SUPREME COURT, STATE OF COLORADO Court Address: COLORADO STATE JUDICIAL BUILDING, 2 E. 14TH AVENUE, 4TH FLOOR, DENVER, COLORADO 80203	
District Court, Adams County, Colorado, Honorable John J. Vigil, presiding, Case No. 00CV1363, Div. D Municipal Court, City of Northglenn, Colorado, Honorable Ronald J. Cohen, presiding, Case No. C34350	
Petitioner: **CITY OF NORTHGLENN,** **Respondent:** **JULIANA IBARRA.**	**▲COURT USE ONLY▲**
Name: Geoffrey T. Wilson, #11574 Address: Colorado Municipal League 1144 Sherman Street Denver, Colorado 80203 Phone Number: (303) 831-6411 Fax Number: (303) 860-8175 E-mail: gwilson@cml.org Name: Paul Kennebeck, #7939 Attorney for City of Lakewood Name: Carmen Beery, #32234 Attorney for City of Wheat Ridge Address: Gorsuch Kirgis LLP Tower I, Suite 1000 1515 Arapahoe Street Denver, Colorado 80202 Phone Number: (303) 376-5000 Fax Number: (303) 376-5001 E-mail: pkennebeck@gorsuch.com cbeery@gorsuch.com	Case Number: 01 SC 245

BRIEF OF THE CITY OF LAKEWOOD, THE CITY OF WHEAT RIDGE AND THE COLORADO MUNICIPAL LEAGUE AS *AMICI CURIAE*

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TABLE OF AUTHORITIES

COMES NOW, the Colorado Municipal League (the "League"), the City of Lakewood and the City of Wheat Ridge by their respective undersigned counsel, pursuant to Rule 29, C.A.R., and file this brief as *amici curiae* in support of the petitioner, the City of Northglenn (the "City").

STATEMENT OF ISSUES PRESENTED FOR REVIEW

1. Whether the district court erred in finding that Northglenn Ordinance No. 1248 discriminates on the basis of familial status in violation of the Federal Fair Housing Act, 42 U.S.C. § 3601, *et seq.*

2. Whether the district court erred in finding that Northglenn Ordinance No. 1248 violated Defendant's right to freedom of association and the right to personal choice in matters of family life.

STATEMENT OF THE CASE

Amici Curiae adopt the Statement of the Case as set forth in the Opening Brief of the City.

STATEMENT OF THE FACTS

Amici Curiae adopt the Statement of Facts as set forth in the Opening Brief of the City.

SUMMARY OF ARGUMENT

The Northglenn ordinance in the case at bar does not implicate a fundamental right which requires strict scrutiny. Rather, the test to determine whether the ordinance is constitutional is the rational basis test. Such an analysis must identify the public interest the ordinance is intended to protect, examine whether the ordinance bears a reasonable relationship to that interest and determine whether the method used by the ordinance to protect that interest is reasonable. The Northglenn Ordinance at issue here meets the rational basis test.

ARGUMENT

Amici hereby adopt and fully incorporate herein the arguments of the City in its opening brief. Amici submit the following additional argument:

The City's ordinance meets the applicable due process "rational basis" test.

The Northglenn ordinance, like the ordinances adopted by numerous other Colorado municipalities regulating registered sex offenders[1], clearly withstands constitutional scrutiny; the City's ordinance bears a rational relationship to the legitimate municipal objective of preventing concentrations of registered sex offenders in residential neighborhoods. The City's ordinance was adopted to protect the public from the threat posed by registered sex offenders and employs a reasonable method to protect the public from this threat.

