



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

BOULDER COUNTY BOARD OF COUNTY COMMISSIONERS PUBLIC HEARING

June 27, 2024 at 9:00 a.m.

*All Commissioners' public hearings and meetings will be offered in a hybrid format where attendees can join **through Zoom** or **in person** at the Boulder County Courthouse, 3rd Floor, 1325 Pearl Street, Boulder.*

PUBLIC HEARING with PUBLIC TESTIMONY

STAFF: Cayley Byrne, Long Range Planner I

Docket DC-24-0002: Text Amendments to the Land Use Code Related to Residential Occupancy

Text amendments to the Land Use Code related to residential occupancy, specifically Article 18 Family and Dwelling Unit Definitions, Article 4 Single Family Dwelling and Multifamily Dwelling Use Classifications, and other changes to the Code necessary to integrate these changes.

Action Requested by Board of County Commissioners: Approval

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SUMMARY

On May 14, 2024, staff received authorization from the Board of County Commissioners (BOCC) to pursue text amendments to the Boulder County Land Use Code (the Code) related to residential occupancy, specifically Article 18 Family and Dwelling Unit Definitions, Article 4 Single Family Dwelling and Multifamily Dwelling Use Classifications, and any other related Articles and provisions necessary to integrate these changes. The text amendment authorization memorandum is included as Exhibit B in this packet.

On April 15, 2024, Governor Jared Polis signed HB24-1007, the Harmonizing Occupancy Measures Equitably Act (HOME Act) into law in Colorado. This act prohibits local governments from limiting residential occupancy in a dwelling unit based on familial relationship, while retaining the right to limit residential occupancy based on demonstrated health and safety standards. The HOME Act takes effect on July 1, 2024. Community Planning & Permitting staff are proposing amendments to the existing regulations in the Code to redefine how occupancy is regulated in order to comply with the HOME Act.

PROJECT GOALS

The goals for this project can be summarized as:

1. Comply with the HOME Act. The proposed amendments would revise our Code to comply with the enactment of the HOME Act by updating our method of regulating residential occupancy to no longer rely on familial relationship as a guide for occupancy limits, which the act prohibits.
2. Regulate residential occupancy through objective standards. While this proposed text amendment is largely driven by the passage of the HOME Act, staff believes this update of the Code's approach to regulating occupancy is appropriate for other reasons as well. The Code's current definition of Family, and its implementation as a means of measuring occupancy, is exclusive and limits the efficiency through which existing housing stock can be utilized in Boulder County. It is not in our interest to define Family as a social group, but to regulate occupancy as a means to prevent overcrowding and promote public health, ensure building safety standards are met, and make certain that onsite facilities and utilities are appropriate for the level of occupancy. Re-envisioning how Boulder County regulates occupancy through the Code will remove biases surrounding the current definition of Family and improve equity in the Code by employing a more objective standard related to legitimate government interests of preserving and promoting public health and safety within residential dwelling units.

DISCUSSION

In the Code, we currently regulate occupancy in residential dwellings by utilizing the term Family to define the occupancy of residential uses in the Dwelling Unit definition and Single Family Dwelling and Multifamily Dwelling use classifications. The proposed amendments to the Code would replace this approach with one allowing us to continue to regulate occupancy in residential dwellings, without limiting occupancy based on familial relationship. The proposed draft text is included as Exhibit A in this staff packet.

The approach taken by staff is to remove the definition of Family from the Code and add a new definition for Household into the Code. Use of the word Family, in the definition for Dwelling Unit, and use classifications for Single Family Dwelling and Multifamily Dwelling, would be replaced with Household. The terms Single Family Dwelling and Multifamily Dwelling would also be updated to remove Family and instead use Unit. Single Family Dwelling would become Single Unit Dwelling and Multifamily Dwelling would become Multi-Unit Dwelling.

