

## CITY COUNCIL STUDY SESSION ITEM

### SUBJECT

Adoption of Emergency Ordinance No. 6128 to amend the Land Use Code to provide necessary clarification regarding individual room rentals in single family homes.

### FISCAL IMPACTS

Council is considering changes to the Land Use Code to address an emerging housing pattern of single room rentals in neighborhoods around Bellevue College. To date, existing staff capacity has been sufficient to address complaints that unrelated tenants exceed the maximum allowable number of unrelated individuals. Following adoption of an emergency ordinance to strengthen available enforcement tools, it is possible that an up-tick in room rental complaints will occur. Code compliance is a General Fund-supported function. Responses to complaints will be monitored following adoption of the emergency ordinance. If code enforcement demand created by new complaints exceeds staff capacity, timelines may increase. The need for increased staffing levels would then be evaluated and additional resources sought if necessary during the 2015-16 Budget process.

### STAFF CONTACT

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### POLICY ISSUES

Residents of Spiritwood have contacted Councilmembers and staff to raise concerns about investors renting individual rooms in single family homes. The model seems to be most prevalent in the neighborhoods surrounding Bellevue College, where landlords are advertising on the internet to attract student tenants. Existing City Code does not provide the tools necessary to address this emerging business model. One solution offered by residents to address their concerns is for the City to treat this rental practice as a boarding home business and to regulate the activity as a home occupation. However, boarding homes are classified as a form of transient lodging that is provided for periods of less than 30 days. This is not the activity that is occurring in Spiritwood, where investors are offering individual room rentals on a month-to-month basis in single family homes. The activity occurring in Spiritwood is not effectively regulated by the code or enforced based on past practice, and Council has directed staff to take both immediate and long-term steps to address the impacts associated with this emerging business practice.

The policy question before the Council is whether an Emergency Ordinance should be adopted to:

1. Amend the definition of "Family" to allow up to four unrelated individuals to reside in a single dwelling unit, and to provide criteria that describe the circumstances required for more than four unrelated individuals to constitute the "functional equivalent of a family" that is allowed to occupy a single dwelling unit; and,
2. Clarify that boarding home rentals can be either transient in nature (less than 30 days) or longer term (month to month).

The Emergency Ordinance includes modest additional amendments to respond to Council feedback and to ensure internal code consistency and clarity, and provides for a grace period until July 2014 before enforcement of the ordinance would commence.

Following adoption of any amendment to the Land Use Code, the East Bellevue Community Council (EBCC) is required to take approval/disapproval action on the ordinance for it to be effective within the community council jurisdiction. Spiritwood is located within the jurisdiction of the EBCC, so action by the Community Council is being planned to occur quickly so that the ordinance can go into effect as soon as possible.

**DIRECTION NEEDED FROM COUNCIL**

- Action
- Discussion
- Information

**BACKGROUND/ANALYSIS**

**Council Direction from September 9 Study Session**

On September 9, 2013, the City Council directed staff to bring forward a draft emergency ordinance within two weeks to address concerns raised by Spiritwood residents regarding the rental of individual rooms in single family homes to unrelated individuals. In addition, Council posed a series of questions regarding experiences of other cities and applicability and enforcement of the proposed ordinance. This memorandum answers questions posed, responds to feedback received from the City Council, and transmits a revised Draft Emergency Ordinance for Council information, discussion, and action.

If Council concludes that adoption of the Draft Emergency Ordinance is warranted, a public hearing will be scheduled to occur within 60 days of the passage of the emergency ordinance, and Planning Commission work will be initiated to develop permanent regulations.

**Response to Council Questions from September 9**

In order to ensure that unintended consequences were not created as a result of amending the Land Use Code too hastily, Council scheduled consideration of the draft emergency ordinance for September 23, 2013. Council asked staff several additional questions on the draft emergency ordinance that are addressed in further detail below.

Experience of Other Cities: Residents of Spiritwood proposed to Council that it consider adopting an ordinance similar to one recently enacted by the Auburn City Council in response to similar issues with single-family housing being rented on a room-by-room basis. Councilmembers expressed interest in learning more about the Auburn experience. Staff examined Auburn's regulatory approach and spoke with staff there to gather additional information for Council.

