Boulder City Council
STUDY SESSION
(TELEVISED)

Tuesday
January 26
5:30-7 PM

Cooperative Housing

Council Chambers
Municipal Building
1777 Broadway

Submit Written Comments to City Council, ATTN: Lynnette Beck, City Clerk, 1777 Broadway, P.O. Box 791, Boulder, CO 80306 or Fax to 303-441-4478 or E-mail: council@bouldercolorado.gov

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CITY OF BOULDER
STUDY SESSION

TO: Mayor and Members of City Council

FROM: Tom Carr, City Attorney

DATE: January 26, 2016

SUBJECT: Cooperative Housing

PURPOSE:

This study session will provide an opportunity for Council to consider options for regulation of cooperative housing.

INTRODUCTION:

Council scheduled this study session to consider potential changes to the city's code provisions relating to cooperative housing. It is a follow-up after consideration of an ordinance intended to improve occupancy enforcement. 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. That is, staff will seek Council direction at this study session and if directed prepare a first reading ordinance for Council to consider.

BACKGROUND:

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.

HOUSING COOPERATIVE MODELS

There are three types of housing cooperatives, rental, market rate equity (or private equity) and limited equity (or group equity). A rental cooperative is owned by a non-resident party. Residents become "members" but have no equity share in the cooperative. In a market rate equity cooperative, a cooperative corporation owns the property. The residents own shares in the corporation. The shares are bought and sold at prices driven by the market. A limited equity cooperative is similar to a market rate cooperative, however, the initial and resale price of the shares of stock in the cooperative corporation are limited typically to be affordable to low and moderate income households. The city's current code provision allows only market rate equity cooperatives.

CURRENT CODE PROVISIONS

The city's current code provisions can be found in section 9-6-3(b). The following is a brief description of each of the requirements:

1. Permitted Zone Districts – Cooperative Housing is permitted in the Residential Estate (RE), Residential Rural (RR), Residential Low Density (RL), Residential Medium Density (RM), Residential Mixed Use (RMX), Mixed Use (MU), Industrial General (IG) and Industrial Manufacturing (IM) zone districts. There was significant debate regarding the appropriate zone districts for housing cooperatives. There was a push to limit cooperatives to the higher density districts. Such districts, however, do not generally have the larger houses more suitable to cooperatives. Thus, council decided to include the RE, RR and RL districts.

2. Initial Application – The initial application must include written consent from the property owner, a list of all property owners within 300 feet, a current statement of ownership, the property's legal description, a list of the proposed resident owners and the name of the local agent. The application fee is $590. The application is considered through conditional use review for all applications except those for units in the industrial zone districts. Those applications require site review. Conditional use review is generally a two week process. This process was chosen for most applications, because it is shorter than site review and therefore was intended to simplify the process.

3. Notice – The City Manager provides notice of the proposed cooperative to all property owners within 300 feet.

4. Renewal – The applicant must re-apply every five years. If the application no longer meets the requirements, the city manager must deny the application. The five-year renewal provision was a compromise intended to be long enough to allow for stability, while at the same time preventing housing cooperatives from slipping away from the basic requirements.

5. Ownership – All owners must be residents, but not all residents must be owners. Seventy-five percent of the residents must have an ownership interest, not including children under the age of twenty-one. No resident owner may own less than five percent or more than forty-nine percent of the property interest. A tax exempt nonprofit may own up to forty-nine percent. In 1998, there was a recommendation that the forty-nine percent limit be removed. Staff recommended against this proposed change, because allowing one person to be a majority owner would undermine the purpose of cooperative housing. That is, the majority owner would essentially become the landlord. This provision prohibits rental cooperatives. The provision would also prohibit limited equity cooperatives.

6. Concentration – The concentration limit is based on a "neighborhood area." For the purpose of cooperative housing, a neighborhood area is an area defined by a line extending from the lot line of the lot on which the cooperative housing unit is located. In the RL, RM, RMX, RH and MU districts, the line is three hundred feet from the lot line. In the RR and RE districts the line is six hundred feet. In the RR, RL and RE zone districts, no more than ten percent of the principal structures may be accessory dwelling units, group homes or cooperative housing units. For the RM, MU, RMX and RH districts, the restriction is limited to cooperative housing units. That is, no more than ten percent of the principal structures in those districts can be cooperative housing units.

7. Occupancy – The maximum occupancy is six in the RR, RE, RL, RM, RMX or MU zones. Eight are allowed on a lot that is twice the minimum size required per dwelling unit. In the RH zone, the maximum occupancy is four per dwelling unit if there are multiple dwelling units on the property. In addition, there is a requirement that each cooperative provide three hundred square feet of habitable space for each occupant. Occupancy was an important area of discussion. The cooperative advocates pushed for a

larger number to allow more economical living arrangements. The compromise was to allow six in most units, but to allow eight on large lots.

8. International Property Maintenance Code – No person may occupy a room unless the room meets IMPC standards. The IMPC sets a standard for occupancy of rooms, while the city's occupancy standard is based on the entire dwelling unit. Both apply in Boulder. The IMPC requires that every bedroom be at least 70 square feet, with bedrooms occupied by more than one person having at least 50 square feet for each person.[1] Thus, one person could live in a 10 foot by seven foot bedroom and two could occupy a 10 foot by 10 foot bedroom. Boulder has the additional requirement that each dwelling unit be occupied by no more than three or four unrelated people.

9. Local agent – One of the resident owners must be appointed as the local agent.

10. Parking – There must be at least one off-street parking spot for every two occupants. The city manager may reduce or defer the requirement by up to fifty percent of the requirement. All cooperative housing units must have at least two off-street parking spaces. Parking was also an issue considered by the planning board and council. The original proposal was to limit the number of cars allowed at the cooperative. Such a provision would have presented significant enforcement challenges.[2] Nevertheless, there was substantial community concern regarding the impact of cooperative housing on parking in the neighborhoods. The ultimate decision was to require off-street parking, but to allow the city manager to waive or defer the requirement based on existing criteria in the code.[3]

11. RTD Passes – All residents over the age of sixteen must have a RTD local transit pass. A local pass costs $99 per month. The cost is reduced significantly for residents of the city's neighborhood eco pass districts.

12. Kitchens – A cooperative housing unit is only permitted one kitchen, unless an additional kitchen was installed legally before submission of the cooperative housing application. This restriction was included to prevent cooperative units from becoming de facto multiple unit dwellings.

13. Expiration – A permit expires upon transfer of the entire property, if the cooperative housing use is discontinued or after five years.

14. Revocation – The city manager has discretion to revoke a cooperative housing approval. For units in the RL district, the manager can revoke after a single conviction of the city's noise, weed control or trash accumulation provisions. In all other districts revocation requires two convictions within a two-year period. The city manager may also

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[1] Section 404.4.1 of the IMPC provides: "every bedroom shall contain a minimum of 70 square feet (6.5 m^2) and every bedroom occupied by more than one person shall contain a minimum of 50 square feet (4.6 m^2) of floor area for each occupant thereof."

[2] As would have another proposal to limit the number of pets.

[3] The criteria can be found in § 9-6-3(e) & (f) "Parking Standards," B.R.C. 1981

revoke for an occupancy violation. At the September 3, 1996 council meeting, the council added a provision that allowed the city manager discretion not to revoke if the cooperative made changes sufficient to prevent future violations. This provision also prevents the city's Division of Housing from considering funding affordable cooperatives, because a cooperative subject to revocation could not be considered permanently affordable.

EXISTING LEGAL HOUSING COOPERATIVES

The Boulder Housing Coalition currently manages three rental housing cooperatives in Boulder, all of which are deed-restricted as permanently affordable. Two of the three BHC cooperatives are in former single family homes that had been subdivided into multiple dwelling units. The Masala Co-op, 744 Marine Street is in the RMX zone district and the Chrysalis Co-op, 2127 16th Street is in the RH zone district. Each consists of four dwelling units with a maximum occupancy of four unrelated individuals in each dwelling unit. The third cooperative is the Ostara Co-op, 2550 9th Street, which is also in the RMX zone district. In this case, BHC converted an old apartment building into a rooming house housing 18 people and two two-bedroom apartments with a maximum occupancy of four unrelated each. This resulted in a total occupancy of 26 people. Chrysalis and Ostara are in Neighborhood Eco-Pass district, while Masala is not.

