



CITY OF SAINT PAUL
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PED Staff Report

Re: Study on the Definition of *family* in the St. Paul Zoning Code
To: Comprehensive and Neighborhood Planning Committee
Author: Michael Wade, *City Planner* - 651-266-8703
Date: August 19, 2020

Summary

This study examines the Zoning Code's definition of the term *family*, which regulates the number and relatedness of occupants of every residence in the City of Saint Paul. The study recommends the text amendments to the Zoning Code found in Appendix A.

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 - Relation to other ordinances
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1. Background

The Zoning Code definition of *family* was alluded to in the 2030 Comprehensive Plan and then explicitly targeted in the draft 2040 Comprehensive Plan (discussed later) as a regulation that could be studied for better compliance with Fair Housing laws and better provision of housing. This study was requested by City Council Resolution 18-1204 on July 18, 2018. The resolution calls “for action to create and preserve housing that is affordable at all income levels, address racial, social and economic disparities in housing, and create infrastructure needed to stabilize housing for all in Saint Paul.” In this resolution “the Saint Paul City Council acknowledges the housing crisis in our city and region, and the urgent need to address the crisis as our population grows” and requests “[z]oning studies by the Planning Commission to explore ways to increase density in residential districts including ... reviewing and updating the definition of ‘family’.”

The definition of *family* was highlighted as a barrier to housing choice with potentially discriminatory effects in the 2017 Addendum to the 2014 Regional Analysis of Impediments to Fair Housing Choice, prepared for the Twin Cities’ Fair Housing Implementation Council (FHIC).^a Saint Paul’s definition ranked a 2 – “medium risk” of being discriminatory or arbitrary – on a scale of 1 (low-risk) to 3 (high risk). The report recommends that cities with a medium risk ranking “amend their codes to either (1) have the definition of *family* more closely correlate to neutral maximum occupancy restrictions found in safety and building codes; (2) increase the number of unrelated persons who may reside together to better allow for nontraditional family types; or (3) create an administrative process that allows for a case-by-case approach to determining whether a group that does not meet the code’s definition of family or housekeeping unit is nonetheless a functionally equivalent family.”

2. Amendment Objectives

The objectives of these text amendments are to open opportunities for residents to find affordable housing where the definition of *family* in the Zoning Code may be an unnecessary barrier; to support the ability of cost-burdened households to add housemates who can help shoulder rent costs and housekeeping duties; and to enable zoning regulations to reflect and legalize current household customs in Saint Paul. Due to a legitimate interest in protecting household privacy, it is impossible to know how many individuals and households in the circumstances above could be supported by an updated definition of *family* that is more in line with Fair Housing principles.

3. Analysis

Existing definition of *family*

The City of Saint Paul Zoning Code regulates occupancy of dwellings through its definition of the word *family*. Per Zoning Code Section 60.207, the term *family* is defined as follows:

Family. One (1) or two (2) persons or parents, with their direct lineal descendants and adopted or legally cared for children (and including the domestic employees thereof) together with not more than two (2) persons not so related, living together in the whole or part of a dwelling comprising a single housekeeping unit. Every additional group of four (4) or fewer persons living in such housekeeping unit shall be considered a separate family for the purpose of this code.

Current
definition

The Department of Safety and Inspections has developed the visual included in this report as Appendix B to help clarify who may be included in a *family*.

This definition was adopted with the 1975 Zoning Code. Before 1975, the Zoning Code’s definition of *family* read: “One or more persons customarily living together as a single housekeeping unit in a

Previous
definition

^a Addendum to the 2014 Regional Analysis of Impediments to Fair Housing Choice, May 2017
(<https://www.ramseycounty.us/sites/default/files/Projects%20and%20Initiatives/Draft%20III%20Addendum.pdf>)

dwelling unit as distinguished from a group occupying a hotel, club, religious or institutional building, boarding or lodging house, or fraternity.” The 1975 update coincided with municipalities around the United States using definitions of *family* or *household* to describe and restrict the occupancy of a dwelling. Nationally, the term *family* is well-established in the zoning lexicon, despite differences with its meaning in housing or family law.

The utility of this definition as an occupancy restriction in the Zoning Code is to address issues of land use – that is, how the occupants, activities, and structures on a certain parcel impact the surrounding occupants, activities, and structures. Any definition of *family* must further the purposes of the Zoning Code without violating the goals of the City as communicated in the decennial Comprehensive Plan. Some main purposes of the Zoning Code found in § 60.103 are to “ensure adequate light, air, privacy, and access to property”; “facilitate adequate provision for transportation, water, recreation, and other public requirements”; and “prevent overcrowding and undue congestion of population”.

Zoning
Code intent

While Saint Paul has never issued an explanation for its definition of *family*, other cities, states, and federal court cases have expressed benefits that echo those ascribed to single-family zoning. In *Village of Belle Terre v. Boraas*, the landmark 1974 Supreme Court case that supported the zoning power to regulate occupancy through this definition, a supporting justice opined that

The regimes of boarding houses, fraternity houses, and the like present urban problems. More people occupy a given space; more cars rather continuously pass by; more cars are parked; noise travels with crowds. ... A quiet place where yards are wide, people few, and motor vehicles restricted are legitimate guidelines in a land use project addressed to family needs. ... The police power is not confined to elimination of filth, stench, and unhealthy spaces. It is ample to lay out zones where family values, youth values, and the blessings of quiet seclusion and clean air make the area a sanctuary for people.^b

Court opinions from several states have also discussed the nexus between occupancy and zoning. Some named benefits include prevention of population congestion, “suppression of disorder”, traffic safety, more effective police patrolling and street maintenance, and freedom from fear of strangers.