Staff researched the approach taken to regulate residential occupancy in other cities and counties near Boulder County to begin this project, as well as reviewed how other

municipalities outside of Colorado use methods besides familial relationship to regulate residential occupancy. Staff found examples of other terms used to define the occupancy of a dwelling unit, including “living unit,” “household,” “household group,” and “non-profit housekeeping unit.” The term Household was selected as it seemed most appropriate in defining the cooperative living arrangements created by families and/or groups of housemates who share kitchen, living and sanitary facilities in a single dwelling unit. The definition of Household proposed by staff incorporates standards that are also utilized in the Boulder County Building Code, including that all members of the Household must have free and unfettered access to the kitchen, living areas, bathroom and bathing facilities, and all utilities and mechanical equipment associated with the dwelling unit they occupy.

Occupancy limits based on demonstrated health and safety standards, as allowed by the HOME Act, were also developed and are proposed to be added to the Dwelling Unit definition in the Code. Staff consulted the Boulder County Building and Public Health departments and referenced the Boulder County Building Code Amendments, International Building Code (IBC), International Residential Code (IRC), International Property Maintenance Code (IPMC), and Onsite Wastewater Treatment System (OWTS) Regulations in their development of the draft text for these proposed text amendments.

The proposed text includes reference to the OWTS Regulations, to ensure that the occupancy of a dwelling unit can be supported by the OWTS for that dwelling unit, and a minimum room area and occupancy standard that is utilized in the IPMC. The IPMC’s minimum room area for bedrooms is 70 square feet for bedrooms occupied by one individual, with an additional 50 square feet of bedroom area required for each additional occupant of that bedroom. This standard seemed most appropriate to staff as it utilizes a demonstrated health and safety standard through its implementation in the IPMC and it allows staff to continue to regulate occupancy as a means to prevent overcrowding and promote public health. Staff proposes to use this standard for bedrooms and guestrooms of a dwelling unit, as both terms are defined and utilized in the Boulder County Building Code.

Additionally, the absolute occupancy limit maximum of 16 occupants proposed is based on existing Building Code standards for residential uses. Structures that are governed by the IRC have a maximum occupancy of 16 occupants or less. Therefore, a maximum occupancy limit of 16 occupants was deemed appropriate to apply to all residential dwelling units in order to regulate the intensity and impact of a single dwelling unit and promote public safety. A limit of 16 occupants is consistent with Public Health and Building Code regulations.

The scope of this Code change is narrowly defined and focused on updating the approach to regulating occupancy as required by State law. Future Code updates may be necessary to continue to implement the county’s housing goals and consider other issues raised due to the changes made here. For example, changing the approach to occupancy could lead to more unrelated individuals of driving age living together and potentially more vehicles associated with the property. This Code update does not attempt to address or update residential parking requirements for the County.

Staff also utilized the Boulder County Racial Equity Impact Assessment Tool (REIAT) to ensure that time was dedicated to discussions of racial equity in relation to this proposed text amendment. The implementation of the REIAT for this update did not identify ways that this

Code update would disproportionately negatively impact any particular community. Staff believes that this change will reduce discrimination in housing and advance racial equity.

REFERRAL RESPONSES

Referrals were sent out by staff to Boulder County Public Health, Boulder County Access & Engineering, Boulder County Building Safety & Inspection Services, the Boulder County Attorney's Office, all water and sanitation districts within Boulder County, all cities within Boulder County, adjacent counties, the Colorado Division of Water Resources, and all Boulder County Fire Protection Agencies. Due to the limited timeline of this update, draft text was not yet prepared at the time the referral was sent out. Staff requested comments, concerns, and considerations from referral agencies on the plan to update our method of regulating residential occupancy to one that does not rely on familial relationship. Responses to the referral request are included as Exhibit C in this packet for review by Planning Commission.

