



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: May 17, 2016

AGENDA TITLE: Consideration of a motion to introduce, consider on first reading and publish by title only of an ordinance intended to expand the availability of cooperative housing units by amending Title 4 “Licenses and Permits by adding a new section 4-20-69 “Cooperative Housing License fee,” amending Title 9 “Land Use Code” by amending table 9-6-1 to make cooperative housing an allowed use in certain zone districts, by amending section 9-6-3, eliminating the requirement of a special use permit for cooperative housing, amending title 10 “Structures” by adding a new chapter 11 “Cooperative Housing” establishing requirements for licensing housing cooperatives and setting forth related details.

PRESENTERS

Jane S. Brautigam, City Manager

Tom Carr, City Attorney

David Gehr, Deputy City Attorney

David Driskell, Executive Director, Planning, Housing and Sustainability

Susan Richstone, Deputy Director, Planning, Housing and Sustainability

Charles Ferro, Development Land Use Review Manager, Planning, Housing and Sustainability

EXECUTIVE SUMMARY

Since 1996, the City of Boulder has had a cooperative housing ordinance. Unfortunately, not a single cooperative housing unit has been developed pursuant to that ordinance. There are, however, illegal cooperatives operating without any regulatory oversight. One of council’s priorities for this year is to attempt to address the concerns raised about the existing code provisions. At a study session on January 26, 2016, Council gave staff initial direction regarding a new potential cooperative housing ordinance. Staff developed a draft and posted a version for community consideration. Responding to community feedback, staff developed and posted a revised version of the

ordinance. The Planning Board considered and made recommendations at their meeting on April 21, 2016. Staff now requests that Council consider a proposed ordinance on first reading.

Suggested Motion Language:

Motion to introduce, consider on first reading and order published by title only an ordinance intended to expand the availability of cooperative housing units by amending Title 4 “Licenses and Permits by adding a new section 4-20-69 “Cooperative Housing License fee,” amending Title 9 “Land Use Code” by amending table 9-6-1 to make cooperative housing an allowed use in certain zone districts, by amending section 9-6-3, eliminating the requirement of a special use permit for cooperative housing, amending title 10 “Structures” by adding a new chapter 11 “Cooperative Housing” establishing requirements for licensing housing cooperatives and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: Cooperative housing may have a positive economic impact by providing access to affordable housing. There is also the possibility that by competing for access to single family homes the existence of legal cooperatives could affect the market for such homes.
- Environmental: Cooperative housing could have a positive environmental impact by limiting the number of in-commuters and by the philosophy of shared resources.
- Social: Communal living can have social benefits. Higher density could have negative impacts on neighborhoods.

OTHER IMPACTS

- Fiscal: The fiscal impact will depend upon the final version adopted. With a limited number of units permitted, any fiscal impact should be limited.
- Staff Time: Implementation will be accomplished with existing staff. The principal staff work necessary will be implementing a licensing system. The more complex the requirements included, the more staff time that will be required.

BOARD AND COMMISSION FEEDBACK

The Planning Board considered the proposed ordinance on April 21, 2016. The Planning Board gave careful consideration to the proposed ordinance. The board heard over three hours of public testimony and deliberated for an additional three hours. The board had a wide ranging discussion. To provide the best support for council, the board decided to conduct a series of “straw polls.” This process was intended to give Council an idea of the level of support for recommendations, even those that were not supported

by a majority of planning board members. A copy of the draft minutes for the April 21, 2016 Planning Board meeting are in Attachment C. The Planning Board will consider approval of these minutes at their meeting on May 19, 2016.