Problems to be addressed

The occupancy restriction in the current Zoning Code definition of *family* is problematic under review from social, legal (Fair Housing), and housing supply lenses.

Socially, the current definition limits residents to a near-nuclear family style that is peculiar across time and societies, neither accommodating Saint Paul’s culturally diverse population and household customs nor allowing more flexible household arrangements of unrelated people during economic, social, or individual hardship. Saint Paul’s population includes people of cultural traditions where multigenerational households provide housing for unrelated elders and children. The current definition of *family* limits these groups from finding culturally-sensitive housing and care from those they identify as kinfolk if they fall too far outside the bounds of blood, marriage, or adoption. Households composed of occupants who are tied by complex bonds of affinity, shared history, identity, or common interest are limited in their ability to dwell together by this regulation. Traveling laborers, immigrants, post-graduate college students, and others in transitional phases of life are sometimes barred from sensible, appropriate, and necessary housing options. Higher rates of larger, less-nuclear households are found among communities of color, causing them to be disproportionately affected by this restriction. Current regulation limits these natural and mutually supportive households.

Definition
prohibits
certain
types of
families

^b *Village of Belle Terre v. Boraas*. 416 U.S. 1 (more) 94 S. Ct. 1536; 39 L. Ed. 2d 797; 6 ERC 1417

The FHIC report describes the potential for harm in definitions of *family*:

Unreasonably restrictive definitions may have the intended or unintended ... consequence of limiting housing for nontraditional families and for persons with disabilities who reside together in congregate living situations. ... [T]he restriction must be reasonable and not exclude a household which in every sense but a biological one is a single family. An unreasonably, or arbitrarily, restrictive definition could violate state due process and/or the federal FHA as it may have a disproportionate impact on people with disabilities, people of color, and families with children.

Definition may have a discriminatory impact

While the Supreme Court upheld zoning restrictions on the number of unrelated occupants in a dwelling in 1974, in the 1977 case *Moore v. City of East Cleveland*, the Court struck down regulations that specified which family relations are allowed and not allowed, citing violation of substantive due process. East Cleveland's ordinance allowed a grandmother to live with grandchildren descended from only one of her children, which she did. When a grandchild through another of her children moved in, bringing total occupancy to four (Grandmother, Son, Grandson, and Grandson from another son), she was penalized by the City, a penalty that was eventually ruled illegal. The Court stated: "The strong constitutional protection of the sanctity of the family established in numerous decisions of this Court extends to the family choice involved in this case, and is not confined within an arbitrary boundary drawn at the limits of the nuclear family (essentially a couple and their dependent children). ... The nature and tradition of this Nation compel a larger conception of the family."^c

The implication of the above Supreme Court cases is that a zoning code can restrict how many people occupy a dwelling agnostic to relatedness, but cannot parse out which relatives may or may not reside together. Saint Paul's definition specifies which relatives may reside together – those linearly related to someone else in the household – and places a limit on those relatives who are not linearly related by including them in the "unrelated" category. This creates a maximum of four (4) on certain relatives, such as siblings or cousins without a common ancestor present, while allowing any number of others, for instance linearly related children.

Though municipal governments have stated public purposes for regulating occupancy beyond building and fire codes, it is a litigious issue and may work against the City's interests if too intrusive into the privacy of families. Additionally, legal scholars continue to challenge the power of governments to regulate with whom a person may choose to reside, citing the US Constitution's First Amendment right of free association. While this issue is settled on a federal level, these challenges exemplify the contentious nature of this type of regulation even in the world of constitutional law.

In addition to the potentially discriminatory effects of the current definition, Zoning Code occupancy restrictions have been noted nationally as barriers to affordable housing. An affordable housing crisis across the Twin Cities is making cost-sharing techniques more desirable for struggling residents. Providing housing has taken a priority position for governments at all levels, and cities are looking for new housing-creation tools. By raising the number of people allowed to live in a dwelling unit, a city can expand the capacity of its existing housing stock to accommodate those in need.

Definition may be a barrier to affordable housing

Households and housing stock^d

Much of the housing stock in St. Paul was built to accommodate larger households than is typical today. In 1960, when St. Paul was fully developed, the average household size in the U.S. was 3.3 people. It fell continuously until 2010, when it was about 2.5 people per household. Since 2010 it has grown slightly to an estimated 2.6 people per household in 2018, increasing for the first time since records began in the 18th

^c *Moore v. City of East Cleveland*. 431 U.S. 494 (more) 97 S. Ct. 1932; 52 L. Ed. 2d 531; 1977 U.S. LEXIS 17