Referral responses included comments from the Boulder County Access & Engineering team, who commented that dwelling units containing several unrelated adults may increase parking demand and recommended language be included that on-site parking must not interfere with emergency response vehicle access. The Boulder County Building Safety & Inspection Services Team recommended the utilization of current Building Code standards based on the IBC and IRC, and standards from the IPMC, in this update since they are demonstrated health and safety standards, as required by the HOME Act. Left Hand Fire Rescue commented that OWTS will need to be able to support occupancy loads.

Larimer County, City of Lafayette Fire Department, and Little Thompson Water District responded with no comments or concerns.

PUBLIC COMMENT

Public comment on this docket was received and is provided for review by the Board of County Commissioners as Exhibit D in this packet.

CRITERIA REVIEW

Article 16-100.B contains criteria for amending the text of the Code. Staff finds that these criteria are met in the context of this Docket, as follows:

The existing text is in need of amendment:

In order to comply with the enactment of the HOME Act and its prohibition on regulating residential occupancy based on familial relationship, the Code requires amendment.

The amendment is not contrary to the intent and purpose of this Code:

The Code is enacted to protect and promote the health, safety, and general welfare of the present and future inhabitants of Boulder County. In conformance with the Code, the proposed text amendment seeks to regulate residential occupancy to ensure that building safety standards are met, dwelling units do not become overcrowded, and that the facilities and utilities serving a dwelling unit are able to support its occupants, thus promoting the health, safety, and general welfare of residents of Boulder County.

The amendment is in accordance with the Boulder County Comprehensive Plan:

As proposed, the text amendment does not make changes to the Code that would alter the

current Code’s consistency with the goals and policies of the Boulder County Comprehensive Plan (the “Plan”). The proposed modification supports multiple goals and policies of the Plan, related to housing, equity, and public health, including:

Guiding Principles (GP-1)

1. Consider and weigh the interconnections among social, environmental, and economic areas in all decisions.
3. Create policies and make decisions that are responsive to issues of social equity, fairness, and access to community resources for all county residents.

Countywide Goals

Housing (CG-5)

1. Value. Boulder County is an inclusive, culturally responsive community that values, respects, and seeks to support the housing needs of all individuals while adhering to the Guiding Principles of the Comprehensive Plan.

3. Act on Values. Boulder County’s housing related regulations and decisions reflect the county’s values and the Guiding Principles of the Comprehensive Plan.

Public Health (CG-6)

6. Promote Healthy & Safe Structures. Boulder County supports efforts to ensure that structures have healthy indoor air quality, structural integrity and reasonable safety features to protect occupants.

Housing Element

HO 1.03 Definition of Family in County Regulations. The county takes an expansive view of what constitutes a family and supports varied living arrangements that reflect the county’s inclusive and welcoming values while maintaining its commitment to public safety and welfare.

HO 1.06 Innovation and Evolution of Housing Solutions. The county allows for innovation and creativity in policies and regulations as demographic conditions, building typologies, and new housing strategies evolve over time.

HO 3.09 Utilization of Existing Housing. The county supports efficient utilization of existing housing stock that may accommodate as many people as the structure was intended to house, in accordance with health and safety considerations and water and wastewater capacities.

These elements are also interconnected by the Plan’s cross-cutting theme of equity. The Plan states, “Equity is reached through the systemic implementation of policies, practices, attitudes and cultural messages that create and reinforce equitable outcomes for all people.” Revising the Code to implement a broader policy for regulating residential occupancy, that does not rely on familial relationship, increases opportunities for equitable housing outcomes for more Boulder County residents.

PLANNING COMMISSION

Planning Commission heard Docket DC-24-0002, Text Amendments to the Land Use Code Related to Residential Occupancy, at a public hearing on June 12, 2024. Staff presented the proposed text amendments and responded to clarifying questions from Planning Commission.

Questions from Planning Commission included whether all uses of Family, Single Family Dwelling, and Multifamily Dwelling in the Code would be updated with this proposed amendment. Staff was also asked for clarification on the “cooperative living arrangement” language proposed in the Household definition, whether it would create issues through different interpretations, and if it implies a written agreement.