Similar to the Spiritwood experience, Auburn's residents in single-family neighborhoods adjacent to Green River Community College also reported that some property owners were converting garages into bedrooms and renting bedrooms to individual tenants on separate leases. Residents there expressed concerns about increased traffic, lack of parking, and failure to keep lawns mowed. Auburn has a comprehensive regulatory scheme of licensing and inspecting all rental housing. Auburn's approach to this issue was, therefore, to amend its code provisions defining this type of land use rental pattern; reducing the number of unrelated persons permitted to live together to from six to four and adding single-room rental housing to those types of housing requiring a license and annual inspections. Because Bellevue does not have a rental housing licensing program, we have not recommended that Council adopt this approach. A rental housing licensing program would constitute a new city program that would require additional staff and ongoing resources to implement.

Auburn's recently adopted ordinance also clarified that the International Building Code applies to the conversion of garages to sleeping quarters, and imposed parking and property maintenance requirements for rental properties. We have not incorporated these requirements in the proposed emergency ordinance, but would instead recommend that Council consider whether to incorporate consideration of parking and property maintenance requirements into its direction to the Planning Commission for development of permanent regulations.

Enforcement of the Land Use Code: The City's Code enforcement protocol has been defined by Council directive. Life safety, emergent environmental impacts, and sign code violations are all enforced proactively. This means that if the City observes a violation of life safety, environmental, or sign codes, enforcement response will be initiated. Enforcement of city codes that do NOT fall into one of the three above-named categories is exclusively complaint-based. This means that a complaint from a citizen or other impacted individual must be received in order for an enforcement response to be initiated. When a complaint is received by the City, code compliance officers investigate, seek to achieve voluntary compliance if a violation is discovered, and pursue an order from the Hearing Examiner to force resolution of the complaint and assess penalties in those cases where voluntary compliance cannot be secured. Data over time has shown that code compliance officers resolve more than 95% of initiated cases through voluntary compliance techniques. The proposed ordinance placing limitations on the number of unrelated persons who may occupy a dwelling unit falls within the category of regulations that would be enforced on a complaint basis.

Enforcement of the new Emergency Ordinance: Even though the ordinance would be enforced on a complaint basis, Councilmembers also expressed concerns regarding the proposed reduction in the number of unrelated persons permitted to live together and its

potential impacts on current residents. Council asked for information on the timing of imposition of these new limitations, as well information on whether pre-existing lease arrangements would immediately become subject to enforcement.

In order to provide individuals a reasonable period of time to bring their existing rental homes into compliance with the new regulations, an amortization, or grace period is proposed (refer to Section 5 of the Emergency Ordinance provided in Attachment A.) This grace period allows property owners with current lease arrangements with five or six unrelated persons in single family homes to wind down those leases and then reduce the number of tenants to no more than four unrelated adults. Due to the fact that this housing model in Spiritwood is apparently a response to the demand for student housing in proximity to Bellevue College, the proposed ordinance provides an amortization period tied to the end of the 2013-14 school year. By July 1, 2014 rental arrangements for single family housing of unrelated persons would be required to come into compliance with the limitation to four unrelated adults. Owners of single-family rental properties will be notified that this amortization period does not allow for substitution of new renters during the amortization period to maintain levels of renters above four unrelated adults. In other words, as leases terminate during the amortization period, rentals must come into compliance with the limitation of four unrelated adults.

This express amortization period has the added benefit of providing ample notice to property owners and potential investors of the changes to the Land Use Code so that they can plan accordingly. Finally, it makes clear that these leasing arrangements will not be considered permitted non-conforming uses beyond the end of the amortization period.

Rental Housing Enforcement Case Volumes: In addition to the questions posed above, the Council also requested code enforcement data regarding the volume of rental housing complaints processed by Code Enforcement staff. Data for code compliance records is collected based on case categories. Cases involving violations of the boarding home regulations and the definition of family are consolidated within a single “rental housing violation” category. Data taken during a two-year period in the early parts of the last decade and the early parts of this decade were compared to evaluate whether complaints in this category have increased over time. The table presented below provides the results of that inquiry.