ILLEGAL HOUSING COOPERATIVES

Council has heard from many people claiming to live in existing illegal cooperatives. It is difficult to quantify the number of illegal cooperatives existing in Boulder today. Council asked staff to defer taking enforcement action against the Rad-ish Collective while council considered cooperative housing. The following are examples of two illegal cooperatives operating with relatively high profiles.

a. The Rad-ish Collective

The Rad-ish Collective is in a building that was last sold in 2011 for $407,000. It is on a residential street, adjacent to a major arterial. The house has five bedrooms and two and one-half bathrooms in a total of 2,165 square feet. The lot is 6,946 square feet. According to a newspaper article, fourteen people reside in the home.[4] A real estate website lists the rental income as $3,625 per month. If these numbers are correct, the average rent per occupant is $260 per month. The house is in an RL zone district with a maximum occupancy of three unrelated individuals. The property is managed by a private company with a valid rental license that will expire on October 22, 2016. The property is not yet SmartRegs compliant.[5]

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[4] *See* Some Boulder Co-ops simply skirt the law, Boulder Daily Camera, December 7, 2013, accessible here.

[5] The deadline for compliance is December 31, 2018.

b. The Beet

The Beet is a newer cooperative located in Martin Acres. It is in a building that was last sold in 2013 for $481,000. The house has five bedrooms and three bathrooms in a total of 2,438 square feet. The lot is 7,543 square feet. This house is in an RL zone district with a maximum occupancy of three unrelated individuals. The Beet has advertised its occupancy as "about 10 people." The property does not have a rental license, although the Boulder County website lists the owners as a couple with a different residential mailing address.

Both of these illegal cooperatives provide cultural benefits to the community. They host classes for the Boulder Free School. In 2013, the Rad-ish hosted a city council candidate forum. It also hosts a "Radical Movie Night" and other cultural events. The Beet also hosts a monthly "Second-Saturday" event to showcase the talents of local artists as well as a myriad of events, lectures, discussions and dinners.

HISTORY OF COMPLAINTS

The police department has the following information regarding complaints associated with the addresses for each of the cooperatives referenced above, which have had a complaint filed with the police.

Cooperative	Complaint	Date	Outcome
Masala	Snow	November 20, 2014	Voluntary Compliance
Masala	Snow	March 6, 2015	Abated
Ostara	Trash	January 9, 2014	Voluntary Compliance
Ostara[6]	Snow	January 9, 2014	Voluntary Compliance
Rad-ish	Noise	February 10, 2015	No Action[7]
Rad-ish	Animal	July 31, 2014	No Action[8]
Rad-ish	Trash	January 8, 2014	Voluntary Compliance
Rad-ish	Snow	January 8, 2014	Voluntary Compliance
Rad-ish	Trash	March 8, 2013	Voluntary Compliance
Rad-ish	Trash Container	February 8, 2013	Voluntary Compliance
Rad-ish[9]	Trash	February 8, 2013	Voluntary Compliance

COMMUNITY PROPOSALS

The Boulder Community Housing Association (BoCHA) sent the council a Cooperative Housing Reform White Paper as well as an outline of a proposed ordinance for rental cooperatives. Copies of these documents are attached. BoCHA identified several concerns with the city's current code provisions. These concerns can be summarized as follows:

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[6] In addition, there have been seven other calls for emergency services at Ostara since July 2014.
[7] The noise complaint was about a car alarm for a car parked in front of the house.
[8] The animal complaint was about a barking dog.
[9] In addition, there have been three other calls for emergency services at the Rad-ish since April 2104.

- The 300 square foot per occupant requirement
- Parking requirements
- The ownership requirement
- The EcoPass requirement
- The six-person limit
- The five-year renewal requirement
- The revocation provisions.

The outline recommends addressing these issues as follows:

- Either eliminate the occupancy limit by treating cooperatives as families or allow a maximum of two people per bedroom.
- Require a permit that is held by a separate not-for-profit. The permit would not be tied to a property, so that the cooperative would maintain some bargaining leverage with property owners, because the cooperative could re-locate.
- Require the cooperative to operate as a single housing unit, sharing all household responsibilities.
- Address parking issues with a transportation management plan.
- Apply the nuisance code provisions to regulate external negative behaviors.
- Allow rental cooperatives housing to be an allowed use, with an administratively reviewed revocable permit, in the RR, RE, RL, RM, MU, RMX, RH, and A zones, and a conditional use in B, BT, and BR.

Staff met with BoCHA representatives and received a draft proposed ordinance a copy of which is attached. The proposal would include the following changes to section 9-6-3(b):

- Expressly allow Private, Group Equity and Rental Cooperatives.
- Eliminate the requirement that the application include a list of neighbors or proposed residents.
- Require either form of equity cooperative to provide the name and formation documents of the cooperative entity.
- Require a rental cooperative to provide copies of a master lease with the property owner, a sample lease for residents and a management agreement with a qualified management company.
- Make equity cooperatives perpetual, with limited ability for the city manager to revoke.
- Allow only a cooperative entity formed pursuant to state law to be an owner.
- Limit the number of new cooperatives to twenty per year for 2016 and 2017.
- Eliminate the concentration restrictions.
- Eliminate the occupancy restrictions and replace it with a limit of one person per 150 square feet of habitable space.
- Eliminate the requirement that all owners reside in the cooperative.

- Require a majority of owners to reside in the cooperative.
- Increase the number of non-owners permitted in an equity cooperative from 25% to 49%.
- Eliminate the off-street parking requirement.
- Limit the number of cars permitted on the property.
- Requires an approved Transportation Demand Management Program.
- Require that a list of cars be provided to the city manager.
- Allow revocation for a proven violation of the city's nuisance code.
- Increase the standard for revocation for noise violations, weeds or trash accumulations to two in one year or three in two years.
- Allow equity cooperatives to remain as non-conforming uses if the code provisions are ever repealed.

Staff believes that it is premature to be considering ordinance language before Council has had the opportunity to discuss the broader policy considerations. This proposed ordinance is presented to help inform those discussions.

OTHER JURISDICTIONS

Staff has taken a look at how some other university communities address the issue of occupancy and cooperative housing. The following is a brief summary.

1. Burlington, Vermont

Burlington, Vermont has a population of approximately 42,000. It is home to the University of Vermont, with an enrollment of approximately 13,000 and Champlain College, with an enrollment of approximately 2,000 students. Burlington limits occupancy to four unrelated individuals. It does not have any specific provision permitting cooperative housing. There are two limited equity and three rental cooperatives in Burlington.

2. Madison, Wisconsin

Madison is a city of approximately 245,000 people. The city is home to the University of Wisconsin–Madison, Edgewood College, Madison Area Technical College, and Madison Media Institute. Madison has a post high school student population of approximately 50,000. The University of Wisconsin accounts for roughly 41,000 of this total. Occupancy in Madison is somewhat complex. The following is a summary from the city website:

> Occupancy issues are covered by many sections of the City of Madison Ordinances and State codes. This is a complex issue and the information below should be used only as a guideline.
>
> - In a single-family **owner** occupied dwelling unit, occupied by a family (mom, dad, children, grandparents, aunts and uncles)

anywhere in the City of Madison, there is no limit on the number of family occupants. The family can also have up to four roomers depending on parking and other issues. There are no space requirements.

- In a single-family **rental** dwelling unit, occupied by family (mom, dad, children, grandparents, aunts and uncles, etc) anywhere in the City of Madison, there is no limit on the number of family occupants. The family can also have one roomer depending on parking and other issues in the R1, R2, R3 and R4A zoning districts. The family can also have up to four roomers depending on parking and other issues in the R4, R5 and R6 zoning districts. There are no space requirements.

