



**TO:** Denver Planning Board  
**FROM:** Andrew Webb, Senior City Planner  
**DATE:** August 12, 2020  
**RE:** Denver Zoning Code – Group Living Text Amendment #7

## 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), CPD staff recommends that Planning Board recommend approval of Group Living Text Amendment #7 to the Denver Zoning Code.

## Summary and Purpose

**Overview:** Denver Zoning Code Text Amendment #7 proposes to overhaul the Zoning Code’s regulations for all residential uses, including conventional dwelling units, residential care and congregate living. The project’s overarching goal is to update regulations, some of which are decades old, that perpetuate inequity and reduce affordability. A Planning Board review draft of the proposed text amendment is available on the Community Planning and Development (CPD) website ([www.denvergov.org/groupliving](http://www.denvergov.org/groupliving)) and is also included as a supplement to this staff report.

This proposed text amendment would update definitions and use limitations for residential uses in Article 11 of the DZC, use tables in all neighborhood contexts, parking requirements and provisions in Article 10, process requirements in Article 12, and definitions in Article 13. The current regulations have been added to and amended several times since the 1950s, resulting in a highly complicated system that does not reflect community needs or how people live now. Currently, the rules limit the establishment of housing for Denver’s most vulnerable residents, effectively excluding some populations from certain areas of the city. Additionally, the code’s approach to defining “households” makes it hard for residents to seek common affordable housing options like living with multiple roommates.

Key changes that would be enacted by this amendment include:

- Allowing more unrelated adults to choose to live together as a housekeeping unit.
- Consolidation of all residential care uses into a single system regulated by number of guests, rather than by population served
- Permitting residential care uses in more zone districts to allow establishment of new shelters, community corrections facilities and similar uses to reduce exclusion of populations and ensure facilities can be established near transit and services.
- Allowing collocation of multiple housing models to provide a spectrum of housing from supportive to independent living at the same location.
- Addition of a new congregate living use category that allows for the evolution of group living that does not require care.
- Updated requirements for minimum off-street parking for various residential uses.
- Minimum spacing between larger residential care facilities and limitations on the density of those facilities in a given area.

- Community information meetings prior to submitting a formal application for larger residential care uses to notify and educate neighbors and foster positive relationships.

This proposed text amendment is the culmination of a two-and-a-half year process, begun at the request of City and community leaders. It is one part of many City efforts aimed at ensuring equitable access to housing for all Denver residents, addressing homelessness and reducing obstacles to affordability. The project team worked closely with a diverse, 48-member advisory committee of people whose occupational or lived experience highlighted issues with the current code. This volunteer committee represented a broad cross-section of community members, registered neighborhood organization (RNO) representatives, group-living service providers and clients, elected officials, design professionals and other stakeholders, to ensure a public process that included multiple perspectives and walks of life.

## Existing Regulations

**Summary:** The Denver Zoning Code currently breaks residential uses down into two use categories: Household Living and Group Living. These categories and their specific included uses are defined in the Use Definitions section of the Denver Zoning Code: Section 11.11.2. Use tables in each neighborhood context establish where these uses are permitted and how many off-street vehicle and bicycle parking spaces are required. Use limitations for primary uses are in Section 11.2.9, and vary extensively by zone district and use.

### Definitions:

**Household Living** is defined in Sec. 11.12.2.1. In a two-unit or multi-unit dwelling, four unrelated adults and any number of relatives to each may occupy each unit. In single-unit dwellings, which comprise approximately half of Denver’s 300,000 dwelling units, the DZC currently permits the following combinations of residents living as a single “non-profit housekeeping unit” (including any permitted domestic employees):

- A single person, plus any number of relatives, or
- Two persons living as partners, plus any number of relatives to either, or
- Two unrelated adults over the age of 18, plus any number of relatives to either

The DZC specifically permits certain relatives, which include parents and grandparents, children and step-children, siblings and step-siblings, in-laws, uncles, aunts and niblings (nieces and nephews).

Denver’s original zoning adopted in the 1920s was more permissive and did not specify the number of people allowed to live in a household. But amendments throughout most of the 20<sup>th</sup> century added restrictions to the definition of “family” or “household.” In the 1950s, the code permitted up to 5 unrelated adults or any number of related people, but by the early 1960s, that language had been amended to only permit related individuals in single unit dwellings. The number of unrelated individuals permitted in a multi-unit dwelling was reduced from five to four in 1982. After the city lost a challenge at the Colorado Supreme Court, the code was amended in 1989 to allow up to 2 unrelated adults in single unit dwellings. A bundle text amendment in 2018 removed outdated gender-specific terms and exclusionary language defining a family as “a husband and wife” and their children but retained the limit of 2 unrelated adults.

Households occupied by persons in excess of these numbers do not clearly fit within existing use types unless they are wholly occupied by adults at least 55 years old (“Residence for Older Adults”) or are allowed paradoxically as a “home occupation” such as for family foster care. As a practical matter such groups often receive permits for residential care uses (described below) even when no care is provided, but this can result in different requirements than standard households. Therefore, the zoning administrator has issued an unlisted use determination for an “FHA Group Home” where a dwelling unit is occupied by a larger number of unrelated adults than allowed under the Denver Zoning Code’s current definition of “household,” but where the dwelling unit’s residents are protected under the Federal Fair Housing Act (“FHA”) as a “handicapped” population.

**Group Living** is defined in Section 11.12.2.1 and includes Assisted Living Facilities, Community Corrections Facilities, Nursing Homes and Hospices, Rooming and Boarding, Transitional Housing, Special Care, Student Housing and Shelter for the Homeless.