Straw Poll Results

1. Process

The board discussed the question whether the process is proceeding too fast. Members discussed various options including convening an advisory committee, slowing down the entire process or just taking more time with rental cooperatives. The board conducted the following polls with the following results:

- Do rental cooperatives need further study and special attention? (7-0, in favor)
- Should the entire process slow down? (2-5, L. Payton, J. Gerstle in favor of the entire process slowing down)
- Should only the rental process slow down? (4-3, L. May, J. Putnam, L. Payton, and C. Gray in favor of the rental process slowing down)
- Evaluate what characteristics certification might require/specified pre-established criteria? (7-0, in favor)

Council decided to address cooperative housing through the legislative process. Council made this decision, in part, because of a pending over-occupancy complaint against a well-known illegal cooperative. It would be difficult to justify continued non-enforcement if legislation is not proceeding. In addition, it appears that the universe of issues to be addressed with respect to rental cooperatives is limited.

Staff also does not recommend developing detailed certification criteria. Staff added the certification process to the ordinance at the request of cooperative supporters. The addition responded to a concern that with a limited number of licenses could exclude true cooperatives in favor of landlords who sought to simply over-occupy a dwelling. The proposed ordinance purposely left developing certification criteria to an expert third-party organization designated by the city manager. The city does not have expertise in the characteristics of a cooperative. The intent of the ordinance is to regulate safety and community impacts. Regulating the relationship among residents would be beyond the scope of council's direction to staff.

2. Renters in Equity Cooperatives

The Planning Board discussed whether renters should be permitted in equity cooperatives. One member suggested a limit of 30% renters in an equity cooperative. The Planning Board took the following poll with the following result:

- Should renters be allowed in equity co-ops? (7-0, in favor)
- Should the percentage be decided now? (0-7, failed)

Staff recommends a clean distinction between rental cooperatives and equity cooperatives.

3. Definitions

A Planning Board member suggested that he preferred the definitions proposed by the Boulder Community Housing Association (BoCHA). The board addressed the following question:

- Does the board prefer BoCHA's definitions to the City of Boulder's definition? (7-0, in favor)

The definitions in the proposed ordinance were drafted to be broad enough to encompass a wide range of models. The BoCHA definitions are in Attachment D. Staff does not support incorporation of the BoCHA definitions. The definition of housing cooperative is a group of people that "pools resources for a majority of the household's expenses, and governs itself democratically, with each adult member of the household having equal say over household decisions." These requirements would be very difficult to enforce. The reference to a group of people, rather than a dwelling unit contradicts the ordinance's approach of licensing owners of dwelling units, not groups of people. In addition, it would be very difficult for the city to enforce requirements regarding sharing of resources and governance. These definitions are more appropriate for the certification process than they would be for the licensing process itself.

4. Not for Profit Structure

The Planning Board considered the question whether the definition of non-profit cooperatives should be altered. The board considered two different approaches. The board considered whether non-profits organized under Colorado law and not registered with the Internal Revenue Service be included. The board also discussed requiring that the non-profit also serve the public interest. The board took the following polls:

- Should the ordinance widen certifying authority to allow Colorado non-profit or legitimate other entities beyond the 501(c)(3) requirement? (7-0, in favor)
- Should the ordinance add "and the public interest" to cooperative housing organization definition? (5-2, in favor)

The proposed ordinance is intended to provide a relatively simple licensing structure. Increasing the complexity of the requirements could make this more difficult.

5. Occupancy

The Planning Board discussed the proposed occupancy limit. The board considered both the existing limit in the International Property Maintenance Code and the one person per 200 square foot limit incorporated in the revised ordinance. The board took the following poll:

- In support of the 200 square footage limitation per person per unit size with a cap? Some were agreeable with less. (7-0, in favor)

The requirement of 200 square feet per person is in the revised version of the ordinance which is Attachment B.

6. Separation

The Planning Board had a robust discussion around the question of separation of cooperative housing units. The board was not able to reach a consensus on the issue of separation. The poll results were as follows:

- Should the ordinance include a separation requirement? (3-4, in favor)
- Should the ordinance not include a separation requirement? (4-3, in favor)
- Should cooperatives be dispersed throughout the city? (7-0, in favor).

