



TO: Denver City Council
FROM: Andrew Webb, Senior City Planner
DATE: February 4, 2021
RE: Denver Zoning Code – Group Living Text Amendment #8 (*note: this amendment was previously 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), Community Planning and Development (CPD) staff recommends **approval** of Group Living Text Amendment #8 to the Denver Zoning Code.

Summary and Purpose

Overview: Denver Zoning Code Text Amendment #8 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 limit important housing options. A City Council drafts of the proposed text amendment is available on the Community Planning and Development (CPD) website (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.
- Consolidating 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.
- Adding a new congregate living use category that allows for the evolution of group living that does not require care.
- Updating requirements for minimum off-street parking for various residential uses.

- Establishing minimum spacing between larger residential care facilities and limitations on the density of those facilities in a given area.
- Creating limitations on the density of the smallest residential care facilities in neighborhoods.
- Requiring 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 three-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 20th 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 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

Note: The following section summarizes the proposed code amendments shown in the LUTI Draft of Amendment 8, attached to this staff report. The amendments have been revised since the publication of the Planning Board draft – see **December 2020 Proposal Updates**, below, for more details.

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 adults, regardless of relationship, to live together in any dwelling. As is currently the case, there would be no limit on the number of related adults permitted to live together, but no more than 5 adults would be permitted to live in any household where not all residents are related. 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 (as is currently the case, rooming and boarding or rent-by-the-room uses would be permitted in higher-intensity zone districts as Congregate Living uses).

“Related adults:” This proposed amendment would replace the code’s current list of specific family members, and instead define “related” as any persons related one another by blood, marriage, civil union, committed partnership, adoption, or documented responsibility (such as foster care or guardianship)

Parking: If adopted, Amendment 8 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

Note: The following section summarizes the proposed code amendments shown in the LUTI Draft of Amendment 8, attached to this staff report. The amendments have been revised since the publication of the Planning Board draft – see **December 2020 Proposal Updates**, below, for more details.

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 11-20 in single-unit, two-unit and row house zone districts	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 In Single-unit, Two-unit and row house zone districts, permitted only where primary Civic, Public or Institutional uses have been previously established.	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 row house 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	No more than three Residential Care uses of any type within 1 mile of a proposed Type 1 Residential Care Use in Single-unit, Two-unit and Row House zone districts.	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
Other Use Limitations	Facilities serving non-paroled individuals not permitted in Single- and Two-unit zone districts.	Facilities serving non-paroled individuals not permitted in Single-unit (SU), Two-unit (TU) and Row House 2.5 (RH-2.5) zone districts.		

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 new meeting 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 a use permit for any facility that serves non-paroled individuals (e.g. community corrections) must be reviewed by 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 www.denvergov.org/groupliving .
March 2018 – present (ongoing)	60 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: Unanimous recommendation of Approval with recommended conditions: <ul style="list-style-type: none"> • That CPD study and report back annually on key indicators “that may reveal unintended impacts, particular in areas vulnerable to displacement...” • That a Community Information Meeting be required for a community corrections use in single-unit, two-unit and row house zone districts. (<i>note: this is no longer applicable, see December 2020 proposal updates below</i>)
September-December 2020	Land Use, Transportation and Infrastructure Committee: The LUTI committee considered key topics related to these amendments over the course of 5 meetings, as detailed below.
September 1, 2020	Introduction and overview
October 6, 2020	Household Regulations

November 10, 2020	Residential Care, Community Corrections
November 17, 2020	Former Chapter 59, post-adoption monitoring, enforcement
December 1, 2020	Review of proposed revisions
December 22, 2020	Final LUTI Committee action
January 11, 2021	City Council First Reading
February 8, 2021	City Council Public Hearing

Public Process Details and Community Input:

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. To date, the project team has presented at 59 public meetings and Registered Neighborhood Organization events.

The project team distributed 26 newsletters to promote group living public events and keep people updated as the project progressed. This included 18 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, 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 during both the Planning Board and the LUTI phase have been archived on the project website. Comments provided after the August Planning Board hearing are included with this staff report.