**Residential Care Uses:** Transitional Housing, Shelter for the Homeless, Community Corrections Facility and Special Care homes are considered Residential Care Uses, a subcategory of Group Living. Each one is subject to special use limitations (see “How these uses are regulated,” below). Some Residential Care uses are further broken down by number of residents:

- “Large” = facilities serving 9 or more persons
- “Small” = facilities serving 8 or fewer persons

This division is only consistently applied to Special Care uses. Shelters for the Homeless and Community Corrections uses are always considered Large Residential Care uses, regardless of the number of occupants. Transitional Housing uses are always considered Small Residential Care uses, regardless of the number of residents. Assisted living is only considered a Residential Care use in some zone districts.

**Use Limitations:**

- **Spacing and Density Limitations:** Large Residential Care Facilities are not permitted within 2,000 feet of other such uses, and no more than two others may exist within a 4,000-foot radius of the proposed new use. In neighborhoods with more than the city-wide average number of residential care uses within their boundaries, up to 200 feet of additional spacing may be required by the Zoning Administrator.
- **Buffering Requirements:** Certain uses have additional buffering requirements. For example, Community Corrections facilities are not permitted within 1,500 feet of a school or within 1,500 feet of a Residential Zone District. When considered in combination, permitted zone districts, buffering and other requirements mean that Community Corrections uses could conceivably be established on 3% of land in Denver under current regulations.
- **Shelter limitations:** Permanent shelters as a primary use are permitted in higher-intensity mixed-use zone districts, industrial districts and others that are not solely residential. Permanent shelters are subject to the use limitations for Large Residential Care Facilities as described above and in Sec. 11.2.8. They also must meet special requirements for operations, including but not limited to mitigating the impact of waiting areas on adjacent public rights-of-way (preventing obstruction, etc.) and making restrooms available when the facility is closed. Shelters operated by Religious Assembly uses (e.g. churches), or those operated in a building owned by a “nonprofit corporation or government entity” are permitted in nearly all zone districts. Shelters operated by churches that are open for 120 days or fewer per year may also house up to 100 people in any zone district.

- **Limitations on the Number of Residents:** The DZC’s use limitations limit the number of clients served by Residential Care facilities based on size, applicable zone district, etc. Shelters for the Homeless and Community Corrections Facilities are subject to the most stringent requirements. For example:
  - Community Corrections Facilities are permitted in the I-MX zone district but are not permitted to exceed 40 residents, and they must provide 50 feet of gross floor area per person served. In the I-A and I-B zone districts, Community Corrections Facilities are permitted to have larger numbers of residents.
  - Shelters for the Homeless established as permanent, primary uses are not permitted to have more than 200 beds, though some shelters with permits issued prior to Jan. 1, 2005, may have up to 350 beds. No more than 950 beds are permitted in any one city council district in homeless shelters that are permanent, primary uses. However, these limits may be waived by the zoning administrator in an emergency and most shelters operate under these emergency waivers.

**Parking:** Existing vehicle parking regulations for residential uses are summarized as follows:

- **Household Uses:** There are currently no minimum off-street parking requirements for single-unit residential uses (such as detached houses). Two- and multi-unit residential uses have context sensitive parking requirements ranging from 1.25 spaces per unit in the Suburban neighborhood context to .75 spaces per unit in Urban Center and none in Downtown zone districts.
- **Group Living:** Group living parking requirements vary widely between uses. Most are context sensitive, with more off-street vehicle spaces required in the Suburban neighborhood context than Urban Center. Some uses, such as Assisted Living and Transitional Housing, regulated parking by “unit,” with “unit” defined in Sec. 10.4.4.2.C A habitable room, which may or may not contain kitchen or bathing facilities, intended for occupancy by a resident in a group living use. Calculating by unit has had unpredictable outcomes, as different living configurations create variability in the number of people housed per unit in a facility. Additionally, the standard is not applicable to uses configured as a dormitory, or with a combination or continuum of housing types. Other Group Living uses calculate minimum parking per 1,000 square feet of gross floor area. In some cases, parking requirements are fairly high – for example, Rooming and Boarding uses currently require 5 vehicle spaces per 1,000 square feet of gross floor area in many neighborhood contexts. Generally speaking, staff analyses of current Group Living uses, including assisted living facilities, shelters and nursing homes, have found that minimum parking requirements exceed actual demand for parking.

## Proposed Changes to Household Regulations

**Summary:** This amendment updates definitions and regulations for household uses to allow more unrelated people to live together. By updating language that dates back to the 1960s, the amendment would provide flexibility for residents to choose who they want to live with as a housekeeping unit and bring Denver’s regulations in line with other Front Range municipalities and peer cities around the U.S. If adopted, the updated definition would allow up to 5 unrelated adults to live together in any dwelling, with additional unrelated adults (1 per 200 square feet of finished floor area, to a maximum of 10) as shown in the table below. Rather than separate regulations for single-unit (typical detached homes) and two- or multi-unit, all dwelling units would be regulated the same. Finished floor area would be measured by data on habitable space in houses that comes from the Denver Assessor’s office.

Dwelling Unit Size (square feet of finished floor area)	Unrelated adults permitted
Less than 1,800	5 adults
1,800 to less than 2,000	6 adults
2,000 to less than 2,200	7 adults
2,200 to less than 2,400	8 adults
2,400 to less than 2,600	9 adults
2,600 or more	10 adults

As is currently the case, there would be no limit on the number of related individuals permitted to live together. The code’s current specific list of relatives would be replaced with: “...any persons related to each unrelated adult by blood, marriage, civil union, committed partnership, adoption, or documented responsibility (such as foster care or guardianship).”

