
M E M O R A N D U M

TO: City Planning Commission, Committee of the Whole
FROM: [Kimberly Holien](#), Principal Planner, (612) 673-2402
DATE: July 19, 2018
SUBJECT: Text amendment- Maximum Occupancy

An ordinance was introduced to the City Council on February 9, 2018, to amend occupancy regulations in the zoning code. The following zoning code chapters have been introduced:

- Chapter 520 relating to Introductory Provisions
- Chapter 546 relating to Residence Districts
- Chapter 547 relating to Office Residence Districts
- Chapter 548 relating to Commercial Districts
- Chapter 549 relating to Downtown Districts
- Chapter 551 relating to Overlay Districts

A similar version of this amendment had been presented to the Planning Commission Committee of the Whole in November 2017. At that time, the amendment had been authored and introduced by then Council Member Frey. The amendment had to be reintroduced by a sitting member of the City Council and that was taken on by Council President Bender in January 2018.

The purpose of the amendment is to add flexibility to the residential dwelling unit occupancy regulations by eliminating all references to occupancy in the zoning code. Maximum occupancy regulations were last amended approximately 18 months ago to allow for intentional communities. The current ordinance was introduced by Council President Bender. A companion amendment to Title 12, Chapter 244 relating to the Housing Maintenance Code has also been introduced and will follow a similar timeline as this amendment.

The City of Minneapolis currently regulates occupancy both through the Zoning Code and the Housing Maintenance Code. The Zoning Code regulates occupancy based on the definition of family, while the Housing Maintenance Code regulates occupancy based on the total square footage of the dwelling and each sleeping room. The policy intent of the occupancy regulations in the zoning code is to maintain the residential character of certain areas in the City. The occupancy regulations of the housing maintenance code and building code are life safety provisions intended to ensure the health, safety and welfare of residents. As such, there are residential structures in the City that could safely accommodate

more occupants than the Zoning Code allows, but are unable to be fully utilized due to an ordinance that evaluates the relatedness of the individuals. The proposed amendment would eliminate occupancy regulations from the zoning code and rely exclusively on square-footage calculations in the Housing Maintenance Code. The changes would provide more opportunities for individuals who are not related to share housing.

The City's current approach to occupancy was recently cited as an impediment to accessing fair housing, based on a regional study that included 22 cities. The 2017 Addendum to the Regional Analysis of Impediments to Fair Housing prepared by HUD identified the City of Minneapolis' occupancy regulations as an impediment to fair housing choice. Minneapolis was one of two cities out of 22 studied that had this particular issue identified. The report made three specific recommendations to change the zoning code in order to remove this barrier. Those three recommendations are as follows:

- (1) Amend the definition of "family" to more closely correlate to neutral maximum occupancy restrictions found in safety and building codes.
- (2) Increase the number of unrelated persons who may reside together to better allow for nontraditional family types.
- (3) Create an administrative process that allows for a case-by-case approach to determining whether a group that does not meet the code's definition of family or housekeeping unit is nonetheless a functionally equivalent family.

The City is required to examine its land use and zoning policies in light of the Addendum's findings and take appropriate actions to ensure that said policies affirmatively further fair housing. The proposed amendment would specifically address the first two recommendations above. The third recommendation has been at least partially addressed through the allowance of intentional communities.

Minneapolis is fairly unique in that occupancy is regulated in both the Zoning Code and the Housing Maintenance Code. In doing peer cities research, most cities that have a Housing Maintenance Code do not regulate occupancy in the zoning code. Minneapolis also seems to be in the minority among larger cities by regulating occupancy by number of individuals in the zoning code. Other cities that regulate occupancy in the zoning code often regulate occupancy based on square footage, similar to our Housing Maintenance Code. Many zoning codes among peer cities are silent on maximum occupancy. The February 2007 issue of "Zoning Practice," a publication of the American Planning Association, was titled "Practice Redefining Family." Regarding the definition of family, this publication states that defining family is primarily a use issue, not one of occupancy. It goes on to say that occupancy is best addressed in housing codes and the International Building Code.