The rational basis test is the proper standard for review of an ordinance when the ordinance does not infringe upon a fundamental constitutional right. *Zavala v. City & County of Denver*, 759 P.2d 664, 670 (Colo. 1988). The Ibarra case raises the issue of whether foster care is a fundamental constitutional right. As the City explains in its Opening Brief, pages 15 – 27, there is no liberty interest in the continuation of the foster care relationship. The United States Supreme Court presented the following helpful observation when it was called upon to determine whether a liberty interest existed in engaging in homosexual activity in the privacy of one's own home. The Court stated:

> Striving to assure itself and the public that announcing rights not readily identifiable in the Constitution's text involves much more

[1] A number of Colorado municipalities have adopted zoning ordinances generally similar to Northglenn Ordinance No. 1248, regulating the number of registered sex offenders that can live together. Some of these ordinances grant an exception to the prohibition of two or more registered sex offenders residing together if the registered sex offenders are members of the immediate family; some ordinances do not grant this exception. Some of the ordinances restrict the number of co-habitating sex offenders in residential zone districts only; in these jurisdictions, the restriction does not apply to non-residential zone districts, thus allowing registered sex offenders to live together in group living quarters and similar congregate living situations in commercial and other zone districts. Other ordinances effectively prohibit group homes for unrelated sex offenders in all zone districts. Most of the ordinances were adopted with legislative findings which recognize the danger registered sex offenders pose to the public safety. *See* Appendix.

> than the imposition of the Justices' own choice of values on the States and the Federal Government, the Court has sought to identify the nature of the rights qualifying for heightened judicial protection. In *Palko v. Connecticut*, 302 U.S. 319, 325, 326, 82 L. Ed. 288, 58 S. Ct. 149 (1937), it was said that this category includes those fundamental liberties that are "implicit in the concept of ordered liberty," such that "neither liberty nor justice would exist if (they) were sacrificed." A different description of fundamental liberties appeared in *Moore v. East Cleveland*, 431 U.S. 494, 503, 52 L. Ed. 2d 531, 97 S. Ct. 1932 (1977) (opinion of Powell, J.) where they are characterized as those liberties that are "deeply rooted in this Nation's history and tradition."

Bowers v Hardwick, 478 U.S. 186, 191, 92 L. Ed. 2d 140, 106 S. Ct. 2841 (1986).

The Ibarra case poses the questions of whether foster care is deeply rooted in this Nation's history and tradition and whether foster care is so implicit in the concept of ordered liberty such that neither liberty nor justice would exist if it were sacrificed. Clearly, as beneficial as foster care may sometimes be, it is neither implicit in the concept of ordered liberty nor so deeply rooted in this Nation's history that liberty and justice would cease to exist without foster care. Thus, it is inappropriate to add any interest in continued foster care placement to the short, exclusive list of fundamental liberties that demand heightened constitutional protection. The rational basis test is therefore the proper measure of the Northglenn ordinance.

"A statute is within the state's police power if it is reasonably related to the public health, safety, and welfare." *People v. Zinn*, 843 P.2d 1351, 1354 (Colo. 1993). Though no Colorado case sets forth a clear test for determining whether a statute is reasonably related to its stated purpose, the Supreme Court of Illinois offers this guidance:

> The question of whether a legislative exercise of the police power meets the constitutional requirement of due process involves (1) identifying the public interest that the statute is intended to protect, (2) examining whether the statute 'bears a reasonable relationship' to that interest, and (3) determining whether the method used to protect or further that interest is 'reasonable.'

People v. Wick, 481 N.E.2d 676, 678 (Ill. 1985).

1. THE CITY'S ORDINANCE IS INTENDED TO PROTECT AN IDENTIFIABLE PUBLIC INTEREST.

Registered sex offenders pose a threat to the public safety. The need for registration and community notification of the location of sex offenders has been recognized by the United States Congress in its adoption of Megan's Law and the Jacob Wetterling Act.[2] The City has made legislative findings relating to its desire to protect the public from the threat of registered sex offenders.[3] These findings indicate a legislative intent to protect the public interest in separating clusters of registered sex offenders from children, schools, and residential living in general.

