

ARTICLE X. AMENDMENT PROCEDURE***Sec. 59-646. Declaration of public policy.**

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the city, this chapter, and as here used, the term chapter shall be deemed to include the official map, 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 in the floodplain, to rezone an area or extend the boundary of an existing district, or to change the regulations and restrictions thereof, only as reasonably necessary to the promotion of the public health, safety or general welfare. Subject to the limitations of the foregoing declaration of public policy, an amendment to this chapter may be initiated by council on its own motion or, in the manner and pursuant to the procedure hereinafter set forth, may be initiated by filing an application therefore with the department of zoning administration.

(Code 1950, § 618.1; Ord. No. 584-07, § 1, eff. 10-26-07)

Case law annotation—Changed or changing circumstances need not be factually established when the alternative procedure: changing conditions in the city are shown. *Cooper v. Denver, 191 Colo 252, 552 P. 2d 13 (1976)*.

Sec. 59-647. Limitations on all proposed amendments.

All proposed amendments to this chapter, regardless of how or by whom initiated, shall be subject to the following limitations:

- (1) *Administrative examination.* No amendment to this chapter shall be adopted until the amendment has been examined by the administrative agencies as set forth in this article and the recommendations[†] of those agencies obtained.
- (2) *Uniformity of district regulations and restrictions.* No amendment to this chapter shall be adopted whereby the regulations and restrictions established thereby are not uniform for each district having the same classification and bearing the same symbol or designation on the official map, nor shall any amendment to this chapter be adopted whereby districts having the same classification and bearing the same symbol or designation on the official map are subject to different regulations and restrictions.
- (3) *Minimum area required.* No amendment to this chapter shall be adopted whereby the zoning classification of an area is changed unless the area meets the following requirements as to minimum size. For the purpose of computing the size of an area for compliance herewith, there shall be added to such area: (1) the areas of public

***Editor's note**—Ord. No. 361-03, § 6, adopted May 23, 2003, renumbered article IX as article X.

Case law annotation—Amendment of a general zoning ordinance is a quasi-judicial act reviewable by writ of certiorari. *Cooper v. Denver, 101 Colo 252, 552 P. 2d 13 (1976)*.

[†]**Case law annotation**—The recommendations mentioned in this section are not mandatory as a matter of law. Failure to obtain such recommendations prior to rezoning is not fatal to the rezoning. *Cooper v. Denver, 36 191 Colo 252, 552 P. 2d 13 (1976)*.

rights-of-way interior to the area being changed, excluding, however, that portion of any such public right-of-way in excess of sixty (60) feet in width; (2) one-half the areas of public rights-of-way, abutting the area to be changed or thirty (30) feet of the abutting public rights-of-way, whichever distance is less; (3) the area of any land within the corporate limits of the city which is contiguous to the area being changed and which land already bears the zoning classification sought for the area being changed; and (4) the area of any land without the corporate limits of the city which is contiguous to the area being changed and which land under valid zoning regulations has restrictions, regulations and requirements similar to those established for the zoning classification sought for the area to be changed. For the purpose of computing the size of an area for compliance herewith, there shall be excluded: (1) that portion of public rights-of-way in excess of sixty (60) feet in width; (2) water reservoirs, including supporting land therefor, owned by the city, the state, the United States of America or any agency thereof; (3) all land owned by school district no. 1 of the city which is used by that district for school purposes; and (4) all land owned by the city, the state, the United States of America or any agency thereof which is used for public park or recreational purposes.