If the dwelling units listed above are in buildings with two or more dwelling units they are not single-family and the following space requirements also apply:

- In a building containing two or more dwelling units, in addition to the above owner/rental requirements the dwelling units must also meet the following space requirements. 150 sq. ft. for the first occupant and 100 sq. ft. for each additional occupant. To determine the occupiable area for the dwelling unit take the total square footage and subtract the area of closets, hallways, bathrooms and utility rooms. Bedrooms, dens, studies, dining rooms, and kitchens count towards the occupiable space.

- In a building containing three or more dwelling units, in addition to the above owner/rental and space requirements the dwelling units must also meet the following space requirement. The units must contain 400 cubic feet of sleeping area per adult and 200 cubic feet of sleeping area per child. This translates to two adults in a 10 by 10 bedroom assuming a standard eight-foot ceiling. The same size bedroom could accommodate four children.

Madison allows cooperatives formed under state law. All cooperatives appear to be limited group equity cooperatives similar to those run by Boulder Housing Coalition. Cooperatives are formed under a state law authorizing their creation.[10] The Cooperative owns the building. Residents must be members, but the membership is not generally an equity interest in the cooperative association. There are 22 cooperatives in Madison, housing approximately 400 people. Madison limits occupancy based on the zoning district. The general rule is that the occupancy is limited to the lesser of one person per bedroom or the occupancy that existed prior to the conversion. Some higher occupancies require conditional

[10] The Wisconsin Cooperative Law is in chapter 185 of the Wisconsin Statutes. It can be accessed at http://docs.legis.wisconsin.gov/statutes/statutes/185.pdf.

use review. For cooperatives in single family homes, the property cannot be altered by adding additional entrances or kitchens.

3. Austin, Texas

Austin has a long history with housing cooperatives. One of the college cooperative organizations dates to 1930. Austin limits occupancy to four unrelated individuals in single family zone districts, with a limit of three in each unit of a duplex. Cooperatives are treated as "group residential" uses, which is defined as at least six people living together. They are permitted in zone districts designed for higher density. They are not allowed in single family districts. Austin has 16 student housing cooperatives, which are run by two cooperative organizations. In addition there are eight independent housing cooperatives.

4. Berkeley, California

Berkeley has no occupancy limits. The city has a robust rent stabilization law that may provide a disincentive for over-occupancy. Berkeley has a wider variety of cooperatives. The largest cooperative organization is Berkeley Student Cooperative, which houses 1,250 students in 17 houses and 3 apartment buildings. In addition, there are approximately fifteen limited equity cooperatives and two market rate cooperatives. In addition, there appear to be a number of rental cooperatives.

Questions for Council

1. What are Council's policy objectives?

2. Does Council wish to consider a rental cooperative ordinance?

   a. What would be an appropriate occupancy limitation?

   b. Should rental cooperatives be limited to particular zone districts?

   c. Does Council want to consider other limitations on equity cooperatives?

3. Does Council want to consider an increase in the occupancy limit?

4. Does Council wish to consider changes to the existing equity cooperative ordinance?

   a. Which areas would Council like to consider?

   b. What would be an appropriate occupancy limit?

   c. Should there be specific limits on effects on the neighborhood?

5. Are there other issues that Council would like to address?

6. Process

   a. Would Council like to consider a proposed ordinance based upon the feedback provided at the study session?

   b. Should staff seek Planning Board input on the proposed ordinance?

   c. Are there other process steps that Council would like to see?

   d. How does this fit with other housing initiatives?

Attachments

Attachment A – BoCHA White Paper
Attachment B – BoCHA Outline
Attachment C – BoCHA Proposed Ordinance

Executive Summary

What is a housing cooperative?

A housing cooperative (or co-op) is a community of unrelated people who share a dwelling and operate as a single housekeeping unit. Co-op members usually pool resources to purchase food together and jointly pay for other household expenses. Frequent shared group meals and an explicit system facilitating the division of household responsibilities are also common. Co-ops usually hold regularly scheduled house meetings where decisions affecting the entire household are made, and members are held accountable for their responsibilities to the community. Co-ops frequently use consensus or other egalitarian decision making processes. It has been our experience that in order for these types of household systems to function and not create excessive overhead, cooperative households need to have 10 or more members.

Why enable cooperative housing in Boulder?

Affordability: Cooperative living is intrinsically affordable because it allows residents efficiently share and more fully utilize fixed cost household resources, including the dwelling itself. Co-ops also take advantage of economies of scale by buying food and other consumables in bulk. Sharing child care duties and other frequently outsourced labor requirements like minor maintenance also enhances affordability.
Sustainability: For many of the same reasons co-ops are affordable, they are also sustainable -- residents share the relatively fixed energy consumption of their dwelling across more people, so per-person energy usage is much lower. Shared durable goods reduce per-person embodied energy, and limited space discourages the accumulation of material possessions.
Community: The experience of sharing responsibilities, projects, making decisions together, resolving conflicts and just generally sharing life builds strong social bonds within cooperative communities. This is good for resident health and happiness, and also encourages civic engagement outside the household.
Skills Building: Co-ops give members many opportunities to acquire useful life skills, including cooking, minor household maintenance, budgeting and accounting, meeting facilitation, and conflict mediation. Many members go on to use these skills in their work and other organizations outside of the co-op context.

Barriers to cooperative housing in Boulder

Currently, there are three major barriers that prevent the creation of more housing cooperatives in Boulder: the **occupancy limits** for unrelated persons, **off-street parking requirements**, and the **difficulty of altering buildings with non-conforming uses.** While BRC section 9-6-3(b) creates a conditional land use for Cooperative Housing Units, it has proven too onerous for anybody to use. The overly restrictive requirements include: a minimum of 300 square feet of habitable space per resident, every co-op member must have an EcoPass, a maximum of 6 residents, excessive off-street parking, the need to renew the permit every 5 years, and potential revocation of the permit for a single noise or weed violation. None of Boulder's existing legal co-ops could meet even a few of these conditions. Instead, they all take advantage of properties with non-conforming uses that are entitled to unusually high occupancy.

Three models of cooperative housing

There are three models of cooperative housing that we would like to enable in Boulder. **Private equity cooperatives** are owned by their residents; this is the model required by BRC 9-6-3(b). **Group equity cooperatives** are owned by an outside organization and managed by the residents, who lease the property; this is the model used by the Boulder Housing Coalition (BHC). **Rental cooperatives** could be owned by anybody, but would be overseen by a sponsoring organization like the BHC.

Why enable cooperative living?

There are many benefits to enabling more cooperative living arrangements in Boulder. Because it is far less resource intensive than most living arrangements, cooperative housing is intrinsically affordable and more environmentally sustainable. Co-ops also create tight-knit communities which improve resident health, social cohesion, and civic engagement. Cooperative living provides much more autonomy than is found in typical rental arrangements, and provides residents the opportunity to acquire many useful skills.

1. Affordability

Cooperative living is intrinsically affordable because it allows community members to more efficiently share resources and take advantage of economies of scale. We also like to think of cooperative living as being systemically affordable -- rather than simply subsidizing housing, cooperatives reduce almost all living expenses with mutually reinforcing systems.

Cooperatives generally have less square footage per person than other living arrangements, making more cost effective use of the same habitable space. Bulk purchasing of food reduces its cost, and regular preparation of home-cooked meals reduces the frequency with which people eat out. Household goods, tools, and appliances are also shared across more people than in a typical household, reducing per person costs. Many co-op residents also share cars for occasional use, reducing fixed per-person transportation costs.

It's common for families in cooperative households to share some childcare responsibilities rather than outsourcing it. Cooperative households also usually take care of their own minor maintenance, saving money that might otherwise be spent on outside labor. Similarly, older adults can benefit from community support and meet many of their daily needs without having to pay for an in-home caregiver. A group of older adults living under the same roof can share the costs of house calls from healthcare providers, or share the expense of in-home care when it becomes necessary.

2. Sustainability

Many people in affluent communities like Boulder see sustainability as a luxury good -- something that you need to pay extra for. In contrast, our experience is that many of the same things that make cooperative living affordable also dramatically reduce per-capita resource use. Less square footage per person means less energy used heating, cooling, and lighting the living space. The Boulder Housing Coalition's first two co-ops use only about 1/3 as much energy (electricity and natural gas) per person as the regional average.