The threat posed by registered sex offenders has been articulated by various authorities. For example, C.R.S. § 16-11.7-101, which sets forth the legislative declaration of the Colorado General Assembly relating to sexual offender legislation, provides:

> The general assembly hereby declares that the comprehensive evaluation, identification, treatment, and continued monitoring of sex offenders who are subject to the supervision of the criminal justice system is necessary in order to work toward the elimination of recidivism by such offenders. Therefore, the general assembly hereby creates a program which standardizes the evaluation, identification, treatment and continued monitoring of sex offenders at each stage of the criminal justice system so that such offenders will curtail recidivistic behavior and the protection of victims and potential victims will be enhanced. The general assembly hereby recognizes that some sex offenders cannot or will not respond to treatment and that, in creating the program described in this article, the general assembly does not intend to imply that all sex offenders can be successful in treatment.

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[2] *See* Megan's Law, Pub. L. No. 104-145, 110 Stat. 1345 (1996) (amending 42 U.S.C. 14071(d)(1994)); The Jacob Wetterling Crimes against Children and Sexually Violent Offenders Registration Act, Pub. L. No. 103-322, Tit. XVII, Sec. 170101, 108 Stat. 1796, 2038 (1994) (codified as amended at 42 U.S.C. 14071 (1994 & Supp. IV 1998)).

[3] *See* City's Opening Brief, page 31.

The New York State Legislature, in adopting a State sexual offender registration statute, made the following finding: "The Legislature finds that the danger of recidivism posed by sex offenders, especially those sexually violent offenders who commit predatory acts characterized by repetitive and compulsive behavior, and that the protection of the public from these offenders is of paramount concern or interest to government. . . ." Legislative Findings and Intent of 1995 NY Legislature, enacting NY State Sex Offender Registration Act, N.Y. Correct. Law 168-168V (McKinney Supp. 1996).

A similar public declaration is found in the City of Lakewood Ordinance 0-99-19, as amended by Ordinance 0-2001-8, which prohibits two or more registered sex offenders from living together in a residential zone district unless they are part of an immediate family:

> **WHEREAS**, the City of Lakewood is a home rule city with the authority to regulate the uses of land within its corporate boundaries; and
>
> **WHEREAS**, it is appropriate for public health, safety and esthetics that various land uses be categorized and separated according to the type and intensity of said use; and
>
> **WHEREAS,** the City of Lakewood has traditionally separated residential uses from commercial, industrial and other uses; and
>
> **WHEREAS,** the City of Lakewood allows adult and juvenile offenders to be housed in group living quarters in non-residential zone districts of the City; and
>
> **WHEREAS,** the City has reserved its residential zone districts for residential uses by allowing only families, households or group homes in residential zone districts; and
>
> **WHEREAS,** the housing of sex offenders is a use more appropriate to the non-residential zone district as allowed in group living quarters; and
>
> **WHEREAS,** the General Assembly of the State of Colorado has recognized that the majority of persons who commit

sex offenses, if incarcerated or supervised without treatment, will continue to present a danger to the public when released from incarceration and supervision; and

WHEREAS, the General Assembly has recognized the potential danger of sex offenders by stating that it recognizes that some sex offenders cannot or will not respond to treatment; and

WHEREAS, the General Assembly has required that sex offenders register with the local law enforcement agency within seven (7) days of becoming a temporary or permanent resident within the agency's jurisdiction; and

WHEREAS, a sex offender potentially poses a direct threat to the health and safety of others, as recognized by the General Assembly and various court decisions, and the concentration of sex offenders in a residential zone district increases the potential risk of that threat; and

WHEREAS, the City Council has determined that it is in the best interest of the City to prohibit sex offenders from living together other than as a group living quarters in non-residential sections of the City or as part of an immediate family.

Other municipal ordinances have similar legislative findings.[4] The public interest which is to be protected by these ordinances is clear and unambiguous.

