

**Revised PLANNING COMMISSION REPORT**  
**Regular Agenda -- Public Hearing Item**

**ITEM NO. ~~5~~ 7: TEXT AMENDMENT TO CHAPTER 20 DEVELOPMENT CODE (SDM)**

**TA-6-17-09:** Consider amendments to various sections of the City of Lawrence Land Development Code related to the Boarding House use. Initiated by the Lawrence – Douglas County Planning Commission on May 20, 2009.

This report has been revised from the August 24, 2009 report. Deletions are shown in **~~bold strikethrough~~** and additions are shown in **bold italics underlined**.

**RECOMMENDATION:** Staff recommends that the Planning Commission *forward a recommendation for approval of the proposed amendments to Chapter 20, Land Development Code to the City Commission* ~~review this report, receive public input on this matter and direct staff appropriately.~~

**Reason for Request:** The Planning Commission initiated this amendment on May 20, 2009 after discussion and determining that reviewing the code standards for Boarding Houses is a matter of concern for neighborhoods.

**RELEVANT GOLDEN FACTOR:**

- Conformance with the Comprehensive Land Use Plan is the relevant factor that applies to this request. Adoption of new regulatory tools, one of which is zoning regulations, is an implementation step in Chapter 13 of HORIZON 2020, the City/County Comprehensive Land Use Plan.

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- None to date.

**KEY POINTS**

- The Development Code restricts occupancies, per the definition of "Family", in single-family zoning districts to no more than 3 unrelated persons.
- The Development Code restricts occupancies, per the definition of "Family", in multi-family zoning districts to no more than 4 unrelated persons.
- The Development Code permits occupancies in group living structures, including Boarding Houses, to exceed the occupancy restrictions found in the definition of "Family."
- This amendment analyzes whether a conflict exists between the restrictions of the "Family" definition and the code-provided allowance for the Boarding House use.
- Staff's conclusion is that the definition of the Boarding House use should be revised to reduce the number of bedrooms and occupants and that use standards be established for this use to reduce the recognized impacts to neighborhoods.
- *The Planning Commission requested additional information related to the size and former use of Boarding Houses at the August 24 PC meeting. A table in this report has been revised with this information.*
- *The PC directed staff to separate the Boarding House use from the Cooperative use.*

After research, Staff believes the impacts associated with both uses are similar and should be combined into one Congregate Living use in the Development Code.

- At the August 24<sup>th</sup> PC meeting, the Oread Neighborhood Association presented testimony that permitting Boarding Houses in structures 4,000 square feet or larger might aid in preserving larger older structures in the neighborhood.
- Staff is of the opinion that while the Boarding House use has value to the community, it is a use with potential unhealthy externalities to neighborhoods and may demand a higher land use process such as the Special Use Permit process if a certain threshold of occupants is exceeded.

## OVERVIEW OF PROPOSED AMENDMENT

On May 20, 2009 the Planning Commission initiated a text amendment to review the development code to determine if standards related to boarding houses should be revised or new standards created. Revising standards to the parking requirements and/or the maximum number of occupants; creating standards related to a Boarding House's size, deck size, trash storage area, etc.; or even considering whether boarding houses are an appropriate land use at all has been determined to be prudent.

The land use impacts of boarding houses have been a topic of discussion with the Oread and other neighborhood associations in the past. Stated impacts include too much intensity on a lot, behavior that includes keeping a trashy yard and noisy parties, too many occupants for the parking provided, permitting a land use that has the appearance of being contrary to the definition of "Family", etc.

Issues that have been cited as being problematic for the neighborhoods include:

1. a real or perceived misuse of variances to parking standards for boarding houses.
2. permitting stacked parking via the variance procedure.
3. that the code permits large additions on existing homes that can detract from the development pattern of a neighborhood.
4. that the code does not require trash enclosures for every site.
5. that the code permits large decks where parties can be held.

It is one of the few household living land uses that is not regulated by the definition of "Family", which states in part, "in a [Zoning District](#) other than RS, a group of not more than four persons not related by blood or marriage, living together as a single [Housekeeping Unit](#) in a [Dwelling Unit](#), as distinguished from a group occupying a [Dormitory](#), [Boarding House](#), lodging house, motel, hotel, fraternity house or sorority house."

The following table depicts maximum occupancies for different types of uses in RM districts. These occupancies assume that parking and all other code requirements are met to achieve the occupancies.

