
TA-13-06 Text Amendment

TO: **City of Pueblo, Planning and Zoning Commission**
FROM: **Kelly Grisham, Planner**
DATE: **November 13, 2013**
SUBJECT: **Proposed Text Amendment regarding the definition of Residence, Multi-family.**

SYNOPSIS

Background:

In 2002 at the Planning and Zoning Commission worksession an ordinance was drafted that included the definition of Residence, Multi-family as being a detached residential building containing four (4) *or more* dwelling units. City Council passed the ordinance (No. 6966) in 2003. The ordinance also added residence, multi-family use to the B-3 Zone District as a Use by Review.

Analysis:

The definition that was contained in the ordinance defined Residence, Multi-family as a detached residential building containing four (4) dwelling units. The actual ordinance approved differed from the original drafted ordinance in that the *or more* was omitted from the final ordinance. It appears through studying the minutes and memorandums produces that the omission was due to an error rather than due to official action or request that it be removed. It has been past practice and the interpretation of the Administrative Official that Residence, multi-family is four or more families.

Recommendation:

Staff recommends that the Planning and Zoning Commission forward a recommendation of approval of the proposed text amendment to City Council.

Attachments:

Draft ordinance

Application

Memorandum from Jeff M. Bailey, P.E., Administrative Official, dated Sept. 18, 2013

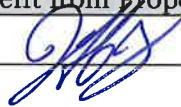
Planning & Zoning Application

Please type or print clearly. Illegible applications will not be accepted. Case #: **TA-13-06**

Contact Info	Property Owner		Applicant	
	Name:		Name: City of Pueblo	
	Company		Company:	
	Address:	Zip:	Address:	Zip:
	Phone: ()		Phone: ()	
	Email:		Email:	
	Engineer		Surveyor	
	Name:		Name:	
	Company:		Company:	
	Address:	Zip:	Address:	Zip:
Phone: ()		Phone: ()		
Email:		Email:		
<i>The applicant will be the primary contact unless otherwise noted.</i>				
Property Info	Project Location: (address or general description)			
	Parcel No(s):			
	Existing Zone:		Proposed Zone (if applicable):	
	PUD Name (if applicable):			
Project Scope	Project Name: <u>Residence, multi-family</u>			
	Scope of work: <input type="checkbox"/> Lot Line Rearrangement:			
	# of existing lots: _____ Total acres: _____			
	<input type="checkbox"/> Overall Development Plan			
	<input type="checkbox"/> Rezoning From: _____ To: _____			
	<input type="checkbox"/> Site Plan Review:			
	<input type="radio"/> HARP <input type="radio"/> Development Plan <input type="radio"/> PUD <input type="radio"/> Student Housing			
	<input type="checkbox"/> Special Area Plan			
	<input type="checkbox"/> Street Name Change:			
	Existing Name: _____ Proposed Name: _____			
<input type="checkbox"/> Subdivision				
<input checked="" type="checkbox"/> Text Amendment				
<input type="checkbox"/> Vacation:				
<input type="radio"/> Street <input type="radio"/> Alley <input type="radio"/> Easement <input type="radio"/> Other: _____				
<input type="checkbox"/> Other: _____				

(Continue Next Page)

(Continued from previous page)

