

PLANNING COMMISSION REPORT
Regular Agenda -- Public Hearing Item

PC Staff Report
2/25/13

ITEM NO. 6 TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; FAMILY & OCCUPANCY LIMITS (SDM & MJL)

TA-13-00001: Consider a Text Amendments to various articles in Chapter 20 of the City Code, the Land Development Code, in relation to the definition of Family and Occupancy Limits.

RECOMMENDATION: Staff recommends that the Planning Commission forward a recommendation for approval of the proposed amendments TA-13-00001 to the Land Development Code to the City Commission for approval.

Reason for Request: To apply the 3-person occupancy limit, currently applied in only RS districts, to all Detached Dwelling units in the commercial, industrial and planned development zoning districts.

RELEVANT GOLDEN FACTOR:

- This text amendment is consistent with the comprehensive plan goal to protect existing residential neighborhoods.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- No comments received prior to printing.

OVERVIEW OF PROPOSED AMENDMENT

At the February 28, 2012 City Commission meeting, the Commission asked for information regarding how occupancy is and has been regulated in Planned Developments (PDs) after receiving a report from the City Auditor on the city's rental inspection program. The discussion generally centered on how occupancy within Planned Developments has been regulated over time and how the definition of Family (3 or 4 unrelated occupants) is currently applied to PDs that include Detached Dwelling and Duplex housing types. Currently, a PD is designated in the code as a non-RS district and based on the definition of Family, non-RS districts are permitted up to 4 unrelated people per dwelling unit.

Planned Developments have been used in the city since 1966 when the concept was adopted as part of the adoption of a new code and termed Planned Unit Developments. Additionally, the 1966 code established a 4 person occupancy limit for a dwelling unit, regardless of zoning. The general purpose of the Planned Unit Developments (PUDs) was to provide for a mix of housing types and designs and for necessary supportive commercial facilities conveniently located close to such housing. Use of PDs allows for more efficient use of land and flexibility in the placement of buildings, use of open space, density, off street parking areas, and other standards. Many of the PUDs have significant areas of Detached Dwelling (single-family) and Duplex type housing. Until 2001, all housing types were limited to no more than 4 unrelated occupants.

At the November 27, 2012 City Commission meeting, the Commission considered a memo related to occupancy limits and directed staff to submit language that would reduce the occupancy for Detached Dwelling (single-family) and Duplex uses in certain districts from 4 unrelated occupants to 3 unrelated

occupants. This code revision is intended to apply the 3-person occupancy limit, currently applied in only RS districts, to all neighborhoods that contain a majority of single-family and duplex uses in order to consistently apply a standard viewed as beneficial to such neighborhoods.

Staff analyzed the housing types in the different districts and compiled data reflecting the number of one, two, and multi-dwelling units in the various districts. The data shows that dwelling units exist in all zoning districts. See attached summary. In some cases these are conforming and in others the units are nonconforming. The North Lawrence neighborhood, for example, includes many Detached Dwelling units in the IG District, which reflects the issue that generated this review – one side of a single-family area is zoned RS and limited to 3 unrelated occupants, and the other side is zoned IG with single-family type housing and is limited to 4 unrelated occupants. Because of this, it is not enough to review only the Planned Development areas. The housing types in all districts must be considered in the discussion.

At the February 5, 2013 City Commission meeting, the Commission directed staff to exclude the Duplex use and focus on the occupancy limits for the Detached Dwelling uses in all zoning districts with the exception of the RM Districts.

Staff has reviewed the *Development Code* to determine the most efficient way to implement the Commission's direction. The definition of Family has served to limit occupancy of unrelated people in housing structures. However, the actual code standard related to occupancy limits is located in Article 2 of the *Development Code*, which references the definition of Family. The following is an example of how the code currently addresses occupancy. Similar language exists for all districts.

Occupancy Limits:

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**.

Family:

(1) 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 RS Districts, a group of not more than three persons, not related by blood, 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 (b) in non-RS Districts, a group of not more than four persons, not related by blood, 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. 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.

In order to implement the revised occupancy limits per the Commission's direction, staff proposes that the definition of Family be deleted from the *Development Code* and that occupancy limits be instead identified for each zoning district. The substance of the current definition of Family would be maintained, but the specifics related to how to treat the Detached Dwellings within the zoning districts would be more manageable. The table below reflects the current and proposed limits on unrelated people in each of the zoning districts and, in certain zoning districts, for different housing types within the district since some districts can contain single and multi-dwelling uses and housing types.

Zoning District	Current Limit of Unrelated Occupants	Proposed Limit of Unrelated Occupants
RS, RSO	3	3
RM, RMO	4	4
RMG	4	Does not Apply
Commercial	4	Detached Dwelling – 3 All other housing types - 4
Industrial	4	Detached Dwelling – 3 All other housing types - 4
MU	4	4
GPI	4	3
H	4	3
PUD[name]	4	Detached Dwelling – 3 All other housing types - 4
PRD[name]	4	Detached Dwelling – 3 All other housing types - 4
PCD[name]	4	Detached Dwelling – 3 All other housing types - 4
PID[name]	4	Detached Dwelling – 3 All other housing types - 4
POD[name]	4	Detached Dwelling – 3 All other housing types - 4
UR	4	Detached Dwelling – 3 All other housing types - 4
U/U-KU	4	Detached Dwelling – 3 All other housing types - 4
OS	4	Detached Dwelling – 3 All other housing types - 4
Lawrence SmartCode	Per SmartCode	Per SmartCode
Overlay	Determined by base zoning district	Determined by base zoning district

The proposed limits essentially maintain the 3 unrelated occupant limit in RS districts and the 4 unrelated occupant limit in RM districts. It requires that the Detached Dwelling uses in other districts meet the 3 unrelated occupant limit, but permits 4 unrelated occupants for other housing types. These limits intend to allow all single-family type neighborhoods to be treated in a consistent fashion, while allowing multi-dwelling type neighborhoods and parts of neighborhoods to maintain RM type living conditions. Attached is an estimation of the dwelling unit count for districts. The proposal would affect Detached Dwellings in the PD, MU, C, I and all other districts as described in the analysis. The analysis estimates 2,628 parcels with 1 dwelling unit.

