

## ORDINANCE AMENDMENT REVIEW SHEET

**Amendment:** C20-2013-035 Occupancy

**Description:** Consider an ordinance to amend Title 25 of the City Code to change the occupancy limit for the number of unrelated individuals who reside in certain types of residential uses.

**Proposed Language:** See attached draft ordinance.

**Background:** Initiated by Council Resolution 20131121-053.

On November 21, 2013, the City Council directed the City Manager, via Resolution 20131121-053, to work on a code amendment examining a possible reduction in occupancy for unrelated individuals. This Council Resolution was in response to concerns about over-occupancy in single-family zoned neighborhoods, where “stealth dorms” have cause code compliance issues. Specifically, the Council Resolution:

*“...initiates a code amendment related to dwelling unit occupancy that will set the maximum number of unrelated adults who may reside in structures allowed on single-family zoned property at four and directs the City Manager to process the code amendment and bring it to Council on or before January 30, 2014. The Planning Commission may elect to recommend a different maximum; it may also recommend that the code amendment be limited to some parts of the city, or be offered as a tool available to Neighborhood Planning Teams, rather than as a provision that applies to the entire city.”(Underline added)*

At their January 21 meeting, the Codes and Ordinances Subcommittee recommended a change in occupancy, from six to four unrelated individuals, for all residential uses that are permitted on single-family zoned property, as recommended by Council Resolution 20131121-053. The Subcommittee did not make any recommendation on how to treat non-conforming or grandfathered uses.

At their January 28 meeting, the Planning Commission recommended a change in occupancy, from six to four unrelated individuals, for all residential uses that are permitted on single-family zoned property, as recommended by Council Resolution 20131121-053, and specified which uses should be included (see attached draft ordinance). The Planning Commission did not make any recommendation on how to treat non-conforming or grandfathered uses.

The Subcommittee and Planning Commission also recommended that any proposed change be applied on a city-wide basis, not in an opt-in, opt-out process.

Group Home use and Family Home use will not be affected or subject to the proposed changes in occupancy.

**Staff Recommendation:** Staff recommends the proposed code amendment, with the following notes:

1. Staff's interpretation of Council Resolution 20131121-053 is as follows. Austin's land development code has three zoning districts that are "single family" districts:

- Single Family Residence Large Lot (SF-1)
- Single Family Residence Standard Lot (SF-2)
- Single Family Residence Small Lot (SF-4B)

The following residential uses are permitted in SF-1, SF-2, and SF-4B:

- Conservation Single-Family Residential
- Single-Family Residential
- Small Lot Single-Family Residential

Staff recommends that in the above uses (Conservation Single-Family Residential, Single-Family Residential, Small Lot Single-Family Residential) that occupancy for unrelated individuals should be capped at four, for the following zoning districts:

- Lake Austin Residence District (LA) Zoning District;
- Rural Residence District (RR) Zoning District;
- Single Family Residence Large Lot (SF-1) Zoning District;
- Single Family Residence Standard Lot (SF-2) Zoning District;
- Family Residence (SF-3) Zoning District;
- Single Family Residence (SF-4) Zoning District;
- Single Family Residence Small Lot (SF-4A) Zoning District;
- Single Family Residence Condominium (SF-4B) Zoning District;
- Urban Family Residence (SF-5) Zoning District; and
- Townhouse and Condominium Residence (SF-6) Zoning District.

2. Staff recommends that some type of nonconformance or grandfathering provision be included in the proposed change. Although the Codes and Ordinances Subcommittee and Planning Commission did not make a recommendation on how to handle this, staff feels it can be addressed:

- Use the effective date of the ordinance. This would allow existing structures with affected uses to continue under the existing code (allowing up to six unrelated individuals). New structures would be limited to four unrelated individuals under the new code.
- Existing structures with affected uses will not be subject to new occupancy regulations if, after the effective date of the ordinance, the gross floor area does not increase by more than 69 square feet, and any interior remodel that requires a building permit does not result in additional sleeping rooms.

The above language is the same as that used when occupancy was changed for duplexes in 2003, and when occupancy was changed for two-family residential in 2004.

**Board and Commission Actions**

**January 21, 2014:** Recommended by the Codes and Ordinances Subcommittee on a 5-0 vote.

**January 28, 2014:** Recommended by the Planning Commission on a 7-0 vote (Commissioner Roark and Commissioner Nortey absent) the Codes and Ordinances Subcommittee recommendation, with additional language to note that the proposed changes will expire two years after the effective date of the ordinance.

**Council Action**

**February 13, 2014:** A public hearing has been set.

**Ordinance Number:** NA

**City Staff:** Jerry Rusthoven **Phone:** 974-3207 **Email:** Jerry.Rusthoven@austintexas.gov

**City Staff:** Greg Dutton **Phone:** 974-3509 **Email:** Greg.Dutton@austintexas.gov