7. Fines

A Planning Board member suggested removing the provision for increased fines in Goss Grove, University Hill and Martin Acres. The poll result was as follows:

- Should the fines be the same regardless of the neighborhood? (7-0, in favor)

The fine differential was carried over from the occupancy discussion.

8. Enforcement

The Planning Board discussed enforcement. Members questioned the city's reliance on complaints from the neighbors. A member suggested that the real issue was not necessarily the number of cars, but could have other root causes. The poll result was as follows:

- Recommend to Council to address the root cause of the issues with the neighbors? (7-0, in favor)

9. Limit on the Number of Cooperative Housing Licenses

The Planning Board discussed whether the limit on licenses was appropriate. The board split between those who thought that fifteen per year was too many and those who did not. The poll result was as follows:

- Recommend support of the proposed annual limit of fifteen (5+5+5) co-ops? (4-3, in favor).

The revised ordinance includes an additional category for not-for-profit cooperatives. This brings the total to twenty per year.

10. Zone Districts

The Planning Board discussed expanding the zone districts for cooperative housing. The board generally agreed that cooperatives should be permitted in all zone districts. One board member asserted that they should be encouraged in districts other than single family residential zone districts. The poll result was as follows:

- In support of broadening the allowed “by-right” zones to include RH-6, MU-4, and A, at a minimum. In addition to more dense zones, (all zones)? (7-0, in favor)

11. Ownership

One board member questioned whether fee simple ownership should be required. His intent was to allow cooperatives in condominium developments. Ownership would still be required. It would not, however, necessarily be fee simple. The result was as follows:

- In support of removing the limit for fee simple properties? (7-0, in favor)

This limitation has been changed in the proposed revised ordinance, which is Attachment B.

12. Property Rights and Revocation

The Planning Board discussed providing some greater surety, particularly for equity cooperatives. The board also discussed revocation as well as the question whether the ordinance should address issues of housing discrimination. The poll result was as follows:

- In support of making it more difficult to revoke licenses. (7-0, in favor)

The proposed revised ordinance includes limitations on the city manager’s power to revoke a license.

13. Parking

The Planning Board discussed parking. A board member suggested that the city manager consider whether a Neighborhood EcoPass Program be considered as part of the process. The board did not pursue this. They did discuss whether there should be some limit on the number of cars. The poll result was as follows:

- In support of limiting cooperatives to four vehicles? (7-0, in favor)

14. Historic Preservation

A board member suggested encouraging the Council to consider providing incentives for properties used as cooperative housing units to become landmarked. The poll result was as follows:

- In support of exploring incentivizing co-ops to buy and preserve historic homes and apply for landmark status? (7-0, in favor)

This requirement is included in the proposed revised ordinance.

BACKGROUND & ANALYSIS

In February 1994, a group called the Cooperative Housing Committee presented an outline for a cooperative housing ordinance to the city council. Council directed staff to work with the community, CHC and the planning board to draft an ordinance for Council to consider. Staff held two community workshops and worked with CHC to prepare a draft ordinance that the planning board considered over the next 30 months. The planning board reviewed the proposal at the November 2, 1995 meeting, the December 14, 1995 meeting and the April 25, 1996 meeting. Council considered the proposed ordinance at the July 16, 1996, August 6, 1996, September 3, 1996 and September 17, 1996 council meetings. Council adopted ordinance number 5806 on fourth reading.

Two years later, the Boulder Housing Coalition asked Council to consider some changes to the provisions in ordinance number 5806. Council did so and adopted ordinance number 6036 on December 1, 1998. There have been no significant changes in the intervening seventeen years. Although the original plan was to limit the number of applications, this was unnecessary because the city has never received an application under the cooperative housing code provisions. Several factors were likely have driven this outcome, primarily the greater interest in development of rental co-ops such as Masala, Chrysalis and Ostara, which are not covered by the cooperative housing ordinance. In addition, in the absence of any significant enforcement of over-occupancy, there is no incentive to undertake compliance with the strict city code provisions.

