

## **SUBJECT**

Items Relating to Occupancy Limits.

- A. First Reading of Ordinance No. 015, 2010, Amending Sections of the Land Use Code Relating to Occupancy Limits.
- B. First Reading of Ordinance No. 016, 2010, Amending Section 5-265 of the City Code Relating to Occupancy Disclosure Statements.

## **EXECUTIVE SUMMARY**

In 2005, City Council adopted significant changes to the City Code and the Land Use Code for the purpose of establishing new occupancy regulations that are understandable, fair, and enforceable. This was accomplished in part by redefining the make-up of the types of groups or individuals that can live together in a dwelling unit and by establishing ways in which the number of persons allowed to live together can be increased.

It has recently come to City staff's attention that the current regulations do not meet Council's original intent for limiting the occupancy of dwelling units. The proposed Land Use Code changes address this problem by clarifying the regulation and adding a "host family" category as another acceptable way to increase the number of occupants allowed in a dwelling unit, and by changing the definition of "*family*" so that it no longer includes an individual living alone.

In addition, the disclosure statement requirement related to occupancy limits has been revised to ensure that the statement is truthful, is provided by the property owner or manager to the tenants at the time of lease signing, and is readily available when requested by the City.

## **BACKGROUND / DISCUSSION**

At the October 27, 2009 Council Work Session regarding the Occupancy Ordinance Two-Year Review and Policy Discussion, Council directed staff to bring the following three items back to them for further consideration (See Attachment 1):

- 1. Redefine the Occupancy Limit – Further define and clarify changes to the occupancy limit in order to:
  - a. Clarify the definition to meet Council's original intent.
  - b. Provide an option to allow a permit to be issued for "host families" to temporarily house one or more additional persons as long as certain criteria are met.
- 2. Zoning Option 1 – Further explore adding Extra Occupancy Rental Houses (EORH) as a permitted use in the Neighborhood Conservation Medium-density (NCM) zone.
- 3. Rental Registration and Rental Licensing – Staff will provide Council with research and background information regarding rental registration and rental licensing.

This agenda item focuses on item #1 above. Item #2 is scheduled to be discussed at the Council work session on April 27, 2010, and item #3 was prepared and provided to Council in December 2009.

The original intent of the 2005 occupancy ordinance was to allow for both a family and a group that is the functional equivalent of a family to have only one additional person living with them. It was not intended to allow for such groups to have two additional people.

The current regulation states that the maximum occupancy allowed per dwelling unit is:

- (1) one (1) family as defined in Section 5.1.2 and not more than one (1) additional person; or
- (2) two (2) adults and their dependents, if any, and not more than one (1) additional person.

*Family* is defined as an individual living alone or any number of persons who are all related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship, and who live together as a single housekeeping unit and share common living, sleeping, cooking and eating facilities.

After close examination of the current regulation, it appears that the second part of the regulation would allow a family to house two additional people instead of just one. For example, one spouse could be considered as a dependent of the other spouse, meaning a husband and wife in this scenario would only count as one of the two adults allowed. They could then have one other adult and dependents, if any, plus one additional person.

This interpretation of the regulation is not consistent with the original intent of the ordinance, which was to allow both a family and a group that is the functional equivalent of a family to have only one additional person.

At the October 27, 2009 City Council work session (see Attachment 1), Council directed staff to process an amendment to the current occupancy regulation that would be consistent with the original intent. Council also expressed interest in an exception to allow for a second additional person in situations where the increased occupancy would not likely cause neighborhood problems, such as a family wanting to provide temporary housing to missionaries, exchange students, etc.

