

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT:

Public Hearing on Emergency Interim Zoning Control Ordinance No. 6128 adopted on September 23, 2013, to address impacts resulting from the rental of multiple rooms in single family dwellings to unrelated individuals.

FISCAL IMPACT:

Council is holding a public hearing on the emergency Land Use Code Amendment adopted to address impacts to residential neighborhoods created when investors rent out individual rooms in single family homes. To date, existing Code Compliance staff capacity has been sufficient to address complaints that unrelated tenants exceed the maximum allowable number of unrelated individuals. Code compliance has received ten new complaints related to the occupancy of nine single family properties since the emergency ordinance was passed on September 23, 2013. Code compliance is a General Fund-supported function, and the volume of complaints will continue to be monitored as permanent regulations are developed. If code enforcement demand created by new complaints exceeds staff capacity, response timelines may increase in the short term. The need for increased staffing levels would then be evaluated and additional resources sought if necessary during the 2015-16 budget process.

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POLICY CONSIDERATION:

On September 23, the City Council adopted Ordinance No. 6128 as an emergency ordinance under the authority in Chapter 36.70A RCW and RCW 35A.13.190. This interim zoning control (1) deleted the general development regulations applicable to rooming houses; (2) clarified that boarding home performance criteria apply to rooming houses; (3) amended the definition of "Boarding House;" and (4) amended the definition of "Family" to address impacts resulting from the rental of multiple rooms in single family dwellings to unrelated individuals. A copy of Ordinance No. 6128 is included as Attachment A to this memorandum.

Pursuant to state law, a public hearing is required to be held by the City Council within 60 days of adopting an emergency ordinance. On November 4, the Council will be asked to hold the required hearing on Emergency Interim Zoning Control Ordinance No. 6128 adopted on September 23, 2013, to address impacts resulting from the rental of multiple rooms in single family dwellings to unrelated individuals.

The policy question before Council after holding the required public hearing is: (1) whether the Emergency Ordinance should continue to remain in effect for the six-month period while permanent regulations are developed by the Planning Commission to address this issue and (2) whether Principles for Planning Commission review should be adopted by the City Council to guide development of permanent regulations?

BACKGROUND:

Residents of the Spiritwood neighborhood began contacting Council members and City staff over the summer raising concerns about an emerging business model in their single family neighborhood. Under this emerging model, an ownership group was purchasing homes with the intention of renting out individual rooms under separate lease agreements. In a meeting with City staff, approximately one dozen Spiritwood residents identified the following impacts that were expected to occur if the rental practice was not curtailed:

- Density of residents living in single family neighborhoods could increase.
- Rental housing levels could increase in Spiritwood as investors seek to serve the student population attending Bellevue College as it transitions to a four year institution.
- Property maintenance could decline and rat infestations could occur.
- On-street parking volumes, traffic and speeding could increase.

Spiritwood residents requested that the business practice be regulated as a boarding home, because renters are not “living together as a single housekeeping unit” as required by the definition of family. However, the classification of boarding homes as a form of transient lodging precluded application of the boarding home regulations to the rental housing activity that was occurring in Spiritwood. The City Council concluded that a regulatory change was necessary to address this emerging business model that was not contemplated by the Land Use Code.

On September 9, 2013, the City Council directed staff to bring forward a draft emergency ordinance to address concerns raised by Spiritwood residents regarding the rental of individual rooms in single family homes to unrelated individuals. On September 23, an emergency ordinance was presented to the City Council for discussion and adoption. The ordinance contained the following components:

1. The performance requirements applicable to Boarding Houses were expanded to include “Rooming Houses,” and to consolidate standards applicable to these uses in a single location as a code simplification strategy. See Attachment A; Section 1. As a result of the change in Section 1, the general development requirements regarding rooming homes were no longer necessary, and these were deleted. See Attachment A; Section 2.
2. The definition title for “Boarding House” was expanded to specifically include “Rooming” which is referenced in the narrative of the current definition. The definition of “Boarding/Rooming House” was also expanded to apply to stays of 30 days or more and to eliminate any conflict with the definition “Transient Lodging.” See Attachment A; Section 3.