The embodied energy of the buildings and their durable contents are also shared by more people, reducing per-person impacts. It is easier to pay the larger up-front costs of high efficiency appliances, hot water heaters, LED lighting, and other energy consuming items in the household when those costs are shared over more people and the items are more fully utilized than in a typical single family residence. Additionally, equity cooperatives do not suffer

from the split incentives that often discourage landlords from investing in building energy efficiency improvements.

Household sharing of motor vehicles not only reduces the number of cars per person, but also often results in more efficient vehicle usage, similar to that seen by users of traditional car-sharing services. The intrinsic affordability of cooperatives allows residents to be centrally located in areas that might otherwise be prohibitively expensive, giving them easy access to transit in relatively walkable, bikeable neighborhoods. Historically the majority of the Boulder Housing Coalition's residents have chosen to live comfortably and conveniently without their own vehicles.

Finally, and maybe most importantly, cooperative living teaches people how to lead high quality lives while treading lightly on the Earth. The cultural skills required for living in close quarters and effectively sharing resources exist, but have become rare in North American society.

3. Community

Cooperative living provides many opportunities for residents to develop deep relationships with each other. We collaborate on household maintenance, routine chores, home improvement projects, and occasional work days. Many communities prepare shared meals and eat together most days, creating a family like atmosphere. Cooperatives are egalitarian micro-governments in which regular house meetings are used to make decisions and air issues that impact the entire household, including budgeting, the selection of new residents, event planning, and individual accountability to the community.

In addition to being cheaper and more convenient than individually purchasing and preparing food, co-op food culture encourages cooking from scratch using basic ingredients, which is generally healthier than a typical American diet including a lot of processed foods. A growing body of research indicates that people with strong and broad social relationships are happier, healthier and live longer. This is especially true in our older population. Elders who continue to maintain close friendships and find other ways to interact socially on a daily live longer than those who become isolated.

Interpersonal conflict is also a part of living in any close-knit community. Rather than avoiding or ignoring it, we give our members the tools to deal with conflict constructively. This includes training in non-violent communication, conflict mediation, and meeting facilitation. Living in community is not always easy, but it is a rich and varied shared experience that creates strong bonds between community members, and encourages broader civic engagement and social cohesion throughout the community. It is common for individuals living in community to be active in local government and non-profit groups where they contribute their skills in collaborative decision making and meeting facilitation to help other organizations meet their goals.

4. Skills Building/Autonomy

The autonomous nature of cooperative living provides residents with many opportunities to acquire skills. Younger community members often learn how to cook from scratch for the first time. Setting and following a household budget teaches basic finance, bookkeeping, and accounting skills useful in many walks of life. Running house meetings teaches members how to facilitate orderly group discussions and decision making. Living with many people of differing opinions and backgrounds teaches tolerance.

Especially in cooperative households that hold equity in their property (either directly or through a group equity organization) residents are also responsible for their own minor maintenance and landscaping, and are often empowered to make significant alterations and improvements to the property as they see fit. This allows community members to learn basic carpentry, plumbing, gardening and other skills. Members of group equity cooperatives have the opportunity to participate in non-profit management and organizational governance. These opportunities prepare community members to start their own businesses and impact oriented organizations, or to someday take care of their own home.

The autonomy that is offered in cooperative living situations empowers community members and gives them much more of a stake in the management of their living situation than typical rental housing arrangements, which helps to ensure co-ops are good neighbors.

A Different Kind of Development and Developer

For all the reasons above, we feel that enabling more cooperative housing in Boulder will provide overall benefits to the greater community. The Boulder Housing Coalition has repeatedly competed successfully for funding to create affordable cooperative housing. These grants have come both from the city's Division of Housing and from Boulder County. This would seem to suggest that at some level local government agrees this type of housing development provides community benefits. We hope that the relationship between the city and a developer with a mission to create affordable, sustainable, community oriented housing can be less adversarial than when the developer is purely motivated by profit.

With some forethought we can mitigate the modest neighborhood impacts associated with the creation of additional housing cooperatives. We must be careful that the fear of those impacts is not be used as an excuse to keep cooperative housing functionally illegal, as happened when the Cooperative Housing Unit conditional land use was defined in BRC section 9-6-3(b) nearly 15 years ago. Similarly, while it may be desirable to include safeguards in the code to prevent abuse by those who are simply seeking to maximize rental income without providing the community benefits listed above, we should work to ensure that those safeguards do not prevent cooperatives from thriving.

Barriers to Cooperative Housing in Boulder

There are many details of the existing land use code that make it exceedingly difficult to create cooperative households in Boulder. The three main barriers are:

- occupancy limits for unrelated persons,
- the difficulty of modifying a non-conforming property, and
- off-street parking requirements.

Occupancy Limits

As is hopefully clear from the discussion above, being able to house a large number of people in a small amount of property is fundamental to both the affordability and sustainability offered by the cooperative housing model. We have also found that the systems and processes required to operate a cooperative household successfully require at least eight, and preferably ten or more residents. Thus the occupancy limits codified in BRC section 9-8-5(a) are fundamentally at odds with the creation of cooperative housing.

In order to create more cooperative housing, we need to be able to assemble households of 10+ people. This can be done in large single family homes or in multi-family dwellings (duplexes, triplexes, small apartment complexes). Multi-family dwellings will usually need to be modified in order to consolidate common facilities like kitchens and create additional bedrooms.

Modifying Non-conforming Properties

Boulder's current zoning regime discourages the creation of a large amount of housing per unit of land. This means that a large proportion of the properties that are attractive as potentially affordable co-ops are non-conforming. If a land use change is involved in creating the co-op then by default the property reverts to its underlying zoning, often losing the entitlements that made it attractive as a potential co-op in the first place. Significant modifications are often required to turn a building designed for several small households into one that can comfortably and affordably accommodate a single large household. When the property is non-conforming, this can trigger costly requirements that erode the affordability of the project, or make it impossible altogether. The most common such requirement we have encountered is additional off-street parking.

Off-Street Parking Requirements

Many existing properties that are attractive for housing cooperatives do not have as much off-street parking as would be required by current zoning. Changing the use to accommodate the housing co-op, or performing significant alterations to the building to turn it into a co-op physically requires that it be brought into compliance. Sometimes it is physically impossible to provide the required amount of parking due to the size of the lot. Other times, providing the parking would mean paving over an enormous proportion of the open space on the property, dramatically reducing its livability and attractiveness -- both to potential residents, and to the neighborhood.

The existing Cooperative Housing Unit conditional land use

We agree wholeheartedly with the stated intention of the Cooperative Housing Unit conditional land use codified in BRC section 9-6-3(b):

> *Cooperative housing units are intended to further the goals of increased use of alternative modes of transportation; conservation and efficient use of public and private resources; and to provide for creation of a diverse housing mix and affordable housing to help meet the needs of those that work in the city.*

Unfortunately, the restrictions within the code have made it too onerous for anybody to use, and none of the BHC's co-ops could be legal under its provisions. Among the problematic details:

- **subsection (b)(2)(C):** requiring the conditional land use to be renewed every 5 years. No other conditional land use that we are aware of has a similar requirement.
- **subsection (b)(4)(D):** limiting occupancy to a maximum of 6 people, or 8 people on a double size lot in most zoning districts. Six people is not enough to make a co-op. Eight is close, but requiring a double sized lot dramatically erodes affordability. This subsection also requires a minimum of 300 square feet of habitable space per occupant, which is more space than any of the existing legal co-ops has, and limits both the affordability and sustainability benefits a co-op is able to provide.
- **subsections (b)(4)(F-G):** which require 75% of residents to have at least a 5% ownership stake in the property, and prohibit a 501(c)3 non-profit from owning more than a 49% share. This excludes the possibility of group equity and rental co-ops.
- **subsection (b)(4)(I):** requiring 1 off-street parking space for every 2 residents, or 1 per 4 residents with approval of a parking reduction, and in any case, a minimum of 2 off-street parking spaces. On many properties, with households of the size we need to assemble, providing this much parking is physically impossible, prohibitively expensive, or would require paving over a huge portion of the lot.
- **subsection (b)(4)(J):** requiring all residents over the age of 16 to maintain a local bus pass. Unless the property happens to be within a NECO district, this is prohibitively expensive.
- **subsections (b)(7)(A-C):** which provide for the revocation of the conditional use approval after a single violation of the listed Noise, Weed Control, Trash Accumulation ordinances, or for being over occupied. This creates an unacceptable level of risk for individuals or organizations who have invested significant equity in the property. The nuisance standard laid out in BRC section 10-2.5-6 (2 convictions in 12 months, or 3 in 24 months) seems more appropriate.

