




PLANNING & DEVELOPMENT MEMORANDUM
#40-2024

DATE: Nov. 18, 2024

TO: Honorable Mayor Meredith Leighty and City Council Members

THROUGH: Heather Geyer, City Manager 
Jason Loveland, Deputy City Manager 

FROM: Brook Svoboda, Director of Planning & Development 

SUBJECT: CB-2024 – Unified Development Ordinance Amendment – Housing Occupancy Limits

PURPOSE

To consider CB-2024, an ordinance on second reading adding a new Section 11-7-7 to the Municipal Code regarding housing occupancy limits.

BACKGROUND

During the 2024 Colorado Legislative Session, the legislature passed House Bill 24-1007, which prohibits municipalities from limiting occupancy based on familial relationships through the codification of C.R.S. 29-20-111. However, the City has home rule power and authority to enact legislation on matters of local concern, which effectively preempts and supersedes State legislation. The Colorado Supreme Court has declared and affirmed multiple times that zoning is a matter of local concern. The adoption of this ordinance asserts the City's home rule authority to supersede and preempt State legislation regulating zoning.

The rationale for this determination is that zoning and subdivision are purely matters of local concern because City Council is in the best position to legislate housing availability within the City's corporate limits. The City has existing limits on housing occupancy that are consistent with its zoning needs and objectives to protect the health, safety, and welfare of its residents. The City rejects the assertion that HB 24-1007 addresses a matter of statewide concern and maintains that its Unified Development Ordinance supersedes HB 24-1007, particularly as it pertains to the definition of "Family" in Section 11-7-6.

The Planning Commission held a Public Hearing on Oct. 15, 2024, and unanimously voted to provide a favorable recommendation to City Council for the proposed recommendations.

BUDGET/TIME IMPLICATIONS

There are no financial or time impacts to the City.

STAFF RECOMMENDATION

Staff recommends approval of CB-2024.

STAFF REFERENCE

If Council Members have any questions, please contact Brook Svoboda, Director of Planning & Development, at bsvoboda@northglenn.org or 303.450.8937.

ATTACHMENTS

1. Oct. 15, 2024 Planning Commission Packet
2. Planning Commission Resolution 2024-03

CB-2024 – Unified Development Ordinance Amendment – Housing Occupancy Limits



Planning & Development
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Northglenn, CO 80233
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northglenn.org

PLANNING AND DEVELOPMENT DEPARTMENT
MEMORANDUM

DATE: Oct 15, 2024
TO: Planning Commission
FROM: Brook Svoboda, Director of Planning & Development
SUBJECT: Unified Development Ordinance Amendment – Housing Occupancy Limits

REQUEST

Staff is presenting an update to various sections of the Unified Development Ordinance (UDO) for public hearing and recommendation to City Council.

RECOMMENDATION

Staff is recommending that the Planning Commission recommend approval of the proposed Amendment to the UDO to the City Council.

Recommended Motion.

“I move to approve Resolution 2024-03, a resolution providing a favorable recommendation to the City Council for approval of Unified Development Ordinance Housing Occupancy Limits as presented in Attachment A.”

DISCUSSION

Background.

During the 2024 Colorado Legislative Session, the legislature passed House Bill 24-1007, which prohibits municipalities from limiting occupancy based on familial relationships through the codification of C.R.S. 29-20-111. However, the City has home rule power and authority to enact legislation on matters of local concern, which effectively preempts and supersedes state legislation. The Colorado Supreme Court has declared and affirmed multiple times that zoning is a matter of local concern. The adoption of this ordinance asserts the City’s home rule authority to supersede and preempt state legislation regulating zoning.

The rationale for this determination is that zoning and subdivision are purely matters of local concern because the Northglenn City Council is in the best position to legislate on how to increase housing availability within the City’s corporate limits. The City has existing limits on housing occupancy that are consistent with its zoning needs and objectives to protect the

health, safety, and welfare of its residents. The City rejects the assertion that HB 24-1007 addresses a matter of statewide concern and maintains that its Unified Development Ordinance (UDO) supersedes HB 24-1007, particularly as it pertains to the definition of "Family" in Section 11-7-6.

Description.

The following are the proposed modifications to Section 11-3-3(e)(1) of the UDO being presented for consideration:

No modifications to the intent or language are being proposed with this proposed ordinance. Language is being proposed to affirm that the current provisions remain in place.

Section 1. Section 11-7-7 is hereby added to the City of Northglenn Municipal Code to read as follows:

Section 11-7-7. Housing Occupancy Limits.