At its January 2014 retreat, Council requested that staff identify and propose some “early wins” that could help improve conditions while more significant policy work was undertaken through the Comprehensive Housing Strategy. At the May 27, 2014 study session, staff identified five short term actions, including increasing the permitted occupancy for seniors. Council directed staff to develop an ordinance to implement this proposal. Staff drafted an ordinance that would have permitted up to six unrelated individuals over the age of 62 to live together in the Rural Residential, Residential Estate and Residential Low Density Zone Districts. The planning board considered the proposed changes at its July 31, 2014 meeting and by a six to one vote recommended approval of the draft ordinance with the addition of a provision increasing the occupancy to ten unrelated in the RR and RE zone districts, provided one resident was the property owner.

Council considered the proposed ordinance on first reading at the September 2, 2014 council meeting. Forty-one people spoke at open comment. Of those, eleven spoke specifically about the proposed occupancy change. Four spoke in favor and six spoke against. In addition, five people expressed general concerns regarding density in Boulder. Council decided not to pass the proposed ordinance on first reading.

At the 2015 council retreat, Council directed staff to explore ways in which the city's occupancy limits could be enforced more effectively. At the May 28, 2015 special council meeting, Council considered a staff presentation of seven options to better enforce the city's occupancy limits in residential properties. Council directed staff to prepare an ordinance implementing four of the seven options. Council held a public hearing on second reading at the September 15, 2015 council meeting. Eighty-three people spoke at the public hearing. The vast majority of speakers expressed their opposition to any enforcement of the city's occupancy limits. Several stated that they resided in co-ops and should not be subject to the city's occupancy limitations. There was a view expressed that the city should enforce only for quality of life impacts associated with over occupancy and not for occupancy itself.

Council passed the occupancy enforcement ordinance on third reading at the November 10, 2015 council meeting. Two council members made public statements reassuring residents of illegal co-ops that this ordinance was not intended to be used against them. Both council members provided their personal telephone numbers in the event that the city took enforcement action. Prior to the meeting, someone had submitted an anonymous complaint about over-occupancy at a well-known illegal housing co-op. Without knowing anything other than the address, a staff member contacted the management company associated with the property to schedule a meeting to discuss the complaint. The residents contacted the council members and council members asked staff not to pursue enforcement. At the November 17, 2015 council meeting, staff raised the issue and sought full Council direction regarding future enforcement. Council asked staff to not enforce against legitimate housing co-ops, while Council considered the cooperative housing code provisions.

In 2015, Council faced a similar situation with respect to short-term rentals. That is, in December 2014, staff issued enforcement notices pursuant to a standing city policy with respect to complaints about short-term rentals. This created concern in the community. Staff decided to hold off on further enforcement while Council considered adopting an ordinance regulating short-term rentals. Council held a study session to provide initial direction to staff. Staff brought back a first reading ordinance. Council held two public hearings to consider community input. Ultimately, Council shaped an ordinance without substantial staff work or community outreach outside of the legislative process, although there was significant community participation in that process. The current plan is to adopt a similar approach with respect to the cooperative housing code provisions.

On January 26, 2016, Council held a study session to provide direction on a potential first reading ordinance relating to cooperative housing.¹ On April 5, 2016, Council approved the study session summary for the January 26, 2016 study session.² Based on Council feedback, staff drafted a proposed ordinance. Staff posted a copy of the proposed ordinance on the Council Hotline on March 24, 2016. A copy of the proposed ordinance is Attachment A.

On April 5, 2016, staff met with representatives of the Boulder Community Housing Association to discuss the proposed ordinance. As a result of this meeting, staff produced a revised ordinance. Staff also made some changes based on feedback from Council Member Aaron Brockett. A copy of the revised ordinance is Attachment B.