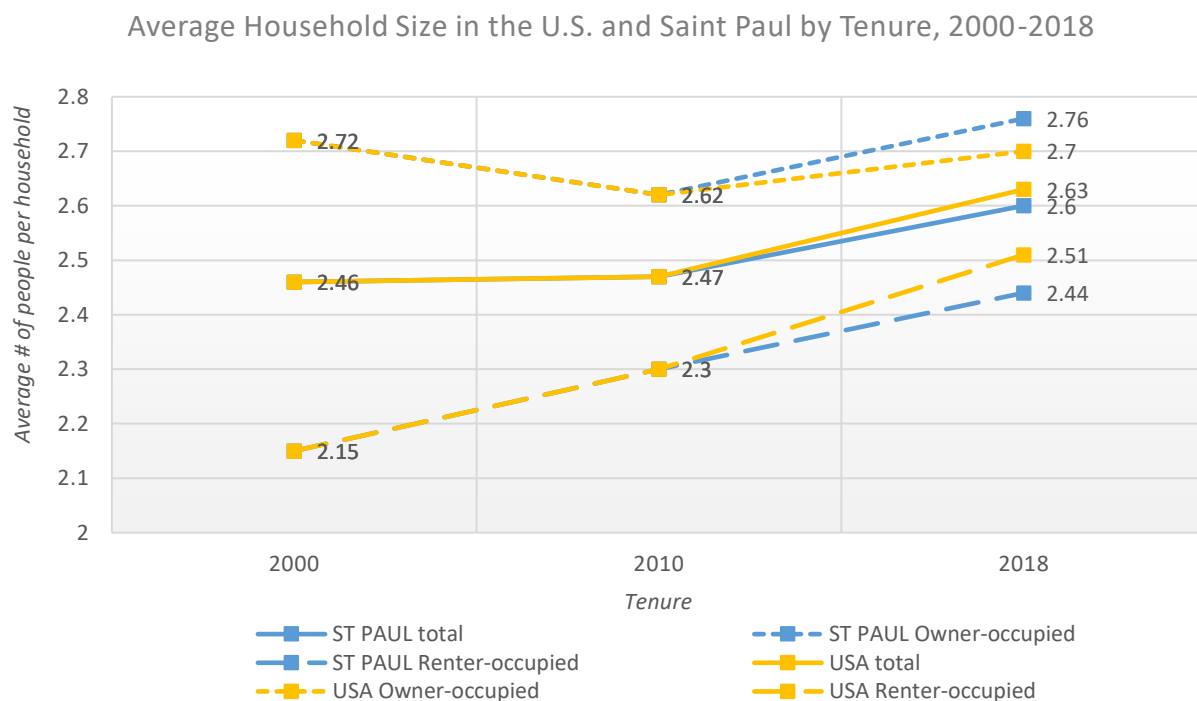
^d The data in this analysis is pulled from 2016 to 2019 datasets. The spread is due to the availability of data at the beginning and end of this zoning study and does not impact its findings. Each date is called out per figure or table.

century.^e The average number of occupants per room has also increased slightly since 2010, driven by minority, foreign-born, and young adult residents. The proportion of residents inhabiting multigenerational households has more than doubled nationally since 1980.^f

The average size of households in Saint Paul has grown since 2010, especially among owner-occupied households. The average size of renter-occupied households continues to rise.

Increase in
average
household
size

Figure 1: Average household size in the U.S. and Saint Paul by tenure, 2000-2018 ^g



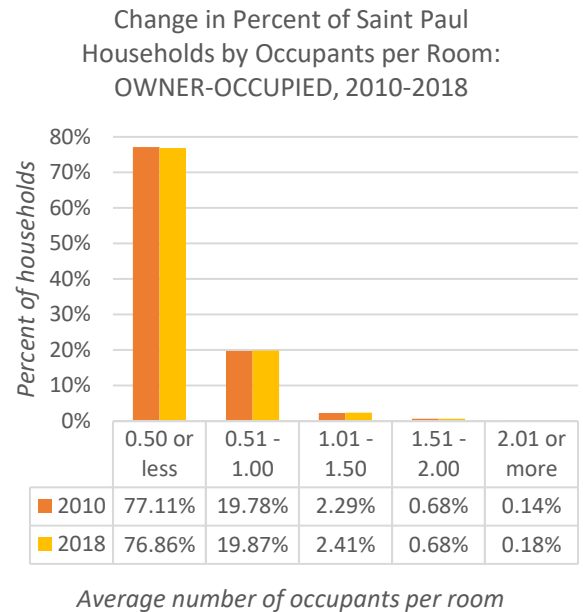
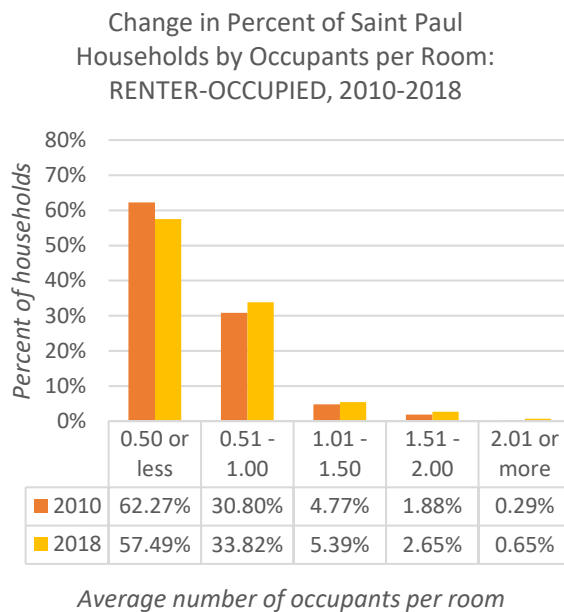
Average number of occupants per room increased slightly from 2010 to 2018 among renter-occupied households. Owner-occupied households stayed mostly stable. In 2020, Saint Paul has grown to over fifty percent renter households.^g