<p>Key:            A = Accessory            P = Permitted            S = Special Use            * = Standard Applies            - = Use not allowed</p>	RM12	RM12D	RM15	RM24	RM32	RMG	RMO	Max. Unrelated Occupancy per Dwelling
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RESIDENTIAL USE GROUP									
Household Living	Accessory Dwelling Unit	–	–	–	–	–	–	–	
	Attached Dwelling	P*	P*	P*	P*	P*	–	P*	4
	Cluster Dwelling	P*	P*	P*	P*	P*	–	P*	4
	Detached Dwelling	S*	S*	S*	S*	S*	–	S*	4
	Duplex	P*	P*	P*	P*	P*	–	P*	4
	Manufactured Home	S	S	S	S	S	–	–	4
	Manufactured Home, Residential-Design	S*	S*	S*	S*	S*	–	S*	4
	Mobile Home	–	–	S	S	S	–	–	4
	Mobile Home Park	–	–	S*	S*	S*	–	–	4
	Multi-Dwelling Structure	P*	–	P*	P*	P*	–	P*	4
	Zero Lot Line Dwelling	P*	P*	P*	P*	P*	–	P*	4
Group Living	Assisted Living	P	P	P	P	P	P	P	Unlimited
	Boarding Houses and Cooperatives	P	–	P	P	P	–	P	12 sleeping rooms / 24 people
	Dormitory	–	–	–	–	–	P	–	Unlimited – must have at least 8 bedrooms
	Fraternity or Sorority House	–	–	–	–	–	P	–	Unlimited
	Group Home, General [11 or more]	S	S	S	S	S	P	S	Unlimited / per SUP
	Group Home, Limited [10 or fewer]	P	P	P	P	P	–	P	10

While boarding houses are grouped with “[Dormitory](#), [Boarding House](#), lodging house, motel, hotel, fraternity house or sorority house” as uses that are exempt from the definition of “Family”, the boarding house use is the only one of these uses that is permitted outright in the RM zoning districts, except for dormitory and fraternity and sorority houses which are permitted only in the RMG district, a district limited in size. While not specifically listed in the definition of “Family”, Assisted Living and Limited Group Homes are also permitted in the RM districts with occupancies that can exceed four unrelated persons but have not been identified as having the same land use externalities as a Boarding House. Permitting Boarding Houses to house up to 24 occupants appears to create a conflict within the code. It has been determined that there is value in restricting dwelling units in their occupancy, yet the code allows this one use that can be relatively simple to establish in any RM zoning district, the Boarding House, to exceed the occupant restrictions.

Even with this apparent conflict, boarding houses are not without merit to the community. Permitting boarding houses to some degree is one vehicle by which older, dilapidated structures can be rehabilitated to be more aesthetically pleasing for the neighborhood and function safer for the occupants. Converting single-family structures to boarding houses often requires renovations which must meet current building codes and often must be sprinklered, creating a safer environment for the entire area. There also can be benefits to permitting the boarding house land use. The land use allows for the potential to reach higher densities close to campuses and is a vehicle to maintain historic and other structures in an economic way.

The Land Development Code permits boarding houses in the RM12, RM15, RM24, RM32, RMO, and MU districts and defines the term as,

A [Dwelling](#) or part thereof where meals and/or lodging are provided for compensation for one (1) or more persons, not transient guests, and where there are not more than 12 sleeping

rooms, nor sleeping space for more than 24 people.

The parking standards require that 1.5 spaces be provided per two (2) lawful occupants. An 8-room boarding house would require six (6) spaces.

Since 1987, records indicate that site plans for approximately 24 boarding houses have been processed in the city and two are currently being reviewed through the site planning process. The attached map shows some of the Boarding House locations in the city.

1980s	1990s	2000s
1	2	21

This data is misleading, however, as site planning boarding houses did not receive serious consideration until after 2002 when the definition of “Family” was modified and attention was given to dwellings in multi-family zones that housed more than four unrelated individuals. Site planning Group Living uses was determined to be the process by which to track and require such uses to comply with the code. Prior to this, many boarding houses were converted from single-family homes through the building permit process or in a non-compliant manner. The Douglas County Appraiser’s Office identifies 17 boarding houses in the Oread Neighborhood and 25 city-wide.

The table below provides data on the number of bedrooms and occupants approved for Boarding House applications for the files that staff reviewed.