Furthermore, it is frequently impossible to use this conditional land use on a non-conforming property, since changing the use causes the property to revert to the underlying zoning. This often eliminates grandfathered entitlements that are more useful than anything provided by the conditional land use approval.

Because of the barriers listed above and the restrictions associated with the existing Cooperative Housing Unit conditional land use, two of the three legal co-ops under the Boulder Housing Coalition's umbrella take advantage of buildings with grandfathered non-conforming uses, that did not require extensive modification to accommodate large households. In the case of the Masala Co-op (at 744 Marine St.) and the Chrysalis Co-op (at 2127 16th St.), the properties are large old houses that were subdivided into four dwelling units at some point in the past, giving them each occupancy for 16 people. The co-ops have functionally re-combined those dwelling units, re-creating the original large houses. In the case of the North Haven Co-op (at 2550 9th St.) six of eight units in a non-conforming apartment complex with legal occupancy for a total of 32 people, were converted into a "rooming house" with 18 rooming units, alongside two, two bedroom apartments, for a total legal occupancy of 26 people. Because the land use was being changed, this ended up requiring an administrative use review, which resulted in $74,000 in additional construction costs, a significant sum for a very small non-profit on a project with a budget of less than $500,000.

Three Models of Cooperative Housing

Having outlined why we believe the city should enable more cooperative housing in Boulder, and what barriers exist to it today, we will propose some solutions.

There are three development models for cooperative housing that we would like to enable in Boulder: **private equity co-ops** in which the residents share ownership of their dwelling and accumulate equity over time, **group equity co-ops** in which residents lease their dwelling from a non-profit organization which holds the equity, and **rental co-ops**, which can be owned by anybody (including one of the residents) and are overseen by a sponsoring non-profit organization. Facilitating all three of these models of co-op development simultaneously will reinforce and broaden the local cooperative culture, and provide diverse community living opportunities for people of all ages and stages of life, across a wide range of incomes.

Private equity co-ops require the highest level of individual financial commitment and organization, and are likely to have members with longer tenure. Rental co-ops tend to be more ephemeral because they lack site-control, but they can be very easy to get started because they require minimal financial commitment. Group equity co-ops lie somewhere in between, with individual residents remaining in the communities for a few years on average, but a long term institutional commitment from the co-op development organization that owns the property. Group equity co-op development organizations can also facilitate transitions within the co-op community. They can buy shares of private equity co-ops, making it easier for equity co-op members to leave the co-op if need be. Group equity co-op development organizations can also purchase the buildings inhabited by rental co-ops, preserving the co-op even when a landlord decides they want to sell, as happened in 2004 when the Boulder Housing Coalition purchased the Chrysalis Cooperative's building at 2127 16th Street.

Private Equity Cooperatives:

Private equity cooperatives are differentiated from the other models presented here by the fact that they are primarily made up of families and/or individuals who have an ownership stake in the property they inhabit. Private equity co-ops substantially reduce the financial barrier to home ownership, by allowing members to buy just a small portion of a home. Private equity co-ops tend to provide a more stable community environment than group equity and rental cooperatives, because individual members with significant ownership stakes in the property are likely to persist longer than co-op members who are simply re-signing a lease every year. This stability may be preferable to some potential community members, especially older adults and families.

Private equity co-op members are often committing to live together for a while, and are choosing to intertwine their finances through joint ownership of a home. This requires a high level of mutual trust and organization. Most people are unlikely to enter into such an agreement without having already lived together for some time in a similar setting. Rental co-ops and group equity co-ops can provide that opportunity. Because private equity co-op members will have a large personal stake in their property, and because the financial and organizational barriers to creating this type of co-op are already high, we believe it should be the most lightly regulated of the proposed development models.

Permitting/Application:

- We envision permitting private equity co-ops as a conditional land use, requiring submission of an application to and approval by the City Manager/Staff.

Occupancy:

- We suggest that the resident owners of private equity cooperatives be treated like related individuals for the purposes of occupancy, so long as they maintain a valid conditional use approval. Occupancy limits would then be set by the International Property Maintenance Code, which is incorporated into the BRC by reference.
- Another alternative would be to allow a maximum of between 1.5 and 2 residents per bedroom. This would place a firm cap on the number of potential occupants, while allowing high enough occupancy that some rooms can be shared by couples or children.

Additional Details:

- Private equity co-ops should require a modest minimum ownership stake for each resident-owner (e.g. 5% per person or family), reducing the barrier to entering the real-estate market, while ensuring that resident-owners are invested in the community.
- We support allowing 501(c)3 non-profits to own an unlimited portion of the equity in the property, creating a continuum between the private equity and group equity development models.

- We should allow some proportion of the residents to not hold ownership stakes in the property, giving the community the ability to remain financially stable in the event that a resident-owner needs to leave, but cannot sell their equity immediately. This would also give resident-owners the flexibility to travel occasionally and rent out their room while they are gone.
- As part of the application process, a Transportation Demand Management (TDM) plan could be submitted to help mitigate neighborhood traffic and parking impacts. The TDM plan might include participation in a Neighborhood EcoPass program if it is available, the construction of covered bike parking, or other measures to be agreed upon by the private equity cooperative and city transportation staff.
- As part of the application process, the potential owner-residents would submit their private equity contract agreement, demonstrating compliance with the terms of the conditional use and defining the processes for buying and selling of their equity shares in the co-op. They would also need to submit proof that the property is owned by the equity co-op group.
- We believe this conditional use should be treated the same as other administrative review approvals, which do not require renewal, but which can be revoked for violations of the terms of the permit.
- Approval for the conditional use could be revoked under circumstances similar to those outlined in BRC 10-2.5-6, which define a public nuisance: two convictions in 12 months, or 3 within 24 months for Weed Control, Noise, Trash Accumulation, or being over occupied.
- It should be possible to transfer ownership of the equity cooperative to new owners who agree in writing to all of the existing conditions of use. In practice, ownership of the property is often likely to proceed one share at a time, rather than all at once.
- Additional off-street parking beyond that already present should not be required, as it would preclude a large proportion of properties from being usable.

Group Equity Cooperatives:

In a group equity cooperative a persistent legal entity holds the equity in the property, and the co-op household enters into a management agreement with that entity. The household pays dues each month, which covers the mortgage on the property, as well as providing reserves that are set aside for major capital projects (e.g. replacing the roof). The co-op household is empowered to manage most of the day to day operations and maintenance of the dwelling. This is the model used today by the Boulder Housing Coalition.

Individual community members may come and go every few years, but group equity co-ops have a long term institutional stake in their neighborhood relations, and in staying on the city's good side. They are somewhat challenging to start because a large initial equity stake is required to purchase the building.

Permitting/Application:

- We envision permitting group equity co-ops as a conditional land use, requiring submission of an application to and approval by the City Manager/Staff.

Occupancy:

- As with private equity co-ops above, we suggest that the residents of group equity cooperatives be treated like related individuals for the purposes of occupancy, so long as they maintain a valid conditional use approval. Occupancy limits would then be set by the International Property Maintenance Code, which is incorporated into the BRC by reference.
- Another alternative would be to allow a maximum of between 1.5 and 2 residents per bedroom. This would place a firm cap on the number of potential occupants, while allowing high enough occupancy that some rooms can be shared by couples or children.