Additionally, Planning Commission asked staff how safety is incorporated into the proposed text amendments and how bedrooms that may become nonconforming under the proposed bedroom size minimums might be addressed.

After the Public Hearing (there were no speakers) Planning Commission discussed the proposal. Discussion topics amongst the Planning Commission included implementation of the proposed bedroom size minimums, the proposed OWTS regulation requirement, and the possibility of including amendments to other related sections of the Code in this update.

The Planning Commission voted and unanimously recommended approval of Docket DC-24-0002 to the Board of County Commissioners.

- MOTION: Chris Whitney MOVED that the Boulder County Planning Commission APPROVE and recommend to the Board of County Commissioners approval of Docket DC-24-0002: Text Amendments to the Land Use Code Related to Residential Occupancy and certify the docket for action to the Board of County Commissioners.

In response to questions from Planning Commission, staff made another thorough review of the Code to ensure that all uses of the terms Family, Single Family Dwelling, and Multifamily Dwelling were identified. All uses of the defined terms proposed to be amended, such as Single Family Dwelling, will be updated throughout the Code, as well as slight variations of such terms that imply the same meaning and relate to occupancy, such as “single family residential development” or “one-family dwelling.”

Staff also acknowledges comments from Planning Commission on considering the inclusion of other related updates to the Code in this proposed amendment, such as the Boarding House and Group Care or Foster Home uses, where the word family may be used. However, staff finds that more research, analysis, and collaboration is necessary to appropriately update other residential uses in the Code. A more holistic approach to reviewing such residential uses in the Code is recommended by staff in a future update and establishing revised occupancy regulations at this time will inform those future discussions.

RECOMMENDATION

Staff recommends that the Board of County Commissioners approve Docket DC-24-0002: Text Amendments to the Land Use Code Related to Residential Occupancy.

Exhibit A

DOCKET DC-24-0002: Text Amendments to the Land Use Code Related to Residential Occupancy – Text amendments to the Land Use Code related to residential occupancy, specifically Article 18 Family and Dwelling Unit Definitions, Article 4 Single Family Dwelling and Multifamily Dwelling Use Classifications, and other changes to the Code necessary to integrate these changes.

Article 4 Zoning 4-511 Residential Uses

D. ~~Multifamily-Unit~~ Dwelling

1. Definition: A building or buildings that are occupied or are arranged, designed, and intended to be occupied, by two or more ~~families~~ Households, and contains more than one dwelling unit, but not including hotels, motels, or boarding houses.
2. Districts Permitted: By right in NRCDD as part of Mixed Use, MF and T
3. Parking Requirements: Two spaces per unit; units dedicated to elderly, 0.5 spaces per unit.
4. Loading Requirements: None
5. Additional Provisions:
 - a. Approval under the Subdivision Regulations is required prior to the development of ~~Mmultifamily-Unit D~~wellings unless part of a mixed-use project that receives approval under another Community Planning & Permitting review process.

E. Single ~~Family-Unit~~ Dwelling

1. Definition: A detached building which is occupied or which is arranged, designed, and intended to be occupied, by not more than one ~~family~~ Household, and which contains not more than one dwelling unit.
2. Districts Permitted: By right in all districts
3. Parking Requirements: Two spaces
4. Loading Requirements: None
5. Additional Provisions: None

Article 18 Definitions

18-138 Dwelling Unit

One or more rooms designed to accommodate one ~~family~~ Household and containing only one kitchen plus living, sanitary, and sleeping facilities.

A. Maximum occupancy of a Dwelling Unit shall not exceed any of the following:

- a. The number of individuals permitted by the Onsite Wastewater Treatment System (OWTS) Regulations, as applicable.
- b. The number of individuals that can be accommodated within the bedroom(s) and guestroom(s), as defined by the Boulder County Building Code, of the Dwelling Unit.
 - i. A bedroom or guestroom occupied by one individual shall be at least 70 square feet. For each additional occupant the bedroom or guest room shall have an additional 50 square feet.
- c. Sixteen individuals.