**Ordinance No. 015, 2010**, Amending Sections of the Land Use Code Relating to Occupancy Limits.

These Council objectives can be accomplished by amending the Land Use Code language in section 3.8.16 (A), adding a new Section (3) to Section 3.8.16(E), and amending the definition of Family in Section 5.1.2 as follows:

1. Amend Section 3.8.16, maximum occupancy allowed per dwelling unit, to read as follows:
  - (1) one (1) family as defined in Section 5.1.2 and not more than one (1) additional person; or
  - (2) two (2) adults *who do not constitute a family* and their dependents, if any, and not more than one (1) additional person.
2. Add Section 3.8.16(E) to increase the occupancy limit for host families. With respect to single-family, owner-occupied dwellings, the number of persons allowed under this section may be increased to allow one additional person by the issuance of a "host family permit" provided that the following conditions are met:
  - (a) Adequate off-street parking is available to accommodate the additional occupant;
  - (b) There have been no violations of Chapters 17 or 20 of the Code of the City or Section 3.8.16 of the Land Use Code at the premises for which the permit is sought within the twelve (12) months immediately preceding the date of the application for the permit; and
  - (c) At least two (2) months have elapsed since the issuance of any previous host family permit for the same premises.

Host family permits would be valid for ten (10) months from the date of issuance; provided, however, that in the event that the Municipal Judge or Municipal Court Referee determine, during the term of any such permit, that a violation of Chapters 17 or 20 of the Code of the City or Section 3.8.16 of the Land Use Code has occurred at the premises for which the permit was issued, the permit may be revoked.

A fee of \$25 would be charged by the City for the host family permit in order to cover the costs of processing the application, which would be payable at the time of application.

3. Amend the definition of family in Section 5.1.2 of the Land Use Code to remove "an individual living alone". The definition would then read as follows:

*Family* shall mean any number of persons who are all related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship, and who live together as a single housekeeping unit and share common living, sleeping, cooking, and eating facilities.

**Ordinance No. 016, 2010**, Amending Section 5-265(c) of the City Code Relating to Occupancy Disclosure Statements.

Additionally, to address concerns expressed about the accuracy and accessibility of the required "disclosure statements," staff recommends amending Section 5.265(c) to require that all disclosure statements be notarized and made available at the premises. Since this change would be new to property owners and managers, staff suggests a two month period for public education prior to implementation. This public education process will consist of a letter to all landlords and property management companies that the City is currently aware of. The letter will explain the policy change, when it will take effect, and that from that date forward all disclosure statements must be notarized and available at the premises.

### **FINANCIAL IMPACT**

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A \$25 fee will be charged by the City to the property owner for the host family permit in order to cover the costs of processing the application.

### **SUSTAINABILITY: ECONOMIC, ENVIRONMENTAL AND SOCIAL IMPACTS**

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Staff does not expect these Code amendments to have any economic or environmental impacts.

The social impacts include preserving single-family neighborhoods by ensuring that the Code is consistent with Council intent of limiting the occupancy of dwelling units, and by allowing a process for host families to house a second adult in situations where the increased occupancy would not likely cause neighborhood problems.

### **STAFF RECOMMENDATION**

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Staff recommends adoption of the Ordinances on First Reading.

### **BOARD / COMMISSION RECOMMENDATION**

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The Planning and Zoning Board has recommend approval (5-0) of the Land Use Code Amendments that are intended to clarify the occupancy limit regulations in Section 3.8.16 and the definition of family in Section 5.1.2 with a change that a host family permit be available for a ten-month period of time rather than the nine months in the staff report.

Staff adjusted the host family permit to be available for a ten-month period as recommended by the Planning and Zoning Board.

### **PUBLIC OUTREACH**

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The Occupancy Ordinance Stakeholder Committee was informed of the recommended changes to the Land Use Code being proposed to Council. The representative from the Church of Jesus Christ of Latter-day Saints provided the following feedback:

- Provide an exception rather than a permit process so that the host family does not have an added expense for their charitable intent.
- Do not limit the permit to ten months and do not require two months between permits. Allow the exception or permit indefinitely unless adequate parking is not provided or violations occur at the premises.
- There is concern that a family cannot host others in need in exigent circumstances (families displaced due to unemployment, financial reversals, or natural disasters). So long as there is adequate parking and no violations, charitable families should be allowed to help others without the burden and expense of a permit process.

Staff has discussed some of these concerns and contends that an increased occupancy exception for host families needs to be clearly defined and temporary. The permit process with a nominal fee allows host families to house an additional person while clearly identifying conditions and time limits so that single-family neighborhoods have less potential to be negatively impacted.