For the purposes of this section, neither contiguity nor abutment shall be destroyed by the existence of a public right-of-way designated as a highway, street or alley. Subject to the foregoing limitations, an area proposed to bear the following zoning classifications shall be of at least the following size:

<i>District Classification</i>	<i>Minimum Area Required</i>
a. RS-4, R-0, R-1	Large enough in gross area so that at least one-half of the number of existing building sites included in the area is entirely within the interior of the area. For the purpose of this section, all vacant land included in the area shall be divided into minimum size zone lots permitted in an RS-4, R-0 or R-1 district for structures designed or used, either wholly or partly, for residential occupancy.
b. R-3, R-4, B-4, I-1, I-2	Eight (8) acres.
c. B-1	If area abuts an existing B-2, B-3, B-4, B-5, B-8, I-0, I-I or I-2 district, no requirement; otherwise, 70,000 square feet.
d. R-5, B-A-2	70,000 square feet.
e. B-8	One hundred acres.
f. I-0	If area abuts an existing I-I or I-2 district, no requirement; otherwise eight acres.
g. O-1, P-1, R-MU-20, R-MU-30, C-MU-10, C-MU-20, C-MU-30, MS-1, MS-2, MS-3 and OS-1	No requirement.

<i>District Classification</i>	<i>Minimum Area Required</i>
h. R-2-A	If area abuts an existing R-3, R-4, B-2, B-3, B-4 or I-0 district on one (1) side, and an R-0, R-1 or R-2 district on another side, 1 acre; otherwise 8 acres.
i. R-2, R-2-B	If area abuts an existing R-2-A, R-3, R-4, B-2, B-3, B-4 or I-0 district, 1 acre; otherwise eight acres.
j. O-2	Forty acres.
k. B-5	Two hundred acres.
l. B-A-4	If the area abuts an existing B-4 district and has not less than 100 feet of frontage along an arterial street, 15,000 square feet; otherwise five acres.
m. B-A-3	Must have at least 100 feet of frontage along an arterial street and at least 12,000 square feet.
n. B-A-1	Must have at least 100 feet of frontage along an arterial street and at least 18,000 square feet.
o. R-3-X, R-4-X	If an area abuts an existing R-3, R-4, B-3, B-4 or I-0 district, 1 acre; otherwise eight acres.
p. R-X	22,500 square feet.
q. B-7	Must abut a B-5 district and contain a minimum of five acres.
r. Reserved	
s. B-3	If an area abuts an existing B-4 district, no requirement; otherwise eight acres.
t. B-2	If an area abuts an existing B-4 district, no requirement; otherwise 70,000 square feet.
u. H-1-A, H-1-B, H-2	No requirement.
v. OD suffix	If an area abuts an existing OD district, no requirement; otherwise, two (2) acres.
w. B-8-G	If an area abuts an existing B-8-G district, one (1) acre; otherwise one hundred (100) acres.
x. B-8-A	If an area abuts an existing B-8-A district, no requirement; otherwise twenty-five (25) acres.
y. T-MU-30	If an area abuts an existing T-MU-30 district, no requirement; otherwise twelve (12) acres.
z. B-5-T	The original B-5-T district must be within the confines of the B-5 district as it exists as of July 1, 2007, and must include 14 th Street between Arapahoe and Champa Streets. Subsequent rezonings to B-5-T must abut an existing B-5-T district.

(Ord. No. 796-91, eff. 11-8-91; Ord. No. 780-93, eff. 10-22-93; Ord. No. 161-94, eff. 3-11-94; Ord. No. 583-94, eff. 8-5-94; Ord. No. 779-96, eff. 9-13-96; Ord. No. 781-98, eff. 11-13-98; Ord. No. 598-99, eff. 8-13-99; Ord. No. 896-02, § 6, eff. 11-8-02; Ord. No. 1024-02, § 31, eff. 12-20-02; Ord. No. 660-05, § 13, eff. 9-16-05; Ord. No. 439-07, § 25, eff. 8-20-07)

(4) *Abutment of incompatible districts.* No amendment to this chapter shall be adopted whereby any boundary line of an R-4, B-5, B-5-T, B-7, B-8, B-8-G, I-1 or I-2 district would abut directly upon the boundary line of an existing RS-4, R-0, R-1, R-2 or R-2-B district or whereby any boundary line of an R-3 district would abut directly upon the boundary line of an existing RS-4, R-0 or R-1 district, unless the boundary line is coincidental with the center line of a street, alley or other public property of comparable width.