Project Information	Provide a brief description of the proposed request: (separate narrative as Attachment A also required) An Ordinance amending Section	
	17-2-1 relating to the definition of residence, multi-family	
	What is the total acreage included in the project? _____	
	What is the proposed use of the property: <input type="checkbox"/> Commercial <input type="checkbox"/> Multi-family <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Other _____	
	Are there any other pending or recently approved Land Use applications regarding this property? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, please list: _____		
Attachments	Attachment Checklist	
	The following list of attachments are required to accompany all applications: <input type="checkbox"/> A. Detailed explanation of the request as listed above. Be specific <input type="checkbox"/> B. CD with DWF and DWG (Autocad) file of all plans and drawings & a PDF of all documents submitted. <input type="checkbox"/> C. Pueblo County Assessor's Property Information print out (www.co.pueblo.co.us) <input type="checkbox"/> D. Additional information as required by the P&Z Submittal Requirements Sheet .	
Terms	By signing below, the Property Owner and Applicant are representing that each understands and agrees to the following terms:	
	1. Authorized personnel from the City of Pueblo, are hereby granted the right to enter the subject property for the purposes of reviewing and processing the application, including Certificate of Occupancy Inspections. 2. There are no known hazards or vicious animals present on the subject property. 3. All information contained in this application, is true and accurate to the best of my knowledge. 4. The City of Pueblo is under no obligation to approve the request contained in this application. No promises of approval are conveyed with the acceptance of this application. 5. It is highly recommended that a licensed surveyor complete a property survey before any construction takes place. The property owner is responsible for any construction that takes place within the boundaries of their property. The city may require any construction built outside of the property legal boundaries or within any setbacks (by intent or error), to be removed at the owners' expense.	
Signatures	Property Owner	
	Print Name:	_____
	Signature:	_____ Date: _____
	Applicant, if different from Property Owner	
	Print Name:	_____ Date: _____
Signature:	 _____ Date: _____	

Office Use Only	Zoning Compliance (Completed by City Staff)		Receipt:
	Application received by:	Date:	
	Application checked for completeness by:	Date:	
	Case Manager:	Fee Paid:	
	Hearing date:	<input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Approved w/conditions	
Case #:			

TA-13-06

AN ORDINANCE AMENDING SECTION 17-2-1 OF CHAPTER 2 OF TITLE XVII OF THE PUEBLO MUNICIPAL CODE RELATING TO THE DEFINITION OF RESIDENCE, MULTI-FAMILY AND PROVIDING PENALTIES FOR VIOLATION THEREOF

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:
(brackets indicate matter being deleted, underscoring indicating matter being added)

SECTION 1.

Section 17-2-1 of Chapter 2, Title XVII of the Pueblo Municipal Code, as amended, is hereby modified by the amendment of a subsection (42.1C) thereto, to read as follows:

Sec. 17-2-1. Definitions.

For the purpose of this Title, certain terms or words used herein shall be interpreted as follows:

. . .

(42.1C) *Residence, multi-family*, means a detached residential building **designed as a single structure,** containing four (4) **or more** dwelling units. Each unit is designed for occupancy by **not more than** one (1) family.

SECTION 2.

This Ordinance, and these amendments to Title XVII of the Pueblo Municipal Code, shall be subject to administration and enforcement in accordance with Chapters 5 and 7 of the Title XVII, Pueblo Municipal Code, as amended. Any person who violates any provision of this Ordinance or these amendments shall be guilty of a municipal offense and subject to the punishment and all other remedies as provided in Chapter 7 of Title XVII of the Pueblo Municipal Code, as amended.

SECTION 3.

This Ordinance shall become effective upon final passage and approval.

INTRODUCED: _____

BY: _____
COUNCIL PERSON

APPROVED: _____
PRESIDENT OF THE CITY COUNCIL


ATTESTED BY: _____
CITY CLERK

PASSED AND APPROVED: _____

MEMORANDUM

Date: September 18, 2013

To: Zoning Board of Appeals Commission

From: Jeff M. Bailey, P.E., Administrative Official 

Referenced: Residence, multi-family

The intent of this memorandum is to describe the legislative history and provide the logic for the definition of ***Residence, multi-family*** as historically interpreted and used by the Administrative Official.

The Legislative history for ***Residence, multi-family*** is as follows:

November 21, 2002, at the Planning & Zoning Commission Work Session an Ordinance was drafted that defined *Duplex; Dwelling, three-family; Residence, two-family; Residence, three-family; Residence, multi-family; and Triplex*. In the draft ordinance allowed uses were added to several zone districts including *Residence, multi-family* to B-3 as a Use by Review. See attached Exhibit A. The draft copy was recommended for approval and forwarded to City Council containing the definition for *Residence, multi-family* to be *a detached residential building containing four (4) or more dwelling units. Each unit is designed for occupancy by one (1) family*.

Reviewing the draft ordinance shows definitions for *Residence, two-family* for two dwelling units and *Residence, three-family* for three dwelling units. The next and only other definition for residence is *Residence, multi-family* for four (4) or more dwelling units. This is logical to include dwelling units greater than three and not limiting it to only four. Otherwise, there would be additional definitions to allow increased dwelling units such as for apartments.