Comments on original proposals and May 2020 proposal updates: 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 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. Those changes, which were reflected in a Planning Board Draft published in August, included:

- A reduction in the “base” number of unrelated adults that would be permitted to live in any home from the original proposal of 8 to 5.
- A proposed new off-street parking requirement for single-unit households of 6 or more adults.
- A proposed minimum lot size of 12,000 square feet for Type 2 Residential Care uses in Single-Unit, Two-Unit and Row House zone districts.

Public comments submitted to the Planning Board and City Council: Since the release of the first draft of the amendments in July, staff has received thousands of written comments about the proposed amendments. All comments have been archived on the project website, and comments provided since the Planning Board hearing have been provided to City Council with this staff report. The majority of comments received have indicated concern with some aspect of the proposed amendments or opposition in general to changing the Zoning Code’s current residential regulations. Others indicated support for these updates to the code. In ongoing efforts to address concerns raised by residents and City Council members during the LUTI discussions, staff proposed additional revisions, which are detailed in **December 2020 Proposal Updates**, below, and are reflected in the City Council Draft.

Support for proposed changes: The following registered neighborhood organizations (RNOs) have indicated support for these text amendments:

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

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 Classroom Teachers Association
- 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.

Concerns and opposition to proposed 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 was originally proposed.
 - *Staff response: The proposed text amendments have been revised to establish a maximum cap on the number of adults in houses where not all residents are related. See **December 2020 Proposal Updates**, below.*
- **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: 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. These proposed changes as originally presented to LUTI 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. 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. However, during the discussion at LUTI, it has become clear that there is not support for allowing these facilities directly in neighborhoods. The proposed text amendment has been revised to prohibit residential care uses serving non-paroled individuals in Single-Unit, Two-Unit and some Row House zone districts. See **December 2020 Proposal Updates**, below.*

Shelter uses in neighborhoods: Some stakeholders have interpreted these proposed amendments to mean that shelters (currently referred to in the Zoning Code as ‘Shelters for the Homeless’) would be permitted in neighborhoods that they are not allowed in now.

- *Staff response: this is not accurate. The Zoning Code currently allows shelters operated by a religious assembly use (a church), a “government entity” or a “nonprofit corporation” in all zone districts that permit residential uses. Shelters operated under these provisions are limited to 100 guests (except churches, which do not have a limit) or any number of guests for no more than 120 days per year (effectively, a seasonal shelter). Larger shelters (currently regulated as “Shelters for the Homeless as a Permanent Primary Use) are only allowed in higher intensity zone districts. These proposed amendments would retain these provisions with a few small changes (e.g. expanding the number of days for a seasonal shelter from 120 to 130 so that a network of three providers could provide shelter all year). While it is unlikely that an operator would use a house structure as a shelter, other similar residential care uses, such as transitional housing, serve similar populations in houses and this would remain an allowable use. These amendments would generally preserve existing allowances for shelter uses, reserving only the higher-intensity zone districts for larger facilities, retaining and updating spacing and density requirements, etc. They will, however, provide for some new flexibility for shelter operators, including:*

- *Allowing existing facilities that were legally established but are now nonconforming due to zoning changes to expand and upgrade structures for efficiency or ADA compliance.*
- *Clearer criteria for emergency expansion of shelter capacity, and a new provision for short term expansion in certain situations like freezing overnight temperatures or a pandemic.*
- *Allowing different residential use types on a single zone lot so that providers can offer a continuum of housing options.*
- *Reducing some barriers to establishing a more equitably distributed network of shelters around the city.*
- **“Overconcentration” of the smallest (Type 1) Residential Care Facilities in neighborhoods:** 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. However, staff agrees that concentration of any type of facility in one area can have unintended consequences for all residents, including guests of residential care facilities. The proposed text amendment has been revised to include a use limitation that limits the density of Type 1 residential care uses in Single-Unit, Two-Unit and Row-House zone districts. See **December 2020 Proposal Updates**, below.*
- **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: The proposed text amendment has been revised to limit Type 2 residential care facilities to parcels previously used for a Civic, Public or Institutional use, and cap maximum facility size at 20 guests in Single-Unit, Two-Unit and Row House zone districts. See **December 2020 Proposal Updates**, 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.*