On April 21, 2016, the Planning Board considered the ordinance and made the recommendations described above. The Planning Board recommendations did not lend themselves to making specific revisions in the proposed ordinance. Accordingly, staff has not provided a revised ordinance, but assumes that Council will give appropriate weight to the Planning Board recommendations when considering potential amendments to the proposed ordinance.

Staff also met with members of the Martin Acres Neighborhood Association. These individuals expressed concern that many, if not all, of the cooperative housing licenses could be issued for homes in their neighborhood, because homes in Martin Acres tend to be among the most affordable in the city. They recommended that Council consider allowing only one cooperative housing license in each of four particularly vulnerable neighborhoods, which are Goss Grove, East Aurora, Martin Acres and University Hill. Staff recommends that Council consider such a change. Staff has drafted a proposal that would allow any cooperative existing in those neighborhoods to obtain a license and then would limit licenses to one new license in each neighborhood for each year. No new license could be issued until after there was one year for each cooperative license issued to an existing cooperative. For example, if there are five existing illegal cooperatives in Goss Grove and all five obtained licenses before January 1, 2017, the first new license would not be issued in Goss Grove until 2022. Thereafter, the city manager could issue one cooperative license per year in Goss Grove. Staff's reasoning is that neighborhoods have already absorbed the impacts of existing illegal cooperatives. Legalizing them will provide the health and safety benefits that go along with regulation. New cooperatives could change a neighborhood, so the proposal would slow the growth in the four most affordable neighborhoods in Boulder. A draft potential amendment is Attachment E.

¹ The study session memorandum can be found at the following link:

<https://documents.bouldercolorado.gov/weblink8/0/doc/131329/Electronic.aspx>

² A copy of the approved study session summary can be found at the following link:

<https://documents.bouldercolorado.gov/weblink8/0/doc/132151/Electronic.aspx>.

OCCUPANCY AND INTENSITY REGULATIONS

The proposed ordinance provides a path for cooperatives to exceed the occupancy rules that are provided in the Boulder Revised Code. It provides a path for higher occupancies in many of the very low, low, medium, and high density residential zoning districts as well as some of the industrial zoning districts. Boulder regulates residential intensity in two ways:

- Density – which regulates the number of dwelling units or households that may reside on a property.
- Occupancy – which regulates the number of people that reside in a dwelling unit.

The Boulder Revised Code addresses occupancy in a number of places. Title 9, which is the Land Use Code, regulates the occupancy of a dwelling unit with the intent of limiting the impacts of the unit on the surrounding area. Title 9 provides that a dwelling may have:

- A family plus one or two roomers;
- Up to three persons in P, A, RR, RE, and RL zones;
- Up to four persons in MU, RM, RMX, RH, BT, BC, BMS, BR, DT, IS, IG, IM, and IMS zones; or
- Two persons and any of their children by blood, marriage, guardianship, including foster children, or adoption.

The Boulder Revised Code also provides regulations that allow different occupancy levels for different types of living arrangements. For example:

- Nonconforming occupancy, based on changed zoning rules.
- Boarding or rooming houses, fraternities, sororities, and dormitories: These are limited to three persons per dwelling unit equivalent. They are primarily located in the in some of the medium density and higher density zoning districts, some as a matter of right, others by use review.
- Hostels. These are limited to three persons per dwelling unit equivalent as matter of right, and four persons with a use review. Hostels are predominately allowed in higher density zoning districts.
- Custodial Care. These uses are limited to 6 to 8 people. These units are allowed by use review in most of the zoning districts. They provide custodial care and treatment generally associated with the criminal justice system in a residential setting.
- Residential Care Facilities. These uses are limited to 6 to 8 people. Residential care facilities are allowed as a conditional use in most zoning districts, and after use review in the industrial zoning district. They include social service oriented group living arrangements such as group foster care, shelters for abused children and adults, nursing homes, or intermediate care facilities.