**“Non-profit Housekeeping Unit:”** As noted above, the current definition uses the term “non-profit housekeeping unit” to describe the various configurations of people permitted to live in dwelling units. Alongside allowing more unrelated adults to live together, the amendment would clarify that members of a household have jointly chosen to occupy the entire premises and make decisions about who may live there. The intent of this language is to clarify that rent-by-the-room or rooming and boarding configurations would not be permitted as Household uses (they are permitted in higher-intensity zone districts as Congregate Living uses).

**Parking:** The amendment would update parking for Household uses in two ways. First, it would establish a new minimum off-street parking requirement for single-unit uses. While two- and multi-unit residential uses do have minimum off-street parking requirements in neighborhood context use tables, single-unit dwellings have not previously had a minimum vehicle parking requirement, due in part to the fact that some Denver neighborhoods were built without driveways or other off-street parking areas. Amendment #7 would add a new context-sensitive minimum off-street parking requirement for households with 6 or more adults (of any relationship):

Context	Parking required for single-unit dwelling use with 6 or more adult residents (note: bicycle parking is not required)
Suburban	2 vehicle spaces
Urban Edge	2 vehicle spaces
Urban	1 vehicle spaces
General Urban	1 vehicle space
Urban Center	0 vehicle spaces CCN only: 1 vehicle space

<b>Downtown</b>	<b>0 vehicle spaces</b>
<b>Industrial (where applicable)</b>	<b>1 vehicle space</b>
<b>Campus (where permitted)</b>	<b>0 vehicle spaces</b>
<b>Master Planned</b>	<b>1 vehicle space</b>

Existing minimum parking requirements for two- and multi-unit dwellings would not change.

Additionally, this amendment would change Section 10.9.3.1 regulating the number of allowed vehicles accessory to a dwelling unit. The current regulation permits “one vehicle per licensed driver plus one for the whole household” to be parked on nearby public right-of-way. The proposed update would remove language regulating parking in the right-of-way, over which the DZC does not have authority. The amended language would limit the total number of stored vehicles permitted per dwelling unit *on a zone lot* to no more than 6. Language regulating storage of vehicles in public right-of-way would be struck from the code.

## Proposed Changes to Group Living Regulations

**Organizational Changes to the Group Living Category:** These proposed amendments would separate uses in the current Group Living category into two new categories: Residential Care and Congregate Living. These broad categories will ensure that new uses can be accommodated as they evolve, and avoid the ongoing use of specific terminology that is vague or outdated in industry practice, such as the current Transitional Housing. The proposed definitions are:

- **Residential Care:** A Residential Structure or structures where guests receive treatment, supervision, emergency shelter, personal care, protective oversight, or other similar services, from staff on-site as a condition of their residency. This definition excludes care provided by domestic employees or care workers in a private home that meets this code’s definition of Household Living or Congregate Living. For purposes of this definition, a “guest” is a person who stays overnight, regardless of total length of stay. For purposes of this definition, staff and volunteers who regularly return to another place of primary residence, but who stay overnight while working or volunteering, shall not be considered “guests.” Tenancy may range from overnight to 30 days or longer.
- **Congregate Living:** A structure or structures providing Residential Occupancy for Persons who do not live in a Household according to Section 11.12.2.1.B.2. A Congregate Living use may occur within a self-contained Dwelling Unit. A Congregate Living use may also, such as with a tiny home village, occur within multiple structures where no one or not all structures contain a self-contained Dwelling Unit, but all structures comprising the use together provide residents with facilities for sleeping, bathing, cooking and preparing food. This use includes groups of Persons who each have separate contracts or agreements with property owners, who do not jointly occupy the entirety of a dwelling unit, or who jointly occupy the entirety of a dwelling unit but who exceed the maximum number of adults permitted per household as defined in Section 11.12.2.1.B.2. This use is intended for permanent, rather than transient, occupancy. Residents of a Congregate Living use may share sleeping units, and may have shared cooking, bathroom and

common areas, or some combination of personal and shared facilities. Residents in a Congregate Living use are not required to seek services or care of any type as a condition of residency.

**Residential Care Types:** This proposed approach would move away from the current practice of regulating residential care uses by population served or the needs or housing status of guests and residents. Instead, all residential care uses would be regulated by size, as Type 1, Type 2, Type 3 and Type 4. As is currently the case, larger facilities would have more restrictions, such as requirements for spacing between locations and limitations on the density of facilities in any given area. The table below summarizes regulations for each of the proposed Residential Care types:

Resid. Care Type	Type 1	Type 2	Type 3	Type 4
Number of Guests	10 or fewer (365 days/year) or up to 100 for no more than 130 days/year	11-40	41-100	101+
Minimum Lot Size	NA	12,000 square feet	NA	NA
Permitted Zone Districts	All districts that permit residential uses	All districts that permit residential uses	Higher-intensity zone districts that permit apartments, commercial uses, etc.  Not permitted in single unit, two unit or row house districts	Highest-intensity zone districts that permit apartments, commercial uses, etc.  Not permitted in single unit, two unit or row house districts, or in lower-intensity multi-unit districts
Spacing Requirements	NA	1,200' between facilities in single-unit, two-unit and rowhome districts when lot has not previously been used for a Civic, Public or Institutional Primary Use	1,200' between Type 3 and Type 4 facilities in medium-intensity districts like multi-unit.  600' between Type 3 and Type 4 facilities in high-intensity districts like Urban Center  400' between Type 3 and Type 4 facilities in some Downtown districts	1,200' between Type 3 and Type 4 in medium-intensity districts like multi-unit.  600' between Type 3 and Type 4 in high-intensity districts like Urban Center  400' between Type 3 and Type 4 in some Downtown districts
Density Requirements	NA	NA	NA	No more than three Type 3 and Type 4 facilities within 1 mile of a proposed Type 4 Residential Care Facility
Community Information Meeting	Not required	Required in SU, TU, RH districts	Required	Required

Multiple residential care uses could now be combined on a single site. This will enable a spectrum of housing options to be provided in one location.