Increase in
occupants
per room

^e PEW Research Center (<https://www.pewresearch.org/fact-tank/2019/10/01/the-number-of-people-in-the-average-u-s-household-is-going-up-for-the-first-time-in-over-160-years/>)

^f PEW Research Center (<https://www.pewresearch.org/fact-tank/2018/04/05/a-record-64-million-americans-live-in-multigenerational-households/>)

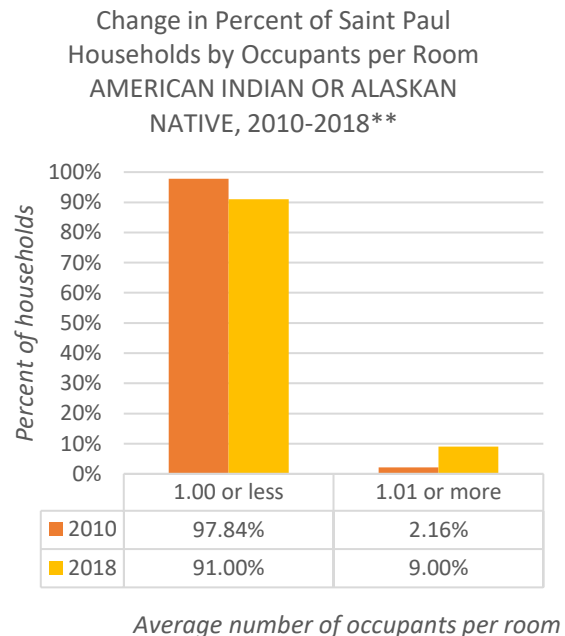
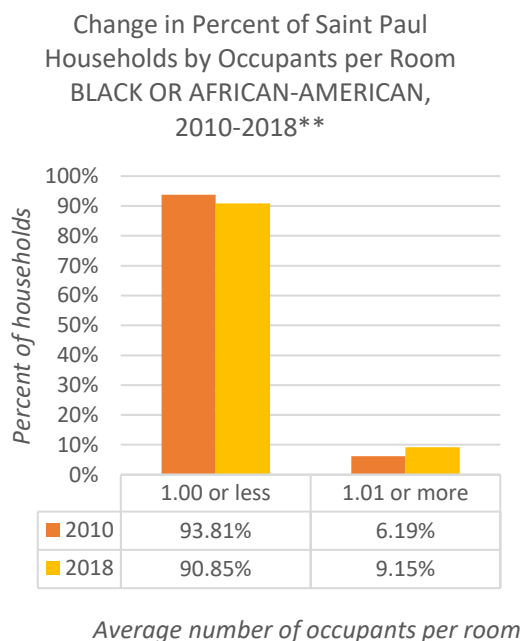
^g Data sources: 2000 and 2010 Decennial U.S. Census, 2018 American Community Survey 5-year estimates



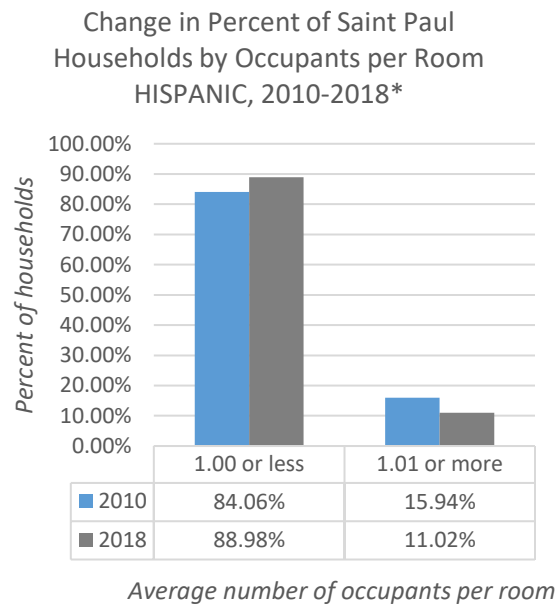
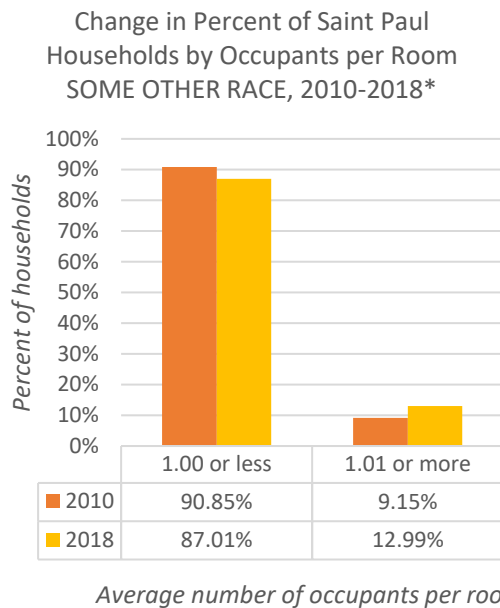
The increase in occupants per room is driven partly by residents of color in Saint Paul, except Hispanic residents. According to conversations with one nonprofit serving the Latinx community in the Twin Cities, one counterbalancing group that maintains large household sizes is traveling Hispanic laborers. Hispanic communities also sometimes rely on households of unrelated individuals for care of the young or elderly, a household style that is masked by these numbers.