SITE PLAN	ADDRESS	# BEDROOMS	# OCCUPANTS	<u>APPROX. STRUCTURE SIZE (sq ft)</u>	<u>FORMER USE</u>
SP-3-10-09	1037 Kentucky St	6	6	<u>1,590</u>	<u>4 unit apt house</u>
SP-4-13-09	1042 Tennessee St	5	5	<u>2,529</u>	<u>4 unit apt building</u>
SP-5-18-09	928 Ohio St	8	8	<u>1,688</u>	<u>apt building</u>
SP-12-98-87	839 Mississippi St	6	6	<u>3,532</u>	<u>apt building</u>
SP-3-15-98	1232 Ohio St	9	9	<u>4,400</u>	<u>apt building</u>
SP-7-50-99	1313 Vermont St	6	6	<u>2,796</u>	<u>apt building</u>
SP-6-40-00	1005 Kentucky St	6	6	<u>2,960</u>	<u>single-family residence</u>
SP-7-57-02	1121 Ohio St	11	12	<u>4,857</u>	<u>9 unit apt house</u>
SP-11-81-02	414 West 14th St	8	8	<u>2,767</u>	<u>single-family residence</u>
SP-9-58-03	1033 Kentucky St	10	10	<u>2,592</u>	<u>2 unit apt, previously located at 1309 Ohio</u>
SP-10-64-03	1109 Tennessee St	6	6	<u>2,504</u>	<u>single-family residence</u>
SP-11-69-03	1334 Ohio St	12	12	<u>5,351</u>	<u>7 unit apt house</u>
SP-6-34-04	1416 Tennessee St	10	10	<u>4,525</u>	<u>8 unit apt house</u>
SP-7-49-07	1339 Ohio St	12	12	<u>4,306</u>	<u>14 unit apt house</u>
SP-8-56-07	1341 Ohio St	8	8	<u>3,136</u>	<u>4 unit apt house</u>
SP-12-102-08	1609 West 4th St	5	5	<u>vacant property</u>	
SP-12-111-08	1005 Indiana	8	8	<u>2,541</u>	<u>apt building</u>

	St				
SP-8-70-08	930 Ohio St	8	8	<u>4,839</u>	<u>single-family residence</u>
SP-05-43-06	1140 Mississippi St	7	7	<u>2,500</u>	<u>8 unit apt house</u>
SP-08-63-00	1300 Ohio St	7	7	<u>2,116</u>	<u>single-family residence</u>
SP-10-71-07	1211 Rhode Island St	10	10	<u>2,201</u>	<u>5 bedroom rental house</u>

Analyzing this data demonstrates that three houses were approved for 12 occupants, three houses were approved for 10 occupants, six houses were approved for 8 occupants, etc. It is interesting to note that except for one instance, the number of bedrooms and occupants were the same, indicating that occupants are not sharing rooms in the Boarding Houses. Further, no application has been approved for the maximum 24 occupants, likely due to the parking restrictions that are based on occupants.

While the 2006 Land Development Code has somewhat broadened the potential locations for boarding houses, such structures have historically been unique to the Oread neighborhood presumably due to the large structure types in this neighborhood and their proximity to the University of Kansas. Recent analysis of the Oread Neighborhood has yielded that approximately 6% of the land use in the neighborhood, established on 9.6 acres, is classified as a boarding house.

*Boarding House issues are not unique to Lawrence. An excerpt from The New Illustrated Book of Development Definitions (Harvey S. Moskowitz and Carl G. Lindbloom – 1993):*

*Boarding House – A dwelling unit or part thereof in which, for compensation, lodging and meals are provided; personal and financial services may be offered as well.*

*Comment: Over the years, the distinction between boarding and rooming houses has narrowed. Traditionally, rooming houses provided only rooms and boarding houses rooms and meals, but this distinction is no longer meaningful. The principal concerns from a zoning impact is how many rooms should be permitted to be rented as a matter of right, above which the rooming or boarding house would be restricted to certain zoning with controls or permitted only as a conditional use. Another concern is how to ensure that the rooming and boarding houses remain safe and sanitary.*

*It is with the above comment in mind that staff proposes the attached language to permit a limited congregate living use by right and require a special use for more intense requests. The Special Use process is the most consistent and equitable way to consider a land use type that contains potential negative externalities since conditions can be attached to the permit that mitigate the potential unhealthy aspects of the use.*

*The attached draft language combines Boarding Houses and Cooperatives into one Congregate Living use since the potential land use impacts are similar for both uses and they should be regulated in a similar fashion. The language puts forth a new definition for Congregate Living and establishes use standards to make the use more compatible with presumed surrounding residential uses that otherwise meet the definition of Family. If the negative externalities are associated with the limited amount of parking*



and the number of residents, then the code should address those elements of site planning by requiring additional parking for the use (1 space per 1 occupant) and limiting the number of residents (limit to 6) allowed with this use. If the limitation on the number of occupants is exceeded to take advantage of large structures, then staff proposes that a special use permit be requested to analyze the merits of the request and its impact on the surrounding neighborhood. Congregate Living uses requiring special use approval would be required to have a resident manager or owner on site to operate as a Congregate Living facility.