**Permitting and Notification Requirements:** Currently, most Group Living uses are permitted subject to a zoning permit (providing all applicable use limitations have been met). Some require informational notice (zoning permit with informational notice, or ZPIN), provided to Registered Neighborhood Organizations and City Council members in whose districts the use is proposed. The proposed amendment would remove the ZPIN and add a requirement for some uses aimed at improving neighbor awareness of proposed projects and fostering better relationships. Depending on the zone district in which a subject site is located, applicants seeking a zoning permit for Residential Care facilities serving 11 or more guests may need to publicize and hold a community information meeting. Described in DZC Sec. 12.3.4.6, the community information meeting is intended to provide the opportunity for the public to learn directly from an applicant about a potential application before it is submitted to the city. Applicants would be required to notify stakeholders of a community information meeting as follows:

- Signs posted on site (posted notice);
- Mailed Notice to:
  - RNOs and council members within 400 feet, and
  - Tenants and owners of properties within 400 feet; and
- Outreach to other relevant neighborhood-service organizations (churches, nonprofits, etc.).

**Use Limitations:** Existing use limitations requiring any applicable licensing of facilities, as well as provision of restrooms for facilities that are not open 24 hours and design of waiting areas so as not to obstruct the public right-of-way would be retained by these amendments. An additional use limitation stipulates that any facility that serves non-paroled individuals (e.g. community corrections) must have a formal relationship with the Denver Department of Safety.

**Continuation of Existing Residential Care Uses:** Current use limitation language regarding existing facilities would be updated to clarify that any legally established, continuously maintained use shall be considered a conforming use (rather than a legal, nonconforming use), providing additional flexibility for the reconstruction or improvement of existing structures. Additionally, new residential care uses could be added to the site, where permitted by underlying zoning.

**Emergency Expansion:** The proposed amendment would clarify an existing provision allowing suspension of regulations in an emergency, and would also establish a new provision allowing short-term expansions in certain circumstances.

- **Emergency Suspension of Limitations:** Currently, the Zoning Administrator can suspend use limitations and other regulations related to the Shelter for the Homeless Residential Care use in an emergency that threatens public health. The amendment would add specific qualifying criteria for shelters serving people experiencing or at risk of homelessness to ensure transparency for this process.
- **Short-term Emergency Expansion of a Residential Care Use:** Additionally, the amendment creates a new short-term emergency expansion that would allow any existing Residential Care use to expand to up to 125% of the number of permitted guests stipulated in the facility's zoning permit for up to 10 days. This provision requires operators to notify the Zoning Administrator of the proposed short-term expansion.

**Parking:** The proposed amendment would consolidate and simplify parking requirements, moving away from the current space-per-unit approach used for Group Living uses and instead applying the current space-per-Gross Floor Area to all Residential Care and Congregate Living uses. The proposed changes

would also reduce parking requirements for all Residential Care and Congregate Living uses from current minimums, while ensuring parking is provided for staff and residents as appropriate. Proposed off-street parking requirements are as follows:

- Residential Care: .5 vehicle spaces per 1,000 square feet of gross floor area (GFA) in most districts and .25 spaces/1,000 sf GFA in Urban Center. There is no parking requirement in most Downtown districts.
  - Where parking is required, Residential Care Facilities that serve people who are experiencing or who are at risk of homelessness would be able to apply a proposed alternative minimum vehicle parking ratio of .125 spaces/1,000 sf GFA.
- Congregate Living: Vehicle: 1 space/1,000 square feet of gross floor area (GFA) in most districts, .5 spaces/1,000 sf GFA in Urban Center, and 0 in most Downtown districts.

Bicycle Parking would remain generally the same as is currently required, with 1 bicycle space per 4,000 square feet of Gross Floor Area required in Congregate Living uses, and 1 bicycle space per 8,000 square feet of Gross Floor Area required in Residential Care uses.

## Public Process

Below is a summary of the public process for the proposed Group Living Text Amendment:

March 2018 – May 2020	36 Group Living Advisory Committee meetings to define problem, identify and refine possible solutions. All meetings open to the public. Additional details and meeting summaries can be reviewed at <a href="http://www.denvergov.org/groupliving">www.denvergov.org/groupliving</a> .
March 2018 – present (ongoing)	46 public meetings and presentations to Registered Neighborhood Organizations, Inter-Neighborhood Cooperation (INC) and other community groups
August 14, 2018	Public open house held to review and discuss problem statements and seek public input
February 29, 2020	Planning Board Informational Item
February 11, 22, and 26, and March 4, 2020	Four public open houses in locations around the city to present proposed amendments, answer questions, and receive feedback
July 29, 2020	Planning Board informational item
August 3, 2020	CPD written notice of the Planning Board public hearing sent to all members of City Council and registered neighborhood organizations
August 19, 2020	Planning Board public hearing

### Group Living Advisory Committee

The group living advisory committee worked with staff for more than two years to evaluate existing

regulations and provide insight into community needs, the evolution of those needs, how the code works today and potential improvements. The objective was to reach a broad range of perspectives and lived experiences in order to help develop forward-thinking and fair zoning codes. The committee included 48 individuals who represented a cross-section of community members, registered neighborhood organization (RNO) representatives, group-living service providers and clients, elected officials, design professionals and other stakeholders. In addition to their meetings, the committee conducted five site visits to community corrections facilities, shelters and other relevant group living sites, and held several subcommittee meetings at these sites. Committee members (listed on the project website) considered and offered their perspectives on staff recommendations, which are based on research and best practices from peer cities. The committee was facilitated by a city-provided third-party facilitator who helped the committee achieve consensus or near-consensus with their recommendations to staff.