Additional Details:

- We envision group equity cooperatives being owned either by 501(c)3 non-profit organizations or by the city's Housing Authority (Boulder Housing Partners). Allowing BHP to own a group equity co-op creates a potential buyer of last resort in the event that a non-profit owner were to go bankrupt.
- The city might also consider requiring the equity holding organization to also be a federally designated Community Housing Development Organization (CHDO) to ensure that its mission is focused on providing housing, and to give the city some control over which organizations are empowered to own this type of housing (CHDOs require city sponsorship to acquire the federal designation).
- We believe it would be beneficial to allow a continuum to exist between private equity and group equity cooperatives, by permitting a group equity holding organization to hold an unlimited portion of the equity in a property which also partly owned by resident-owners participating in a private equity cooperative.
- As part of the application process, a Transportation Demand Management (TDM) plan could be submitted to help mitigate neighborhood traffic and parking impacts. The TDM plan might include participation in a Neighborhood EcoPass program if it is available, the construction of covered bike parking, or other measures to be agreed upon by the group equity co-op developer and city transportation staff.
- We believe this conditional use should be treated the same as other administrative review approvals, which do not require renewal, but which can be revoked for violations of the terms of the permit.
- Approval for the conditional use could be revoked under circumstances similar to those outlined in BRC 10-2.5-6, which define a public nuisance: two convictions in 12 months, or 3 within 24 months for Weed Control, Noise, Trash Accumulation, or being over occupied.
- It should be possible to transfer ownership of the equity cooperative to another organization that satisfies all of the requirements for being a group equity co-op developer, and that agrees in writing to all of the existing conditions of use.

- Additional off-street parking beyond that already present should not be required, as it would preclude a large proportion of properties from being usable.

Rental Cooperatives:

Compared to the private equity and group equity development models, rental cooperatives have a very low barrier to entry, requiring good household organization, but no more capital up front than would normally be required to lease a rental property. The property could be owned by anybody -- a remote landlord who is interested in supporting cooperative housing, a property management company, a company with an interest in providing affordable housing for elders, or simply a single resident owner who wishes to share their home with a community of like-minded individuals.

Because the intrinsic barriers to creating this kind of cooperative are low, because the property could be owned by anybody, and because rental cooperatives tend to be relatively ephemeral compared to the equity co-op models described above, we suspect that this model will create the most concern about potential unintended consequences. To address those concerns we propose a relatively structured definition of what a rental cooperative household would look like, and suggest that applications for this type of rental arrangement would be sponsored by a non-profit organization with an interest in the creation of cooperative housing. This sponsoring organization could serve as a point of contact for neighborhood concerns, and work with the cooperative household to ensure that they were in compliance with the terms of the rental license.

Permitting/Application:

- We envision permitting a rental cooperative with a special Cooperative Rental License, which allows higher occupancy and also requires organizational oversight.

Occupancy:

- We propose a maximum occupancy based on the number of bedrooms in the property, with a maximum of between 1.5 and 2.0 occupants per bedroom.

Additional Details:

- Oversight by a sponsoring organization would be required as outlined below.
- The cooperative household would need to meet the requirements outlined below.
- A Transportation Demand Management plan might be required for the co-op.
- A cap on the number active Cooperative Rental Licenses citywide at any given time might be considered.
- Revocation of a Cooperative Rental License would take place under circumstances similar to those outlined in BRC 10-2.5-6, which define a public nuisance: two convictions in 12 months, or 3 within 24 months for Weed Control, Noise, Trash Accumulation, or being over occupied.

- As with any rental license, the Cooperative Rental License would need to be renewed on a regular basis. We imagine that this would take place every 4 years, as with normal rental licenses.

Property Owner:

- No specific requirements.

Sponsoring Organization:

- Must be a 501(c)3 non-profit or city housing authority.
- Might also be required to be a Community Housing Development Organization (CHDO)?

Rental Cooperative Household:

- A cooperative household (Co-op) is group of people who have agreed to act as a single housekeeping unit, and seek a suitable property to rent from a property owner who is amenable to the arrangement.
- A persistent legal entity (e.g. LLC, Colorado state non-profit, or cooperative corporation) is required, so that the cooperative household can enter into legal agreements with other entities (e.g. the property owner and the Sponsoring Organization). This entity would be structured such that each resident has an equal say in the governance of the organization.
- The Co-op is governed by bylaws and house rules, which define the house labor system and other details of household operations and social norms. Residents have the both the power to modify and the responsibility to enforce these rules and bylaws.
- The Co-op will have regularly scheduled household meetings and household decision making processes *in which participation is mandatory*. Decision making will often be by consensus, but other processes are potentially acceptable.
- Pooling of financial resources for household food, consumables, and utility payments is required, and will be collected and managed via one or more organizational bank accounts.
- An annual household budget describing the expected household revenues and expenditures shall be prepared and approved by the Co-op, and submitted to the Sponsoring Organization.
- The governing bylaws, house rules, labor system, proposed household fees, and annual household budget must be approved by the Co-op and presented to the Sponsoring Organization before the Sponsoring Organization will enter into a Management Agreement.

Relationship between the Property Owner and the Co-op:

- The Co-op would enter into a master leasing agreement with the Property Owner, as well as individual room-by-room leasing agreements with residents.
- Leases would be contingent on a valid Cooperative Rental License from the City, and voided if that permit were revoked.

- The Co-op would be responsible for finding community members and paying the master lease. This is a potential benefit to the landlords, since it means a lot less overhead in filling the building year to year, and less paperwork between the individuals and the landlord.

Relationship between Co-op and Sponsoring Organization:

- The Co-op and the Sponsoring Organization would enter into a Management Agreement laying out the responsibilities of the Sponsoring Organization and the Co-op.
- The Sponsoring Organization would facilitate good neighbor behaviors and act as the point of contact for complaints, as a property management company would. (yard, noise, parking, etc.)
- The Sponsoring Organization would need to have the power to cure in the event of failure to find household members, lease violations, bad-neighbor behaviors, etc. This means “dual powers” as in the existing management agreements maintained between the BHC and its member co-ops -- both the household and the BHC are empowered to fulfil the lease requirements.
- The Sponsoring Organization would ensure that the Co-op maintains a bank account, rental deposits, vacancy reserves, files its taxes and remains legally compliant as a corporate entity.
- The Co-op would need to pay a management fee to the Sponsoring Organization (a percentage of overall rents, or a flat fee?)
- A board member or staff person from the Sponsoring Organization might be required to live in the co-op. This person could serve as the rental Co-op’s local agent, and interface with the city, the Sponsoring Organization, and the neighborhood. They would also serve to represent the co-ops interests on the board of the sponsoring organization.

Enabling Rental Housing Co-ops (DRAFT 2015-11-17)

Neighborhood Concerns:

- **Noise & Property Maintenance:**
    - **Permitting/Licensing:** A core group interested in creating a rental cooperative would form a legal entity (e.g. a Colorado state non-profit or cooperative corporation) governed by the residents (or prospective residents, prior to move-in) with bylaws and operating agreements, set up a bank account, etc. and then apply for the permit from the city. The permit to operate as a rental cooperative, including higher occupancy rates would run with this legal entity, rather than any particular property or landlord. This permit would be renewed periodically, and renewal would be contingent upon compliance with existing property maintenance standards, including the International Property Maintenance Code (IPMC) for occupancy, habitability, safety; and BRC section 10-2.5-6 defining nuisance behavior. Renewal of the permit on a regular basis would require the co-op to show that their legal entity was in good standing with the state, that they had filed their taxes, etc. Renewal might also provide an explicit/noticed opportunity for neighbors (within some radius) to provide feedback on the management of the property.
    - **Outside Oversight:** Concerns have been expressed that rental cooperatives may be more ephemeral than equity cooperatives, and thus may not have the same long-term incentives to be good neighbors. To address this concern, we might require a management agreement with an outside 501(c)3 non-profit partner having experience in community property management, such as the Boulder Housing Coalition. The outside partner would review the co-op application before it was submitted to the city. The sponsor would provide ongoing support to the rental cooperative, on things like internal governance, budgeting, property maintenance, TDM measures, and developing good neighborhood relations. The non-profit partner could submit a report to the city as part of the periodic co-op permit renewal process.
    - **Curing Permit Violations:** In the event that a complaint is lodged against a rental co-op for violation of the terms of its permit that are not covered by the existing nuisance ordinance, the co-op and the non-profit partner should have the opportunity to cure the alleged violation before the permit is revoked. We would like a period of at least 30 days to cure. As with the nuisance ordinance, repeated violations, even if cured, would be reasonable grounds for revocation of the rental co-op permit.
- **Parking & Traffic Impacts:** Require an *enforceable* TDM plan requiring that no more than 4 vehicles be stored on site for the first dwelling unit, plus up to 1 additional vehicle per each additional dwelling unit. An uncured violation would result in revocation of the rental co-op permit. These conditions would be written into the co-op's bylaws and/or the management agreement w/ a non-profit partner. Would also include other TDM measures as as available such as NECOPasses, CarShare, BCycle & Community Cycles memberships, awesome on-site bike facilities, etc.

