

ITEM NO. 4 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE; DEFINING OCCUPANCY & CLARIFYING OCCUPANCY LIMITS IN NON-RS ZONING DISTRICTS (MJL)

TA-10-15-11: Consider a text amendment to the City of Lawrence Land Development Code, Articles 2 and 17, defining occupancy and clarifying the applicability of occupancy limits in RS and non-RS districts. *Initiated by City Commission on 10/4/11.*

STAFF PRESENTATION

Ms. Michelle Leininger presented the item.

PUBLIC HEARING

Mr. Bob Schumm said he was interested in this issue because there has not been an efficient way of dealing with people who overload single-family dwelling homes. He said the home across the street from his house had about six individuals living in it right now and were taken court and fined \$100. He said the City Commission's intension was to try and get some language with teeth in the ordinance so the inspectors can do their job. He stated it was not just one neighborhood where this was occurring.

COMMISSION DISCUSSION

Commissioner Finkeldei discussed the definition of family.

Mr. McCullough said the direction from City Commission was to bolster several parts of the current enforcement in terms of occupancy and its link to rental registration. He said the Development Code portion was for cleanup of applicability sections in Article 2 established for all the districts and to define what occupancy meant. He said that was important from an enforcement standpoint because often times when people are found living in a residence they will claim they have another residence so staff has to try and prove they are there a majority of the time. He said staff looked at several alternatives to look at whether or not to create a term occupancy or occupant and how that could fit into the architecture of the Code. He said they kept going back to the definition of family and felt that in discussing this with the Code Enforcement Manager that it was important to maintain the broad terms of living in a dwelling unit, which was existing Code language in the definition of family. He said it gets at the same value but if they can show through prosecution that a person is residing or sleeping at a dwelling unit the majority of the time they would be recognized, from a Code perspective, as an occupant of that address.

Commissioner Finkeldei inquired about someone who says they are just visiting a residence.

Mr. McCullough said staff started out with the framework of residing 15 of 30 days. He said they didn't want to create a loophole or rule where people could stay a certain amount of days and then come back and start the time over. He said they wanted to be able to keep it broad enough to use for specific enforcement scenarios and also define it in such a way where it can show the court that someone is residing in a certain residence.

Commissioner Finkeldei said he liked the League of Women Voters suggestion about pulling it out of non-RS districts that do not have accessory dwelling units.

Commissioner Blaser asked if it would then make the two areas that can have ancillary in RS non-compliant.

Mr. McCullough said the League of Women Voters comment was that the language was consistent throughout Article 2 and shouldn't be consistent because some of those districts don't allow accessory dwelling units. He said the League was seeing an appearance of conflict between one Code section appearing to allow accessory dwelling units even though from a technical standpoint it doesn't because it refers to another Code section that prohibits them. He said it doesn't lend itself any value to the Code to keep it in there so he agreed with the League's comment about it being stricken from those districts that don't allow accessory dwelling units.

ACTION

Motioned by Commissioner Liese, seconded by Commissioner Belt, to approve amendments, TA-10-15-11, to the City of Lawrence Land Development Code and forward to the City Commission based on the analysis in the staff report.

Unanimously approved 9-0.