### **Open Houses and Other Outreach**

CPD actively engaged various stakeholder groups on this topic for more than two years. Five citywide community workshops were attended by more than 1,000 people. During and after a series of open houses in February and March of 2020, staff recorded nearly 700 individual comments and e-mails responding to the proposals. The feedback received during this period covered all aspects of the proposed amendments but focused on two key issues further detailed below: household size and larger residential care uses in neighborhoods.

The project team distributed 19 newsletters to promote group living public events and keep people updated as the project progressed. This included 11 newsletters where the only topic discussed was group living (circulation of ~1,200 people) and 8 more general CPD newsletters where a group living update was included (circulation of ~5,900 people). Each announcement was sent to each council office as well, and councilmembers were provided with email and social media content to share in their districts.

Staff also leveraged traditional media to help spread the word that this work has been ongoing. The group living project has been covered roughly a dozen times by outlets including Westword, Washington Park Profile, Denverite, Life on Capitol Hill, Colorado Politics, Denver Post, Fox31, and 9News.

**Written comments:** Written comments on the draft amendment have been submitted in two key phases: during the public rollout of the proposals in early 2020, and following release of the Public Review Draft on July 17, 2020, beginning the official written public comment period for Planning Board.

**Comments on original proposals:** Staff received nearly 700 e-mails and other input on the original proposals set forth in early 2020. While some commenters indicated their support, the majority of these comments indicated concerns about perceived overcrowding of households, parking and larger Residential Care uses in neighborhoods. With input from the Group Living Advisory Committee, staff made updates to the proposed text amendment as detailed above in response to these comments. A log of comments received through April (prior to the May GLAC meeting) can be viewed at the project website, along with a summary of what we heard in that feedback.

**May 2020 proposal updates:** The amendments in the Planning Board draft reflect some changes since these proposals were first rolled out to the public in early 2020:

- **Households and unrelated adults:** The original proposal recommended by the advisory committee would have allowed up to 8 adults of any relationship in any home, with additional adults permitted in larger homes (one per 200 additional square feet of finished floor area over 1,600 square feet, the approximate median Denver house structure size). Many stakeholders who commented on this proposal said they were concerned that allowing 8 unrelated adults in any house would lead to overcrowding. Based on this input, staff recommended reducing the “base” number of permitted unrelated adults to 5. This number is allowed by many other Front Range and peer cities. A key difference with this revised proposal is that the current allowance for unlimited related adults would be retained. This is proposed as a compromise for some stakeholders, who were concerned that existing multigenerational households could be made compliant or non-conforming if the total number of adults of any relationship were reduced from the original proposed 8 to 5. Allowing unlimited relatives would ensure that larger families can legally live in any size house.
- **Single-unit household parking:** as detailed above, the text amendment contains context-sensitive minimum off-street vehicle parking requirements for single-unit households with 6 or more adults. This change was recommended by the group living advisory committee in response to concerns raised about insufficient on-street parking.
- **Type 2 Residential Care minimum lot size:** Presently, Large Residential Care Uses serving 9 or more people are only permitted in structures built prior to May 1993, and may only serve a maximum of 20 people in Single Unit, Two Unit and Row House (SU, TU, RH) zone districts. In Multi Unit (MU) and Residential Office (RO) zone districts, up to 40 people may be served in any structure. The text amendment would allow facilities serving up to 40 people in any zone district, without the requirement that a structure be built prior to 1993 in SU, TU and RH zone districts. Some stakeholders indicated concern that this would introduce larger residential care uses into neighborhoods. In response, staff proposed and the group living advisory committee recommended a 12,000 square foot minimum lot size requirement in those districts for Type 2 Residential Care (11-40 guests). This will limit such facilities to lots that are large enough that such a facility can be appropriately buffered from neighboring uses. Typically these larger lots were previously used for civic, public, or institutional uses such as schools or places of worship.

**Comments on Public Review Draft:** As of the date of this staff report, staff has received approximately 520 comments on the Public Review Draft, all of which are included as an attachment to this staff report. Just over half of those comments, approximately 262, indicated support for the proposals, while approximately 254 indicated they did not support the proposed changes. Four of the comments were neutral about the proposed changes. The following registered neighborhood organizations (RNOs) have indicated support for this text amendment:

- Baker Historic Neighborhood Association
- Capitol Hill United Neighbors
- Chaffee Park Neighborhood Association
- Fax Partnership

Other organizations that have indicated support for this text amendment include:

- All In Denver
- Colorado Center on Law and Policy
- Colorado Cross-Disability Coalition

- Colorado Village Collaborative
- Denver Metro Fair Housing Center
- Delores Project
- East Colfax Community Collective
- Enterprise Community Partners
- Interfaith Alliance of Colorado
- LiveWork Denver
- Mothers Advocate for Affordable Housing (MAAH)
- Queen City Cooperative
- Rodfei Tzedek, the social justice team of Congregation Rodef Shalom
- United for a New Economy
- Urban Land Conservancy
- YIMBY (Yes In My Backyard) Denver

Stakeholders who indicated support for the proposals cited:

- **Social Justice:** Many commenters said these proposed changes would help address past injustice caused by exclusionary zoning practices, such as preventing unrelated people from living together in neighborhoods or relegating shelters, community corrections and similar uses to industrial zones and away from daily needs and services.
- **Affordability:** Many commenters noted the increasing need for housing flexibility, especially as families “double up” and people explore living with roommates to share housing costs in a city with a very high cost of living that has displaced lower-income residents.
- **Innovation:** some commenters noted that these updates would allow new models of living and residential services, including cooperative housing, emerging uses like tiny home villages and single-room occupancy and smaller-scale, more therapeutic residential care. Some commenters said the text amendment could enable new models of shelters, halfway houses and similar services where residents can access daily needs like jobs, shopping and transit, and the benefits of community.
- **Personal choice and property rights:** a number of commenters indicated surprise that the DZC had limits on how people live together, and said they supported changes that would allow property owners and residents more personal choice in housing.

Some stakeholders, however, objected to the changes. Multiple homeowners’ associations and registered neighborhood organizations (RNOs) indicated in written comments that they did not support the text amendments. RNOs whose members voted to oppose these amendments include, but are not limited to, the following:

- Bear Valley Improvement Association
- Berkeley Regis United Neighborhoods
- Cherry Creek North Neighborhood Association
- City Park Friends and Neighbors
- Cranmer Park/Hilltop Civic Association
- Country Club Historic Neighborhood Inc.
- Inter-Neighborhood Cooperation
- Lowry United Neighbors
- Montbello 2020 RNO
- Seven Springs Neighborhood Registered Neighborhood Organization

- South Hilltop Neighborhood Association
- Southmoor Park East RNO
- Virginia Village/Ellis Community Association
- West Washington Park Neighborhood Association
- Winston Downs Community Association

*Note: see comment records for all written input from neighborhood groups.*

Comments received highlighted several key issues, including:

- **Household size:** Some commenters highlighted possible worst-case-scenarios of many adults living in households, lack of availability of on-street parking and failure to maintain properties as possible outcomes of allowing more unrelated people to live together. Multiple stakeholders have suggested a cap on the number of adults in a household, regardless of relationship, and not allowing more unrelated adults in larger houses as is currently proposed.
  - *Staff response: The text amendment includes new minimum parking requirements for large households. The current allowance for unlimited related adults in a household was not identified as a problem in the current code. The allowance for additional adults in larger dwellings was recommended by most members of the group living advisory committee.*
- **Community Corrections uses in neighborhoods:** Some commenters said they were concerned that allowing Community Corrections uses in neighborhoods would jeopardize safety and impact property values.
  - *Staff response: These proposed changes would make it possible for an operator who meets all city, state and federal requirements for community corrections uses serving non-paroled individuals to establish such a use in a neighborhood. While most residential care uses are already permitted in low-intensity residential districts, community corrections uses are currently only permitted in industrial and Downtown zone districts, and are subject to buffer requirements from schools and residential zone districts. This proposed change is consistent with the project's overarching theme of expanding available sites for much-needed residential care facilities for Denver's most vulnerable residents where they will have access to daily necessities and community.*
- **Spacing requirements for the smallest (Type 1) Residential Care Facilities:** The DZC currently does not require spacing between Small Residential Care facilities serving 8 or fewer residents. Throughout the project, some stakeholders have requested a minimum spacing requirement to address concerns that a residential care operator could acquire multiple homes on a block and use them for smaller facilities.
  - *Staff response: An overarching goal of the project is to enable equitable distribution of residential care facilities around the city, and to encourage the establishment of smaller, less institutional residential environments for addiction treatment, transitional housing and similar uses. For these reasons, staff has not recommended spacing limitations for the smallest of facilities.*
- **Larger Residential Care uses in lower-intensity zone districts:** Residential Care uses serving 9 or more people are currently limited to a maximum of 20 guests in low-intensity residential zone districts (SU, TU, RH), and only permitted in buildings built prior to 1993. The text amendment would allow residential care uses serving up to 40 guests in those districts, however they would be limited by building form and minimum lot-size requirements. Some stakeholders have suggested only Type 1 facilities, serving up to 10 guests, should be permitted in the lowest-

intensity zone districts, or that larger facilities should only be permitted on parcels previously in use for a Civic or Public use like a school or church.

- *Staff response: Restricting SU, TU, and RH zone districts to only Type 1 facilities, or only to parcels that previously were used for civic or quasi-public uses would be stricter than the current code allowance. This would not achieve adopted plan objectives for enabling greater flexibility and additional housing options as detailed in the plan consistency analysis below.*
- **Impact on property value:** Some community stakeholders have suggested that allowing more unrelated people to live together as a single household would encourage investors to “buy up houses and rent them out,” displacing lower-income existing residents. Additionally, concerns have been raised that allowing residential care uses in neighborhoods could lower property values.
  - *Staff response: Both issues are speculative and difficult to analyze. Data and anecdotal evidence from peer cities where more unrelated people are permitted to live together suggests that housing tenure and average household size are generally similar to Denver. Additionally, national and worldwide academic studies suggest that shelters, halfway houses and similar uses are less impactful on property values than perceived, and that uses like grocery stores can be more directly connected to property value. Importantly, the text amendment does not enable rent-by-the-room configurations in households. These will still only be allowed as congregate living uses in zone districts where multi-unit dwellings are allowed.*
- **Advisory committee:** Concerns were expressed that the Group Living Advisory Committee favored residential care providers and other stakeholders over neighborhoods.
  - *Staff response: As described above, the GLAC included volunteers who participated based on their occupational or lived experience and represented diverse viewpoints, including more than ten RNO representatives. GLAC made most recommendations by consensus.*
- **Project process:** Some concerns request extension of the process to allow more time for discussion.
  - *Staff response: The public process is documented above. The issues being addressed by this project have become even more urgent in the wake of the pandemic, job losses that are leading to a wave of evictions, the forthcoming loss of our existing community corrections resources, and our country’s long-overdue awakening to issues of equity. In June, Governor Polis reiterated how the pandemic has exacerbated these needs and encouraged local governments to suspend or eliminate restrictions on group homes, boarding houses and the number of unrelated people who can live in a single household to improve our collective ability to ensure housing is legally available to those in need. While these group living proposals do not go this far, they will come at a time when housing is a critical need for our most vulnerable residents.*
- **Project Scope:** Some stakeholders have questioned why the project is tackling all residential use types at once, rather than address them individually, citing concerns that the scope of the project is too large for residents to consider and understand, or that the residential uses are not related
  - *Staff response: These uses are interdependent. One of the key goals of the group living project is to address what makes the current system of rules so confusing and unworkable for both providers and residents. To achieve this, the best approach is a holistic one. Some elements of the Denver Zoning Code’s current group living regulations date back decades, while others have been updated individually and incrementally over*