(a) Purpose and Legislative Declaration. The City Council finds and determines as follows:

(1) Pursuant to Article XX, Section 6 of the Colorado Constitution, the City is a Colorado home rule municipality, and as such has that organic authority derived from Article XX, Section 6 of the Colorado Constitution;

(2) The City has the home rule power and authority to enact legislation on matters of purely local concern that preempt and supersede State legislation;

(3) Zoning is, and has many times been declared and affirmed by the Colorado Supreme Court to be, a matter of purely local concern, and the purpose of this Section 11-7-7 of the Northglenn Municipal Code is to state the City's intent to zealously assert its home rule authority to enact local zoning and subdivision regulations which supersede and preempt State legislation regulating zoning and subdivision as matters of purely local concern because the City Council of the City of Northglenn is in the best position to legislate on how best to accomplish the increased availability of housing within the corporate limits of the City;

(4) Colorado House Bill 24-1007 purports to prohibit municipalities from limiting housing occupancy based on familial relationships through the codification of C.R.S. § 29-20-111;

(5) The City Council has promulgated certain limits on housing occupancy consistent with the City's zoning needs and objectives to protect the health, safety and welfare of its residents;

(6) Such limits include the number of people who may live together in a single dwelling based on familial relationship; and

(7) The City Council therefore finds and declares that the limit on housing occupancy promulgated in its Unified Development Ordinance, Section 11-1-1, *et seq.*, of the City of Northglenn Municipal Code, is in furtherance of the health, safety and welfare of the City on a matter of purely local concern, notwithstanding the provisions of C.R.S. § 29-20-111.

(b) Housing Occupancy Limits. The City is aware of the passage of House Bill 24-1007, codified in C.R.S. § 29-20-111. The City rejects the assertion that the subject matter of C.R.S. § 29-20-111 is a matter of mixed statewide and local concern and determines that C.R.S. § 29-20-111 is expressly superseded and preempted within the City by this Unified Development Ordinance, specifically at its definition of "Family" in Section 11-7-6.

NOTIFICATION

Notification for this application was conducted in accordance with the requirements of Section 11-6-3(e) of the UDO, Scheduling, and Notice of Public Hearings. The only notification requirement for a UDO Amendment is a notice of public hearing published 15 days prior to the public hearing. Notification was placed in the Denver Post in accordance with the outlined timeline.

APPROVAL CRITERIA

Applicable Approval Code Provisions.

The following sections of the code should be considered with review of the various components of this application.

- Section 11-6-4, Unified Development Ordinance Amendment
- All UDO sections included in Attachment A – UDO Amendment #6

Criteria Analysis.

Section 11-6-4(c)(3)(D)(iii) requires the proposed UDO Amendments to comply with the following approval criteria. A brief staff analysis is provided of each:

Criteria:	Staff Analysis:
a) Is consistent with the Comprehensive Plan;	The proposed UDO Amendments are in conformance with the Comprehensive Plan.
b) Does not conflict with other provisions of this UDO or other provisions in the Northglenn Municipal Code;	The proposed UDO Amendments do not conflict with other provisions of the UDO or other provisions of the Northglenn Municipal Code. The City Attorney has provided and reviewed the modifications prior to this meeting.

c) Is necessary to address a demonstrated community need;	The proposed UDO Amendments are necessary to either address a demonstrated community need through the initial implementation of the UDO or to ensure clear and consistent administration of the UDO.
d) Is necessary to respond to changing conditions or policy; and	The proposed UDO Amendments are necessary to respond to either the original intent of the UDO or policy direction from the Planning Commission and/or City Council.
e) Is consistent with the purpose and intent of the zoning districts in the UDO, would improve compatibility among land uses within the City, or would result in an orderly and logical development pattern.	The proposed UDO Amendments are consistent with the purpose and intent of the zoning districts in the UDO and would improve compatibility among land uses and would result in clarifications to the UDO that will promote orderly and logical development patterns.

ADMINISTRATION

Possible Actions by the Planning Commission.

The Planning Commission is not the final approval authority for the review of a UDO Amendment and shall review the application and provide a recommendation to the City Council. For items that don't receive full consensus, Staff will provide City Council with discussion on any division or comments provided by the Planning Commission. The Commission's options for recommendation are as follows:

1. Recommend approval of the request, with or without conditions or stipulations;
2. Recommend denial of the request for reasons stated; or
3. Table the request for further consideration or additional information.