- **Landlord Exploitation:** In some rental-heavy neighborhoods, there are fears that enabling cooperative housing will result in landlords exploiting the rules in order to legally extract more rent from existing properties, exerting upward pressure on property values, reducing overall affordability.
    - **Subordinating Profits:** Associating the permit for higher occupancy rates with the cooperative's legal entity rather than the property owner should erode some of the landlord's ability to extract higher rents, impacting the overall rental market, since the co-op will have the ability to shop around for a like-minded landlord, or seek a new property if the rent demanded is excessive.
    - **Single Housekeeping Unit:** Require the co-op to operate as a single housekeeping unit: sharing the entire dwelling; living and cooking together; sharing expenses for food, rent, utilities or other household expenses. These expectations would be codified within the cooperative's bylaws and/or management agreement with a non-profit partner.
    - **Barrier to Entry:** Ensure that the requirements for creating a new cooperative house are surmountable by a responsible, organized group, but significant enough that it would not be pursued lightly (incorporation, bylaws, permitting, management agreement w/ non-profit, TDM plan, etc.).
    - **Limited Pilot:** Unlike equity co-ops, in which a substantial amount of capital is sunk into the property by co-op members or a group equity organization, rental cooperatives could be enabled as part of a limited duration pilot program, which would allow us to assess the impact on rents and the efficacy of the management oversight. In addition, the rate at which rental co-ops can be created could be limited to no more than (e.g.) 10 per year (as in the previously adopted equity co-op ordinance), with this rate limitation sunsetting after (e.g.) 5 years, if no substantial problems had arisen. This would limit their potential impact on the overall rental market and property values.

Cooperative Concerns:

- **Increased occupancy:** Given compliance with the above, we want to allow the cooperative to be treated as if it were a related family for occupancy purposes. Alternatively, enabling 2 occupants per bedroom (to enable couples and children to share rooms) could be considered.
- **Parking:** Requirement of a large number of off-street parking cannot be accommodated, as it excludes many of the most attractive potential properties.
- **Location:** We can accept limitations to which parts of the city co-ops can happen in, but need access to thousands of units -- a reasonable slice of the market overall. We suggest that rental cooperatives housing be an allowed use, with an administratively reviewed revocable permit, in the following zones: RR, RE, RL, RM, MU, RMX, RH, and A, and a conditional use in B, BT, and BR.
- **Inactive Co-op Permits:** Some cooperatives that successfully apply for a permit might not end up being able to make use of it. We would need a mechanism to extinguish inactive permits, and recycle them back into the pool. For example, we might stipulate that if a co-op goes for more than a period of 6 months without leasing a property, then the permit expires, and no longer counts against the annual cap.

Boulder Revised Code 1981 Section 9-6-3(b):

(b) **Cooperative Housing Units**: Cooperative housing units may provide another option for home ownership in the community. Cooperative housing units are intended to further the goals of increased use of alternative modes of transportation; conservation and efficient use of public and private resources; and to provide for creation of a diverse housing mix and affordable housing to help meet the needs of those that work in the city. The following standards and criteria apply to any cooperative housing unit~~ located in a residential district~~including, without limitation, Private and Group Equity Cooperative Housing Units or Rental Cooperative Housing Units:

(1) **Application:** All applicants for a cooperative housing unit shall apply on forms provided by the city manager demonstrating how the standards and criteria of this subsection are met and will continue to be met; provide written consent of the property owner for the application~~; provide a list of all property owners within three hundred feet of the boundaries of the applicant's property;~~;; provide a statement of current ownership and a legal description of the property~~; provide a list of the proposed resident owners in the cooperative housing unit;~~;; provide the name of the local agent, and manager or non-profit partner; and pay the application fee prescribed by section 4-20-43, "Development Application Fees," B.R.C. 1981.

A. For a **Private or Group Equity Cooperative Housing Unit**, the following additional information may be required:

(i) the name, and formation documents (i.e., articles of incorporation, by-laws, etc.) of any legal entity established to operate the cooperative housing unit;

(ii) Transportation Demand Management Plan.

B. For a **Rental Cooperative Housing Unit**, the following additional information may be required:

(i) Cooperative founding documents (articles of incorporation, by-laws, governing principles, codes of conduct, etc.)

(ii) master lease with the property owner;

(iii) sample lease for residents

(iv) management agreement with a qualified non-profit entity that has tax exempt status under 26 U.S.C. §501(c)(3) or a qualified company or organization approved by the City to manage cooperative housing units pursuant to this subsection;

(v) Transportation Demand Management Plan.

(2) **Conditional Use Review Required:** Any cooperative housing unit shall be reviewed in accordance with the following:

A. **Notice:** After receiving an application, the city manager will cause the property to be posted and notify, by first-class mail, all property owners within ~~three hundred~~300 feet of the boundaries of the applicant's property indicating that a cooperative housing unit application has been filed and that more detailed information may be obtained from the planning department. Failure to provide such notice, however, does not affect the validity of any approval subsequently granted.

B. **Review and Approval:** If after reviewing the application, but no fewer than ~~ten~~10 days after posting the property, the city manager determines that the criteria of this subsection are met, the manager will grant the applicant a nontransferable approval of a cooperative housing unit. The city manager shall deny the application if any of the standards and criteria are not met. Before receiving an approval, all owners shall sign a declaration of use, including the conditions for continued use, to be recorded in the office of the Boulder County Clerk and Recorder to serve as actual and

constructive notice of the legal status of the property.

C. **Approval Renewal:** ~~An approval~~Approval of a Private or Group Equity Cooperative Housing Unit shall be perpetual, subject to the revocation provisions of B.R.C. §9-6-3(b)(7), Approval of Rental Cooperative Housing Units shall be valid for up to five years after the date of approval. The applicant shall be required to apply for a renewal prior to the end of the five-year period. There shall be no fee for the renewal of a valid Rental cooperative housing unit use approval. The new approval will be granted if the use continues to meet the standards for a ~~cooperative housing unit.~~Rental Cooperative Housing Unit. ~~The city manager will not renew the approval if the applicant fails to meet the standards of this subsection.~~

(3) **Approval Required:** No person shall maintain a cooperative housing unit without a cooperative housing unit approval pursuant to this subsection.