Increase in occupants per room among some minorities, not Hispanics

Figure 2-5: Change in percent of households by occupants per room by race and ethnicity^h



^h Data sources: 2010 Decennial U.S. Census, 2018 American Community Survey 5-year estimates



The number of people living in multigenerational family households across the U.S. has reached a record high. By 2016, 64 million people were living in households with two or more adult generations or a generation in between the residents (grandparent and grandchild), comprising 20% of Americans compared to a low of 12% in 1980. Asian, Black, and Hispanic Americans are more likely to live in multigeneration family households than the average, as are foreign-born residents, while white Americans are less likely than the average. As communities of color account for a growing portion of Saint Paul's residents, this is sure to be reflected in households across this city. Younger adults were the most likely age group to live in multigenerational households at 33% nationally, up from 13% in 1980. Among those aged 18 to 34, "living with parents surpassed other living arrangements."ⁱ Reflecting this trend, the percent of residents living in "shared living quarters" – households with adult residents who are not the householder, the spouse or unmarried partner of the householder, or 18 to 24-year-old college student – grew nationally from 28.8% in 1995 to 31.9% in 2017.^j

Increase in residents of multi-generational households

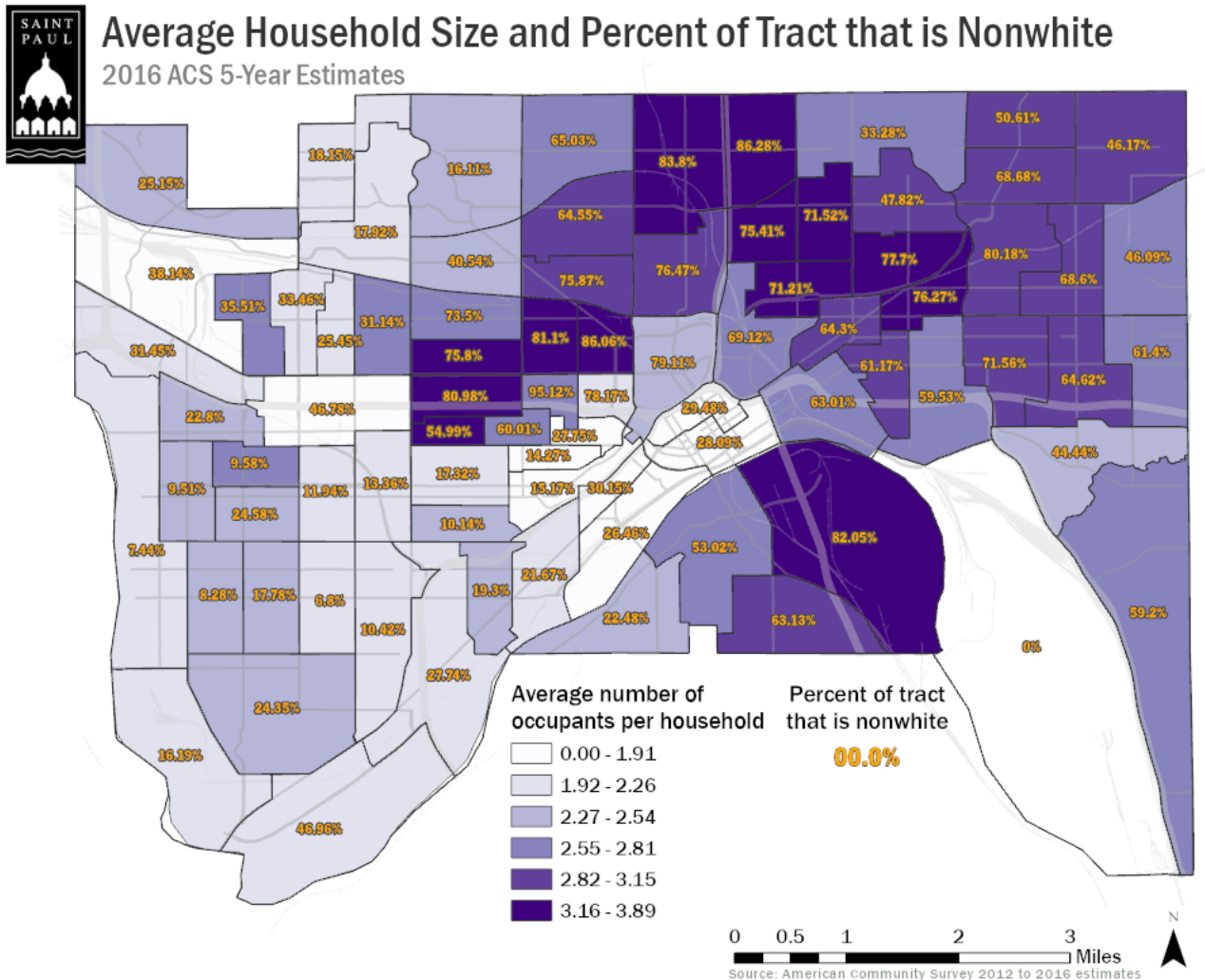
Increase in residents of shared living quarters

ⁱ PEW Research Center - <https://www.pewresearch.org/fact-tank/2018/04/05/a-record-64-million-americans-live-in-multigenerational-households/>

^j PEW Research Center - <https://www.pewresearch.org/fact-tank/2018/01/31/more-adults-now-share-their-living-space-driven-in-part-by-parents-living-with-their-adult-children/>

Areas of Saint Paul with greater proportions of residents of color also show larger household sizes. This shows up clearly in the North End, Payne-Phalen, and Frogtown/Rondo areas, as well as on the West Side and the Greater East Side. Any change to occupancy standards is more likely to affect