Next Steps.

The Planning Commission's recommendation on Housing Occupancy to the UDO will be forwarded to City Council for consideration. The first reading is scheduled for October 28, 2024, and the second reading and public hearing will be held at the November 18, 2024, City Council meeting.

ATTACHMENTS

- Attachment A - Proposed UDO Amendment – Housing Occupancy Limits
- Attachment B - HB 24-1007
- Attachment C – 11-7-6 Family Definition

SPONSORED BY _____

COUNCILMEMBER'S BILL

ORDINANCE NO.

No. _____
Series of 2024

_____ Series of 2024

A BILL FOR AN ORDINANCE ADDING SECTION 11-7-7 TO ARTICLE 7 OF CHAPTER 11 OF THE NORTHGLENN MUNICIPAL CODE REGARDING HOUSING OCCUPANCY LIMITS

WHEREAS, on _____, 2024, the Planning Commission held a properly noticed public hearing on the Unified Development Ordinance (the "UDO") and recommended approval;

WHEREAS, pursuant to Section 11-6-4(c), any amendment to the UDO requires a public hearing by the City Council;

WHEREAS, on _____, 2024, the City Council held a properly noticed public hearing on the Ordinance; and

WHEREAS, the City Council desires to reaffirm its right to legislate on this matter of purely local concern.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Section 11-7-7 is hereby added to the City of Northglenn Municipal Code to read as follows:

Section 11-7-7. Housing Occupancy Limits.

(a) Purpose and Legislative Declaration. The City Council finds and determines as follows:

(1) Pursuant to Article XX, Section 6 of the Colorado Constitution, the City is a Colorado home rule municipality, and as such has that organic authority derived from Article XX, Section 6 of the Colorado Constitution;

(2) The City has the home rule power and authority to enact legislation on matters of purely local concern that preempt and supersede State legislation;

(3) Zoning is, and has many times been declared and affirmed by the Colorado Supreme Court to be, a matter of purely local concern, and the purpose of this Section 11-7-7 of the Northglenn Municipal Code is to state the City's intent to zealously assert its home rule authority to enact local zoning and subdivision regulations which supersede and preempt State legislation regulating zoning and subdivision as matters of purely local concern because the City Council of the City

of Northglenn is in the best position to legislate on how best to accomplish the increased availability of housing within the corporate limits of the City;

(4) Colorado House Bill 24-1007 purports to prohibit municipalities from limiting housing occupancy based on familial relationships through the codification of C.R.S. § 29-20-111;

(5) The City Council has promulgated certain limits on housing occupancy consistent with the City's zoning needs and objectives to protect the health, safety and welfare of its residents;

(6) Such limits include the number of people who may live together in a single dwelling based on familial relationship; and

(7) The City Council therefore finds and declares that the limit on housing occupancy promulgated in its Unified Development Ordinance, Section 11-1-1, *et seq.*, of the City of Northglenn Municipal Code, is in furtherance of the health, safety and welfare of the City on a matter of purely local concern, notwithstanding the provisions of C.R.S. § 29-20-111.

(b) Housing Occupancy Limits. The City is aware of the passage of House Bill 24-1007, codified in C.R.S. § 29-20-111. The City rejects the assertion that the subject matter of C.R.S. § 29-20-111 is a matter of mixed statewide and local concern and determines that C.R.S. § 29-20-111 is expressly superseded and preempted within the City by this Unified Development Ordinance, specifically at its definition of "Family" in Section 11-7-6.

INTRODUCED, READ AND ORDERED POSTED this ____ day of _____, 2024.

MEREDITH LEIGHTY
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

PASSED ON SECOND AND FINAL READING this ____ day of _____, 2024.

MEREDITH LEIGHTY
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

An Act

HOUSE BILL 24-1007

BY REPRESENTATIVE(S) Rutinel and Mabrey, Bacon, Boesenecker, deGruy Kennedy, English, Epps, Froelich, Garcia, Hernandez, Jodeh, Kipp, Lindsay, Lindstedt, Marvin, Mauro, McCormick, Ortiz, Parenti, Ricks, Sirota, Velasco, Vigil, Weissman, Willford, McCluskie, Herod, Martinez; also SENATOR(S) Exum and Gonzales, Buckner, Coleman, Cutter, Danielson, Fields, Hinrichsen, Jaquez Lewis, Marchman, Michaelson Jenet, Priola, Winter F.

