
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: November 2, 2017
SUBJECT: Text amendment- Maximum Occupancy

An ordinance was introduced to the City Council on January 27, 2017, 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

The purpose of the amendment is to add flexibility to the residential dwelling unit occupancy regulations in the zoning code by amending the definition of family. The intent of the proposed change would to make the definition of family more broad and potentially allow for a certain number of unrelated individuals to be considered a family. Maximum occupancy regulations were last amended approximately one year ago to allow for intentional communities. The proposed amendment would relax occupancy more broadly in all zoning districts. This ordinance was introduced by Council Member Frey. A companion amendment co Title 12, Chapter 244 relating to the Housing Maintenance Code has also been introduced.

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 add flexibility to these regulations and provide opportunities for people 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 related to the definition of family 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.

Peer cities research found many cities that allow for a certain number of unrelated individuals to constitute a family. Cities that allow between three and five unrelated individuals under the definition of "family" include Cincinnati, Phoenix, Indianapolis, Philadelphia, Pittsburg, Fort Worth and Saint Paul. Austin, Texas and Dallas, Texas allow for up to six unrelated individuals to share a dwelling unit while Seattle, Washington allows for eight unrelated persons and San Francisco, California allows for ten.

Staff will present multiple options for the proposed code text at the Committee of the Whole meeting. A public hearing for this amendment is scheduled for November 13, 2017.