key stakeholders throughout the course of the project to take their feedback into consideration. After nearly 3 years of engagement and 15 task force meetings, the AEIR project team is proposing updates to the Denver Zoning Code to revise the rezoning review criteria to remove outdated language and increase clarity and create more accessible and clear opportunities for the public to engage and get involved in the rezoning process. The project is also proposing updates to CPD’s standard operating procedures to improve public-facing materials, rezoning webpages, build upon the equity analysis pilot and create templates for voluntary commitments applicants can agree to at the time of rezoning to mitigate potential equity impacts of a rezoning.

Proposed Text Amendment Changes

The AEIR text amendment proposes the following changes to the Denver Zoning Code (DZC):

- **Posted Notice of Receipt of Application:** Applicant-posted notice of rezonings currently occurs 15 days prior to a Planning Board Public Hearing and 21 days prior to the City Council Public Hearing. This text amendment would require an additional posted notice no later than 10 days after receipt of a complete application. Posted notices at the receipt of application must remain in place for at least 15 days, or until they are replaced by posted notice of a public hearing, whichever is shorter. This provision accounts for rezoning applications that are complete and

ready to move into the adoption phase and acknowledges potential challenges of keeping posted signs on a subject property for extended periods of time, including changes in weather and exposure to other elements.

- **Written Notice of Receipt of Application and Planning Board Public Hearing:** Currently, CPD mails written notice of receipt of rezoning applications and Planning Board hearings to the following stakeholders:
 - city council members in whose district the subject property is located,
 - at-large city council members,
 - Registered Neighborhood Organizations (RNOs) within 200 feet of the proposed rezoning, and
 - property owners within 200 feet of the proposed rezoning.

This text amendment would expand that written notice to tenants of real property, including residents of apartments and rented homes and businesses in leased commercial units or structures. All mailed notices required for rezonings will be sent to the most recent rental unit addresses available to the city, which are typically updated annually. This change will help ensure more stakeholders are aware of proposed changes to zoning in their neighborhood, or to the properties where they live or do business.

- **Reduced Timeline for Referral and Examination of Application:** Currently, city agencies that might be affected by a proposed rezoning are given a 21-day referral period to transmit comments and recommendations to CPD. This text amendment proposes to reduce the referral period to 14 days, given advances in technology and to build efficiency in the rezoning timeline for customers.
- **Extent of Written Notice of Receipt of Application and Planning Board Public Hearing:** Currently, CPD provides written informational notices to property owners within 200 feet of the proposed zoning. To align with a 2023 voter-approved City Charter change related to protest petitions, this text amendment would clarify that only property owners and tenants within 200 feet of a proposed rezoning **and** within the City and County of Denver will receive written notice from CPD.

Maintaining current practice, CPD staff will continue to encourage applicants to engage with neighboring jurisdictions. Members of the public outside the City and County of Denver will remain welcome to participate in the rezoning process, provide testimony at public hearings and submit comments which are attached to the application and provided for Planning Board and City Council to consider.

- **Extent of Effect of Protest to Amendment:** The Denver Zoning Code currently allows property owners within 200 feet of a proposed rezoning to sign a protest petition to an official map amendment, even if they do not live within City and County of Denver limits. Following a 2023 voter-approved amendment, the City Charter allows only property owners within 200 feet of a proposed rezoning *and* within the City and County of Denver to sign a protest petition. Therefore, this text amendment would align the regulations for protest petitions within the Denver Zoning Code to those found in the City Charter by referencing the applicable charter section 3.2.9 and clarifying that only owners within 200 feet of a proposed rezoning and located within the City and County of Denver can sign a protest petition to an official map amendment.

- **Revisions to the Rezoning Review Criteria:** Currently, the Denver Zoning Code sets forth three review criteria applicable to all rezonings and an additional two review criteria for non-legislative rezonings, as detailed below:
 - General Review Criteria Applicable to All Zone Map Amendments
 - 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.
 - 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.
 - Public Health, Safety and General Welfare - The proposed official map amendment furthers the public health, safety and general welfare of the City.
 - Additional Review Criteria for Non-Legislative Rezonings
 - Justifying Circumstances - One of the following circumstances exists:
 - The existing zoning of the land was the result of an error;
 - The existing zoning of the land was based on a mistake of fact;
 - 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;
 - 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:
 - Changed or changing conditions in a particular area, or in the city generally;
 - A City adopted plan; or
 - That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning
 - 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.
 - 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.

The following proposed changes to the rezoning review criteria were developed with a focus on removing outdated, unnecessary language and increasing clarity.