3. The definition of “Family” was amended to reduce the number of unrelated individuals who were able to live together from six to four in order to bring the definition into closer alignment with Bellevue’s 2.75 person average household size. The definition was also amended to better describe what constitutes “related individuals” versus “unrelated individuals,” and to apply only to adults (persons 18 years or older). The definition was expanded to describe circumstances where more than four unrelated individuals were allowed to live together as the functional equivalent of a family. See Attachment A; Section

An “emergency ordinance” may be adopted when “necessary for the protection of the public health, public safety, public property, or the public peace.” RCW 35A.13.190. This process may not be used to levy taxes; grant, renew or extend a franchise; or authorize the borrowing of money. An emergency ordinance becomes effective immediately upon adoption by a majority plus one of the City Council. The Council voted unanimously to adopt the emergency ordinance on September 23, and is required by state law to schedule a hearing within 60 days. The hearing scheduled to occur on November 4 before the City Council satisfies state law requirements applicable to the adoption of an emergency ordinance.

Following the public hearing on Ordinance No. 6128, Council will be asked (1) whether the Emergency Ordinance should continue to remain in effect while permanent regulations are developed by the Planning Commission to address this issue and (2) whether Planning Commission Principles should be adopted to guide its work on the permanent regulations.

Next Steps

Staff recommended both a short-term and longer-term response to the Spiritwood issue when Council began its deliberations on this topic in September. The short-term approach was to create a targeted emergency ordinance that would provide a foundation for Planning Commission development of permanent regulations to narrowly address the rental housing issues raised. Council adoption of the emergency interim zoning control will help discourage the emerging business practice in the short term while a permanent regulatory approach is developed, and the emergency action will need to be extended every six months until the final regulations are recommended by the Planning Commission and adopted by the City Council. Draft principles to guide the Planning Commission work on the narrowly tailored amendment are provided as Attachment B. Development of short term permanent regulations will focus on consideration of city-wide impacts on rental housing to ensure that negative consequences of the narrowly tailored amendments are appropriately minimized.

The longer-term approach was to explore a wider range of potential code amendment options as part of the Comprehensive Plan Update to address the impacts that occur when occupancy of single family homes is maximized. The Council made significant progress toward maintaining and improving neighborhood character as part of the Livability Initiative, and the City will continue that work by considering additional amendments targeted to address the Spiritwood issues. Code amendments could consider:

- Placing limits on garage conversions for living space;
- Adopting additional single room occupancy regulations;

- Evaluating the appropriate role of detached accessory dwelling units in the provision of fair housing choices;
- Evaluating the single family home definition to ensure that it is appropriately specific to foster development of desired housing options without encouraging the commercial use of housing in single family neighborhoods;
- Addressing “apodments” and micro-housing development trends; and
- Considering the role of rental registration and inspection program options as a viable enforcement strategy.

These above-listed issues are best addressed in coordination with the Comprehensive Plan Update. Housing affordability and diversity of housing types has emerged as a recurrent theme during outreach for the Comprehensive Plan Update and would be a key consideration if any of these additional code amendments were undertaken to address the Spiritwood issue. Taking into consideration the existing code amendment workload, the significant interest in completing the Shoreline Master Program Update quickly, and the need to include the broader housing policy discussion with the Comprehensive Plan Update, staff recommends that Council adopt the principles included in Attachment B to guide Planning Commission development of short term narrowly tailored permanent regulations to address the Spiritwood issues raised.

OPTIONS:

1. Affirm that the Emergency Ordinance should remain in effect for the allowed six-month period while permanent regulations are developed by the Planning Commission to address the rental housing issues, and adopt Planning Commission Principles contained in Attachment B to guide its work on narrowly tailored permanent regulations.
2. Provide alternative direction to staff.