(Ord. No. 583-94, eff. 8-5-94; Ord. No. 1024-02, § 32, eff. 12-20-02; Ord. No. 439-07, § 26, eff. 8-20-07)

(5) *Abutment of compatible districts.* No amendment to this chapter shall be adopted whereby a P-1 district zoning classification is established for an area unless the area abuts an existing R-3, R-4, B-1, B-2, B-3, B-4, B-5, B-5-T, B-7, B-8, B-8-G, B-A-1, B-A-2, B-A-3, B-A-4, I-0, I-1 or I-2 district.

(Ord. No. 5-83, eff. 1-11-83; Ord. No. 583-94, eff. 8-5-94; Ord. No. 439-07, § 26, eff. 8-20-07)

(6) *Need for uses to be clear and demonstrable.* No amendment to this chapter shall be adopted whereby a B-4 district zoning classification is established for an area unless there is a clear and demonstrable necessity in the area for those uses which are permitted in a B-4 district and are not permitted in a B-3 district.

(7) *Public hearing required; notice given.* No amendment to this chapter shall become effective until after a public hearing in relation thereto at which hearing parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published at least once in the official newspaper at least twenty-one (21) days prior to the hearing. Additionally, any area for which an individual application for a change in zoning classification is being considered shall be posted for at least twenty-one (21) days prior to the hearing. The posted notices shall be in number, size and location as prescribed by the department of zoning administration and shall indicate the present zoning classification, the proposed zoning classification, the time and place of the public hearing and any other information prescribed by the department. Posted notices shall be removed by the applicant from the subject area within fifteen (15) days after the public hearing has been held. Failure to do so shall constitute a violation of this chapter.

(Ord. No. 344-82, eff. 7-10-82)

(8) *Effect of protest to amendment.* In case of a protest to a proposed amendment to this chapter, signed by the owners of twenty (20) percent, or more, either of the area of the lots included in such proposed change or of the area to a distance of two hundred (200) feet from the perimeter of the area proposed for change, such amendment shall not

become effective except by the favorable vote of ten (10) of the members of council. For the purpose of defining owners in this section 59-647(8) and the area of land represented by the owner, land owned by more than one (1) owner shall be divided to the extent of each owner's percentage of ownership interest in said land in determining whether a protest is signed by all the owners of twenty (20) percent, or more, either of the area of the lots included in such proposed change or of the area to a distance of two hundred (200) feet from the perimeter of the area proposed for change.

(Ord. No. 53-84, eff. 2-15-84)

- (9) *Filing of protests; time limitations; withdrawal.* All protests to a council bill for an ordinance to enact an amendment to this chapter and any withdrawals from said protests shall be filed with the city council on or before and not later than 12:00 noon of the day which is seven (7) days prior to the date set by notice for the public hearing on said council bill which would approve the proposed amendment to which the protests are directed. No such protests shall be signed until the council bill which would approve the proposed amendment is ordered published by city council. The zoning administrator shall determine the adequacy of all signatures.

(Code 1950, § 618.2; Ord. No. 118-80, eff. 3-28-80; Ord. No. 173-81, eff. 4-10-81; Ord. No. 895-03, §§ 72—75, eff. 12-2-03)

Sec. 59-648. Applications for amendments.