- **Retain Consistency with Adopted Plans Criterion:** As the most extensive and equitable engagement occurs during the planning process, adopted plans are the best tool for expressing

the vision of a community, providing guidance related to rezonings and identifying opportunities for equitable outcomes.

- **Retain Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements Criterion:** With a large number of zone districts contained in the Denver Zoning Code, this criterion is helpful in evaluating if a proposed zone district is appropriate for a specific location.
- **Clarify Existing Extraordinary Community Need Provision:** In the event of an unanticipated community need that was identified at the time of the adoption of the city’s plan, it is important to retain the ability to approve a rezoning that provides land for that purpose. This text amendment will separate this provision from being within the Consistency with Adopted Plans criterion as an “or” statement and clarify by updating the language and making it an exception to Consistency with Adopted Plans. This proposed change ensures that plan consistency is highlighted as the most important criterion and exceptions to it are rare and extraordinary in nature and occurrence.
- **Update Public Health, Safety and General Welfare Criterion:** This language came from early land use regulations and court decisions, and versions of it remain in many zoning codes throughout the United States. However, more recent examination of historical zoning practices have highlighted how this language was used to defend exclusionary and racist use of these regulations. Therefore, this text amendment proposes to move away from problematic language by rewriting the criterion in a way that allows for a similar analysis and evaluation.
- **Remove Uniformity of District Regulations and Restrictions Criterion:** This criterion has been identified as confusing and often misunderstood by the public and decision makers. Additionally, it is redundant as it is included in the City Charter meant to provide a basis for the creation and uniform application of zone districts and their regulations and is not helpful for evaluation of a proposed zone district. For example, a U-SU-B (urban, single unit, 4,500 square foot minimum lot size) zone district in West Highland has the same regulations and restrictions as a U-SU-B zone district in Washington Park. Therefore, including this as a criterion in evaluation of a zone district proposal is unnecessary.
- **Remove Justifying Circumstances Criterion:** This criterion is unnecessary as the focus of rezonings are to implement the community’s vision for an area based on the recommendations from an adopted plan which are developed with extensive outreach and engagement. In fact, requiring a specific circumstance to justify a rezoning, in addition to being consistent with land use recommendations in an adopted plan could present a barrier to implementing the plan. For instances in which a significant change has occurred and a rezoning is necessary to provide a community need, the exception provision proposed within the Consistency with Adopted Plans criterion is better suited to address the issue.
- **Remove Additional Rezoning Review Criteria for Non-Legislative Rezonings:** Currently, the Denver Zoning Code requires two additional review criteria be met for non-legislative rezonings. This text amendment proposes that all rezonings must meet the same review criteria for recommendation of approval in an effort to increase clarity and predictability.

- **Proposed Review Criteria for All Rezoning:** This text amendment would result in updating the rezoning review criteria as follows:
 - General Review Criteria Applicable to All Zone Map Amendments
 - Consistency with Adopted Plans – The proposed official map amendment is consistent with the City’s adopted plans.
 - 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.
 - Public Interest – The proposed official map amendment is in the public interest.
 - 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.

To reflect the proposed rezoning review criteria changes, this text amendment will also result in minor changes to the applicability language in Section 12.4.10.1 of the Denver Zoning Code.

Proposed Standard Operating Procedure Updates

The AEIR project proposes the following changes to CPD’s standard operating procedures (SOPs) to create a more accessible rezoning process, continue refining the equity analysis pilot and develop tools and a streamlined process for securing voluntary, city-enforced commitments to equitable outcomes from applicants proposing a rezoning that could result in significant impacts to neighbors. The specific details of these proposed updates may change based upon feedback from members of the public, task force members, stakeholders and decision makers during the public review period, and will be implemented after City Council approval of the AEIR text amendment and prior to the proposed effective date of February 24, 2025. These are discussed to provide background, and are not included in the text amendment subject to City Council approval.

- **Update Posted, Mailed and E-Mailed Public Notice Materials:** Current public notice materials including postcards and signage do not provide helpful information in clear language that is easy to understand. With the adoption of the proposed AEIR text amendment, CPD will update these materials to more effectively communicate important information about rezonings, including more understandable explanations of a proposed zone district along with more direct and accessible links to the rezoning website with case information.
- **Improve Website and Guides for Customers and Community Members:** While the current rezoning website, guides, case information, and links provide a great level of detail and access to the rezoning process for varying audiences, they are not easy to find and navigate. With the adoption of the AEIR text amendment, CPD will update these materials and technology with a focus on improving the interface/user-experience on the rezoning webpage and providing direct links from public-facing materials to on-line case information (ex. QR Codes or similar).
- **Expand Staff Analysis, Presentations, and Reports with a Focus on Equity and Climate:** Currently, staff evaluation of equity and climate recommendations include key related

recommendations from Comprehensive Plan 2040, Blueprint Denver, and applicable neighborhood and small area plans. To advance equity in the rezoning process, CPD proposes to update SOPs related to staff evaluation, presentations, and reports in the following ways:

- Create concise guides that list and further explain the climate and equity vision elements/concepts in adopted plans that are related to rezoning requests and provide key questions for decision makers to evaluate a rezoning proposal against.
 - Update public-facing guides for customers and community members that better outline and explain the requirements and key process steps in the rezoning process (including when and how to get engaged in the process and provide meaningful comment), highlight Denver’s commitment to achieving equity and meeting climate goals and provide guidance for how to utilize those perspectives in land use and zoning decisions.
 - Update staff reports and presentations to include analysis and evaluation of equity and climate recommendations within adopted plans against potential outcomes of a proposed zone district.
- **Refine and Update Equity Analysis Pilot:** After the adoption of Blueprint Denver in 2019, CPD began using the equity analysis concepts and measurements therein (access to opportunity, vulnerability to displacement, and housing and jobs diversity) to further analyze large-scale rezonings (5+ acres in area) to identify potential mitigation strategies. The equity analysis pilot has been successful in educating applicants, community members and decision makers of the disparities that continue to exist across our city due to historical zoning regulations that resulted segregation, redlining, lack of public investment and gentrification, but it has not resulted in the creation of enough tools and programs to fully address the outstanding needs of a growing city driven to become more inclusive, affordable, and equitable by increasing access to opportunity, reducing vulnerability to involuntary displacement, and increasing housing and job diversity through the creation of complete neighborhoods. To address this, the AEIR project, focused on applicant-driven rezonings, which account for roughly 10% of development in our city, proposes updates to SOPs administered by CPD that will be finalized after the AEIR text amendment is adopted by City Council. This text amendment is just one way in which the city can advance a paramount goal of Blueprint Denver, which is to create an inclusive and equitable city. The updates will advance citywide equity goals especially through implementing strategies and recommendations clearly focused on creating equitable and complete neighborhoods. Key outcomes of these advances include:
 - Refine thresholds for rezonings that could result in significant impacts to the surrounding community – this will include reviewing current practices and outcomes to determine whether they have been meaningful.
 - Refine the equity analysis and brief provided to the applicant and requesting a meaningful response.
 - Refresh and update metrics that produce equity concept measurements with special attention to evaluating data points most relevant to a rezoning request.
 - Monitor thresholds and outcomes to remain nimble and able to adjust to ensure rezonings of significant impact are captured.
 - Educate applicants and community members of the data points informing the equity analysis and used to identify deficiencies or equity gaps within an area and provide mitigation strategies or a commitments list that could be voluntarily chosen from an applicant at the time of rezoning to help ensure equitable development outcomes.

Major Development Types that may Benefit from Equity Commitments	Proposed Thresholds Under Consideration
Multi-family and mixed-use commercial developments	1+acre sites requesting MU (multi-unit) or more intensive zone district
Large lots	5+acre sites
Industrial areas transitioning to residential uses	1+acre sites requesting residential or mix of uses where not currently allowed
Intense/dense development on smaller lots	1+acre sites requesting double or more of the currently allowed building height

- **Develop Templates for Voluntary Commitments to Equitable Outcomes:** The current equity analysis pilot educates applicants and community members on existing equity gaps within a given neighborhood, using measurements from Blueprint Denver’s equity concepts, provides a list of strategies to mitigate disparate impacts of rezonings, and encourages applicants to consider how their future development project could contribute to equitable outcomes. This project proposes to develop a list of commitments that can be enforced by the city and chosen voluntarily by applicants at the time of rezoning to ensure components of equitable development. To advance equity in development for projects going through the rezoning process, key updates to CPD’s SOPs include:

 - **List of City-enforced Commitments:** The AEIR project team worked with partner agencies to develop a list of commitments that can be negotiated, executed, monitored and enforced within existing budget and staff constraints. The list includes potential commitments like transportation demand management, onsite open space and prioritization of rental housing units for people who have been previously displaced from neighborhoods by rising housing costs. The list will be expanded over time as additional regulatory tools and programs are developed.
 - **Standard Templates for Applicants:** The team will work with the departments responsible for monitoring these commitments to create a recordable template agreement to document them and ensure they are implemented.