Staff recommends providing a date, such as until August 1, 2015, to comply with the standard to aid owners in reducing their occupancy within a reasonable timeframe.

Proposed Article Changes

Changes to the text attached and are noted in red. Additions are underlined and ~~deletions~~ are struck through.

Article 2

The attached proposed code language would remove the occupancy limit standards from each district in Article 2 and add a reference to a proposed table in Article 6. This will offer a simple, quick-reference table to locate all occupancy limits in one place, similar to the district density and dimensional standards tables. Below is an example of the proposed language changes in Article 2. The changes are similar for each district.

(g) Other Regulations

There are a number of other development standards that may apply to development in **Base Districts**, including but not limited to the following:

- | | | |
|-----|--------------------------------|-------------------------------|
| (1) | General Development Standards | See Article 11. |
| (2) | Landscaping | See Article 10. |
| (3) | Off-Street Parking and Loading | See Article 9. |
| (4) | Outdoor Lighting | See Section 20-1103. |
| (5) | Overlay Districts | See Article 3. |
| (6) | <u>Occupancy Limits</u> | <u>See Section 20-601(d).</u> |

~~(h) — Occupancy Limits~~

~~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.~~

Article 5

The proposed change to Article 5 is in Section 20-534 Accessory Dwelling Units. Section 20-534(2)(v) states the number of residents permitted in both the principal and accessory dwelling unit. The proposed language does not change the current standard (number allowed for the household plus one) but clarifies the standard to reference the proposed table in Article 6, plus one.

(v) **Number of Residents**

The total number of individuals that reside in both units (principal + accessory) may not exceed the ~~number that is allowed for a household~~ Occupancy Limit established for the Principal Building in Section 20-601(d), plus one additional person.

Article 6

The proposed addition in Article 6 includes language from the definition of Family which identifies how a family is classified and the date at which Detached Dwelling units must comply with the new regulations. A family is classified as one of three ways and does not apply to a group of persons occupying a Dormitory, Congregate Living, motel, hotel, fraternity house or sorority house.

1. one 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, or
3. a group not related by blood, marriage, or legal adoption, living in a Dwelling Unit together.

Everyone living in a dwelling unit is either classified as being all related or all not. There is not an option to mix the number of 3 or 4 related or unrelated persons for the purposes of meeting this standard. Children are not counted as part of the total. Below are some scenarios of a group of people and if they comply with the requirements of the Code based on occupancy. For these scenarios, the dwelling unit is located in a RS zoning district which permits a maximum of 3 unrelated occupants in a dwelling unit.

- A married couple and their 4 children – all related (complies)
- 4 friends – 4 unrelated (does not comply)
- 2 sisters and 2 friends – 4 unrelated (does not comply)
- 3 brothers and their wives – all related (complies)
- 3 brothers, 2 wives and 1 girlfriend – 6 unrelated (does not comply)
- 2 people (unmarried) and their children – 2 unrelated (complies)
- A married couple and a pair of one of their parents – all related (complies)
- A married couple, their children and a friend – 3 unrelated (complies)

Article 17

Article 17 proposed changes are to remove “for or used by one Family” from the definition of Dwelling Unit. This definition states:

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

Staff believes this definition of Dwelling Unit can stand on its own without the struck through reference to one Family.

With the removal of the definition of Family, any place where there is a reference referring back to the definition in the Code needs to be changed. The Dwelling Unit definition is the only place where the term “Family” would be reliant on the definition. Family appears other places in the Code but does not reference the definition necessarily. The Family word is identified as a blue, capitalized word. For example single-Family. These words will be changed to a non-defined word and have a separate definition to support the term if necessary.

CONFORMANCE WITH THE COMPREHENSIVE PLAN

Chapter 5 – Residential Land Use of *Horizon 2020* speaks to neighborhood conservation. Goal 3 in the low-density residential (many of the existing detached dwelling areas are considered low-density) section states “Maintaining the character and appearance of low-density residential neighborhoods should be protected and improvements made where necessary to maintain the values of the properties and enhance the quality of life.” Policies in this section include protecting existing housing stock and promoting neighborhood identity. Maintaining consistent occupancy of detached dwellings in other districts to match that of the detached dwellings in RS Districts will help to achieve this goal.

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 proposed text amendment corrects an inconsistency in the *Development Code* where Detached Dwelling units in commercial, industrial, and planned development districts are permitted to have up to 4 unrelated persons though the area may have as a single-family neighborhood character. This situation is found mainly in planned developments as they are considered non-RS Districts and are permitted up to 4 unrelated in a Detached Dwelling though it was planned as and acts like a RS District zoned area. This situation also occurs in North Lawrence where many areas are developed with Detached Dwellings though are located in an industrial zoning district. This change will address consistency issues through the districts.

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

This text amendment is consistent with the goal in *Horizon 2020* which discusses protecting existing character and appearance of residential neighborhoods. Maintaining consistent occupancy of Detached Dwellings in other districts to match that of the Detached Dwellings in RS Districts will help to achieve this goal.