If Council chooses to adopt the amendments to the disclosure statement requirements, staff intends to conduct a two-month public education process. This education will be primarily directed toward landlords and property managers since they will be required to notarize the document and make it available at the premises; however, education to tenants will also be conducted. Staff recommends the implementation date of this amendment to be May 1, 2010.

## **ATTACHMENTS**

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1. Work Session Summary – October 27, 2009
2. Planning and Zoning Board Minutes – January 21, 2010
3. PowerPoint presentation

## Planning, Development & Transportation Services



Community Development & Neighborhood Services  
 281 North College Avenue  
 P.O. Box 580  
 Fort Collins, CO 80522.0580  
 970.224.6046  
 970.224.6050- fax  
 fcgov.com

### Memorandum

Date: October 28, 2009  
 To: Mayor and City Council Members  
 Thru: Darin Atteberry, City Manager  
 Diane Jones, Deputy City Manager  
 Jeff Scheick, PDT Director  
 Steve Dush, Community Development & Neighborhood Services Director  
 From: Beth Sowder, Neighborhood Services Manager  
 Re: Work Session Summary – October 27, 2009 re: Occupancy Ordinance Two-Year Review and Policy Discussion

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The Mayor and all Council Members except Aislinn Kottwitz were present. Diane Jones, Deputy City Manager, introduced the topic, and Beth Sowder, Neighborhood Services Manager, presented an overview of the Occupancy Ordinance history, two-year review data, occupancy limit definition, potential zoning options, outreach conducted and feedback received. Peter Barnes, Zoning Administrator, was present to assist with questions.

Council directed staff to bring the following three items back to them for further consideration:

1. Redefine the Occupancy Limit – Staff will further define and clarify changes to the occupancy limit in order to:
  - a. Clarify the definition to meet Council’s original intent.
  - b. Provide an option to allow a permit to be issued for “host families” to temporarily house one or more additional persons as long as certain criteria are met.
 Staff will also need to consider and present Council with the potential unanticipated consequences of this proposed amendment.
2. Zoning Option 1 – Add Extra Occupancy Rental House (EORH) as permitted use in the Neighborhood Conservation Medium-density (NCM) zone. Staff will further develop this option and bring Council more information about how this could be done, how to notify all residents within the zone, and the timeline for doing this.
3. Rental Registration and Rental Licensing – Staff will provide Council with research and background information provided to the previous Council regarding rental registration and rental licensing. In addition, staff will provide some updated information about best practices currently implemented around the country. Council is also interested in information about cost at varying levels of service and feedback from communities who have registration or licensing programs. Council will then provide direction and determine if they would like to further consider rental registration and/or licensing.

Council’s final comments included general agreement that the current Occupancy Ordinance is working well, enforcement should continue, and improvements should be sought. Council expressed that the Corona Economic & Market Impact Study and the Occupancy Ordinance and Zoning data was helpful. They also appreciated receiving citizen feedback.

Planning and Zoning Board  
Excerpt from minutes  
January 21, 2010

**DRAFT**

**Member Schmidt moved to approve item # 1 December 10, 2009 minutes of the Planning and Zoning Board Hearing, # 2 Proposed Amendments to the City Structure Plan Map and Zoning for Phase Three of the Southwest Enclave Annexation, and Item # 4 Centerpoint Plaza Use Addition – Major Amendment, #37-09. Member Lingle seconded the motion. The motion was approved 5:0.**

**Discussion Agenda:**

3. Land Use Code Amendment to Section 3.8.16 – Occupancy Limits
5. Otterbox Corporate Headquarters Project Development Plan, # 35-09

**Project: Land Use Code Amend to Section 3.8.16 – Occupancy Limits**

**Project Description:** This is a request for a Recommendation to City Council regarding Land Use Code amendments intended to clarify the occupancy limit regulations in Section 3.8.16 and the definition of Family in Section 5.1.2

**Recommendation:** Approval

**Hearing Testimony, Written Comments and Other Evidence**

The City Council adopted significant changes to the Municipal Code and the Land Use Code in 2005 for the purpose of establishing new occupancy regulations that are understandable, fair, and enforceable. This was accomplished in part by redefining the make-up of the types of groups or individuals that can live together in a dwelling unit and by establishing ways in which the number of persons allowed to live together can be increased.