Exhibit A

18-148 Family

- ~~A. An individual, or two or more individuals related by blood, marriage, or adoption, and not more than two roomers or boarders; or~~
- ~~B. Two adults and any of their lineal descendants; or~~
- ~~C. A group of not more than three unrelated individuals; and who are living together as a single housekeeping unit.~~

Insert and renumber:

Household

A group of individuals who occupy a single Dwelling Unit and have established a cooperative living arrangement, where all members of the Household have free and unfettered physical access to the Dwelling Unit's kitchen, living areas, all utilities and mechanical equipment, and a bathroom which includes bathing facilities.



Exhibit B Community Planning & Permitting

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**BOULDER COUNTY
BOARD OF COUNTY COMMISSIONERS
BUSINESS MEETING**

May 14, 2024 at 10:30 a.m.

All Commissioners' public hearings and meetings will be offered in a hybrid format where attendees can join through **Zoom** or **in-person** at the Boulder County Courthouse, 3rd Floor, 1325 Pearl Street, Boulder.

Authorization under Article 16-100.A of the Boulder County Land Use Code for Text Amendments to the Land Use Code related to residential occupancy, specifically Article 18 Family and Dwelling Unit Definitions, Article 4 Single Family Dwelling and Multifamily Dwelling Use Classifications, and other changes to the Code necessary to integrate these changes.

STAFF: Cayley Byrne, Long Range Planner I

Public testimony will not be taken — action requested.

SUMMARY

Staff requests authorization to pursue a text amendment to the Boulder County Land Use Code (the Code) related to the regulation of residential occupancy, specifically Article 18 Family and Dwelling Unit Definitions, Article 4 Single Family Dwelling and Multifamily Dwelling Use Classifications, and any other related Articles and provisions necessary to integrate these changes.

On April 15, 2024, Governor Jared Polis signed HB24-1007, the "HOME (Harmonizing Occupancy Measures Equally) Act" (HOME Act) into law in Colorado. This act prohibits local governments from limiting occupancy in a dwelling unit based on familial relationship, while retaining the right to limit residential occupancy based on demonstrated health and safety standards. This act takes effect on July 1, 2024. The Code will need to be updated in accordance with this new statute prior to its effective date of July 1.

As a result of the enactment of the HOME Act, Community Planning & Permitting staff are proposing an amendment to existing regulations in the Code to redefine how occupancy is regulated. In the Code, the Family definition is how we regulate occupancy in residential dwellings by utilizing the term Family in the definitions of Dwelling Unit, Single Family Dwelling, and Multifamily Dwelling. The proposed amendment to the Code would replace this approach with one which would allow us to continue to regulate occupancy in residential dwellings, without limiting occupancy based on familial relationship.

Exhibit B

While this proposed text amendment is largely driven by the passage of the HOME Act, staff believe that this update to our approach to regulating occupancy is appropriate for other reasons as well. The Code's current definition of family, and its implementation as a means of measuring occupancy, is limiting, exclusive, and reduces the efficiency through which we can use existing housing stock in Boulder County. It is not in our interest to define "Family" as a social group, but to regulate occupancy as a means to prevent overcrowding and promote public health, ensure building safety standards are met, and make certain that facilities such as the Onsite Wastewater Treatment System (OWTS) are appropriate for the level of occupancy. Re-imagining how Boulder County regulates occupancy through the Code will remove biases surrounding our current definition of "Family" and improve equity in the Code by employing a more objective standard related to legitimate government interests of preserving and promoting public health and safety within residential dwellings.

Staff intend to update content in Article 18 and Article 4 of the Code and will revise other parts of the Code to integrate the changes necessary as a result of changing this definition, and to implement a new scheme of regulating residential occupancy. Some organizational changes and updates to the existing language may also be necessary to make the Code easier to navigate and utilize. Initial consideration surrounding reasonable ways to regulate residential occupancy include a people per square foot of conditioned Residential Floor Area limit, utilization of the OWTS person per bedroom size assumption, or alignment with the Building Code's occupancy limits as guided by the International Residential Code (IRC). Staff requests any guidance or direction the Board of County Commissioners may be able to provide staff on this update.