RECOMMENDATION:

Affirm that the Emergency Ordinance should remain in effect for the allowed six-month period while permanent regulations are developed by the Planning Commission to address rental housing issues raised by the Spiritwood neighborhood, and

Adopt Planning Commission Principles contained in Attachment B to guide its work on narrowly tailored permanent regulations.

MOTION:

Affirm that the Emergency Ordinance should remain in effect for the allowed six-month period while permanent regulations are developed by the Planning Commission to address rental housing issues raised by the Spiritwood neighborhood, and

Adopt Planning Commission Principles contained in Attachment B (as amended by Council during discussion of this topic) to guide its work on narrowly tailored permanent regulations.

EFFECTIVE DATE:

Ordinance No. 6128 became effectively immediately upon passage on September 23, 2013. The public hearing is required by state law to be scheduled within 60 days. The hearing scheduled to occur on November 4 before the City Council satisfies state law requirements, and the effective date of the ordinance remains unchanged as a result of the hearing.

ATTACHMENTS:

- A. Emergency Ordinance No. 6128
- B. Draft Planning Commission Principles to guide development of permanent regulations

AVAILABLE IN COUNCIL OFFICE:

n/a

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6128

AN ORDINANCE of the City of Bellevue, Washington, adopting interim official zoning controls to address impacts resulting from the rental of multiple rooms in single-family dwellings to unrelated individuals, by amending the definitions of "boarding house" and "family" and creating a new definition of "rooming house", for a period of six months, to be in effect while the City drafts, considers, holds hearings, and adopts permanent regulations, to be effective immediately upon adoption, scheduling a hearing on the maintenance of the interim zoning ordinance, providing for severability, and declaring an emergency.

WHEREAS, the Bellevue Comprehensive Plan seeks to maintain and strengthen the vitality, quality, and character of Bellevue's residential neighborhoods while providing housing choices and affordability; and

WHEREAS, the City of Bellevue has begun an update of its Comprehensive Plan as mandated by the Growth Management Act, and that update will include a broader evaluation of the community's housing policies, needs, and related issues; and

WHEREAS, the Bellevue City Council has recently heard numerous concerns from citizens about the rental of multiple rooms in single-family dwellings to unrelated individuals and under separate lease agreements, and the impacts of such rentals; and

WHEREAS, the concerns and impacts identified by citizens include the erosion of single-family neighborhood character, from a stable neighborhood character to one that is more transitory, increased density, declining property maintenance, and increased on-street parking, traffic, noise and instances of speeding, among others; and

WHEREAS, the Bellevue Land Use Code currently defines "family" as one or more persons (but not more than six unrelated persons) living together as a single housekeeping unit, but does not define "single housekeeping unit"; and

WHEREAS, the American Community Survey for 2007-2011 shows that the average single-family household size in Bellevue is 2.75 persons; and

WHEREAS, the Bellevue City Council has determined that this rental practice and its real and potential impacts threaten the vitality, quality, stability, and single-

family character of Bellevue's residential neighborhoods, and that emergency action is warranted to diminish this threat; and

WHEREAS, the adoption of the interim controls contained herein will address the immediate impacts resulting from the above-described rental practice, will protect the stability and character of Bellevue's single-family neighborhoods, and will provide an opportunity for the City to more fully research and develop appropriate long-term strategies; and

WHEREAS, the Bellevue City Council has determined that the termination of existing uses that do not conform to the interim controls by July 1, 2014, will fairly and reasonably balance the interests of property owners and users with the benefit to the public; and

WHEREAS, pursuant to WAC 197-11-880, actions that must be undertaken immediately or within a time too short to allow full compliance with the State Environmental Policy Act (SEPA), to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt from the provisions of that Act (see also BCC 22.02.050); and

WHEREAS, pursuant to RCW 36.70A.390 a public hearing must be held within 60 days of the passage of this ordinance; and

WHEREAS, the potential adverse impacts upon the public safety, welfare, and peace, as outlined herein, justify the declaration of an emergency; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 20.20.140 of the Bellevue Land Use Code is hereby amended to revise the general development requirements applicable to "Boarding Houses and bed and breakfasts," to read as follows:

20.20.140 Boarding/rooming houses and bed and breakfasts.

Boarding/rooming houses and bed and breakfasts require a Home Occupation Permit, Part 20.30N LUC, approval. In addition, not more than two rooms may be rented to not more than two persons other than those occupying a single-family dwelling, provided there is compliance with health and building code requirements. The owner of the rooms to be rented shall provide off-street parking for such rooms at the rate of at least one parking stall for each room.