2. THE CITY'S ORDINANCE BEARS A REASONABLE RELATIONSHIP TO THE PUBLIC INTEREST THAT IS INTENDED TO BE PROTECTED.

The prohibition against two or more registered sex offenders living together bears a reasonable relationship to protecting the public safety. Some insight into this proposition can be found in the Tenth Circuit Court of Appeals' review of Utah's sex offender registration and notification statute. In *Femedeer v. Haun*, 227 F.3d. 1244 (10th Cir. 2000), the Tenth Circuit rejected a number of constitutional challenges to Utah's sex offender registration and notification statute. At one point, the Court addressed whether the statute's purpose bore a rational relationship to the interest to be protected.

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[4] *See* Appendix.

> As is evident from our discussion of the preceding factor, it is clear that the legitimate civil goals of deterrence, avoidance, and investigation are rationally connected to Utah's statute of public access to sex offender registry information, including access through the Internet. Considering the tremendous physical and psychological impact sex crimes have upon the victims as well as their harmful societal effects, concerns of recidivism certainly warrant legislatures' attention. We ask only whether the "good purpose" is *rationally* connected to the consequences. A rational connection between ends and means clearly exists in the present case....

Femedeer v. Haun, 227 F.3d. 1244, 1253 (10th Cir. 2000) (emphasis in original).

In the case of the Northglenn ordinance and similar ordinances, the prevention of the congregation of registered sex offenders bears a reasonable relationship to protecting children, schools and families from potentially recidivistic sex offenders. Obviously, the fewer sex offenders there are near children, schools and families, the less chance that such children and other members of the community will be the victims of repeat sexual crimes committed by such offenders. By preventing registered sex offenders from congregating, an initial step has been taken by a municipality in lessening the opportunity of attacks on its children and families.

There do not appear to be any reported cases relating to the constitutionality of ordinances such as Northglenn's. Although not directly on point, an Illinois case is informative in its analysis of a statute which prohibited sex offenders from being present within school zones. The Second District Appellate Court of Illinois upheld the statute, performing an analysis that indicated the law was reasonably related to the purpose of protecting school children from known sex offenders. The court performed its analysis by identifying the public interest to be protected, asking whether the method of protecting that interest was reasonably related to the goal of protecting the public, and determining whether prohibiting sex offenders from school zones was a reasonable deterrence method. In discussing whether there was a

reasonable relationship between the statute and the interest intended to be protected, the court stated:

> The next inquiry in our analysis is whether prohibiting child sex offenders from school zones bears a reasonable relationship to protecting school children from known child sex offenders. We believe that it does.
>
> In reviewing another statute that affects convicted sex offenders, the supreme court examined the constitutionality of the Habitual Child Sex Offender Registration Act (The Registration Act). In *People v. Adams*, 144 Ill. 2d 381 the court considered the legislative debates of the Registration Act and found that the public interest was to aid law enforcement in the protection of children. The court determined that the statute served this purpose by providing ready access to information on known child sex offenders. The court found nothing unreasonable in the statute's method of serving its purpose. The court concluded by stating that "[t]here is a direct relationship between the disability, the registration of child sex offenders, and the purpose served by the statute, the protection of children." Likewise, it is apparent that prohibiting known child sex offenders from having access to children in schools, where they are present in large numbers, bears a reasonable relationship to protecting school children from such known child sex offenders.

People v. Stork, 713 N.E. 2d 187, 192 (Ill. App. 1999).

The Northglenn ordinance, like the other municipal ordinances regulating registered sex offenders, bears a direct relationship to the public interest it is intended to protect.

3. THE METHOD USED IN THE CITY'S ORDINANCE TO PROTECT THE PUBLIC INTEREST IS REASONABLE.

The method employed in the City's ordinance to protect the public interest is a reasonable one. In interpreting a statute, a court must give effect to the intent of the legislature. *Lagae v. Lackner*, 996 P.2d 1281, 1284 (Colo. 2000). In the case of the Northglenn ordinance and similar ordinances of other municipalities, that intent is unambiguous: the protection of the public from registered sex offenders.