Staff is on a short and strict timeline for this update to meet the HOME Act's effective date of July 1, 2024. Due to the necessity of this timeline, public outreach and engagement will be limited to written comment on the draft and public comment at public hearings throughout this process.

The tentative timeline for this code update is as follows:

1. Authorization: May 14, 2024
2. Code development: May 14-29, 2024
3. Finalize draft and publishing staff report: May 29-June 5
4. Planning Commission Public Hearing: June 12, 2024
 - a. Written public comment June 5-12, 2024.
 - b. Public comment at Planning Commission public hearing on June 12, 2024.
5. Board of County Commissioners Public Hearing: June, 2024
 - a. Written public comment June 5-June BOCC Hearing date, 2024.
 - b. Public comment at June BOCC public hearing, date to be determined.
6. The HOME Act takes effect: July 1, 2024

ACTION REQUESTED

Staff request authorization from the Board of County Commissioners to pursue the amendment to the Boulder County Land Use Code as described herein.

Exhibit C

From: [CHRIS O'BRIEN](#)
To: [Byrne, Cayley](#)
Subject: [EXTERNAL] Referral Packet for DC-24-0002: Text Amendments to the Land Use Code Related to Residential Occupancy
Date: Friday, May 17, 2024 1:13:08 PM

Hi Cayley-

Thanks for the language amendments! I have no concerns, but a thought: STR/ADU/family units need to have an OWTS that can support the occupancy load. I can see this getting out of hand quickly.

Cheers!

Chris



Chris O'Brien

Fire Chief

EFO/CFO/NRP

O: 720-214-0560 C:303-817-6009

Exhibit C

From: [Jacob Hebert](#)
To: [Byrne, Cayley](#)
Subject: [EXTERNAL] Referral Packet for DC-24-0002: Text Amendments to the Land Use Code Related to Residential Occupancy
Date: Monday, May 20, 2024 7:25:03 AM

Cayley,

LTWD has not comments or concerns with these amendments to the Land Use code.

Thanks.

Jake Hebert, PE
Civil Engineer III



Little Thompson Water District
835 E. State Highway 56, Berthoud, CO 80513
Direct: 970-344-6374
jhebert@ltwd.org | www.ltwd.org

Exhibit C

From: [Morgan, Heather](#)
To: [Byrne, Cayley](#)
Subject: FW: Referral Packet for DC-24-0002: Text Amendments to the Land Use Code Related to Residential Occupancy
Date: Tuesday, May 21, 2024 7:43:53 AM
Attachments: [image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)

Hi Cayley,

Please see below.

Thank you,
Heather

From: Roger Parker <Roger.Parker@lafayetteco.gov>
Sent: Monday, May 20, 2024 11:40 AM
To: Morgan, Heather <hmorgan@bouldercounty.gov>
Subject: [EXTERNAL] RE: Referral Packet for DC-24-0002: Text Amendments to the Land Use Code Related to Residential Occupancy

Heather,

No comments at this time.

Roger Parker
Fire Marshal
City of Lafayette | Fire Department
303-661-1202



From: Morgan, Heather <hmorgan@bouldercounty.gov>
Sent: Friday, May 17, 2024 12:08 PM
To: allensparkwater@gmail.com; president@eastboulderwater.com; sbeck@sdmsi.com; lloften@sdmsi.com; cade metro-district.com <cade@metro-district.com>; Hunter Wright <hwright@eldora.com>; Steve Buckbee <sbuckbee@lefthandwater.org>;



Community Planning & Permitting

Exhibit C

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May 30, 2024

TO: Cayley Byrne, Long Range Planner I; Community Planning & Permitting

FROM: Anita Riley, Principal Planner; Community Planning & Permitting,
Development Review Team – Access & Engineering

SUBJECT: Docket # DC-24-0002: Text Amendments to the Land Use Code related to
Residential Occupancy

The Development Review Team – Access & Engineering staff (AE) has reviewed the above-referenced docket and has the following comments:

1. Dwelling units with several unrelated adults will likely result in increased parking demand. Consideration should be given to whether parking requirements should be revised.
2. Staff also recommends that language to the effect of “on-site parking may not interfere with the safe and effective operations of emergency response vehicles” be included in the Land Use Code.