(a) *By whom made.* Any person may apply for an amendment to the language of this chapter, however only the following may apply for an amendment to this chapter that would modify the official map:

- (1) Council on its own motion;
- (2) All of the owner(s) of the entire land area subject to the application for amendment or their representative(s) authorized in writing to do so;
- (3) One (1) or more of the owner(s) of the real property subject to the application for amendment, or their representative(s) authorized in writing to do so, accompanied by a petition requesting such amendment and which petition, at the time of submittal, contains the signatures of the owner or owners of fifty-one (51) percent or more of the entire land area subject to the application for amendment. For purposes of this subsection only, the "entire land area" shall exclude all areas dedicated for public right-of-way. The department of zoning administration shall adopt and publish a petition form to be used hereunder which shall, in addition to such other requirements as may be set forth by the department of zoning administration, contain on the signature page:
 - (i) The name, address and telephone number of each applicant;
 - (ii) A map of the area subject to the application for amendment;
 - (iii) A statement of the current zoning classification of the area subject to the application for amendment;

- (iv) A statement of the zoning classification sought for the area subject to the application for amendment; and
- (v) A statement above each owner's signature stating "The undersigned states that he/she is the owner (each owner must sign) of the real property having the address of _____, Denver, CO 80_____, that he/she has read and is familiar with (a) the map depicted on this page, (b) the current zoning classification and (c) the zoning classification sought, and that he/she requests the amendment and supports the City Council's consideration of the amendment.

(b) *Filing.* All applications for amendments to this chapter shall be filed in writing with the department of zoning administration.

(c) *Contents.* Without in any way limiting the right to file additional material, all applications for amendments to this chapter shall contain, at least, the following:

- (1) The applicant's name, address and interest in the application, and the names and addresses of all the owners and the holders of deeds of trust of the entire land area subject to the application for amendment, identifying which owners and holders of deeds of trust are represented by the applicant.
- (2) The application fee minus any fee reduction approved pursuant to section 59-40, or a written approval of a fee waiver issued pursuant to section 59-40;
- (3) The street address, if any, and complete legal description of the entire land area subject to the application for amendment;
- (4) In addition, if the application is for the designation of an area as a B-2, B-3 or R-X district, it shall contain the concurrence of the owners and holders of deeds of trust of the entire land area to be included in the proposed district and of all structures thereon, and shall contain sufficient evidence to establish that the applicants are all the owners and holders of deeds of trust for the designated land area and structures;
- (5) The nature, description and effect of the proposed amendment;
- (6) If the proposed amendment would require a change in the official map, a plat showing the land area which would be affected by the proposed amendment, the present zoning classification of the area, the present zoning classification of adjoining areas, all public and private rights-of-way and easements bounding and intersecting the designated area and the abutting districts; provided, however, that if the proposed amendment would designate an area as a B-2, B-3 or B-4 district, the plat shall show additionally the location of all existing and proposed structures with supporting open facilities, and the specific ground area, herein called the zone lot, to be provided and continuously maintained for the structure containing a use by right;
- (7) The time schedule, if applicant has such a time schedule, for the beginning and completion of development planned by the applicant in the applicable area. If the development is planned in stages, the time schedule shall indicate the successive stages and the development planned for each stage;

- (8) If the proposed amendment would require a change in the official map by rezoning an area to a type of district not already established in this chapter at the time the amendment is proposed, the applicant shall furnish all regulations and restrictions for the proposed district;
- (9) If the proposed amendment would require a change in the official map by rezoning an area from an existing residential district to a freestanding business district, would more than double the area of an existing business district entirely surrounded by one (1) or more residential districts or would enlarge the area of an existing business district by more than eight (8) acres, the applicant shall furnish a written description of the market area intended to be served by the development, the population thereof, the effective demand for the proposed facilities and any other information describing the relationship of the proposed development to the needs of the applicable area;
- (10) The error in this chapter that would be corrected by the proposed amendment;
- (11) The changed or changing conditions in the applicable area or in the city generally that make the proposed amendment reasonably necessary to the promotion of the public health, safety or general welfare;
- (12) All other circumstances, factors and reasons which applicant offers in support of the proposed amendment;
- (13) When required by the zoning administrator, such application shall contain an accurate metes and bounds or other legal description of any area contained in the application, which description shall be certified to be accurate by a licensed land surveyor or engineer upon the basis of a survey actually made by or under the supervision of the person so certifying;
- (14) All rights available under the proposed district classification which the applicant commits himself/herself to waive and which shall be the representations to be considered by council.