A zoning ordinance, such as the Northglenn ordinance here at issue or similar ordinances adopted by other Colorado municipalities, must be proven unconstitutional beyond a reasonable doubt. *Ford Leasing Dev. Co. v. Board of County Commissioners*, 528 P.2d 237, 241 (Colo. 1974). Colorado courts have understood the necessity of this high burden of proof. "Finally, statutes enacted by the General Assembly are presumed to be constitutional and are therefore entitled to deference by the courts." *In re Great Outdoors Colorado Trust Fund*, 913 P.2d 533, 540 (Colo. 1996). This burden of proof and judicial deference are especially significant in the instant case because so many municipalities have adopted ordinances similar to Northglenn's.

There is no question that this is an area in which municipalities can exert legislative authority. "A City's zoning power is a proper exercise of state police power, and if a zoning ordinance is enacted to protect the public health and safety, it is ranked high on the list of zoning objectives possessed by a municipality; there is broad legislative discretion in meeting these objectives." *J & J Anderson, Inc. v. Town of Erie*, 767 F.2d 1469, 1477 (10th Cir. 1985) (citations omitted).

Again, the Illinois Appellate Court's analysis of a statue prohibiting sex offenders from visiting schools is helpful.

> In interpreting a statute, a court must ascertain and give effect to the legislature's intent in enacting the statute. In construing a statute, a court is obliged to affirm the statute's validity and constitutionality if reasonably possible. An interpretation that renders a statute valid is always presumed to have been intended by the legislature.
>
> Section 11-9.3 provides that it is unlawful for a child sex offender to knowingly be present in a school zone *"unless the offender * * * has permission to be present."* (Emphasis added.) We construe the statute to proscribe only conduct performed without permission, or, in other words, to proscribe only conduct

> performed "without lawful authority," the possibility that the statute reaches innocent conduct is avoided.
>
> Section 11-9.3 serves its purpose by banning known child sex offenders from school zones thus reducing the risk that school children will fall prey to sexual predators. The unlawful presence within a school zone by child sex offenders applies to a specific class of persons, convicted child sex offenders. If a group of persons creates a greater danger to the public, then it is reasonable to deter those persons by a statute reasonably designed to remedy the threat to the public safety. We find nothing unreasonable in the statute's method of serving its purpose and we therefore hold that section 11-9.3 does not violate defendant's substantive due process rights.

People v. Stork, 713 N.E. 2d 187, 192 (Ill. App. 1999) (citations omitted).

The method used to protect the public interest in the sex offender ordinances of Northglenn and other municipalities is reasonable because it addresses the congregation of recognizably dangerous persons. As previously stated, it is reasonable to believe that preventing criminals with a high rate of recidivism from clustering within a community lessens the chance that such criminals with commit new crimes on members of the community. "[T]he reasonableness of an ordinance depends on whether it tends to accomplish the objects for which the municipality exists" and "if any state of facts can be reasonably conceived in justification of the ordinance it will not be judged unreasonable." McQuillen, Mun Corp 1806 (3rd Ed).

CONCLUSION

For the foregoing reasons, the Northglenn municipal court correctly concluded that Northglenn Ordinance No. 1248 satisfies the rational basis test and is constitutionally valid. The district court erred in reversing that determination.

Respectfully submitted this 6th day of November, 2001.

COLORADO MUNICIPAL LEAGUE

By: _____
Geoffrey T. Wilson

CITY OF LAKEWOOD
GORSUCH KIRGIS LLP

By: _____
Paul F. Kennebeck

CITY OF WHEAT RIDGE
GORSUCH KIRGIS LLP

By: _____
Carmen Beery

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 6th day of November, 2001, a true and correct copy of the within **BRIEF OF THE CITY OF LAKEWOOD, THE CITY OF WHEAT RIDGE, AND THE COLORADO MUNICIPAL LEAGUE AS *AMICI CURIAE*** was placed in the U.S. mail, postage prepaid, addressed to:

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Mac V. Danford
Clerk of the Court
Colorado Supreme Court
Colorado State Judicial Bldg.
2 E. 14th Ave., 4th Fl.
Denver, CO 80203

Kathleen Harrison

APPENDIX

A number of municipalities and counties have adopted ordinances regulating the number of registered sex offenders who may live together. Information compiled by the Colorado Municipal League reveals the following general information:

1. It appears at least sixteen counties and municipalities have adopted some type of regulation regarding the number of registered sex offenders who can live together.