This concludes our comments at this time.


Exhibit C

From: [Morgan, Heather](#)
To: [Byrne, Cayley](#)
Subject: FW: [EXTERNAL] Re: Referral Packet for DC-24-0002: Text Amendments to the Land Use Code Related to Residential Occupancy
Date: Thursday, May 30, 2024 12:06:07 PM
Attachments: [image001.png](#)

See below.

From: On Call Planner <planning@larimer.org>
Sent: Thursday, May 30, 2024 12:00 PM
To: Morgan, Heather <hmorgan@bouldercounty.gov>
Subject: [EXTERNAL] Re: Referral Packet for DC-24-0002: Text Amendments to the Land Use Code Related to Residential Occupancy

Larimer County has no issues or concerns with this submittal, thanks!

	Justin Currie
	On Call Planner
<hr/> <p>Community Development Department 200 W Oak St, Fort Collins, 80521 3rd Floor Planning@larimer.org www.larimer.gov</p>	

Please [click here](#) to view the most current version of the **Land Use Code**.

Pre-application meetings are required before applying, [click here](#) to submit a request through our online portal (apply --> plans --> planning pre-application). You will be required to make an account prior to submitting the request. Please visit our [webpage](#) if you would like more information on the pre-application meeting process.

Use the Assessor's [property search tool](#) to locate your zoning (hint: zoning is located in the "related info" box after selecting your property).

Please visit our [Online Portal](#) to view Community Development Records - If you are having trouble logging in try these [helpful hints](#).

On Fri, May 17, 2024 at 12:08 PM Morgan, Heather <hmorgan@bouldercounty.gov> wrote:

Please find attached the referral packet for **DC-24-0002: Text Amendments to the Land Use Code Related to Residential Occupancy**.



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Building Safety & Inspection Services Team

MEMO

TO: Cayley Byrne, Long Range Planner
FROM: Ron Flax, Deputy Director CP&P / Chief Building Official
Michelle Huebner, Plans Examiner Supervisor
DATE: June 3, 2024

RE: Referral Response, DC-24-0002: Text Amendments to the Land Use Code related to Residential Occupancy.

Thank you for the referral. We have the following comments:

The currently adopted Boulder County Building Code 2015 editions of the International Codes and code amendments, which can be found via the internet under the link: [Amendments to Boulder County Building Code effective June 6, 2022](#)

There is also a “View Only” online version of the full ICC Codes:
<https://codes.iccsafe.org/public/collections/I-Codes>

The focus of this referral response is “single family homes and further focused on “non-transient” occupancy which is defined as occupancy that is greater than 30 days in duration. “Transient” occupancy (occupancy that is for periods of time of 30 days or shorter) is covered by additional and separate regulations (such as our Short-term rental licensing program).

These comments are valid and would be unchanged when looking at the soon to be adopted 2021 version of the I-Codes and are also consistent with the soon to be published 2024 I-Codes.

Under the 2015 I-Codes, the maximum number of occupants of a dwelling is 16 persons. This is found under the definition of a Boarding House (non-transient) from Chapter 3 of the IBC, and puts fixed limits regarding structures built using the IRC. If a structure is intended to provide occupancy for more than 16 persons, it will need a change of use building permit to be reviewed, inspected for compliance under the currently adopted IBC code.