*time. What we have now is a complicated interrelated system that can be difficult to navigate for providers and unpredictable and frustrating for residents. “Unbundling” the rules won’t necessarily result in a simpler system because addressing individual issues has been part of how we got here. Standardizing rules and permits, creating predictability for providers and neighbors, and addressing types of services equitably—all of these goals are best served by a holistic approach. By looking at group living uses, intent, and outcomes all at once, we can create better policy that’s easier to understand and manage and works better for all stakeholders.*

## **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 Group Living Text Amendment is consistent with the following adopted plans, strategies and policies:

- *Comprehensive Plan 2040* (2019)
- *Blueprint Denver* (2019)
- *Housing an Inclusive Denver* (2018)

### **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 increase flexibility for all types of housing, including conventional dwelling units, shelters, halfway houses and assisted living facilities. It will allow more people to choose how they want to live together in households – enabling multi-generational housing, cooperative housing, living with roommates and sharing housing with other families. The amendment will remove zoning obstacles to the establishment or expansion of much-needed residential care and congregate living uses, and move the city away from exclusionary zoning practices of the past. It would also make new land available for the establishment of facilities that are currently highly restricted, such as shelters and community corrections facilities. Additionally, it will improve opportunities for public engagement and understanding by requiring a community information meeting prior to a zoning application submittal that will ensure RNOs, council members, unregistered organizations, property owners, tenants and residents are informed about many proposed Residential Care uses. The proposed amendment is therefore consistent with the following strategies in the **Equitable, Affordable and Inclusive** vision element:

- Equitable, Affordable and Inclusive Goal 2, Strategy B to “Ensure city policies and regulations encourage every neighborhood to provide a complete range of housing options” (p. 28).
- Equitable, Affordable and Inclusive Goal 3, Strategy B to “Use land use regulations to enable and encourage the private development of affordable...housing, especially where close to transit” (p. 28).
- Equitable, Affordable and Inclusive Goal 3, Strategy D to “Develop and promote programs to help individuals and families, especially those most vulnerable to displacement, access affordable housing” (p. 28).

- Equitable, Affordable and Inclusive Goal 3, Strategy E to “Leverage available publicly owned land for affordable housing development” (p. 28).
- Equitable, Affordable and Inclusive Goal 8, Strategy C to “Ensure that city regulations enable a range of flexible housing options to meet the needs of those experiencing or transitioning out of homelessness” (p. 30).
- Equitable, Affordable and Inclusive Goal 8, Strategy D to “Expand the supply of housing accessible to seniors and people with disabilities, including more housing choices for seniors to age in place” (p. 30).

The proposed text amendment would replace the current zoning permit with informational notice requirement for larger Residential Care uses with the new zoning permit with community information meeting requirement. This means that instead of the current practice of Community Planning and Development notifying only Registered Neighborhood Organizations and City Council members of a proposed use, this process requires the applicant to set up a public meeting and provide notification not just to those recipients, but to immediate neighbors, including renters and businesses, by mail.

Therefore, this amendment is 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 (2019)**

The proposed text amendment is consistent with numerous policies in *Blueprint Denver* (2019) in three overarching categories.

#### **Process**

The following *Blueprint Denver* policy provides guidance for the text amendment process:

- Land Use and Built Form: General, Policy 11: Implement plan recommendations through city-led legislative rezonings and text amendments. (p. 79)
  - Strategy C. Use a robust and inclusive community input process to inform city-led rezonings and zoning code text amendments.

Guided by the equity concepts set forth in Chapter 2 of *Blueprint Denver*, a robust and inclusive community input process informed this city-led package of text amendments, as detailed in “Public Process,” above. The largest advisory committee ever convened for a Denver Zoning Code text amendment represented a wide cross-section of providers, residents, and guests. They considered a wide variety of perspectives and spent more than two years considering the problems and solutions while consulting with the constituencies they represent. Numerous other participation methods from in-person meetings to online consultations and appointments provided opportunities for community input. The text amendment process is consistent with this plan guidance.

#### **Content**

The following *Blueprint Denver* policy provides guidance specific to the group living text amendment content:

- Land Use and Built Form: Housing, Policy 1: Revise city regulations to respond to the demands of Denver’s unique and modern housing needs. (p. 82)
  - Strategy A. Update the zoning code to modernize permitted use categories related to group living and expand the allowance of flexible and affordable housing types.
  - Strategy B. Update the zoning code to provide a more inclusive definition of households. This should reflect the diverse needs of different types of household living arrangements, which may include increasing the number of unrelated people living together (such as co-housing living arrangements, which can provide an option to age in place) or other non-traditional families.
  - Strategy C. Ensure city codes and land use regulations support modern and equitable approaches to housing options for people experiencing homelessness and people in need of supportive housing.