2. A review of nine county and municipal ordinances relating to the regulation of registered sex offenders indicates that most of the adopting bodies made ample and specific legislative findings relating to their authority to adopt local zoning provisions and their concern with the danger posed by registered sex offenders. Most of these legislative findings referenced the findings by the Colorado General Assembly which are found at C.R.S. § 16-11.7-101.

3. Of the nine county and municipal ordinances reviewed, most of the ordinances appear to be similar to Northglenn's in that they exempt immediate family members from the prohibition of registered sex offenders living together. (See e.g. Lakewood Ordinance 0-99-19 and amendment Ordinance 0-2001-8.) Most of the ordinances reviewed do not appear to have an exemption for registered sex offenders who are part of a foster family.

4. The ordinances reviewed were those of the City of Englewood, Commerce City, City of Lakewood, Jefferson County, City of Aurora, City of Littleton, Town of Superior, City of Thornton, and the City of Northglenn.

0-99-19

A BILL FOR AN

ORDINANCE AMENDING SECTION 17-2-2(163) OF THE LAKEWOOD ZONING ORDINANCE RELATING TO THE DEFINITION OF HOUSEHOLD; FURTHER, DECLARING AN EMERGENCY

WHEREAS, the City of Lakewood is a home rule city with the authority to regulate the uses of land within its corporate boundaries; and

WHEREAS, it is appropriate for public health, safety and esthetics that various land uses be categorized and separated according to the type and intensity of said use; and

WHEREAS, the City of Lakewood has traditionally separated residential uses from commercial, industrial and other uses; and

WHEREAS, the City of Lakewood allows adult and juvenile offenders to be housed in group living quarters in non-residential zone districts of the City; and

WHEREAS, the City has reserved its residential zone districts for residential uses by allowing only families, households or group homes in residential zone districts; and

WHEREAS, the housing of sex offenders is a use more appropriate to the non-residential zone district as allowed in group living quarters; and

WHEREAS, the General Assembly of the State of Colorado has recognized that the majority of persons who commit sex offenses, if incarcerated or supervised without treatment, will continue to present a danger to the public when released from incarceration and supervision; and

WHEREAS, the General Assembly has recognized the potential danger of sex offenders by stating that it recognizes that some sex offenders cannot or will not respond to treatment; and

WHEREAS, the General Assembly has required that sex offenders register with the local law enforcement agency within seven (7) days of becoming a temporary or permanent resident within the agency's jurisdiction; and

WHEREAS, a sex offender potentially poses a direct threat to the health and safety of others, as recognized by the General Assembly and various court decisions; and

WHEREAS, the concentration of sex offenders in a residential zone district increases the potential risk of the threat to the health and safety of others; and

WHEREAS, the City Council has determined that it is in the best interest of the City to prohibit sex offenders from living together other than as a group living quarters in non-residential sections of the City,

NOW, THEREFORE, Be It Ordained By The City Council of The City of Lakewood, Colorado, That:

SECTION 1. Section 17-2-2(163) of the Lakewood zoning ordinance is amended by adding a new subparagraph (f) to read as follows:

(f) A household shall not include more than one individual who is required to register as a sex offender under the provisions of the Colorado Revised Statutes, § 18-3-412.5, as amended.

SECTION 2. Emergency. This ordinance is necessary for the immediate preservation of the City of Lakewood's peace, health and safety in order to immediately preserve Lakewood's current residential zone districts for residential uses and to prevent possible criminal behavior of registered sex offenders as is recognized by the Colorado General Assembly. This Ordinance shall take effect immediately.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a regular meeting of the Lakewood City Council on the 14th day of June, 1999; published in full in the Lakewood Sentinel on the 17th day of June, 1999; set for public hearing on the 28th day of June, 1999; read, finally passed and adopted by the City Council on the 28th Day of June, 1999; and signed and approved by the Mayor on the 28th Day of June, 1999.