- Group Homes. The maximum occupancy for this use is 8 to 10 people. Group homes are allowed in most zoning districts as a conditional use. The conditional use process is a relatively simple administrative review and approval process. Group homes provide for a protective living environment for people with disabilities or the aged.
- Cooperative Housing Units. The maximum occupancy is 6 persons or 8 persons on a lot that is twice the minimum lot size for the zoning district. It is allowed as a conditional use in most residential zoning districts. There are a number of standards for this use in § 9-6-3(b), B.R.C. 1981.

The uses and occupancies described above are land uses. The proposed changes to the cooperative housing ordinance would change it from a land use regulation to a licensing system. As a licensing system, the approval is a privilege that is subject to revocation, with due process, for failing to comply with the terms of the license. On the other hand, with a land use, it is typical that enforcement is done through the municipal court, with remedies that the municipal court imposes on the land use. Unless, the use is illegal, the municipal court does not revoke a legally created use of land.

The zoning regulations are intended to address the impacts of intensity of use on the surrounding neighborhood. On the other hand, the building code addresses these impacts on life safety issues for the people that reside in the dwelling unit. The primary occupancy regulations in the building codes are minimum amounts of floor area for the occupants of a bedroom. The minimum size of a bedroom is 70 square feet for one person. For more than one person, there is a required a minimum of 50 square feet for each person per bedroom.

PROPOSED ORDINANCE

The proposed ordinance is a first reading ordinance intended to implement the direction provided by the city council on January 26, 2015. At a high level, Council's direction was to facilitate the creation of cooperative housing units, while at the same time limiting the effects on the neighborhoods and on the availability of housing for families. The proposed ordinance attempts to strike a balance between facilitating cooperatives and protecting the community. The ordinance includes the following major elements:

- Cooperative housing units would be an allowed use in zoning districts where previously they were a conditional use.
- Cooperatives would be regulated much like rentals, including licensing, initial inspections and renewal inspections.
- Cooperatives would be exempt from the Title 9 occupancy limits. They would be subject to the limit in the international property maintenance code.
- Rental cooperatives would be subject to a limitation on rent.
- The cooperatives would be required to maintain compatibility with the surrounding neighborhood. This restriction would be enforced through an

administrative process in the municipal court, subject to a right to cure through community mediation.

- Cooperatives would be required to develop a parking reduction plan to limit to no more than three, the number of cars parked in the right of way. This plan could include a requirement that all members of the cooperative be required to have a bus pass.

Section by Section Description

Section 1

Adds a new fee in section 4-20-69 for cooperative housing licenses. The fee in the proposed ordinance is the same as that imposed for rental licenses.

Section 2

Amends table 9-6-1 to make cooperative housing an allowed use in the zoning districts where it previously was a conditional use. There is no change to the zone districts in which use review was required.

Section 3

Repeals section 9-6-3(b).

Section 4

Amends section 9-8-5 to exempt cooperative housing units from the city's occupancy limits. The only limit would be the International Property Maintenance Code, which is incorporated in to the Boulder Revised Code by section 10-2-2. The IPMC includes the following occupancy limitation: "Every living room shall contain at least 120 square feet and every bedroom shall contain a minimum of 70 square feet and every bedroom occupied by more than one person shall contain a minimum of 50 square feet of floor area for each occupant thereof."

Section 5

Amends the definition of "Cooperative Housing Unit" in section 9-16-1 to conform to the new definition in section 10-1-1.

Section 6

Adds to section 10-1-1, definitions of "Cooperative," "Cooperative Housing Unit," "Limited Equity Cooperative," "Private Equity Cooperative," and "Rental Cooperative."

Section 7

Adds a new chapter 10-11.

Section 10-11-1

Legislative intent.

Section 10-11-2

Requires a cooperative housing license before a cooperative is occupied.

Section 10-11-3

Imposes terms for licenses. This section is adapted from section 10-3-3, which regulates rental licenses. It includes a four year renewal period and an inspection requirement. The section also includes dispersion requirements. These are similar to the existing requirements, although references to group homes and accessory units have been eliminated. The section also includes a limit of five licenses per year for each of the three types of cooperatives.