It has recently come to City staff's attention that the current regulations do not meet Council's original intent for limiting the occupancy of dwelling units. The proposed Land Use Code changes address this problem by closing a loophole, by adding a "host family" category as another acceptable way to increase the number of occupants allowed in a dwelling unit, and by changing the definition of Family.

Director of Community Development and Neighborhood Services Steve Dush said he believed that Member Lingle wanted to clarify the discussion we had at the work session related to the duration of the guest permit. Under Section 3.8.16 (c) the proposed language says the guest permit is valid for 9 months. It was recommended that it be modified to 10 months to accommodate foreign students whose stay may be more than 9 months.

**Board Questions:**

Member Schmidt asked if staff preferred we recommend that change as a part of the motion or is that just an understanding that the recommendation to City Council will read 10 months. Director Dush said if it's the Board's desire to have it changed, he would recommend a motion.

**Public Input:**

None

Member Schmidt made a motion the Planning & Zoning Board recommend to City Council the approval of the Land Use Code Amendments intended to clarify the occupancy limit regulations in Section 3.8.16 and the definition of family in Section 5.1.2 with a change that a host family permit be available for a 10 month period of time not the 9 months listed in the Staff Report. Member Lingle seconded the motion. The motion was approved 5:0.

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**Project:** Otter Box Corporate Headquarters Project Development Plan (PDP), # 35-09

**Project Description:** This is a request for an office building to be located at 209 S Meldrum Street. This site is in the Neighborhood Conservation Buffer (NCB) Zone District. The existing 1.5 story building is approximately 14,000 square feet and the proposed addition is 3 stories with 37,949 square feet above grade and 6,230 square feet at the basement level, for a total square footage of 44,179. The addition will preserve the majority of existing parking spaces and the applicant plans to lease parking from nearby private parking facilities. The proposed use is considered an office use with structural additions in the NCB zone district.

**Recommendation:** Approval

**Hearing Testimony, Written Comments and Other Evidence**

Planner Emma McArdle said at the neighborhood meeting a neighbor mentioned they were concerned about setbacks for this building. She told them they would be required to do a modification of standards but, in fact, they did not need a modification of standards because they requested a contextual setback which was approved by staff.

**Applicant Presentation**

Stu McMillen from Everitt/McMillen Development said they are available if there are any Board questions.

**Public Input:**

David May, President and CEO of the Fort Collins Area Chamber of Commerce, said they own the property immediately to the south of this property. Two things he'd like to address tonight -- first and foremost they do support this project. This is exactly the kind of project they'd like to see in downtown. They are very pleased to see Otter Box as a new neighbor.

The second item is he thinks they need zoning standards for parking so every chance he gets he'd like to mention the parking needs of this area. At one point the applicant was considering asking Parking Services to eliminate the two hour parking on the west side of Meldrum. May said they would like to make sure that does not happen. He said they've been in that location for 30 years and they have enough on-site parking for their employees but when they have meetings or when the public is there, they need the on street parking spots.

He understands from talking to staff that they meet the zoning requirement. He does, however, want to go on record as saying they do support the project and they would not like to see the removal of two hour marking on the west side of Meldrum near the Chamber of Commerce.

# Occupancy Limit Regulations Proposed Amendments City Council Meeting February 16, 2010

Steve Dush, Community Development & Neighborhood  
Services Director

Beth Sowder, Neighborhood Services Manager



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## Subject

Proposal to amend the Land Use Code occupancy regulations in Section 3.8.16 and the definition of Family in Section 5.1.2 to:

- Clarify the occupancy limit regulations to meet Council's original intent
- Allow a permit process for a host family to house one additional person



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## Subject Con't

- Additional Disclosure Statement requirements:
  - Notarized
  - Copy kept at the premises and available when requested

3



## Background

Council made amendments to the Occupancy Ordinance in 2005 with the intent to:

- Allow a family plus one additional person
- Allow functional equivalent of a family plus one additional person

It was not intended to allow for such groups to have two additional people.

