

PLANNING COMMISSION REPORT
Regular Agenda -- Public Hearing Item

PC Staff Report
12/12/11

**ITEM NO. 4 TEXT AMENDMENT TO CITY OF LAWRENCE DEVELOPMENT CODE;
DEFINING OCCUPANCY & CLARIFYING OCCUPANCY LIMITS IN NON-RS
ZONING DISTRICTS (MJL)**

TA-10-15-11: Consider a text amendment to the City of Lawrence Land Development Code, Articles 2 and 17, defining occupancy and clarifying the applicability of occupancy limits in RS and non-RS districts. *Initiated by City Commission on 10/4/11.*

RECOMMENDATION: Staff recommends that the Planning Commission forward a recommendation for approval of the proposed amendments TA-10-15-11 to the Land Development Code to the City Commission based on the analysis in the staff report.

Reason for Request: Issues with over occupancy violations (the number of unrelated persons living together) have been noted by enforcement staff. The City Commission initiated changes to the current regulations in order to address some of the issues. One of the items initiated was a text amendment to the *Land Development Code* in order to correct an oversight of the 2006 code related to occupancy limit regulations in non-RS districts and to include clarification of occupancy.

RELEVANT GOLDEN FACTOR:

- This text amendment is consistent with the comprehensive plan.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

– None

OVERVIEW OF PROPOSED AMENDMENT

The definition of Family establishes occupancy provision for RS and non-RS districts. Section 20-202(g) currently outlines occupancy limits in the RS (Single-Dwelling Residential) Districts by linking occupancy of a dwelling unit to the definition of Family. The proposed changes add a similar section to every non-RS zoning district description that permits residential uses. Additionally, staff is proposing modifying the definition of Family in Article 17 – Terminology to clarify and to add what the meaning of the phrase “living in a Dwelling Unit” means as stated in the Family definition.

CONFORMANCE WITH THE COMPREHENSIVE PLAN

Chapter 6 – Residential Land Use discusses neighborhood conservation and protecting existing housing stock. Over occupancy of structures could cause deterioration of a neighborhood. Horizon 2020 outlines residential density in dwelling units per acre. The Development Code defines a family as: (1) a person living alone; (2) two or more related persons or; (3) a group of three or four [depending on zoning district] unrelated persons living in a dwelling unit. If over occupancy due to the increase of unrelated persons occurs, it can increase the intensity of an area and potentially create a strain on the neighborhood and other services such as utilities (water and sewer service) and transportation (parking and street traffic).

CRITERIA FOR REVIEW AND 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; and

The text amendment clarifies regulations in relation to occupancy and the total number of people allowed living together in a dwelling unit. The proposed changes will help enforcement staff with violation cases and corrects an error in the code in that occupancy limits are established by the Family definition but its applicability in districts needs to be strengthened.

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

Horizon 2020 speaks to neighborhood conservation and protecting existing housing stock. Regulation and enforcement of occupancy limits in the neighborhoods protects the neighborhood stability. Housing stock is more likely to be preserved when occupancy limits are observed and a significant increase in occupants in one area is not permitted. Over occupancy of an area or house can lead to deterioration of structures. Additional residents in an area typically result in additional trash, activity and parking demand. These issues often are compounded when over occupancy occurs in a dense area and can lead to instability and deterioration of a neighborhood.

Staff Review

The City Commission has initiated various changes to the *City Code* and the *Land Development Code* to address the issue of occupancy and occupancy violations. The proposed changes to the *Land Development Code* strengthen the description of occupancy limits that currently exist and strengthen the definition of Family. The proposed changes are located in Article 2 – Base Districts and in Article 17 – Terminology. Descriptions of the proposed changes are below.

- Article 2 – Base Districts

The proposed changes to Article 2 are to Sections 202, 203, 204, 206, 207, 208, 210, 211, 213, 215, 216, 218, 219, 221, 222, and 223. These are the descriptions of the base districts where residential uses are permitted. The only section that currently includes language about occupancy limits is Section 20-202, Single-Dwelling Residential District. Below are the proposed changes proposed to that section and the similar section that is proposed to be added to the non RS districts.

- RS Districts
Occupancy Limits

~~In RS, Single-Dwelling Residential Districts, a Dwelling Unit shall only be occupied by a Family as defined in Section 20-1701, Family (1), (2) or (3). On properties in RS Districts that have an Accessory Dwelling Unit established in accordance with Section 20-534, the total number of individuals that reside in both units shall not exceed the total persons allowed in a Dwelling Unit located in the RS District as defined in Section 20-1701, Family (1), (2) or (3), plus one additional person.~~

In RS Districts, no more than one **Family**, as that term is defined in Section 20-1701(1), (2), and (3)(a), shall occupy a **Dwelling Unit**. On properties in RS Districts that have an

Accessory Dwelling Unit, established in accordance with Section 20-534, no more than one **Family**, as that term is defined in Section 20-1701(1), (2), and (3)(a), plus one additional person shall, in the aggregate, occupy a **Dwelling Unit** and **Accessory Dwelling Unit**.

– **Non-RS Districts**

Occupancy Limits

In non-RS Districts, no more than one **Family**, as that term is defined in Section 20-1701(1), (2), and (3)(b), shall occupy a **Dwelling Unit**. On properties in non-RS Districts that have an **Accessory Dwelling Unit**, established in accordance with Section 20-534, no more than one **Family**, as that term is defined in Section 20-1701(1), (2), and (3)(b), plus one additional person shall, in the aggregate, occupy a **Dwelling Unit** and **Accessory Dwelling Unit**.

• **Article 17 – Terminology**

Changes to the definition of Family are being proposed to provide greater intent of what it means to occupy, or “live” in a Dwelling Unit. Deletion of the definition of the term Housekeeping Unit is being proposed. This term is only used in the definitions of other terms (Dwelling Unit and Family). With the proposed changes to the definition of Family, the term Housekeeping Unit is confusing and no longer necessary. This proposal also removes the term from the definition of Dwelling Unit.

Family

A person living in a Dwelling Unit alone; (2) two or more persons related by blood, marriage, or legal adoption, living in a Dwelling Unit together; (3) (a) in ~~an RS Zoning District Districts~~, a group of not more than three persons, not related by blood ~~or~~, marriage, ~~or legal adoption~~, living in a **Dwelling Unit together**, as distinguished from a group of persons occupying a **Dormitory, Congregate Living**, motel, hotel, fraternity house or sorority house; or ~~(4)-(b)~~ in ~~a Zoning District other than RS non-RS Districts~~, a group of not more than four persons, not related by blood ~~or~~, marriage, ~~or legal adoption~~, living in a Dwelling Unit together, as ~~a single Housekeeping Unit in a Dwelling Unit, as~~ distinguished from a group of persons occupying a **Dormitory, Congregate Living**, motel, hotel, fraternity house or sorority house. For the purpose of this definition, “living in a Dwelling Unit” shall mean residing or sleeping at a Dwelling Unit the majority of a person’s time.

Dwelling Unit

One room, or a suite of two or more rooms, designed for or used by one **Family** ~~or Housekeeping Unit~~ for living and sleeping purposes and having only one kitchen or kitchenette.