Section 2. Section 20.20.700 of the Bellevue Land Use Code is hereby deleted.

Section 3. Section 20.50.012 of the Bellevue Land Use Code is hereby amended to revise the definition of "Boarding House," to read as follows:

20.50.012 B definitions.

Boarding/Rooming House. A dwelling in which ~~roomers and/or boarders~~ individuals unrelated to the owner are housed and/or fed for profit for any time period, including stays of 30 days or more. This definition includes, but is not limited to, Transient Lodging as defined in LUC 20.50.048. (Refer to see LUC 20.20.140 for General Development Requirements applicable to Boarding/Rooming House uses).

Section 4. Section 20.50.020 of the Bellevue Land Use Code is hereby amended to revise the definition of "Family," to read as follows:

20.50.020 F definitions.

Family. One or more adult persons related by blood, marriage, or legal adoption (but not more than six unrelated persons); or a group of not more than four unrelated adult persons living together as a single housekeeping unit in a dwelling unit. A group of more than four unrelated adult persons living together in a dwelling unit may also be included within the definition of "Family" if they demonstrate to the Director that they operate in a manner that is functionally equivalent to a Family. Factors that shall be considered by the Director include whether the group of more than four unrelated persons:

- a. Shares the entire dwelling unit or act as separate roomers;
- b. Includes minor, dependent children regularly residing in the household;
- c. Can produce proof of sharing expenses for food, rent, or ownership costs, utilities, and other household expenses;
- d. Shares common ownership of furniture and appliances among the members of the household;
- e. Constitutes a permanent living arrangement, and is not a framework for transient living;
- f. Maintains a stable composition that does not change from year to year or within the year;
- g. Is not a society, fraternity, sorority, lodge, organization or other group of students or other individuals where the common living arrangement or basis for the establishment of the housekeeping unit is temporary; or
- h. Can demonstrate any other factors reasonably related to whether or not the group of persons is the functional equivalent of a family.

For purposes of this definition and notwithstanding any other provision of this Code, children with familial status within the meaning of Title 42 United States Code, Section 3602(k) and persons with handicaps within the meaning of Title 42 United States Code, Section 3602(h) will not be counted as unrelated persons.

Section 5. Amortization for Certain Nonconforming Uses. Notwithstanding Section 20.20.560 of the Bellevue Land Use Code, any use of a structure or of land which does not conform to the regulations of the district in which the use exists due to changes in the definition of "Boarding/Rooming House" in Section 20.50.012 and/or "Family" in Section 20.50.020, adopted on September 23, 2013, which use lawfully existed on the date such changes became effective, shall be discontinued by July 1, 2014.

Section 6. Duration and Scope of Interim Regulations. The interim regulations imposed by this ordinance shall become effective on the date herein, and shall continue in effect for an initial period of sixty (60) days, unless repealed, extended, or modified by the City Council after subsequent public hearings and the entry of additional findings of fact pursuant to RCW 35A.63.220.

Section 7. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council shall hold a public hearing on this ordinance within sixty (60) days of its adoption, or no later than November 22, 2013, so as to hear and consider public comment and testimony regarding this ordinance. Following such hearing, the City Council may adopt additional findings of fact, and may extend the interim regulations for a period of up to six (6) months. If a period of more than six months is required to complete consideration of any changes to city codes, the Council may adopt additional extensions after any required public hearing, pursuant to RCW 35A.63.220 and RCW 36.70A.390.

Section 8. Permanent Regulations. The City Council hereby directs the staff to develop for its review and adoption permanent regulations to adopt the interim regulations adopted herein, and to transmit this ordinance to the Washington State Department of Commerce as required by law.

