

ORDINANCE AMENDMENT REVIEW SHEET

Amendment: C20-2013-035 Occupancy

Description: Consider an ordinance amending City Code Title 25 to amend the occupancy limit for unrelated individuals in single-family zoned property.

Proposed Language: See attached draft ordinance.

Background: Initiated by Council Resolution 20131121-053.

On November 21, 2013, the City Council directed the City Manager, via Resolution 20131121-053, to work on a code amendment examining a possible reduction in occupancy for unrelated individuals. This Council Resolution was in response to concerns about over-occupancy in single-family zoned neighborhoods, where “stealth dorms” have caused code compliance issues. Specifically, the Council Resolution:

“...initiates a code amendment related to dwelling unit occupancy that will set the maximum number of unrelated adults who may reside in structures allowed on single-family zoned property at four and directs the City Manager to process the code amendment and bring it to Council on or before January 30, 2014. The Planning Commission may elect to recommend a different maximum; it may also recommend that the code amendment be limited to some parts of the city, or be offered as a tool available to Neighborhood Planning Teams, rather than as a provision that applies to the entire city.”(Underline added)

At their January 21 meeting, the Codes and Ordinances Subcommittee recommended a change in occupancy, from six to four unrelated individuals, for all residential uses that are permitted on single-family zoned property, as recommended by Council Resolution 20131121-053. The Subcommittee did not make any recommendation on how to treat non-conforming or grandfathered uses.

At their January 28 meeting, the Planning Commission recommended a change in occupancy, from six to four unrelated individuals, for all residential uses that are permitted on single-family zoned property, as recommended by Council Resolution 20131121-053, and specified which uses should be included (see attached draft ordinance). The Planning Commission did not make any recommendation on how to treat non-conforming or grandfathered uses. The Subcommittee and Planning Commission also recommended that any proposed change be applied on a city-wide basis, not in an opt-in, opt-out process.

At their February 13, 2014 meeting, the City Council approved on first reading the Planning Commission recommendation for the uses and zoning districts where new occupancy limits should apply, with the specification that for Duplex Residential Use and Two-Family Residential Use the occupancy limit of four individuals should be by site.

Council also recommended using an effective date to determine whether a structure would fall under new occupancy limits that limit the number of individuals to four, or older regulations that allow six or more unrelated individuals.

Because occupancy itself is neither a use nor a site development standard, existing occupancy regulations fall into a grey area where they are not considered non-conforming or non-complying. Existing code allows for non-conforming and non-complying structures to be rebuilt in the event they are destroyed, but occupancy limits do not fall into these categories. Stakeholders have raised a concern that should an existing dwelling that is permitted six unrelated individuals be destroyed, it should be clarified that the structure could be rebuilt and continue to accommodate same number of individuals.

Staff Recommendation: Staff recommends the proposed code amendment.

Board and Commission Actions

January 21, 2014: Recommended by the Codes and Ordinances Subcommittee on a 5-0 vote.

January 28, 2014: Recommended by the Planning Commission on a 7-0 vote (Commissioner Roark and Commissioner Nortey absent) the Codes and Ordinances Subcommittee recommendation, with additional language to note that the proposed changes will expire two years after the effective date of the ordinance.

Council Action

February 13, 2014: Approved on first reading on a 6-1 vote with the following additional direction:

- Consideration of how to define a family unit.
- Consideration of a geographical boundary within which the new occupancy regulations would apply.
- Assist the Austin Board of Realtors in conducting an economic impact study.

Ordinance Number: NA

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