Public Process

Below is a summary of the public process for the proposed AEIR text amendment:

January 12, 2022	AEIR Task Force began meeting (15 total, final meeting held in September 2024)
April 5, 2022	AEIR Open House #1
April 20, 2022	Planning Board Informational Item
October 4, 2023	Planning Board Informational Item

January 17, 2024	Planning Board Informational Item
October 2, 2024	Planning Board Informational Item
November 4, 2024	Summary of text amendment, strategy report and marked-up draft of text amendment posted to CPD website for public review and email notice sent to all Registered Neighborhood Organizations and all Denver City Councilmembers.
November 13, 2024	AEIR Open House #2
November 19, 2024	CPD written notice of the Planning Board public hearing sent to all members of City Council and registered neighborhood organizations.
December 3, 2024	City Council’s Land Use, Transportation, and Infrastructure Committee Informational Item
December 4, 2024	Planning Board Public Hearing
December 17, 2024	City Council’s Land Use, Transportation, and Infrastructure Committee (tentative)
February 3, 2025	City Council Public Hearing (tentative)
February 24, 2025	AEIR proposed effective date

In addition to the touchpoints above, more than 900 members of the public signed up for AEIR email updates which were distributed at key project milestones. The project website was also updated with meeting notes, video recordings and presentations after each task force session. The project team also hosted 3 joint Planning Board & City Council work sessions in 2024 and presented to the Denver Metro Association of Realtors in November 2023 and May 2024.

Written Comments: Since publication of the public draft in early November, staff has received 4 comments from community members (all comments and questions received during the review period are attached).

- 1 comment with questions related to the city including plans to set aside affordable commercial real estate for underrepresented communities.
 - While outside of the scope of this project, the city can play a role in negotiating affordable commercial and residential units on large redevelopment sites through Denver Economic Development and Opportunity, often partnering with the Denver Urban Renewal Authority.
- 1 comment with questions related to availability of studies pertaining to water usage and parking requirements in new developments.
 - Studies regarding water usage and availability are outside of the scope of this project and largely managed by Denver Water.
 - The Denver Zoning Code contains minimum parking requirements dependent on location, use and number of units within a given building. These requirements are typically addressed during the site development plan review phase. For sites going

through rezoning, the site development plan review phase usually occurs after the rezoning is approved by Denver City Council.

- 1 comment expressing concerns and gaps related to public notification, review criteria and community engagement.
 - The Advancing Equity in Rezoning project will result in updates to public noticing, include business tenants and renters, make the review criteria easier to understand and will require the applicant to provide documentation of community outreach and engagement.
- 1 comment expressing support for the city updating the rezoning process with equity in mind, but raised concerns related to Denver’s definition of equity and suggested more clarity in the explanation and evaluation of rezoning review criteria.
 - The equity definition used for this project is taken from the Denver Comprehensive Plan and Blueprint Denver, both adopted by City Council.
 - The Advancing Equity in Rezoning project is focused on increasing equity in the rezoning process and is one component of the city’s efforts to achieve equity in all development.

Review Criteria and CPD Staff Evaluation

The criteria for review of a proposed text amendment are found in Section 12.4.11.4 of the DZC. CPD analyzed the proposed text amendment for compliance with the review criteria stated below and finds that the proposed text amendment satisfies each of the review criteria:

1. Consistency With Adopted Plans

The proposed AEIR text amendment is consistent with the following adopted plans, strategies and policies as described below:

- *Comprehensive Plan 2040*
- *Blueprint Denver*

Denver Comprehensive Plan 2040

The proposed text amendment is consistent with many of the adopted *Denver Comprehensive Plan 2040* strategies, which are organized by vision element.

The proposed text amendment would update the rezoning process, which is very outdated and does not reflect Denver’s vision of becoming an equitable, affordable and inclusive city. The AEIR project will result in a process that is more accessible, transparent and equitable. The text amendment will restructure the rezoning review criteria to focus on advancing citywide goals and plans which better reflect community input and remove review criteria that are outdated, redundant, overly complicated and unnecessary to improve transparency for customers and residents. Additionally, it will provide more accessible and clear opportunities for the public to engage and get involved in the rezoning process by alerting neighbors earlier in the process and sending notices to tenants and renters of dwellings and structures. It is therefore consistent with the following strategies in the **Equitable, Affordable and Inclusive** vision element:

- Equitable, Affordable and Inclusive Goal 1, Strategy D to “Improve equitable access to city resources and city meetings through proactive and transparent communications, easy-to-access information and materials available in more than one language” (p. 28).