Section 9. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section 10. Public Emergency. The City Council hereby finds and declares that a public emergency exists and that this ordinance is a public emergency ordinance necessary for the protection of the public health and safety and should, therefore, take effect upon adoption. The facts upon which this public emergency is based include all recitals set out in this ordinance as well as those facts contained in the legislative record.

Section 11. Effective Date. In accordance with RCW 35A.13.190, this ordinance, as a public emergency ordinance, shall take effect and be in force immediately upon adoption by a majority plus one of the City Council.

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09/19/13

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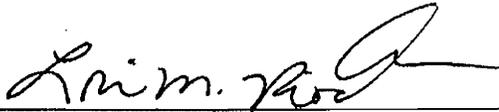
PASSED by the City Council this 23rd day of September,
2013, and signed in authentication of its passage this 23rd day of
September, 2013.

(SEAL)



Conrad Lee, Mayor

Approved as to form:



Lori M. Riordan, City Attorney

Attest:



Myrna L. Basich, City Clerk

Published September 26, 2013,

Planning Commission Principles to Guide Development of Permanent Rental Housing Regulations

Issue Presented: Residents of the Spiritwood neighborhood have raised concerns about an emerging business model in their single family neighborhood where an ownership group is purchasing homes with the intention of renting out individual rooms under separate lease agreements. If this practice is not curtailed, impacts on neighborhood livability are anticipated to continue and to increase over time.

Emergency Action Taken: On September 23, the City Council adopted Ordinance No. 6128 as an emergency ordinance under the authority in Chapter 36.70A RCW and RCW 35A.13.190. This interim zoning control (1) deleted the general development regulations applicable to rooming houses; (2) clarified that boarding home performance criteria apply to rooming houses; (3) amended the definition of "Boarding House;" and (4) amended the definition of "Family" to address impacts resulting from the rental of multiple rooms in single family dwellings to unrelated individuals.

Work Program Item: The Planning Commission is being asked to develop narrowly tailored permanent amendments to the Land Use Code that address issues presented by the Spiritwood neighbors.

Principles to Guide the Planning Commission Work

1. The Council-adopted emergency ordinance should be used as a starting point for the Planning Commission work.
2. Work on the code amendment should progress expeditiously, with the goal of having permanent regulations in place by July 2014.
3. The recommended amendments should be narrowly tailored to prevent the conversion of single family homes to dormitory-like uses. With this goal in mind, the regulations should seek to ensure that:
 - a. Impacts of unrelated persons occupying a rental house are not greater than the impacts associated with a group of related persons occupying a home.
 - b. Single family homes are not designed to support future conversion to dormitory-like uses.
 - c. Impediments are not created that would limit access to fair housing choices for protected classes of people.
 - d. Tools to limit impacts are capable of being enforced.
4. City-wide impacts of the permanent amendments should be evaluated to ensure that negative consequences on rental housing and appropriate housing design are minimized.
5. Work on the rental housing amendment should not be undertaken in a manner that will delay final completion of the Shoreline Master Program Update, and the City Council will consider extensions to the Emergency Rental Housing Ordinance if necessary to accommodate Planning Commission review of these permanent regulations.
6. Policy topics relating to housing affordability and availability are part of a longer term strategy that should not be undertaken during current development of the narrowly tailored amendments contemplated to address the Spiritwood issue. The Comprehensive Plan Update

that is currently underway and expected to result in additional code development work late in 2014 is the proper forum to discuss broader policies such as:

- a. Placing limits on garage conversions for living space;
- b. Adopting additional single room occupancy regulations;
- c. Evaluating the appropriate role of detached accessory dwelling units in the provision of fair housing choices;
- d. Evaluating the single family home definition to ensure that it is appropriately specific to foster development of desired housing options without encouraging the commercial use of housing in single family neighborhoods;
- e. Addressing “apodments” and micro-housing development trends; and
- f. Considering the role of rental registration and inspection program options as a viable enforcement strategy.