CONCERNING RESIDENTIAL OCCUPANCY LIMITS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 29-20-111 as follows:

29-20-111. Local government residential occupancy limits - short title - legislative declaration - definition. (1) THE SHORT TITLE OF THIS SECTION IS THE "HOME (HARMONIZING OCCUPANCY MEASURES EQUITABLY) ACT".

(2) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT OCCUPANCY LIMITS AND THE INCREASED AVAILABILITY OF HOUSING ARE

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

MATTERS OF MIXED STATEWIDE AND LOCAL CONCERN.

(3) A LOCAL GOVERNMENT SHALL NOT LIMIT THE NUMBER OF PEOPLE WHO MAY LIVE TOGETHER IN A SINGLE DWELLING BASED ON FAMILIAL RELATIONSHIP. LOCAL GOVERNMENTS RETAIN THE AUTHORITY TO IMPLEMENT RESIDENTIAL OCCUPANCY LIMITS BASED ONLY ON:

(a) DEMONSTRATED HEALTH AND SAFETY STANDARDS, SUCH AS INTERNATIONAL BUILDING CODE STANDARDS, FIRE CODE REGULATIONS, OR COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT WASTEWATER AND WATER QUALITY STANDARDS; OR


(b) LOCAL, STATE, FEDERAL, OR POLITICAL SUBDIVISION AFFORDABLE HOUSING PROGRAM GUIDELINES.

(4) AS USED IN THIS SECTION, "LOCAL GOVERNMENT" MEANS A HOME RULE OR STATUTORY CITY, HOME RULE OR STATUTORY COUNTY, TOWN, TERRITORIAL CHARTER CITY, OR CITY AND COUNTY.

SECTION 2. Effective date. This act takes effect July 1, 2024.

SECTION 3. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate

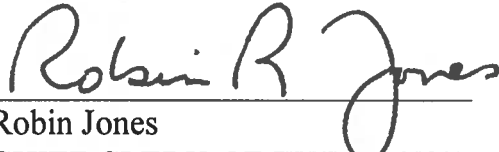
preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.



Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Steve Fenberg
PRESIDENT OF
THE SENATE

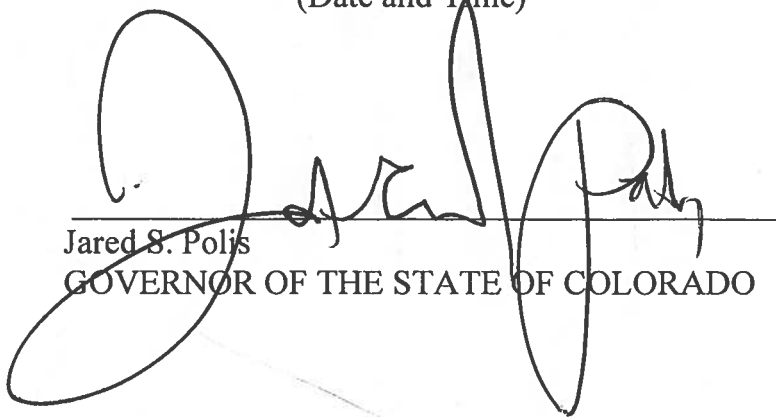


Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES



Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED Monday April 15th 2024 at 12:15 pm
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

Density

A ratio of dwelling units to land area.

Detached

Any structure or building having no party wall or common wall with another structure. Bridges, tunnels, breezeways, and other similar means of connecting one structure or building to another shall not, for the purposes of this Ordinance, be considered to constitute a party wall or a common wall.

Developer

Any person, firm, partnership, joint venture, limited liability company, association, or corporation who participates as owner, promoter, developer, or sales agent in the planning, platting, development, promotion, sale, or lease of a subdivision or development.

Development

The construction of a building or structure, any clearing, grading, excavation, or other movement of land, or the subdivision of land unless expressly excluded in this UDO. For floodplain regulations in Section 11-4-3, "development" shall be defined pursuant to Section 11-7-4.

Development Review Committee

A committee consisting of representatives from various City departments, including Planning and Development, Public Works, Parks and Recreation, Water, and any other applicable City department. The Development Review Committee is responsible for review of most development applications as indicated in Article 6.

Diameter Breast Height

The diameter of a tree measured at four and one-half feet above the existing grade at the base of the tree.

Director

The Director of the Planning and Development Department, or his designee. For Oil and Gas Regulations in Section 11-3-6, "Director" shall be defined pursuant to Section 11-7-3.