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## Current Regulation

- 1) One (1) family as defined in Section 5.1.2\* and not more than one (1) additional person; or
- 2) Two (2) adults and their dependents, if any, and not more than one (1) additional person.

*\*Family shall mean an individual living alone or any number of persons who are all related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship, and who live together as a single housekeeping unit and share common living, sleeping, cooking and eating facilities.*



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## Interpretation

Section (2) would allow a family to house two additional people instead of just one (not consistent with the intent).

Example: One spouse could be considered as a dependent of the other spouse, and they can have one other adult and dependents, if any, plus one additional person.



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## October 27, 2009 Council Work Session

Council directed staff to:

- amend to the occupancy limit to be consistent with the original intent
- Allow for a permit process for a host family to house one additional person



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## Amend Section 3.8.16(A)

To clarify the regulation to meet Council's intent the code could be amended as follows:

- 1) One (1) family as defined in Section 5.1.2 and not more than one (1) additional person; or
- 2) Two (2) adults who do not constitute a family, and their dependents, if any, and not more than one (1) additional person.



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## Amend *Family* Definition

Amend definition of *family*, so an individual living alone is not considered a *family*.

Proposed definition:

*Family* shall mean any number of persons who are all related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship, and who live together as a single housekeeping unit and share common living, sleeping, cooking and eating facilities.



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## Permit to Increase Limit

Add Section 3.8.16(E) Increasing the Occupancy Limit

- Single-family, owner-occupied dwellings - the number of persons allowed may be increased to allow one additional person by the issuance of a "host family permit".



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## Permit Criteria

The permit can be issued only if:

- Adequate off-street parking is available
- No violations of Chapters 17 or 20 of the Code of the City or Section 3.8.16 of the Fort Collins Land Use Code at the residence during the previous 12 months
- At least two (2) months have elapsed since the issuance of any previous host family permit



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## Permit Duration

- Permits will be valid for ten (10) months
- Permits may be revoked if a violation of Chapters 17 or 20 of the Code or Section 3.8.16 of the Land Use Code has occurred at the premises during the permitted period
- Fee charged to cover processing costs - \$25



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## Disclosure Statement

- Staff recommends amending the requirement to add that Disclosure Statements:
  - Be notarized
  - Available at the premises
- Staff recommends a 2-month education period prior to implementation of this requirement.

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## Social Impacts

- Preserving single-family neighborhoods by:
  - Ensuring that the code is consistent with Council intent of limiting occupancy
  - Allowing process for host family permits where increased occupancy would not likely cause neighborhood problems

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## Staff Recommendation

Staff recommends adoption of the Ordinances on First Reading.

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## Board Recommendation

January 21, 2010 – The Planning & Zoning Board approved recommending the Land Use Code amendments intending to clarify the occupancy limit regulations and definition of family with a change that a host family permit be available for a 10 month period of time.

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## Public Outreach

- Occupancy Ordinance Stakeholder Committee – informed of the recommended changes.
- Latter-Day Saints Church representative feedback:
  - Make it an exception rather than a permit process
  - Allow the exception or permit indefinitely as long as criteria are met
  - Concerned that a family cannot host others in need in exigent circumstances



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## Staff Response to Concerns

- The increased occupancy exception for host families needs to be clearly defined and temporary.
- The permit process allows host families an additional person while clearly identifying criteria and time limits.
- Clear criteria and time limits are necessary so that single-family neighborhoods have less potential to be negatively impacted.