Populations correlate with larger households

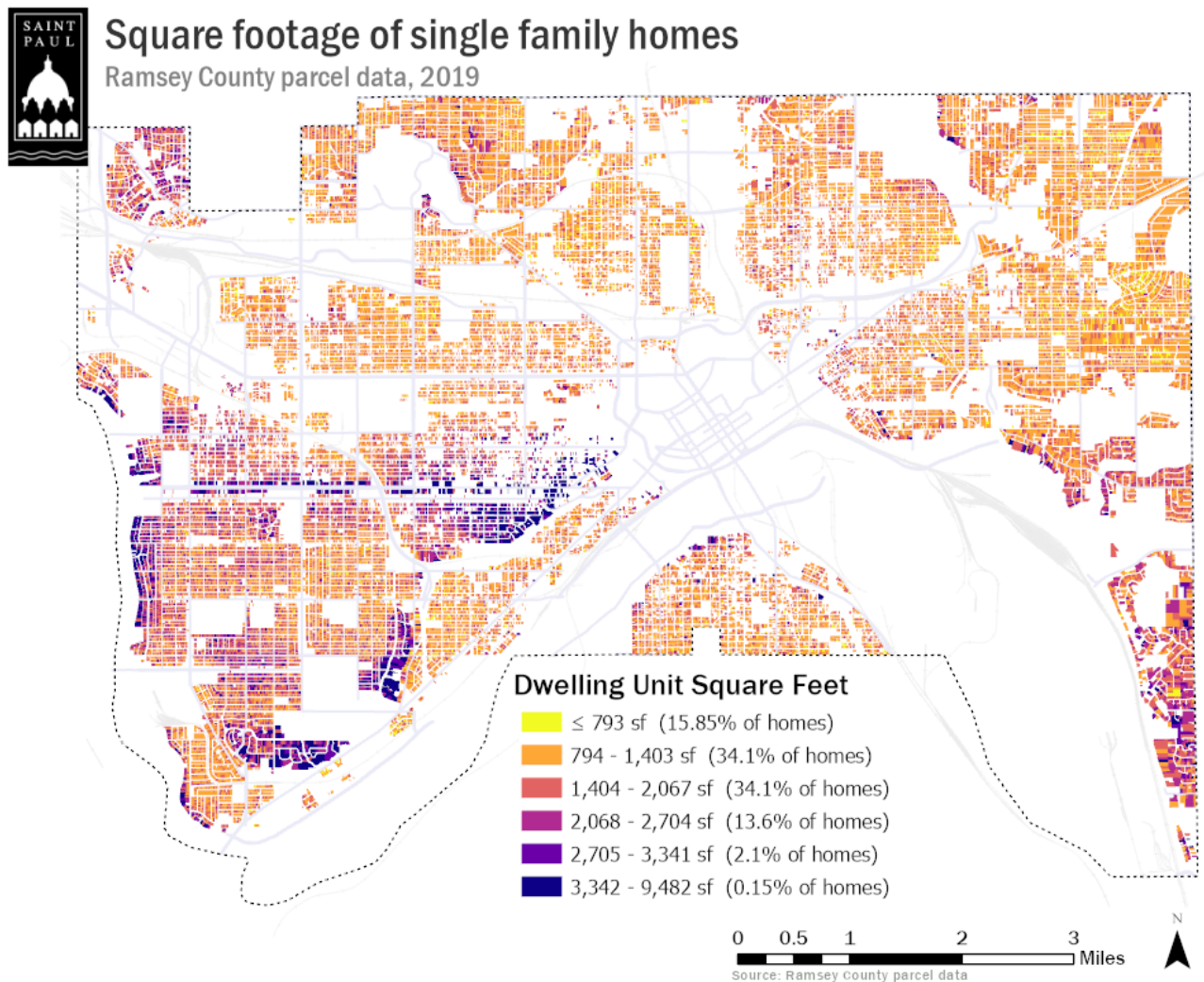


residents of color and to a greater degree than white residents.

Consideration of occupancy must be done in the context of available dwelling square footage. The major effect of a change to occupancy regulations will be on larger dwelling units, which are generally single family homes. Saint Paul's single-family housing stock consists mostly (68%) of homes between 793 and 2,067 square feet. The average (mean) size is 1,430 square feet. Homes between 2,068 and 2,703 square feet make up 13.6%, and houses larger than 2,704 square feet make up only 2.25% of single-family homes in Saint Paul. Figure 3 shows the distribution and geographic spread of single family homes by square footage.

Average single-family home: 1,430 square feet

Figure 3: Geographic distribution of single family homes by square footage in Saint Paul Error! Bookmark not defined.



Relation to other City ordinances

Building and Fire Code

Occupancy in Saint Paul is also regulated by the State of Minnesota Building and Fire Codes, which are meant to protect the occupants of a structure and ensure that a structure can withstand intended occupancy levels. The Building Code – the least restrictive – requires that a structure include a minimum habitable gross floor area of at least 150 square feet for the first occupant and at least 100 square feet for each occupant thereafter. The Fire Code requires that a structure include 200 square feet per occupant. Both the Building and Fire Codes regulate any occupants, regardless of relationship or age. In short, the Zoning Code is the most restrictive, the Fire Code is slightly less restrictive, and the Building Code is much less restrictive.