Draft text of the zoning code amendment has been attached for review. Draft text of the Housing Maintenance code changes was not available at the time this report was drafted, but the proposed text would generally decrease the number of occupants that can safely reside in a structure. Currently the Housing Maintenance Code addresses occupancy based on sleeping rooms, requiring 70 square feet for the first person, 90 square feet for two people and an additional 50 square feet for each additional person, maxing-out at four persons per sleeping room. The proposed changes to the Housing Maintenance Code would regulate occupancy as follows:

- A 70 square foot minimum for all sleeping rooms
- For all zoning districts: 200 square feet of living space per person, not including children under 18 years of age.
 - MN State Fire Code residential occupant load factors based on the function of space
 - Based on HUF calculations, overcrowding would occur when there is less than 165 square feet per person.

The proposed timeline for the text amendment includes a public hearing before the City Planning Commission on August 13, 2018 and a public hearing before the Zoning and Planning Committee of the City Council on September 13, 2018. Both the zoning code text and the Housing Maintenance Code text would be considered by the full City Council on or around September 21, 2018.

ORDINANCE

By Schroeder

Amending Title 20, Chapter 546 of the Minneapolis Code of Ordinances relating to Zoning Code: Residence Districts.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 546.50 contained in Article I relating to General Provisions of Chapter 546, Residence Districts, be amended to read as follows:

546.50. Maximum occupancy. ~~(a) Dwelling units. The combined maximum occupancy of a dwelling unit located in the R1 through R3 Districts shall not exceed one (1) family plus up to two (2) unrelated persons living together as a permanent household provided that the family plus the unrelated persons shall not exceed a total of five (5) persons. The maximum occupancy of a dwelling unit located in the R4 through R6 Districts shall not exceed one (1) family plus four (4) unrelated persons living together as a permanent household, provided that the family plus the unrelated persons shall not exceed a total of five (5) persons.~~

~~(b) Rooming units. The maximum occupancy of a rooming unit shall be as regulated by [Chapter 244](#) of the Minneapolis Code of Ordinances, Housing Maintenance Code. Reserved.~~

Section 2. That Section 547.50, contained in Article I relating to General Provisions of Chapter 547, Office-Residence Districts, be amended to read as follows:

547.50. Maximum occupancy. ~~(a) Dwelling units. The maximum occupancy of a dwelling unit located in the office residence districts shall not exceed one (1) family plus four (4) unrelated persons living together as a permanent household, provided that the family plus the unrelated persons shall not exceed a total of five (5) persons.~~

~~(b) Rooming units. The maximum occupancy of a rooming unit shall be as regulated by [Chapter 244](#) of the Minneapolis Code of Ordinances, Housing Maintenance Code. Reserved.~~

Section 3. That Section 548.50, contained in Article I relating to General Provisions of Chapter 548, Commercial Districts, be amended to read as follows:

548.50. Maximum occupancy. ~~(a) Dwelling units. The maximum occupancy of a dwelling unit located in the commercial districts shall not exceed one (1) family plus four (4) unrelated persons living together as a permanent household, provided that the family plus the unrelated persons shall not exceed a total of five (5) persons.~~

~~(b) Rooming units. The maximum occupancy of a rooming unit shall be as regulated by [Chapter 244](#) of the Minneapolis Code of Ordinances, Housing Maintenance Code. Reserved.~~

Section 4. That Section 549.50, contained in Article I relating to General Provisions of Chapter 549, Downtown Districts, be amended to read as follows:

549.50. Maximum occupancy. ~~(a) Dwelling units. The maximum occupancy of a dwelling unit located in the downtown districts shall not exceed one (1) family plus four (4) unrelated persons living together as a permanent household, provided that the family plus the unrelated persons shall not exceed a total of five (5) persons.~~

~~(b) Rooming units. The maximum occupancy of a rooming unit shall be as regulated by [Chapter 244](#) of the Minneapolis Code of Ordinances, Housing Maintenance Code. Reserved.~~

Section 5. That Section 551.390, contained in Article IV relating to the IL Industrial Living Overlay District of Chapter 551, Overlay Districts, be amended to read as follows:

551.390. Maximum occupancy. ~~(a) Dwelling units. The maximum occupancy of a dwelling unit located in the IL Overlay District shall not exceed one (1) family plus four (4) unrelated persons living together as a permanent household, provided that the family plus the unrelated persons shall not exceed a total of five (5) persons.~~

~~(b) Rooming units. The maximum occupancy of a rooming unit shall be as regulated by [Chapter 244](#) of the Minneapolis Code of Ordinances, Housing Maintenance Code. Reserved.~~