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## Public Education

### Disclosure Statement Requirements:

- Letter to landlords and property managers explaining:
  - Notary requirement
  - Copy at premises requirement
  - Effective date – May 1, 2010
  - From that date forward all disclosure statements must be notarized and available at the premises



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## Next Steps

March 2, 2010 – 2<sup>nd</sup> Reading

March 12, 2010 – Implementation of Occupancy Limit amendments and Host Family permit

March 2 – May 1, 2010 – Education period for Disclosure Statement requirements

May 1, 2010 – Implementation of Disclosure Statement requirements



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**Questions?**



ORDINANCE NO. 015, 2010  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING THE LAND USE CODE RELATING TO  
OCCUPANCY LIMITS

WHEREAS, on March 18, 1997, by Ordinance No. 051, 1997, the City Council adopted the Fort Collins Land Use Code (the "LUC"); and

WHEREAS, at the time of the adoption of the LUC, it was the understanding of staff and Council that the LUC would most likely be subject to future amendments, not only for the purpose of clarification and correction of errors, but also for the purpose of ensuring that the LUC remains a dynamic document capable of responding to issues identified by staff, other land use professionals and citizens of the City; and

WHEREAS, in 2005, City Council adopted significant changes to the City Code and the LUC to establish new occupancy regulations to address concerns regarding occupancy in single-family dwelling units in the City; and

WHEREAS, City staff has discovered that the occupancy regulations need clarification to meet City Council's original intent, which was to allow for both a family and a group that is the functional equivalent of a family to have only one additional person living with them; and

WHEREAS, the City Council also desires to amend the definition of "family" in the LUC so that it no longer includes an individual living alone; and

WHEREAS, the City Council believes it would be in the best interests of the City to allow an additional means by which a family could increase the occupancy in single-family dwellings to accommodate up to two, temporary guests through a "host family" permit process; and

WHEREAS, the Planning and Zoning Board has recommended approval of the proposed amendments to the LUC; and

WHEREAS, the City Council has determined that the Land Use Code amendments which have been proposed are in the best interests of the City and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that the Land Use Code is hereby amended as follows:

Section 1. That the definition of "*Family*" contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

*Family* shall mean ~~an individual living alone or~~ any number of persons who are all related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship, and who live together as a single housekeeping unit and share common living, sleeping, cooking and eating facilities.

Section 1. That Section 3.8.16 of the Land Use Code is hereby amended to read as follows:

### **3.8.16 Occupancy Limits; Increasing the Number of Persons Allowed**

(A) Except as provided in subsection (B) below, or pursuant to a certificate of occupancy issued by the city to the owner of the property, the maximum occupancy allowed per dwelling unit in a single-family, two-family or multi-family dwelling shall be **either**:

- (1) one (1) family as defined in Section 5.1.2 and not more than one (1) additional person; or
- (2) two (2) adults **who do not constitute a family** and their dependents, if any, and not more than one (1) additional person.

...

(E) ***Increasing the Occupancy Limit.***

- (1) With respect to single-family and two-family dwellings, the number of persons allowed under this Section may be increased by the issuance of a certificate of occupancy for use as an extra occupancy rental house in zones allowing such use.
- (2) With respect to multiple-family dwellings, the decision maker (depending on the type of review, Type 1 or Type 2) may, upon receipt of a written request from the applicant and upon a finding that all applicable criteria of this Land Use Code have been satisfied, increase the number of unrelated persons who may reside in individual dwelling units. The decision maker shall not increase said number unless satisfied that that the applicant has provided such additional open space, recreational areas, parking areas and public facilities as are necessary to adequately serve the occupants of the development and to protect the adjacent neighborhood.
- (3) **With respect to single-family, owner occupied dwellings, the number of persons allowed under this Section may be increased to allow one (1) additional person by the issuance of a “host family permit” provided that the following conditions are met:**
  - (a) **Adequate off-street parking is available to accommodate the additional occupant;**
  - (b) **There have been no violations of Chapters 17 or 20 of the City Code or Section 3.18.16 of the Land Use Code at the**

premises for which the permit is sought within the twelve (12) months immediately preceding the date of the application for the permit; and

- (c) At least two (2) months have elapsed since the issuance of any previous host family permit for the same premises.
- (4) Host family permits shall be valid for ten (10) months from the date of issuance; provided, however, that in the event that the Municipal Judge or Municipal Court Referee determine, during the term of any such permit, that a violation of Chapters 17 or 20 of the City Code or Section 3.8.16 of the Land Use Code has occurred at the premises for which the permit was issued, the permit may be revoked. The City may charge a twenty-five dollar (\$25) permit fee, or any greater amount not to exceed the costs of processing the application, which shall be payable at the time of application for the host family permit.