	Location of Violation	2003/2004*	2011/2012*
Number of Rental Housing Violations	Citywide	27	43
	East Bellevue Community Council (EBCC) Area	5	10

\*Selected years were chosen to reflect years with similar economic conditions as demonstrated by permit volumes in Development Services.

## **Changes to Draft Emergency Ordinance in Response to September 9 Feedback**

Council discussion and feedback provided during the September 9 Study Session prompted staff to refine the earlier Draft Emergency Ordinance. Changes to the previously-provided ordinance are described below:

1. The performance requirements applicable to Boarding Houses were expanded to specifically include "Rooming Houses," and to consolidate standards applicable to these uses in a single location.
2. The definition title for "Boarding House" was expanded to specifically include "Rooming" which is referenced in the narrative of the current definition. This change removes the need to include a new definition of "Rooming Home."
3. The definition of Board/Rooming House was expanded to apply to stays of 30 days or more and to eliminate any conflict with the definition "Transient Lodging."
4. The references to "unrelated individuals" in the definition of "Family" were clarified to apply only to adults (persons 18 years or older).

## **Non-Regulatory Steps to Address Impacts of Individual Room Rentals**

The following non-regulatory efforts will also be pursued by staff concurrent with development of interim and permanent regulatory approaches to ensure that landlords and investment property owners are adequately apprised of the rules applicable to rental of single family homes:

1. Outreach regarding the Planning Commission work to develop permanent codes will be broad in scope, and include communications to realtors, property maintenance firms, and landlord and tenant stakeholder groups.
2. Public information materials will be developed and distributed to stakeholder groups and posted to the City website following adoption of permanent regulations.
3. Opportunities will be explored for Code Compliance and Neighborhood Outreach to collaborate on an education program to inform landlords regarding appropriate rental practices and tenant expectations.

## **ALTERNATIVES**

1. Adopt Ordinance No. 6128 to amend the Land Use Code to provide necessary clarification regarding individual room rentals in single family homes, schedule a public hearing date, and direct Planning Commission development of recommendations for permanent regulations.
2. Do not adopt Ordinance No. 6128 and provide alternative direction to staff.

## **RECOMMENDATION**

Adopt Ordinance No. 6128 to amend the Land Use Code to provide necessary clarification regarding individual room rentals in single family homes, schedule a public hearing date, and direct Planning Commission development of recommendations for permanent regulations

**MOTION**

Adopt Ordinance No. 6128 to amend the Land Use Code to Provide Necessary Clarification regarding Individual Room Rentals in Single Family Homes, schedule a public hearing date, and initiate Planning Commission work to develop recommendations for permanent regulations.

**EFFECTIVE DATE**

If approved, this Emergency Ordinance becomes effective immediately except within the boundaries of the East Bellevue Community Council. Pursuant to RCW Chapter 35.14, the Community Council has jurisdiction to approve or disapprove this ordinance. If the Community Council does not act within 60 days of the passage of the ordinance, it will automatically be deemed effective, however if this Emergency Ordinance is passed by the Council staff will seek to add it to the Community Council's agenda on October 1, 2013 for consideration.

The required public hearing before the City Council will be scheduled within the next 60 days.

**ATTACHMENT**

A. Proposed Emergency Ordinance No. 6128

**AVAILABLE IN COUNCIL OFFICE FOR REVIEW**

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;

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.

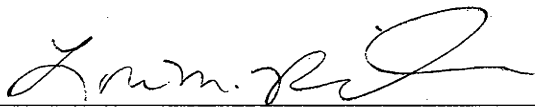
Section 11. Effective Date. In accordance with RCW 35A.13.190, this ordinance, as a public emergency ordinance, shall take effect and be in force immediately upon adoption by a majority plus one of the City Council.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2013, and signed in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

(SEAL)

\_\_\_\_\_  
Conrad Lee, Mayor

Approved as to form:

  
\_\_\_\_\_  
Lori M. Riordan, City Attorney

Attest:

\_\_\_\_\_  
Myrna L. Basich, City Clerk

Published \_\_\_\_\_