- Equitable, Affordable and Inclusive Goal 5, Strategy C to “Evaluate city plans, projects and major regulatory changes for the potential to contribute to involuntary displacement; identify and implement strategies to mitigate anticipated impacts to residents and businesses” (p. 28).
- Equitable, Affordable and Inclusive Goal 6, Strategy A to “Adopt strategies to ensure that city plans and processes, including budget decisions, incorporate equity” (p. 30).
- Equitable, Affordable and Inclusive Goal 6, Strategy B to “Track the information and measure the data needed to understand disparities and to evaluate the equity impacts of public programs and projects (p. 30).

This proposed text amendment would continue to require signs to be posted on the subject property after a complete rezoning application is submitted, and is therefore consistent with the following strategies in the **Strong and Authentic Neighborhoods** vision element:

- Strong and Authentic Neighborhoods Goal 6, Strategy A to “Continue to strengthen trust and communication between the city and all neighborhoods.” (p.14)
- Strong and Authentic Neighborhoods Goal 6, Strategy B to “Provide proactive communication and transparency about city policies, public safety, processes and plans.” (p. 14)
- Strong and Authentic Neighborhoods Goal 6, Strategy C to “Improve the engagement and representation of all Denverites, including communities of color, in neighborhood groups and city processes” (p. 14)

Blueprint Denver

Policies: The proposed text amendment is consistent with the following *Blueprint Denver* policies:

- Land Use and Built Form Policy 4: Ensure equitable planning processes and include underrepresented residents in plan and plan implementation (p. 74).
 - Strategy F. Create tools to increase access to the rezoning process, especially for underrepresented communities.
- Land Use and Built Form Policy 11: Implement plan recommendations through city-led legislative rezonings and text amendments. (p. 79)
 - Strategy B. Use text amendments combined with map amendments to apply strategies recommended by Blueprint Denver at the effective, area appropriate scale. Text amendments and large legislative rezonings should be guided by the equity concepts and maps in Chapter 2.
 - Strategy C. Use a robust and inclusive community input process to inform city-led rezonings and zoning code text amendments.

The proposed text amendment is consistent with *Blueprint Denver* because it improves access to the rezoning process and advances the equity concepts by applying them to rezonings that could have significant impact. This text amendment will continue to provide a more predictable process for the city, applicants, and community members as it requires applicants to demonstrate that community engagement has occurred prior to the submittal of an application. Community and stakeholder input has been provided numerous times over the course of the project at public hearings and other meetings. Therefore, the input process for this amendment (detailed above in the Public Process section) is appropriate and consistent with the Blueprint Denver recommendation.

Blueprint Equity Concepts: This text amendment is consistent with and will implement Blueprint Denver’s three equity concepts as follows:

- **Improving Access to Opportunity:** This text amendment is consistent with Blueprint Denver’s vision for more equitable access to amenities and quality-of-life infrastructure throughout the city. In particular, this text amendment improves this equity concept by providing access for renters and tenants to more actively engage with and participate in the rezoning process.
- **Reducing Vulnerability to Displacement:** by providing applicants and community members with an equity analysis more focused on potential equity outcomes of a rezoning with significant impact, strategies can be put in place to mitigate displacement, such as voluntary commitments to transportation improvements or additional affordable housing units agreed upon at the time of rezoning.
- **Expanding Housing and Jobs Diversity:** This text amendment will not have a direct impact on jobs and housing diversity and is therefore neutral on this equity concept.

2. Public Health, Safety and Welfare

This text amendment furthers the public health, safety, and welfare of Denver residents, landowners, businesses, and community members by implementing the city’s adopted plans through regulations that improve and expand access to a public process and update the rezoning review criteria, making them easier to understand.

3. Uniformity of District Regulations and Restrictions

This text amendment will result in processes and regulations that are uniform within each zone district.

Attachments

1. Marked-up draft of AEIR text amendment
2. Public comments received to date



Denver Zoning Code Text Amendment

Advancing Equity in Rezoning

Public Review Draft – 11/4/2024

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					
	D = Decision-Making Authority R = Review and Recommendation Authority * = Public Hearing Required						■ = Notice Required Blank Cell = Notice Not Required					
							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*	■ Written Notice Only			■	■	■
Text Amendment	R	R			R*	D*				■		■
Infrastructure Master Plan	R		D									

	REVIEW AND DECISION-MAKING AUTHORITY						TYPE OF PUBLIC NOTICE REQUIRED					
	D = Decision-Making Authority R = Review and Recommendation Authority * = Public Hearing Required						■ = Notice Required Blank Cell = Notice Not Required					
							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