April 14, 2003, City Council passed and approved Ordinance No 6966. This contained definitions of *Duplex, Dwelling three-family, Residence two-family, Residence three-family, Residence multi-family, and Triplex*. It also added the allowed uses to several zone districts including *Residence, multi-family* to B-3 as a Use by Review. (Adding that use to the RCN zone district was at a later date). The Ordinance contained the definition for *Residence, multi-family* to be a detached residential building containing four (4) dwelling units. Each unit is designed for occupancy by one (1) family. See attached Exhibit B.

The phrase '**or more**' dwelling units was omitted. There are no revisions, discussion, or any other notation explaining the removal of that verbiage. It appears this omission was unintentional and not by any official action.

It has been the past and current interpretation of the Administrative Official that *Residence, multi-family* means more than three dwelling units based on the following:

The Pueblo Municipal Code (PMC) in Section 17-2-1 defines *Dwelling, multiple family*, as meaning a residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided. This definition has been in the PMC since the adoption of the code on February 26, 1968. This was the interpretation used for uses that would involve three or more residential dwellings such as apartments.

In the PMC, *Residence, multi-family* is listed as a use only in two zone districts. They are B-3 as a special use, and RCN as a special use. It needs to be noted that *Residence, three-and four-family, attached* is also a use by right within the RCN. Even though it is not found in the definitions, it infers and has been interpreted as residence for three (3) and four (4) families. It is logical to conclude if three and four family is a use by right and multi-family is a special use; the multi-family would be for more than four dwellings.

Also found within the definitions are listings for *Residence, one-family; Residence, two-family; and Residence, three-family*. Included with those listings is *Residence, multi-family* with no further listings for residence. It has been past practice and interpretation of the Administrative Official that *Residence, multi-family* is four-families or more.

For the above reasons not only has it been the interpretation of the Administrative Official, but it is sound logic that *Residence, multi-family* means more than three dwelling units. It appears that the omission of 'or more' was clearly unintentional and not discovered until recently. With this error brought to light, a text amendment will be prepared for City Council to consider and approve.

Land Use Administration

211 East D Street
Pueblo, CO 81003
719-543-6006 (Phone)
719-543-0572 (Fax)
719-584-0800 (TTY)
www.Pueblogov.com

Glynis A. Jordan, AICP, Director
Todd Ahlenius, Sr. Planner - Land Use
Vacant - Land Use Planner
Marlene Cordova, Land Use Tech.
Vacant - Senior Clerk



Draft

Revised per Planning Work Session (11. 21.02)

- Proposed Revisions to §17-2-1, *Definitions*, of the Pueblo Municipal Code.

(11.2) Duplex means a detached residential building containing two (2) dwelling units, designed for the occupancy by not more than two (2) families.

(15.1) Dwelling, three-family means a detached residential building containing three (3) dwelling units, designed for the occupancy by not more than three (3) families.

(42.1B) Residence, two-family means a detached residential building containing two (2) dwelling units, designed for the occupancy by not more than two (2) families.

(42.1C) Residence, three-family means a detached residential building containing three (3) dwelling units, designed for the occupancy by not more than three (3) families.

(42.1D) Residence, multi family, means a detached residential building containing four (4) or more dwelling units; each unit designed for the occupancy of one (1) family.

(64.1) Triplex means a detached residential building containing three (3) dwelling units, designed for the occupancy by not more than three (3) families.

- Proposed Revisions to §17-4-51 of the Pueblo Municipal Code.

(10) Neighborhood Business District (B-1):

a. Purpose. The standards of this district (B-1) are designed to retain and provide areas for the sale at retail of those convenience type goods and services required by the residents of the immediate neighborhood and for those outlets which by their nature create no nuisances and serve a trade territory of only one (1) neighborhood.

b. Uses by right.

1. Bakery (retail only).
2. Beauty and barbershop.
3. Drugstore.
4. Floral shop (retail only).
5. Grocery store.
6. Laundry and dry cleaning, self-service.
7. Meat market.
8. Office.
9. Service station.
10. Shoe repair shop.
11. Sign, business.