The proposed text amendment is consistent with *Blueprint Denver* because it provides clear, flexible regulations that will enable new flexibility in housing and residential care of all types. It will permit the equitable distribution of housing for Denver’s most vulnerable residents, including those experiencing or at-risk of homelessness, in nearly all zone districts. By updating process requirements and consolidating multi-layered DZC use limitations and other regulations, the text amendment will result in a more predictable process for the city, applicants, and community members. In some cases it will require a community information meeting process prior to site development to inform the community about the proposed use. The text amendment implements all of the guidance of the cited *Blueprint Denver* strategies.

**Blueprint Equity Concepts:** This text amendment is consistent with *Blueprint Denver* policies about involuntary displacement and equity concepts as follows.

- Land Use and Built Form: General, Policy 5: Integrate mitigation of involuntary displacement of residents and/or businesses into major city projects. (p. 75)
  - Strategy B. For major city investments and projects— including regulatory changes and legislative rezonings— analyze the potential for the involuntary displacement of lower-income residents and local businesses.
- Land Use and Built Form: General, 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.

The following analysis considers vulnerability to displacement and the three equity concepts found in *Blueprint Denver* Chapter 2.

- 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. By expanding the availability of sites for residential care and congregate living throughout the city, and allowing people more choice and flexibility in conventional housing, these

amendments would enable a range of affordable housing options and enable providers to increase the range of affordable housing options so that people of all incomes can live where they have access to health care, food and other daily needs. In addition, this text amendment improves access to opportunity for the city’s most vulnerable residents by reducing barriers to development of residential care uses and enabling providers to determine the optimal configuration of space for guests and offer a continuum of housing types in one location. Finally, by allowing people more choices in how they live together in conventional housing, residents will be able to live their lives without fear that their household is in violation of zoning regulations.

- **Reducing Vulnerability to Displacement:** This amendment would permit residential care and congregate living uses in more places, and provide additional flexibility for people to choose how they live together in households. This will reduce vulnerability to displacement by confirming that living with roommates, families sharing homes and cooperative houses are not in violation of the zoning code. Being able to double-up with another family to afford the cost of housing will help keep current residents in place. New definition language will specify that households are groups who have chosen to jointly occupy housing, and that “rent-by-the-room” uses are not permitted in single unit, two unit, and row house zone districts, thereby reducing the likelihood that families would be displaced to convert housing to rental sub-units. Finally, congregate living uses will allow for creative new and re-emerging housing types like single-room occupancy, tiny home villages, co-living and other unconventional approaches, subject to existing building and safety regulations.
- **Expanding Housing and Jobs Diversity:** By allowing new flexibility in all types of housing, this amendment creates housing choices that accommodate households of different ages, sizes, and incomes. By expanding the areas allowed for housing for various populations – including families, the elderly, and people with disabilities, more Denverites will be able to live in neighborhoods of their choice. This also advances Denver’s goal to maintain and increase racial, ethnic, and socioeconomic diversity in Denver’s neighborhoods. Increasing the ability to attain homeownership by sharing costs can help build wealth and improve economic mobility. Therefore this text amendment is highly consistent with Blueprint’s recommendations for expanding housing diversity.

In sum, the text amendment is consistent with all applicable guidance in *Blueprint Denver*.

### **Housing an Inclusive Denver (2018)**

*Housing and Inclusive Denver* was not adopted as a supplement to the Denver Comprehensive Plan, but it was adopted by City Council and can be considered as relevant guidance for reviewing the group living project. The proposed text amendment is consistent with the following *Housing an Inclusive Denver* (2018) policies:

- **Legislative and Regulatory Strategies: Recommendation 2:** Expand and strengthen land use regulations for affordable and mixed-income housing. (p. 47)
- **Housing for Residents Experiencing Homelessness: Recommendation 1:** Expand investments in housing options for residents experiencing homelessness and integrate providers across the housing continuum. (p. 70)
- **Affordable and Workforce Rental Housing: Recommendation 5:** Promote development of new affordable, mixed-income and mixed-use rental housing. (p. 83)

The proposed text amendment is consistent with *Housing an Inclusive Denver* (2018) because it expands and strengthens land use regulations for affording housing by increasing the flexibility of regulations on housing of all types, and by expanding the areas of the city where new types of housing, residential care and congregate living can be established.

## **2. Public Health, Safety and Welfare**

The text amendment furthers the public health, safety, and welfare of Denver residents, land owners, businesses, and community members by implementing the city's adopted plans through regulations that address homelessness and affordable, flexible housing. The text amendment will result in a more predictable and transparent process for the city, applicants, and community members for the development of housing for the city's most vulnerable. The text amendment also promotes public welfare by enabling more affordable housing options for those individuals who are experiencing or at risk of homelessness, in recovery or transitioning back into community from a period of incarceration. The text amendment includes adequate mitigation for potential external effects including minimum parking requirements, minimum building size requirements, minimum separations between uses, and maximum numbers of residents or guests, as appropriate for each use and zone district.

## **3. Uniformity of District Regulations and Restrictions**

The text amendment will result in processes and regulations for all residential use types that are uniform within each zone district in which these uses will be allowed.

### **Attachments**

1. Planning Board review draft
2. Public comments
3. List of public presentations