Fire and
Building
Codes

For dwelling units up to 1,000 square feet, the estimated size of a large one-bedroom or common two-bedroom apartment, the Fire Code is the main limiting regulation. For dwelling units larger than 1,000

square feet, the Zoning Code's definition of *family* becomes the pertinent restriction, with some overlap depending on what lineal relationships the household contains. The majority of larger dwelling units are single-family detached homes, showing that the definition of *family* comes into play in the context of low-density neighborhoods rather than medium or higher-density neighborhoods. Appendix C shows current occupancy restrictions in Saint Paul as they apply to dwelling units of increasing square footage.

Definition of *family* affects larger homes, not smaller

Dependent Land Uses

The definition of *family* is referred to explicitly in the standards and conditions of two land uses (accessory dwelling units and short term rentals). Other land uses use the number four to set the maximum household size before a dwelling becomes the specified land use; to enact spacing requirements between certain types of congregate living facilities; and to set minimum lot area requirements for facilities with more than four guest rooms or occupants. Changing the definition of family would require amending all or most of these land uses.

- *Adult care home (§ 65.151)*

A facility where aged, infirm, or terminally ill persons reside in order to receive nursing care, custodial care, memory care, Medicare-certified hospice services, or individualized home care aide services either by the management or by providers under contract with the management. The standards and conditions include:

(a) *In residential and T1 traditional neighborhood districts, the facility shall have a minimum lot area of five thousand (5,000) square feet plus one thousand (1,000) square feet for each guest room in excess of four (4) guest rooms. In T2-T4 traditional neighborhood districts, the density shall be regulated as for multifamily uses.*

A change in the definition of *family* would require amending the threshold at which adult care homes require a larger lot size in residential and T1 traditional neighborhood districts.

- *Community residential facility, licensed correctional (§ 65.152)*

A licensed correctional community residential facility is a facility where one or more persons reside under the care and supervision of a residential program licensed by the state department of corrections. The standards and conditions include:

(b) *The facility shall be a minimum distance of one thousand three hundred twenty (1,320) feet from any other of the following congregate living facilities with more than **four (4)** adult residents, except in B4-B5 business districts where it shall be at least six hundred (600) feet from any other such facility: supportive housing facility, licensed correctional community residential facility, emergency housing facility, shelter for battered persons, or overnight shelter.*

(e) *In residential and T1 traditional neighborhood districts, the facility shall have a minimum lot area of five thousand (5,000) square feet plus one thousand (1,000) square feet for each guest room in excess of **four (4)** guest rooms. In T2-T4 traditional neighborhood districts, the density shall be regulated as for multifamily uses.*

A change in the definition of *family* would require amending the occupancy threshold of congregate living facilities subject to spacing requirements, and the minimum lot area requirement.

- *Overnight shelter (§ 65.157)*

An overnight shelter is a facility where “persons receive overnight shelter, but are not expected or permitted to remain on a 24-hour-per-day basis.” The only condition on this land use is that “The facility shall be a minimum distance of six hundred (600) feet from any other of the following congregate living facilities with more than **four (4)** adult residents: overnight shelter, supportive housing facility, licensed correctional community residential facility, emergency housing facility, or shelter for battered persons.” A change in the definition of *family* would require amending the occupancy threshold of congregate living facilities subject to spacing requirements.

- *Shelter for battered persons (§ 65.160)*

A shelter for battered persons is state-certified facility which, for a maximum of thirty days, houses adults or children who have suffered assault or battery. This facility is geared toward being a detached, low-density residence dedicated wholly to battered persons and their protection.

The following standards and conditions apply to facilities serving more than four adult facility residents:

- (a) *In residential, traditional neighborhood, Ford and OS-B2 business districts, a conditional use permit is required for facilities serving more than **four (4)** adult facility residents and minor children in their care.*
- (b) *The facility shall be a minimum distance of one thousand three hundred twenty (1,320) feet from any other of the following congregate living facilities with more than **four (4)** adult residents: shelter for battered persons, supportive housing facility, licensed correctional community residential facility, emergency housing facility, or overnight shelter.*
- (c) *In RL-RT2 residential, traditional neighborhood, Ford, OS-B3 business and IT-I2 industrial districts, the facility shall serve sixteen (16) or fewer adult facility residents and minor children in their care.*
- (d) *The facility shall not be located in a two-family or multifamily dwelling unless it occupies the entire structure.*
- (e) *In residential and T1 traditional neighborhood districts, facilities serving seventeen (17) or more facility residents shall have a minimum lot area of five thousand (5,000) square feet plus one thousand (1,000) square feet for each guest room in excess of **four (4)** guest rooms. In T2-T4 traditional neighborhood districts, the density shall be regulated as for multifamily uses.*

A change in the definition of *family* would require amending the occupancy threshold at which these standards and conditions are triggered, the occupancy threshold of congregate living facilities subject to spacing requirements, and the minimum lot area calculation for facilities serving seventeen or more residents.

- *Sober house (§ 65.161)*

The definition of a sober house is:

A dwelling unit occupied by more than four (4) persons, all of whom are in recovery from chemical dependency and considered handicapped under the Federal Fair Housing Act Amendment of 1988, ... The residents of a sober house are similar to a family unit, and share kitchen and bathroom facilities and other common areas of the unit. ...

A request for reasonable accommodation for this use as required under the Federal Fair Housing Act Amendments of 1988 by providing an exception to the maximum number of unrelated persons living together in a dwelling unit shall automatically be granted if the following standards and conditions are met. ...