The programs and services of the City of Pueblo are accessible to people with disabilities. For accessibility information contact the Planning & Land Use Administration Departments at 719-543-6006 (TTY users – 719-584-0800).

The City of Pueblo is an Equal Opportunity Employer.

12. Utilities as outlined in Section 17-4-30.
13. Car wash (self-service only).
14. Residential uses that existed prior to February 1, 1968.

c. Uses by review. A use by review is any of the following uses which are permitted only upon issuance of a special use permit.

1. Bed and breakfast home.
2. Residence, single-family.
- 2a. Residence, two-family (duplex).
3. Restaurant.
4. Bed and breakfast inn.
5. Any use which is permitted as a use by right in a B-2 Zone District.

(11) Subregional Business District (B-2):

a. Purpose. The standards of this district (B-2) are intended to provide areas for the sale at retail of convenience type goods and services required by residents of a subregion provided that the outlets create no nuisance.

b. Uses by right.

1. Artist (commercial).
2. Bakery (retail only).
3. Beauty and barbershop.
4. Car wash (self-service only).
5. Drugstore.
6. Floral shop (retail only).
7. Grocery store.
8. Laundry and dry cleaning, self-service.
9. Meat market.
10. Office.
11. Repair shop, household appliance.
12. Repair shop, shoe.
13. Restaurant.
14. Retail store.
15. Service station.
16. Sign, business.
17. Utilities as outlined in Section 17-4-30.
18. Residential uses that existed prior to February 1, 1968.

c. Uses by review. A use by review is any of the following uses which are permitted only upon issuance of a special use permit.

1. Bed and breakfast home.
2. Residence, single-family.
- 2a. Residence, two-family (duplex).
3. Restaurant, drive-in.
4. Any use which is permitted as a use by right in a B-3 Zone District.
5. Bed and breakfast inn.

(11.1) Highway and Arterial Business District (B-3):

a. Purpose. The standards of this district are intended to provide areas along highways and arterial streets for location of business and services.

b. Uses by right. A use by right is any use which is primarily retail, office, commercial, finance, transient residence, including bed and breakfast homes, bed and breakfast inns, government, service, social or cultural in nature (including parking lot and parking structure), which serves

the public good and which does not involve ~~permanent residence or~~ the manufacture or production, fabrication or rebuilding or the bulk storage, warehousing or wholesaling of merchandise, or mobile home sales. (Utilities as outlined in Section 17-4-30.)

1. Residential uses that existed prior to February 1, 1968.

c. Uses by review. A use by review is any of the following uses which are permitted only upon issuance of a special use permit:

1. Bulk storage, warehousing or wholesaling.
 - 1.1. Community correctional facility or program.
 - 1.2. Homeless shelter.
2. Private recreation and amusement facilities.
3. Mobile home sales.
4. Tower (antenna).
5. Residence, multi family.

(12) Regional Business District (B-4):

a. Purpose. The standards for this district (B-4) are intended to provide areas for the location of business and other central services required by the region at large.

b. Uses by right. A use by right is any use which is primarily retail, office, commercial, finance, transient residence, including bed and breakfast homes, bed and breakfast inns, adult entertainment, government, service, social or cultural in nature (including parking lot and parking structure), which serves the public good and which does not involve ~~permanent residence or~~ the manufacture or production, fabrication or rebuilding or the bulk storage, warehousing or wholesaling of merchandise. (Utilities as outlined in Section 17-4-30.)

1. Residential uses that existed prior to February 1, 1968.

c. Uses by review. A use by review is any of the following uses which are permitted only upon issuance of a special use permit.

- ~~1. Apartments, row houses, etc.~~
2. Bulk storage, warehousing or wholesaling.
 - 2.1. Community correctional facility or program.
 - 2.2. Homeless shelter.
3. Private recreation and amusement facilities.
4. Tower (antenna).
5. Residence, one-family.
6. Residence, two-family (duplex).
7. Residence, three-family (triplex).
8. Residence, multi family.