December 2020 Proposal Updates: in response to some of the concerns raised by community members and requests from City Council members made during the LUTI process, several revisions were made to the amendments for the LUTI Draft (attached). The detailed descriptions of the amendments (Proposed Changes to Household Regulations, Proposed Changes to Residential Care Regulations, above) reflect the following revisions developed during the LUTI process:

- **Household Regulations:** Omit proposed provisions that would have allowed more people in larger dwelling units; establish a maximum number of adults who can live in a home where all adults are not related. Households (in all dwelling units) would be allowed to have any number of adults if all residents are related (as is allowed now), or up to a maximum of 5 adults in

households that consist of unrelated people or a mixture of related and unrelated adults. There would not be an allowance for more people in larger homes with more square footage except where an adjustment must be granted under the Federal Fair Housing Act.

- *Staff Notes: this would expand flexibility for larger households of unrelated people – enforcement data suggests that the majority of households where cases are opened have 4 or 5 adult residents. This means that households where a group of unrelated adults, or two families, or some other combination, to a maximum of 5 adults could choose to live together and share housing costs and household activities – common living arrangements in cities around the U.S. and world. It would bring Denver’s regulations in line with most Front Range cities and many peer cities, such as Phoenix, Oklahoma City and Albuquerque. It would not allow for more unrelated adults in larger dwelling units. Some stakeholders have advocated for allowing larger cooperative homes, as would have been permitted by the amendments as recommended by the Planning Board, which had a provision for more adults (1 per 200 square feet of floor area) in houses larger than Denver’s median house structure size of 1,600 square feet. There was not support for this approach at LUTI. Staff will explore ways to allow for the ongoing operation of existing cooperatives and other large households that have more than 5 unrelated adults, consistent with a key goal of ensuring people can keep existing, stable housing. If adopted, staff will monitor the outcomes of these amendments and may revisit allowing larger households in some way in the future.*
- **Community Corrections in Residential Care uses:** Prohibit Community Corrections in Single Unit (SU), Two-Unit (TU) and Row House 2.5 (RH-2.5) zone districts.
 - *Staff notes: this revision is an update on the approach originally proposed by CPD and recommended by Planning Board, which would have allowed community corrections uses in any zone district, consistent with a project goal of treating all residential care uses equitably. It would still reflect an expansion from approximately 3,200 acres (or about 1,200 parcels) to 19,000 acres (or about 15,000 parcels) around the city, including those located along corridors where guests would have access to daily needs, transit, etc.*
- **Type 1 Residential Care Regulations:** For “Type 1” facilities (10 or fewer guests), add a requirement to limit the density of facilities allowed in an area
 - *Staff notes: this provision (similar to what was already proposed for larger residential care uses) will allow the smallest facilities to exist in residential areas (as is currently the case) but would, over time, prevent the overconcentration of these facilities in any one neighborhood.*
- **Type 2 Residential Care Regulations:** For “Type 2” facilities (11-40 guests on lots larger than 12,000 sq. ft.)
 - Permit these uses only on parcels previously in use for a residential care use, or a civic, public or institutional use, such as unused churches, schools, and government buildings (i.e., not in a house)
 - Limit maximum size to 20 guests in Single-unit, Two-unit and Row House zone districts
 - *Staff notes: This change would re-establish an existing cap on the number of people permitted to be served in residential care uses in the city’s lowest-intensity residential zone districts. However, it would replace a current outdated provision*

that such facilities be in a structure built before May 1993 with more flexible provisions allowing reuse of properties in these zone districts that have previously served residential care or non-residential uses.

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 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

Blueprint Denver recommends that text amendments to the zoning code should be guided by the three equity concepts and maps in Chapter 2. The following analysis considers these proposed text amendments in light of those equity concepts:

- **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 lot 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. City Council Draft
2. Public comments
3. List of public presentations