In addition, to these limitations that are already contained within the current Building Code, it is our recommendation that we utilize some well-established regulations from the

Claire Levy County Commissioner **Marta Loachamin** County Commissioner **Ashley Stolzmann** County Commissioner

Exhibit C

International Property Maintenance Code (IPMC). While Boulder County does not specifically adopt the IPMC, this code does provide some guidance regarding Occupancy Limitations that are designed to ensure minimum health and safety standards. For the purpose of this discussion, we are specifically recommending adopting language taken from Section 404: Occupancy Limitations:

Room area. Every living room shall contain not less than 120 square feet and every bedroom shall contain not less than 70 square feet and every bedroom occupied by more than one person shall contain not less than 50 square feet of floor area for each occupant thereof.

Access from bedrooms. Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces. Exception: Units that contain fewer than two bedrooms.

Water closet accessibility. Every bedroom shall have access to not less than one water closet, one bathtub or shower and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to not less than one water closet and lavatory located in the same story as the bedroom or an adjacent story.

Prohibited occupancy. Kitchens and non-habitable spaces shall not be used for sleeping purposes.

Other requirements. Bedrooms shall comply with the applicable provisions of the Boulder County Building Code including, but not limited to, the light, ventilation, habitable room area, ceiling height and room width requirements; the plumbing facilities and water-heating facilities requirements; the heating facilities and electrical receptacle requirements; and the smoke detector and emergency escape requirements.

Exhibit D

From: [Michelle Pinkowski](#)
To: [Byrne, Cayley](#)
Subject: Re: [EXTERNAL] Text Amendment in response to HOME Act
Date: Sunday, June 9, 2024 2:46:26 AM
Attachments: [image001.png](#)

Hi Cayley,

I'd like to submit comments to the proposed text amendment. By way of introduction, my law firm advocates for fair housing rights for people with disabilities, particularly older adults with disabilities living in assisted living residences. Thus, I've reviewed the proposed text amendments through a fair housing lens.

I appreciate County staff's actions to work quickly to address the new requirements of the HOME Act. When it comes to "regular" Family / Household definitions, I think you've done a great job. However, one thing that has been overlooked is to address the definition of Group Care, as well as the fact that its approval requires special review.

Sec. 4-511 of the LUC defines "Group Care or Foster Home" as "A facility which provides 24-hour care or supervision of persons who are not related by blood, marriage, or adoption, to the owner, operator, or manager thereof, **and who do not meet the definition of family** under this Code. A Group Care or Foster Home may be operated by a public, nonprofit, or private agency." This use can only be allowed by special review in the F, A, RR, ER, SR, MF, MH, MI, T, and B districts.

The HOME Act applies to all groups of unrelated people – be they simple roommates, college students, or people living in congregate care. This law is important for group homes like assisted living residences, as limitations on occupancy are often imposed because the residents, while living together as a single housekeeping unit, are generally not related.

The applicability of the HOME Act is especially important for people who live in assisted living residences, as they seek care in these homes specifically because they have one or more disabilities that impact their ability to engage in everyday life activities on their own. These individuals are considered to be disabled and fall under the protections of state and federal fair housing and anti-discrimination laws. See Colorado's Unfair Housing law, C.R.S. §§ 24-34-502 to 502.2; the Fair Housing Amendments Act, 42 U.S.C. §§ 3601-3619; the Americans with Disabilities Act, 42 U.S.C. §§ 12101-12213; and the Rehabilitation Act of 1973, 29 U.S.C. §§ 791-794.

Therefore, if any number of non-disabled people will now be classified as a Household and can live in a Single Unit Dwelling as a matter of right (subject to health and safety standards), anti-discrimination laws teach us that any number of people with disabilities also must be allowed to live in a single dwelling, too, without the burden of a special review process or other differentiating conditions.

Please update the Planning Commission packet to reflect that public comments have, in fact, been received. I'm out of the country at the moment and would be very grateful if you could let me know how my comments have been addressed.

Thanks very much,

Michelle Pinkowski