ORDINANCE NO. 6966

AN ORDINANCE AMENDING CHAPTERS 2 AND 4 OF TITLE XVII OF THE PUEBLO MUNICIPAL CODE RELATING TO RESIDENTIAL DEFINITIONS AND RESIDENTIAL ZONE DISTRICTS

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (Brackets indicate material deleted, underscoring indicates material added.)

SECTION 1.

Section 17-2-1 of the Pueblo Municipal Code is hereby amended by the addition of new subsections (12.2), (15.1), (42.1B), (42.1C), (42.1D), and (64.1) to read as follows:

17-2-1(12.2) Duplex means a detached residential building containing two (2) dwelling units, designed for occupancy by not more than two (2) families.

17-2-1(15.1) Dwelling, three-family means a detached residential building containing three (3) dwelling units and designed for occupancy by not more than three (3) families.

17-2-1(42.1B) Residence, two-family means a detached residential building containing two (2) dwelling units and designed for occupancy by not more than two (2) families.

17-2-1(42.1C) Residence, three-family means a detached residential building containing three (3) dwelling units and designed for occupancy by not more than three (3) families.

17-2-1(42.1D) Residence, multi-family, means a detached residential building containing four (4) dwelling units. Each unit is designed for occupancy by one (1) family.

17-2-1(64.1) Triplex means a detached residential building containing three (3) dwelling units and designed for occupancy by not more than three (3) families.

SECTION 2.

Section 17-4-51(10) of the Pueblo Municipal Code is hereby amended by the addition of new subsections to read as follows:

(10)b. 14. Residential uses that existed before February 1, 1968.

(10)c. 2a. Residence, two-family (duplex).

SECTION 3.

Section 17-4-51(11) of the Pueblo Municipal Code is hereby amended by the addition of new subsections to read as follows:

(11)b. 18. Residential uses that existed before February 1, 1968.

(11)c. 2a. Residence, two-family (duplex).

SECTION 4.

Section 17-4-51(11.1)b. of the Pueblo Municipal Code is hereby amended to read as follows:

b. Uses by right. A use by right is any use which is primarily retail, office, commercial, finance, transient residence, including bed and breakfast homes, bed and breakfast inns, government, service, social or cultural in nature (including parking lot and parking structure), which serves the public good and which does not involve [permanent residence or] the manufacture or production, fabrication or rebuilding or the bulk storage, warehousing or wholesaling of merchandise, or mobile home sales. (Utilities as outlined in Section 17-4-30.)

1. Residential uses that existed before February 1, 1968.

SECTION 5.

Section 17-4-51(11.1)c. of the Pueblo Municipal Code is hereby amended by the addition of new subsection 5 to read as follows:

- (11.1)c. 5. Residence, multi-family.

SECTION 6.

Section 17-4-51(12)b. of the Pueblo Municipal Code is hereby amended to read as follows:

b. Uses by right. A use by right is any use which is primarily retail, office, commercial, finance, transient residence, including bed and breakfast homes, bed and breakfast inns, adult entertainment, government, service, social or cultural in nature (including parking lot and parking structure), which serves the public good and which does not involve [permanent residence or] the manufacture or production, fabrication or rebuilding or the bulk storage, warehousing or wholesaling of merchandise. (Utilities as outlined in Section 17-4-30.)

1. Residential uses that existed before February 1, 1968.

SECTION 7.

Section 17-4-51(12)c. of the Pueblo Municipal Code is hereby amended to read as follows:

c. Uses by review. A use by review is any of the following uses which are permitted only upon issuance of a special use permit.


- [1. Apartments, row houses, etc.]
- [2.]1. Bulk storage, warehousing or wholesaling.
- [2.1]2. Community correctional facility or program.
- [2.2]3. Homeless shelter.
- [3.]4. Private recreation and amusement facilities.
- [4.]5. Tower (antenna).
6. Residence – commercial, apartments or condominiums.

SECTION 8.

This Ordinance shall become effective on _____, 2003.

INTRODUCED March 24, 2003

BY Al Gurule
Councilperson

APPROVED: 
President of City Council

ATTEST:


City Clerk

PASSED AND APPROVED: April 14, 2003