Introduced, considered favorably on first reading, and ordered published this 16th day of February, A.D. 2010, and to be presented for final passage on the 2nd day of March, A.D. 2010.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Passed and adopted on final reading on the 2nd day of March, A.D. 2010.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

ORDINANCE NO. 016, 2010  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING SECTION 5-265 OF THE CODE OF THE CITY OF FORT COLLINS  
RELATING TO OCCUPANCY DISCLOSURE STATEMENTS

WHEREAS, residential rental housing in the City can be subject to overcrowding which can lead to a decline in neighborhood quality of life, neighborhood appearance and the value of real estate; and

WHEREAS, to address these concerns, the City has, for many years, limited the number of persons who can occupancy dwelling units in the City; and

WHEREAS, on October 18, 2005, the City Council adopted Ordinance No. 123, 2005, amending various sections of the City's Land Use Code ("LUC") to clarify these occupancy limits and make them more readily enforceable; and

WHEREAS, in conjunction with these amendments to the LUC, the City Council subsequently adopted Ordinance No. 124, 2005, making certain changes to the provisions of the City Code, including the addition of a provision requiring that any person selling or leasing a dwelling unit in the City give advance notice to potential property owners and potential tenants on a form provided by the City and signed by all parties to the transaction, of the applicable occupancy limits for those units; and

WHEREAS, recent staff investigations of alleged occupancy violations have shown that landlords sometimes do not present the disclosure statements to their tenants for signature at the time the lease was executed as required by the City Code, but do so only if the property owner and occupants are under investigation for a violation; and

WHEREAS, the City Council continues to believe that both property owners and tenants should be responsible for ensuring that occupancy of a rental unit is within lawful limits; and

WHEREAS, in order to address concerns about the accuracy of the required disclosure statements and their availability to the City upon request, City staff has recommended that Section 5-265 of the City Code be amended to require that all disclosure statement signatures be notarized and made available at the premises; and

WHEREAS, City staff has suggested a two-month period for public education prior to implementation of this requirement in order to increase the likelihood of compliance; and

WHEREAS, Council desires to make the amendments in the interest of the health, safety and welfare of tenants, the City's neighborhoods and the public.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That Section 5-265 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 5-265. Posting; inspection of books and records; disclosure.**

(a) Any certificate of occupancy for a boarding or rooming house specifying the number of allowable tenants must be posted on the back of the front door of the dwelling.

(b) Whenever reasonable cause exists to believe that a violation of the Code or Land Use Code has occurred at any rental dwelling unit, the owner and property manager, if any, of said unit shall, upon request, make available to the City all lease, rental payment and tenant information pertaining to the unit, together with the written disclosure statement required by Subsection (c) below.

(c) Any person selling or leasing a dwelling unit shall, **immediately** upon execution of any deed, contract for purchase and sale, or lease pertaining to such unit, provide all purchasers, lessees or sublessees of such unit with a written disclosure statement, on a form provided by the City and signed by all parties to the transaction, specifying the maximum permissible occupancy of such unit under Section 3.8.16 of the Land Use Code. **Such signatures shall be notarized by a Notary Public.** In the case of a lease, said form shall be attached to an original of the lease agreement and shall be retained **at the leased premises** by the owner of the unit and the property manager, if any, for the duration of the lease term for the unit. **A copy of the notarized form shall also be retained at said premises and be forthwith provided to the City upon request.**

Section 2. That the amendment to Section 5-265 of the City Code contained herein shall go into effect on May 12, 2010.

Introduced, considered favorably on first reading, and ordered published this 16th day of February, A.D. 2010, and to be presented for final passage on the 2nd day of March, A.D. 2010.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Passed and adopted on final reading on the 2nd day of March, A.D. 2010.

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Mayor

ATTEST:

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City Clerk