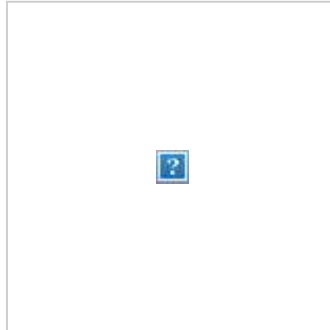
A. Initiation

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

From: noreply@of.denvergov.org
To: [Shaver, Brandon A. - CPD Senior City Planner](#)
Subject: [EXTERNAL] AEIR Comment Form Response
Date: Tuesday, November 5, 2024 10:26:55 AM



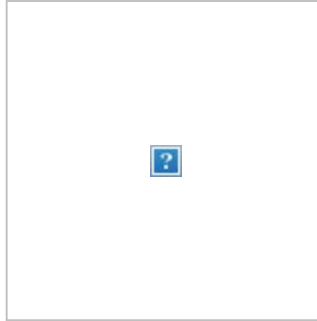
AEIR Comment Form Response

	English
Tell us what you think!	
We want to hear from you. General questions or comments about the Advancing Equity in Rezoning project can be shared in the text box below.	are studies available regarding water usage i.e. is there enough water to sustain all of the new building? are studies available regarding parking issues i.e. is there enough parking available for the new building?
Please select if you are submitting a question or a comment.	Question
Name:	mercedes weatherford
Email Address:	merwth@gmail.com
Would you like to receive email updates on this	Yes

project?	
Tell us about yourself	
What is your gender?	Female
How old are you?	75 and older
What is your race or ethnicity? Please select all that apply. You may report more than one group.	White
Do you rent or own your home?	Own
In which Denver neighborhood do you live? If you are not sure, check this map: https://denvergov.org/Maps/map/neighborhoods	Mar Lee
Please estimate your total household income, before taxes, in the last 12 months. Please include all sources of income for all adult household members.	\$25,000 - \$49,999
¡Díganos lo que piensa!	
Queremos escuchar de usted. Las preguntas o comentarios generales sobre el proyecto Avanzando Equidad en Rezonificación se pueden compartir en el cuadro de texto a continuación.	
Por favor seleccione si está enviando una pregunta o un comentario.	
Nombre:	
Dirección de correo electrónico:	
¿Le gustaría recibir actualizaciones por correo electrónico sobre este proyecto?	
Cuéntenos sobre usted	
¿Cuál es su género?	
¿Cuántos años tiene?	
¿Cuál es su raza o etnia? Por favor seleccione todas las respuestas válidas. Puede seleccionar	

más de un grupo.	
Alquila o es dueño de su casa?	
¿En qué vecindario de Denver vive? Si no está seguro, consulte este mapa: https://denvergov.org/Maps/map/neighborhoods	
Estime el ingreso total de su hogar, antes de impuestos, en los últimos 12 meses. Incluya todas las fuentes de ingresos de todos los miembros adultos del hogar.	

From: noreply@of.denvergov.org
To: [Shaver, Brandon A. - CPD Senior City Planner](#)
Subject: [EXTERNAL] AEIR Comment Form Response
Date: Monday, November 18, 2024 9:38:49 PM



AEIR Comment Form Response

	English
Tell us what you think!	
	<p>I see the following gaps in this update that still needs addressing before updating and release:</p> <ol style="list-style-type: none">1. Public Notification Improvements: Current rezoning notifications are insufficient. Many stakeholders, including renters, small businesses, and community organizations, are either excluded from or unaware of proposed changes until late in the process. Notifications should be more accessible, with clear and detailed explanations

We want to hear from you. General questions or comments about the Advancing Equity in Rezoning project can be shared in the text box below.

in plain language, and targeted outreach should ensure that all affected parties are informed early.

2. Clarify Zoning Selection

Criteria: The rezoning process and its approval criteria are overly complex and lack transparency.

Small businesses in particular face significant challenges due to the lengthy and unclear processes, which often require specialized expertise or resources. Clear, step-by-step guidelines for applicants and explanations of decision-making criteria are essential.

3. Enhance Community Engagement and Equity:

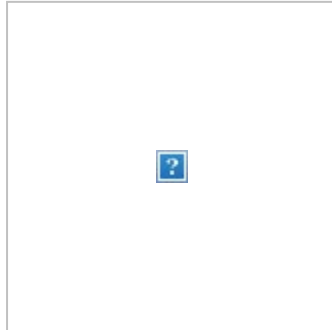
Public input needs to play a more significant and transparent role in rezoning decisions. Feedback is often collected too late to meaningfully influence outcomes, and there is little clarity on how it is used.