(d) *Limitation on filing.* No application for the change of a zoning classification shall be made by a property owner or an agent concerning any land area, which land area or any portion thereof shall have been the subject of a public hearing conducted by council within the immediately preceding twelve (12) months period and which public hearing resulted in a rejection of the proposed zoning, provided, however, that 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 rejected by council.

(Code 1950, § 618.3; Ord. No. 17-85, eff. 1-23-85; Ord. No. 302-85, eff. 6-12-85; Ord. No. 584-07, § 2, eff. 10-26-07)

Sec. 59-649. Examination of applications.

Upon receipt of an application for an amendment, properly and completely made as set forth in this article, the department of zoning administration shall transmit copies of the application to the planning office and to any other agencies, either public or private, which might be

affected by the amendment. 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 department of zoning administration.

(Code 1950, § 618.4)

Case law annotation—The recommendations mentioned in this section are not mandatory as a matter of law. Failure to obtain such recommendations prior to rezoning is not fatal to the rezoning. *Cooper v. Denver, 191 Colo. 252, 552, P 2d 13 (1976)*.

Sec. 59-650. Disposition of applications.

(a) *Administrative disposition.* When an application for an amendment, including agency comments and recommendations* thereon, is completely assembled, the department of zoning administration shall submit to council such completed application and agency reports.

(b) *Legislative disposition.* Council shall appoint a committee of its members, which committee shall examine all applications and agency reports submitted to council and which committee shall direct the department of zoning administration as to further action thereon. (Code 1950, § 618.5)

Sec. 59-651. Waivers of rights and obligations and approval of reasonable conditions.

(a) Whenever an application for an amendment to the zoning classification of an area of land, in whole or in part, is based upon a representation by the applicant that the applicant wishes to waive certain rights or obligations under the proposed district classification the city council may adopt such waivers as a part of the ordinance amending the zoning map.

(b) Whenever public necessity, convenience, general welfare or good zoning practice justify the attachment of reasonable conditions to an application for an amendment, the city council may adopt such conditions as a part of the ordinance amending the zoning map if such conditions are approved by the applicant.

(c) Upon adoption of an ordinance pursuant to (a) or (b) above, no zoning permits shall be issued except in strict compliance with the aforesaid waivers or conditions. Any applicant for a change in zoning classification and any person who applies for a permit to alter or erect a structure in such area, whether under disability or otherwise and including the successors and assigns thereof, shall be deemed conclusively to have assented to all of these waivers and conditions and shall be deemed to have waived all objections as to the constitutionality of the foregoing provisions.

(d) Every ordinance changing the zoning classification of an area of land and based, in whole or in part, upon waivers as set forth in subsection (a) or conditions as set forth in subsection (b), shall contain an exact description of any such waivers or conditions, and shall

***Case law annotation**—The recommendations mentioned in this section are not mandatory as a matter of law. Failure to obtain such recommendations prior to rezoning is not fatal to the rezoning. *Cooper v. Denver, 191 Colo. 252, 552 P 2d 13 (1976)*.

be recorded by the department of zoning administration among the records of the city clerk. Such ordinance, either before or after having been recorded, 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 notice, posting and other publication shall be given similar in all respects to notice and publication required for every change in zoning classification.

(e) Nothing herein contained shall be construed as a requirement that all applications for rezoning must contain waivers by the applicant or that there shall be conditions attached thereto.

(Code 1950, § 618.6; Ord. No. 893-02, § 1, 11-8-02)

Sec. 59-652. Reserved.

Editor's note—Ord. No. 893-02, § 1, published November 8, 2002, amended the Code by repealing former § 59-652 in its entirety. Former § 59-652 pertained to approval of reasonable conditions, and derived from Ord. No. 571-84, effective November 15, 1984.