(4) **Standards**: The city manager may grant a cooperative housing unit application if the applicant can demonstrate that all the following conditions are met and will continue to be met during the life of the cooperative housing unit:

A. No person other than a ~~resident owner~~Cooperative entity formed pursuant to state law to operate the Private or Group Equity Cooperative Housing Unit shall maintain an ownership interest in a ~~cooperative housing unit~~Private or Group Equity Cooperative Housing Unit unless such ownership interest is held by a nonprofit organization that has tax exempt status under 26 U.S.C. § 501(c)(3);

B. No more than a total of ~~twenty~~20 cooperative housing unit applications, no more than half of which may be in the RL zone may be approved for calendar years ~~1999~~2017 and ~~2000~~2018;

~~A. No more than ten percent of the principal structures in a neighborhood area shall be group homes, accessory dwelling units or cooperative housing units in the RR, RE and RL districts. No more than ten percent of the principal structures in the following defined areas shall be a cooperative housing unit in the RM, MU, RMX and RH districts. For the purposes of this subparagraph, such area means an area circumscribed by a line three hundred feet in the RL, RM, RMX, RH and MU districts and six hundred feet in the RR and RE districts from the perimeter of the lot line within which any building holding a cooperative housing unit will be located;~~

C. ~~A maximum of six occupants on a conforming lot or, on a lot that is twice the minimum lot area per dwelling unit, a maximum of eight occupants, may occupy any cooperative housing unit in an RR, RE, RL, RM, RMX or MU zoning district. In the RH zoning district, a maximum of four occupants are allowed for each dwelling unit that is otherwise allowed on the site.~~Every cooperative housing unit shall provide a minimum of 150 square feet of habitable floor area for each occupant. For the purpose of this subsection, habitable floor area means the total square footage of all levels included within the outside walls of a building or portion thereof, but excluding courts, garages useable for the storage of motor vehicles, and uninhabitable areas that are located above the highest inhabitable level or below the first floor level. An uninhabitable area is a room that has less than a seven-foot floor-to-ceiling height~~. The unit shall provide a minimum of three~~

~~hundred square feet of habitable floor area for each occupant;~~.;

D. No person shall use any room in a cooperative housing unit for sleeping purposes unless it meets the minimum habitability requirements set forth in chapter 10-2, "Property Maintenance Code," B.R.C. 1981;

E. ~~The~~Any Private or Group Equity cooperative housing unit shall be owned by ~~the resident occupants~~its members as provided in subparagraph (b)(4)(A) of this section. ~~All resident occupants in the cooperative housing unit are required to use the cooperative housing unit as a principal residence, and seventy-five percent~~ A majority of the ~~resident occupants~~residents of ~~the~~a Private or Group Equity cooperative housing unit shall have an ownership interest in the cooperative housing unit~~.~~, and a majority of the owners shall also reside therein. Children under the age of ~~twenty-one~~21 of a resident occupant shall not count against the ~~maximum of twenty-five percent tenants~~minority of residents that do not have an ownership interest, but shall count against the total occupants allowed in the cooperative housing unit;

~~B. No resident owner may own less than a five percent equity interest in a cooperative housing unit. No resident owner or nonprofit organization that has tax exempt status under 26 U.S.C. § 501(c)(3) may own more than a forty-nine percent equity interest in a cooperative housing unit. All resident owners in the cooperative housing unit shall have an equal vote in the governance of the cooperative housing unit;~~

F. The ~~resident owners~~residents of a cooperative housing unit shall appoint a ~~resident owner to serve as~~ local agent ~~of~~to represent the cooperative housing unit with neighbors and the City. Notices given to the local agent ~~or any resident owner~~ shall be sufficient to satisfy any requirement of notice to the owner or operator of the property. The ~~resident owners~~residents or manager shall notify the city manager in writing of any change of the local agent within seven days of such change;

~~C. A minimum of one off-street parking space per two occupants shall be provided for each cooperative housing unit. The approving authority may grant a parking reduction or parking deferral of up to fifty percent of the required parking if the applicant can demonstrate that the criteria set forth in sections 9-9-6(e) and (f), B.R.C. 1981, have been met. A cooperative housing unit shall have a minimum of two off-street parking spaces;~~

G. ~~All~~ Parking and Vehicle Limitations: No more than 4 automobiles will be owned by, registered to, or routinely used by the resident occupants of any Cooperative Housing Unit. No automobile which is not owned by, registered to, or routinely used by the resident occupants of any Cooperative Housing Unit will be stored on the premises.;

~~G.~~H. Transportation Demand Management: All Cooperative Housing Units shall submit an approved Transportation Demand Management (TDM) plan to the city. If the Cooperative Housing Unit is located within a Neighborhood EcoPass District, then the TDM plan shall require all residents ~~occupants~~ over ~~sixteen~~21 years of age ~~shall~~to obtain and continue to maintain an unlimited use transit pass ~~a local access bus pass with the Regional Transportation District~~;

~~H.~~I. One cooperative housing unit is permitted on a building lot;

~~I.~~J. The cooperative housing unit shall not have more than one kitchen unless the additional kitchen was installed pursuant to permits approved pursuant to chapter 10-5, "Building Code," B.R.C. 1981, prior to an application for a cooperative housing unit; and

~~J.~~K. No cooperative housing unit shall have an accessory dwelling unit.

(5) **Information on Operation:** The cooperative housing unit and the local agent shall provide the city manager, in writing, with any changes in information required by this subsection, including, without limitation, a list of the ~~names of all resident owners, other occupants and~~four cars authorized for parking by residents of the ~~local agent~~cooperative housing unit within ~~seven~~thirty days of the change.

(6) **Expiration of Permit:** An approval for a Rental cooperative housing unit automatically expires at the end of the five-year period if the approval is not renewed, if the entire property has been conveyed ~~by the resident owners to another person~~to another person or legal entity that does not qualify as a nonprofit organization that has tax exempt status under 26 U.S.C. § 501(c)(3) or a Cooperative organized pursuant to state law formed to operate a cooperative housing unit pursuant to this subsection, or if the property is no longer used as a cooperative housing unit.

(7) **Revocation of Approval:** The city manager will revoke an approval of a cooperative housing unit ~~for violations of the following conditions~~,, unless~~,~~ due to extenuating circumstances that the applicant has presented to the city manager, the city manager finds that the ~~resident owners~~residents of the cooperative housing unit will make changes to the cooperative housing unit that will prevent future violations:

~~A.~~ Upon the ~~first conviction in an RL zoning district or the~~ second conviction ~~in the remaining zoning districts in Boulder municipal court~~within one year or third conviction for any violation of any of the following, within any two-year period based on events that occurred in the cooperative housing unit: chapter 5-9, "Noise," ~~B.R.C. 1981;~~

~~B.~~A. ~~Upon the first conviction in an RL zoning district or the second conviction in the remaining zoning districts in Boulder municipal court for any violation of any of the following within any two-year period based on events that occurred at the cooperative housing unit:~~ chapter 6-2, "Weed Control," or section 6-3-3, "Trash Accumulation Prohibited," B.R.C. 1981; or

~~C.~~B. For exceeding the maximum occupancy allowed for the cooperative housing unit.

(8) **Prohibitions**: No occupant of a cooperative housing unit shall fail to comply with all provisions of this subsection including, without limitation, the provisions of paragraph (b)(4) of this section.

(9) **Hearings**: Upon notification of a revocation, ~~the resident owners~~authorized representatives of the cooperative housing unit may request a hearing as provided in chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, before the planning board. Within sixty (60) days of revocation or expiration of an approval, no owner shall fail to remove the cooperative housing unit and return the property to a use permitted in the zoning district.

(10) **No Nonconforming Use:** If the provisions of this subsection are repealed for any zoning district by this or any future city council, the legal use of a Rental cooperative housing unit must be terminated within ~~fifteen~~five years from the

date of such repeal; and the property owner shall remove the cooperative housing unit and return the property to a use that is permitted in the zoning district. The; provided, however, that following such a repeal, any Private or Group Equity cooperative housing unit use will notapproved hereunder that is affected thereby shall become a nonconforming use.

B.R.C. §9-16-1 Definitions:

Cooperative housing unit means an individual building for cooperative living that meets the criteria for such units set forth in Subsection 9-6-3(b), B.R.C. 1981., in which a community of people share a dwelling and operate as a single housekeeping unit. Shared activities may include: budgeting and pooling resources to pay for food, rent, utilities, and household items; holding regular household meals or meetings; sharing the entire dwelling; adoption of household agreements or bylaws specific to each home. Bylaws may cover the cooperative's consensus or democratic decision-making process, mission and values, parking agreements and transportation demand management (TDM) plan and labor/chores system. Cooperative Housing Units may take the form of a Private or Group Equity Cooperative Housing Unit or a Rental Cooperative Housing Unit.