Additionally, zoning decisions should directly benefit the communities affected, ensuring that resources and opportunities return to neighborhoods

	<p>impacted by these changes.</p> <p>These steps are vital to creating a more equitable and inclusive rezoning process in Denver.</p>
Please select if you are submitting a question or a comment.	Comment
Name:	Kelsey Esquinas
Email Address:	kelsey.esquinas@gmail.com
Would you like to receive email updates on this project?	Yes
Tell us about yourself	
What is your gender?	Female
How old are you?	35-44
What is your race or ethnicity? Please select all that apply. You may report more than one group.	Hispanic, Latino/Latina/Latinx, or Spanish White
Do you rent or own your home?	Own
In which Denver neighborhood do you live? If you are not sure, check this map: https://denvergov.org/Maps/map/neighborhoods	Villa Park
Please estimate your total household income, before taxes, in the last 12 months. Please include all sources of income for all adult household members.	Prefer not to answer
¡Díganos lo que piensa!	
Queremos escuchar de usted. Las preguntas o comentarios generales sobre el proyecto Avanzando Equidad en Rezonificación se pueden compartir en el cuadro de texto a continuación.	
Por favor seleccione si está enviando una	

pregunta o un comentario.	
Nombre:	
Dirección de correo electrónico:	
¿Le gustaría recibir actualizaciones por correo electrónico sobre este proyecto?	
Cuéntenos sobre usted	
¿Cuál es su género?	
¿Cuántos años tiene?	
¿Cuál es su raza o etnia? Por favor seleccione todas las respuestas válidas. Puede seleccionar más de un grupo.	
Alquila o es dueño de su casa?	
¿En qué vecindario de Denver vive? Si no está seguro, consulte este mapa: https://denvergov.org/Maps/map/neighborhoods	
Estime el ingreso total de su hogar, antes de impuestos, en los últimos 12 meses. Incluya todas las fuentes de ingresos de todos los miembros adultos del hogar.	

From: noreply@of.denvergov.org
To: [Shaver, Brandon A. - CPD Senior City Planner](#)
Subject: [EXTERNAL] AEIR Comment Form Response
Date: Monday, November 4, 2024 8:30:32 PM



AEIR Comment Form Response

	English
Tell us what you think!	
We want to hear from you. General questions or comments about the Advancing Equity in Rezoning project can be shared in the text box below.	Can you please share whether the City of Denver plans to ever include plans to set aside affordable commercial real estate rentals and sales? It has been extremely difficult for underserved communities to make any headway towards equity when the barriers of entry are not in parity with the reality of all communities. Thank you!
Please select if you are submitting a question or	

a comment.	Question
Name:	Jose Beteta
Email Address:	Josedbeteta@gmail.com
Would you like to receive email updates on this project?	Yes
Tell us about yourself	
What is your gender?	Male
How old are you?	35-44
What is your race or ethnicity? Please select all that apply. You may report more than one group.	Black or African American Hispanic, Latino/Latina/Latinx, or Spanish White
Do you rent or own your home?	Prefer not to answer
In which Denver neighborhood do you live? If you are not sure, check this map: https://denvergov.org/Maps/map/neighborhoods	Sun Valley
Please estimate your total household income, before taxes, in the last 12 months. Please include all sources of income for all adult household members.	\$50,000 - \$99,000
¡Díganos lo que piensa!	
Queremos escuchar de usted. Las preguntas o comentarios generales sobre el proyecto Avanzando Equidad en Rezonificación se pueden compartir en el cuadro de texto a continuación.	
Por favor seleccione si está enviando una pregunta o un comentario.	
Nombre:	
Dirección de correo electrónico:	


¿Le gustaría recibir actualizaciones por correo electrónico sobre este proyecto?	
Cuéntenos sobre usted	
¿Cuál es su género?	
¿Cuántos años tiene?	
¿Cuál es su raza o etnia? Por favor seleccione todas las respuestas válidas. Puede seleccionar más de un grupo.	
Alquila o es dueño de su casa?	
¿En qué vecindario de Denver vive? Si no está seguro, consulte este mapa: https://denvergov.org/Maps/map/neighborhoods	
Estime el ingreso total de su hogar, antes de impuestos, en los últimos 12 meses. Incluya todas las fuentes de ingresos de todos los miembros adultos del hogar.	