Section 10-11-4

Establishes procedures for applications for cooperative housing licenses. This section also follows a similar section in chapter 10-3. Only fee simple owners may apply for licenses. If there are multiple owners, they must all apply. The reasoning is that the city needs to be able to identify a responsible party. The actual owner of the property is readily identified. The applicant must submit an inspection report and a contract with a trash hauler in the same manner as is required for rental housing. The applicant also is required to submit a parking management plan at the time of initial application and renewal.

Section 10-11-5

Establishes renewal procedures.

Section 10-11-6

Allows the city manager to issue a temporary license if a property fails the inspection.

Section 10-11-7

Provides for an appeal of a denial of a temporary license.

Section 10-11-8

Provides for termination of the license if it is not renewed, if there is an order to vacate, if a temporary certificate of occupancy expires or if the certificate of occupancy is terminated.

Section 10-11-9

Provides for license fees.

Section 10-11-10

Requires that the license be made available to residents of the cooperative or the city upon demand. There is no requirement to post the license.

Section 10-11-11

Makes a parking management plan a condition of issuing a license. The plan must limit the number of cars from the cooperative parked in the right of way to three. The plan can include a requirement that all residents have a bus pass.

Section 10-11-12

Requires the licensee to take reasonable steps to reduce the cooperative's impact on parking, noise, trash and weeds.

Section 10-11-13

Limits the rent that can be charged in an entire rental cooperative to no more than that which would be affordable to a family earning the median family income in Boulder. The city manager is required to adopt a maximum rent based upon the Colorado Housing and Finance Income and Rent Tables or similar resource. For 2015 those rents would be as follows:

Studio	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom
\$1,740	\$1,865	\$2,237	\$2,585	\$2,885

Section 10-11-14

Provides the city manager the authority to order the property vacated for building code violations.

Section 10-11-15

Provides the city manager with authority to impose a civil penalty after notice and opportunity for a hearing. It includes enhanced penalties for Martin Acres, University Hill and Goss Grove. For violations based on incompatibility with the neighborhood, any hearing can be continued if the licensee engages in community mediation with concerned neighbors. The city manager may dismiss a violation if community mediation results in a plan to make the cooperative compatible with the neighborhood.

Section 10-11-16

Provides for a criminal penalty. This is identical to the provision in chapter 10-3.

Section 10-11-17

Authorizes the city manager to issue rules.

PROPOSED REVISED ORDINANCE

The revised ordinance includes the following changes.

Section 9-8-5(d)

Imposes an occupancy limit of no more than one person per 200 square feet of habitable space.

Section 10-1-1

Includes a definition of a Cooperative Housing Organization.

Section 10-11-4(a)

Allows a prospective tenant to apply, with the property owner's written approval, to convert a valid rental license into a cooperative housing license.

Section 10-11-4(b)(1)(D)

Adds a requirement that an applicant supply a certificate from a Cooperative Housing Organization certifying that the applicant is a legitimate cooperative. There was a concern that landlords could use the ordinance to legitimize over-occupancy. With a limited number of licenses available each year, this could drive out real cooperatives. This provision would allow a third-party to establish and apply criteria to limit licenses to those actually engaged in cooperative living.

Section 10-11-11

Imposes a limit of four cars for each property.

Section 10-11-12

Adds criteria to define the concept of compatibility with the neighborhood. It also provides that the city manager cannot seek to revoke a license based upon complaints from a single person.

Section 10-11-13

Converts the rent limitation from being based upon affordability to average rental rates in Boulder. The proposal would limit rents to 110% of the average, which would allow for some additional compensation to landlords.

ATTACHMENTS

Attachment A – Original Draft Ordinance

Attachment B – Revised Ordinance

Attachment C – Draft Summary Minutes, April 21, 2016 Planning Board Meeting

Attachment D – BoCHA Definitions

Attachment E – Proposed Amendment