Linda Morton
Linda Morton, Mayor

ATTESTED AND CERTIFIED:

Karen Goldman
Karen Goldman, City Clerk

Approved as to form:

City Attorney Roger W. Woman Date June 22, 1999

Approved as to content:

City Clerk _____	Date _____
Finance _____	Date _____
City Manager _____	Date _____
Police Dept. _____	Date _____
Comm. Resources_____	Date _____
Public Works _____	Date _____
Employee Relations _____	Date _____
Community Planning & Development _____	Date _____

0-2001-8

A BILL FOR AN

ORDINANCE AMENDING SECTION 17-2-2(163) OF THE LAKEWOOD ZONING ORDINANCE RELATING TO THE DEFINITION OF HOUSEHOLD

WHEREAS, the City of Lakewood adopted Ordinance 0-99-19 which amended the definition of household to prohibit more than one registered sex offender from living in a household; and,

WHEREAS, it is necessary to clarify the definition of household and to include members of the immediate family within said definition; and,

WHEREAS, it is the intent of the City Council that foster children are not included within the definition of immediate family,

NOW, THEREFORE, Be It Ordained By The City Council of The City of Lakewood, Colorado, that:

SECTION 1. Section 17-2-2(163) of the Lakewood zoning ordinance is amended to read as follows:

(163) **Household:** Any family or any number of unrelated individuals or related and unrelated individuals, living together as a single housekeeping unit up to a maximum of one person per habitable room which is being used for living purposes. This definition is subject to the following:

(a) The following words, terms and phrase, when used in this Article, shall have the meanings ascribed to them in this subsection.

(b) "Habitable room which is being used for living purposes" is space in a structure for living, sleeping, eating or cooking. Not included in this definition are bathrooms, toilet compartments, porches, balconies, unfinished rooms, closets, halls, storage and utility spaces, and similar spaces.

(c) "Living together as a single housekeeping unit" is generally characterized by a family-like structure, and/or a sharing of responsibility associated with the household, and a concept of functioning as a family unit with a sense of permanency, as opposed to the transient nature of a bed and breakfast establishment, motel, hotel or dormitory.

(d) Any household which meets the definition of a group home or group living quarters shall be regulated as a group home or group living quarters rather than as a household.

(e) A household shall not include more than one individual who is required to register as a sex offender under the provisions of the Colorado Revised Statutes, § 18-3-412.5, as amended. This Subsection (e) shall not apply to a registered sex offender who is living with his immediate family. For purposes of this Subsection (e), immediate family is defined as a person, the person's spouse, the person's parent, the person's grandparent, the person's brother or sister of the whole or half blood, the person's child, the person's step-child or the person's child by adoption.

(f) Enforcement of Subsection (e) above shall occur only after notice of the violation has been sent by regular mail to the owner and tenant of the household and ten (10) days have elapsed after mailing of said notice.

SECTION 2. This ordinance shall take effect forty-five (45) days after final publication.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a regular meeting of the Lakewood City Council on the 26th day of February, 2001; published in full in the Lakewood Sentinel on the 1st day of March, 2001; set for public hearing on the 26th day of March, 2001; read, finally passed and adopted by the City Council on the 26 day of March, 2001; and signed and approved by the Mayor on the 27 day of March, 2001.

Stephen A. Burkholder, Mayor

ATTESTED AND CERTIFIED:

Sharon Blackstock, Interim City Clerk

Approved as to form:

City Attorney Roger W. Knoman Date March 20, 2001

Approved as to content:

City Clerk _____ Date _____
Finance _____ Date _____
City Manager _____ Date _____
Police Dept. _____ Date _____
Comm. Resources _____ Date _____
Public Works _____ Date _____
Employee Relations _____ Date _____
Information Technology _____ Date _____
Community Planning & Development _____ Date _____