From: noreply@of.denvergov.org
To: [Shaver, Brandon A. - CPD Senior City Planner](#)
Subject: [EXTERNAL] AEIR Comment Form Response
Date: Monday, November 25, 2024 9:57:26 PM




AEIR Comment Form Response

	English
Tell us what you think!	
	<p>In reviewing the AEIR Strategy Report I support the city's effort to review the rezoning process with equity in mind. I support providing better access by notifying tenants of affected rezoning, expanding the noticing requirement, translating the materials, improving postings, providing public guides and improving the website. This approach is important.</p> <p>However, the definition of equity the city outlined in this document acknowledges the issues of</p>



persistent institutional bias and barrier and acknowledges the disparity that exists historically in (black, indigenous, people of color) BIPOC communities but the approach the city is taking in this document is conflating equity with equality in the solutions noted in this document. For example the city's approach to equity is by improving on access but not addressing historical harm of disparities. You have not placed racial equity front and center in this document and this strategy is not coming to terms with advancing equity in rezoning.


The guiding documents used for this initiative, the Comprehensive Plan 2040 and Blueprint Denver both identify the racial equity issue and Blueprint Denver even goes farther in identifying areas to address: improving access to opportunity, reducing vulnerability to displacement, and expanding housing and job diversity. The document goes on to explain how like most major cities in the U.S.



We want to hear from you. General questions or comments about the Advancing Equity in Rezoning project can be shared in the text box below.

- is marred by inequitable development, disinvestment in communities of color, exclusionary zoning and racism. The antidote is not outlined in this document as it could be. I strongly recommend the AEIR strategy include how the Analysis of Plan Guidance includes the Equity Analysis Pilot measures of improving access to opportunity, reducing vulnerability to displacement and expanding housing and job diversity in the staff report by keeping in mind how the rezoning is addressing institutionalized culture and structures that promote racial disparities. What are the impacts if the rezoning creates limited opportunity, increases displacement and doesn't expand housing or job diversity. How can staff use this in their staff report to state it doesn't meet the criteria or begin to work with the applicant to change these consequences.

Regarding the criteria to evaluate rezoning, Community Need Exception and Public Interest are still vague. I recommend both of



these criteria add additional clarification. For example does the community need exception have some kind of process to determine what that need should be. Public forums and participation from the community to vetted the community need exception.

Public Interest is too general and subject to vast interpretation which will result in anything could qualify as a public interest and be easily supported by staff based on the criteria. Consider adding more descriptors such as access to daily needs, employment, open space, health care, safety an active lifestyle to add content to what is public interest. I don't recall those components used in staff reports before with the criteria of public-health, safety and general welfare.

Finally, I recommend staff in their report analysis of this initiative outline more succinctly what plan recommendations may look like as it relates to equity and climate to provide better transparency with the

	public during this review process. I appreciate the details on the proposed solutions for creating accessible and clear opportunities for public engagement/involvement as it relates to code changes. Staff notes that related ongoing and future efforts outside the scope of this project may involve other departments or agencies. It would be helpful if staff could outline those discoveries in this document.
Please select if you are submitting a question or a comment.	Comment
Name:	Kathy Sandoval
Email Address:	kathyesandoval@yahoo.com
Would you like to receive email updates on this project?	Yes
Tell us about yourself	
What is your gender?	Female
How old are you?	65-74
What is your race or ethnicity? Please select all that apply. You may report more than one group.	American Indian or Alaska Native Hispanic, Latino/Latina/Latinx, or Spanish
Do you rent or own your home?	Own
In which Denver neighborhood do you live? If you are not sure, check this map: https://denvergov.org/Maps/map/neighborhoods	Villa Park
Please estimate your total household income,	

before taxes, in the last 12 months. Please include all sources of income for all adult household members.	\$50,000 - \$99,000
¡Díganos lo que piensa!	
Queremos escuchar de usted. Las preguntas o comentarios generales sobre el proyecto Avanzando Equidad en Rezonificación se pueden compartir en el cuadro de texto a continuación.	
Por favor seleccione si está enviando una pregunta o un comentario.	
Nombre:	
Dirección de correo electrónico:	
¿Le gustaría recibir actualizaciones por correo electrónico sobre este proyecto?	
Cuéntenos sobre usted	
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¿Cuántos años tiene?	
¿Cuál es su raza o etnia? Por favor seleccione todas las respuestas válidas. Puede seleccionar más de un grupo.	
Alquila o es dueño de su casa?	
¿En qué vecindario de Denver vive? Si no está seguro, consulte este mapa: https://denvergov.org/Maps/map/neighborhoods	
Estime el ingreso total de su hogar, antes de impuestos, en los últimos 12 meses. Incluya todas las fuentes de ingresos de todos los miembros adultos del hogar.	