Distinct Elevation

As it applies to building variety, distinct elevation means a different roof line, different wall planes, and use of different exterior finish materials.

Driveways

An area of pavement, or other approved surfacing designed and intended for driveways that provides vehicle access from a public right-of-way to a parking area, garage, or house.

Dwelling/Dwelling Unit

A structure or portion of a structure that provides living, sleeping, eating, cooking, and sanitation accommodations.

E

Easement

A grant by a property for use of land for designated private or public purposes by another agency.

F

Façade

The exterior wall on the front, side, or rear elevation of a building or structure.

Family

Either of the following shall be deemed "family" by definition:

- (1) An individual, or two or more persons related by blood, marriage, or adoption, excluding domestic servants, plus an additional two persons per dwelling unit, used as a single housekeeping unit.
- (2) A group of unrelated persons not to exceed two persons per bedroom plus an additional two persons per dwelling unit used as a single housekeeping unit.

**RESOLUTION 2024-03
NORTHGLENN PLANNING COMMISSION**

**A RESOLUTION PROVIDING A FAVORABLE RECOMMENDATION TO
THE CITY COUNCIL FOR APPROVAL OF CB-2024 – UNIFIED
DEVELOPMENT ORDINANCE OCTOBER 2024 ERRATUM**

WHEREAS, Northglenn Ordinance 11-6-4(c) requires that all proposed amendments to Chapter 11, Unified Development Ordinance, shall be referred to the Planning Commission for study, consideration, and recommendation prior to final action by Council; and

WHEREAS, the Planning Commission has studied and considered modifications to the Unified Development Ordinance and found that the proposed modifications satisfy the applicable criteria for Unified Development Ordinance Amendments under 11-6-4(c)(3)(D)(iii); and

WHEREAS, the Northglenn Planning Commission therefore desires to provide a recommendation to the City Council on the Unified Development Ordinance Amendment as required by law; and

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. The City of Northglenn Planning Commission hereby provides a favorable recommendation for the modifications proposed in the Unified Development Ordinance Amendment #7 as presented to the Commission on October 15, 2024.

DATED this 15th day of October, 2024.



Sonia Di Carlo
Planning Commission Chair

ATTEST:


Rebecca Smith, AICP
Secretary

SPONSORED BY: MAYOR LEIGHTY

COUNCIL MEMBER'S BILL

ORDINANCE NO.

No. CB-2024
Series of 2024

Series of 2024

A BILL FOR AN ORDINANCE ADDING SECTION 11-7-7 TO ARTICLE 7 OF CHAPTER 11 OF THE NORTHGLENN MUNICIPAL CODE REGARDING HOUSING OCCUPANCY LIMITS

WHEREAS, on October 15, 2024, the Planning Commission held a properly noticed public hearing on the Unified Development Ordinance (the "UDO") and recommended approval;

WHEREAS, pursuant to Section 11-6-4(c), any amendment to the UDO requires a public hearing by the City Council;

WHEREAS, on November 18, 2024, the City Council held a properly noticed public hearing on the Ordinance; and

WHEREAS, the City Council desires to reaffirm its right to legislate on this matter of purely local concern.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Section 11-7-7 is hereby added to the City of Northglenn Municipal Code to read as follows:

Section 11-7-7. Housing Occupancy Limits.

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regulations which supersede and preempt State legislation regulating zoning and subdivision as matters of purely local concern because the City Council of the City of Northglenn is in the best position to legislate on how best to accomplish the increased availability of housing within the corporate limits of the City;

(4) Colorado House Bill 24-1007 purports to prohibit municipalities from limiting housing occupancy based on familial relationships through the codification of C.R.S. § 29-20-111;

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(7) The City Council therefore finds and declares that the limit on housing occupancy promulgated in its Unified Development Ordinance, Section 11-1-1, *et seq.*, of the City of Northglenn Municipal Code, is in furtherance of the health, safety and welfare of the City on a matter of purely local concern, notwithstanding the provisions of C.R.S. § 29-20-111.

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INTRODUCED, READ AND ORDERED POSTED this 20th day of October, 2024.


MEREDITH LEIGHTY
Mayor

ATTEST:


JOHANNA SMALL, MMC
City Clerk

PASSED ON SECOND AND FINAL READING this ____ day of _____,
2024.

MEREDITH LEIGHTY
Mayor

ATTEST:

JOHANNA SMALL, MMC
City Clerk

APPROVED AS TO FORM:



COREY Y. HOFFMANN
City Attorney