Staff has reviewed the Oread Neighborhood's comment to permit Boarding Houses only in structures that are 4,000 square feet or larger. The table above does not show significantly higher numbers of bedrooms or occupants in larger structures, presumably because the parking standards are limiting the development; however, all structures over 4,000 square feet did have between 8 and 12 occupants and this is on the high side of the number of occupants permitted. If Boarding Houses are reduced in scope to the proposed six occupants and further restricted by 1 parking space per occupant, then there does not appear to be a strong link to the size of the structure and, in fact, the smaller structures have typically had fewer bedrooms and occupants. Requiring special use approval for large structures that would contain greater than 6 occupants maintains the ability to use the structures for congregate living uses, but also permits the Planning Commission and governing body to address specific impacts they may bring.

The PC was interested in aligning the zoning with the building code. The applicable building code is IBC Section 310.2 Definitions: Congregate Living Facilities. A building or part thereof that contains sleeping units where residents share bathing room and/or kitchen facilities.

Staff proposes to use all or a portion of this definition in the definition of congregate living in the text to create a greater connection between the building and development codes.

## **CONFORMANCE WITH HORIZON 2020**

Several policies noted in Chapter Three of *Horizon 2020* support the concept of high density, infill redevelopment, though the plan also speaks to the need for differing land uses to be compatible.

"The Plan supports infill development and redevelopment which provides a range of residential, commercial, office, industrial and public uses within these parcels, consistent and compatible with the established land use pattern in surrounding areas."

"The Plan encourages the development of neighborhoods in a range of densities to provide a sense of community and to complement and preserve natural features in the area."

"The Plan encourages the identification, protection and adaptive reuse of the wide diversity of historic buildings, structures, sites and archeological sites that can be found in Lawrence and Douglas County."

## **CRITERIA FOR REVIEW & DECISION-MAKING**

Section 20-1302(f) provides review and decision-making criteria on proposed text amendments. It

states that review bodies shall consider at least the following factors:

- 1) **Whether the proposed text amendment corrects an error or inconsistency in the Development Code or meets the challenge of a changing condition.**

**Staff Response:** The proposed amendment addresses a land use issue that has been presented by multiple neighborhood associations. Depending on one's perspective, there may be an inconsistency in the Development Code by both restricting occupancy in multi-family zoning districts in dwelling units and permitting greater occupancies for certain structures permitted outright with site plan approval. The Boarding House use is the only use that exceeds the "Family" definition that has been identified as a use with the potential to create certain negative externalities for neighborhoods. These could include impacts related to parking, noise, trash, etc. that are less likely to be present in dwelling units that are restricted by the "Family" definition.

- 2) **Whether the proposed text amendment is consistent with the Comprehensive Plan and the stated purpose of this Development Code (Sec. 20-104).**

**Staff Response:** As discussed above, the comprehensive plan does not specifically address the amendment. The amendment helps to carry out the plan's goal of using zoning standards to create compatible neighborhoods.

**PROPOSED LANGUAGE:** See attached draft language.

~~Staff is not providing language at this time, but instead desires direction from the Planning Commission on how to process this amendment. Several options appear to be prudent for consideration:~~

~~Option 1—Delete the Boarding House use from the Land Development Code and rely on other multi-family types of uses to meet the demand for high-density, student housing.~~

~~Option 2—Maintain the Boarding House use in its current form.~~

~~Option 3—Revise the definition of Boarding House to reduce the maximum number of bedrooms and sleeping space to a number that would be in less conflict with the restrictions applied in the definition of "Family"—6 or 8 perhaps—and maintain the current standards for this use.~~

~~Option 4—Revise the definition of Boarding House to reduce the maximum number of bedrooms and sleeping space to a number that would be in less conflict with the restrictions applied in the definition of "Family"—6 or 8 perhaps—and create use standards for this use as follows.~~

- ~~1. Prohibit the expansion of a structure to convert it to a Boarding House or limit the expansion of a Boarding House to no more than 10% of the current gross floor area of the structure or some other reasonable amount.~~
- ~~2. Limit the size of any deck structure to no more than 200 square feet or some other reasonable area to accommodate the maximum occupancy of the Boarding House.~~
- ~~3. Require that an area for trash storage be designated on the site regardless of whether a shared trash site will be used to begin operation of the House.~~

~~Parking – Staff believes the parking standards are reasonable for this use and does not recommend that they be revised. There may be an impact on how many vehicles can be parked at a property given that staff recommends to bolster the requirement to designate a trash storage site on the property.~~

Attachments: Boarding house map  
*Draft language*