A dwelling unit with four or fewer residents is not regulated as a sober house, no matter the chemical dependency or activity of the residents, so up to four unrelated people may reside together in any dwelling unit as regulated by the definition of *family*. In excess of the definition of *family*, five to ten residents may occupy a sober house in RL to R4 with a request for reasonable accommodation. Eleven to sixteen residents may occupy a dwelling unit in most other districts (RT1 – RM3, all traditional neighborhood districts, all business districts, IT-I2, and F1-F5) with a request for reasonable accommodation. Seventeen or more residents may occupy a dwelling unit in those listed districts with a modified conditional use permit. There is a minimum spacing requirement of 330 feet between properties with sober houses.

Formation of these regulations was the result of a long study in 2006 and involved consideration of state regulation of licensed residential facilities (group homes). Minnesota Statute § 462.357 subdivisions 7 and 8 require state-licensed residential facilities of up to six residents be permitted as single-family residential uses by right, and facilities of up to sixteen residents be permitted as multifamily residential uses by right. Sober houses differ from these facilities in a number of ways and are an independent land use in Saint Paul’s Zoning Code; however, the thresholds of six and sixteen displayed the state’s determination of what size of dwelling number is appropriate for single-family and multifamily land uses.

A change to the definition of *family* would require amending the occupancy threshold that triggers a request for reasonable accommodation, but would not affect spacing requirements.

- *Supportive housing facility (§ 65.162)*

A supportive housing facility is a residence “where persons with mental illness, chemical dependency, physical or mental handicaps, and/or persons who have experienced homelessness reside and wherein counseling, training, support groups, and/or similar services are provided to the residents.” Six residents are allowed in RL-RT1 residential districts, while up to sixteen residents are allowed in most other districts. A conditional use permit is required for facilities serving seven or more residents in residential, T1, and F1 districts. In residential and T1 districts, facilities serving more than seventeen residents triggers lot area minimums. Lastly, “The facility shall be a minimum distance of one thousand three hundred twenty (1,320) feet from any other of the following congregate living facilities with more than **four (4)** adult residents, except in B5-B5 business districts where it shall be at least six hundred (600) feet from any other such facility: supportive housing facility, licensed correctional community residential facility, emergency housing facility, shelter for battered persons, or overnight shelter.”

A change in the definition of *family* would require amending the occupancy threshold of congregate living facilities subject to the spacing requirements.

- *Short term rental (§ 65.645)*

A short term rental is “a dwelling unit, or a portion of a dwelling unit, rented for a period of less than thirty (30) days.” Allowance of more than one short term rental on a lot (including more than one unit in a single building like a duplex) is heavily restricted based on the presence or absence of the owner. Occupancy of a short term rental is limited to the definition of *family* “except that occupancy in excess of the definition of family may be permitted with a conditional use permit, on a case by case basis, for large one- and two-family dwellings on large lots.” Those short term rentals with a CUP to exceed the occupancy limit cannot be within 1,000 feet (about 20 typical single-family lot widths) of another with the same CUP. So far, no one has applied for a CUP for this purpose. The definition of *family* was chosen as the occupancy standard for this land use to avoid the complications of an independent regulation, and to keep it in harmony with the character of single-family use of a dwelling unit. A change in the definition would automatically affect short term rentals. As of the time of this study, there have been no

applications for a CUP to exceed the definition of *family*, so it is reasonable to expect little change in occupation of short term rentals.

- *Roominghouse (§ 65.158)*

The roominghouse land use in the Zoning Code acts as a catch-all dwelling that allows occupancy to exceed the definition of *family*. It includes structures that provide single-room occupancy to more than four unrelated individuals and rental arrangements by the room. In lower-density zoning districts, a roominghouse lot must have “a minimum lot area of five thousand (5,000) square feet plus one thousand (1,000) square feet for each guest room in excess of four (4) guest rooms.” A change in the definition of *family* would require amending the number of unrelated individuals allowed in a dwelling before it is considered a roominghouse and could mildly affect lot size requirements.

- *Accessory dwelling unit (“ADU”) (§ 65.913)*

An ADU is meant to be a subordinate “extra” dwelling unit paired with a single-family home on a single lot. Per § 65.913(d), “The total occupancy of the principal dwelling unit and accessory dwelling unit shall not exceed the definition of family in section 60.207 allowed in a single housekeeping unit.” The *family* definition applies to both units together – though together the two units may be made of two functional households – in order to limit population per lot. A change to the definition of *family* would affect occupancy of an ADU and its associated principal dwelling. As of May 6th, 2020 Saint Paul had twelve known ADUs either completed or in progress.

- *Student dwelling in the SH student housing neighborhood impact overlay district (§ 67.700)*

The SH district includes a definition of a student dwelling:

Within the SH student housing neighborhood impact overlay district, a student dwelling is a one- or two-family dwelling requiring a fire certificate of occupancy in which at least one (1) unit is occupied by three (3) or four (4) students. For the purposes of this article, a student is an individual who is enrolled in or has been accepted to an undergraduate degree program at a university, college, community college, technical college, trade school or similar and is enrolled during the upcoming or current session, or was enrolled in the previous term, or is on a scheduled term break or summer break from the institution.

This overlay district was created in 2012 to manage the perceived negative impact of a concentration of students living in single-family neighborhoods around local colleges and universities. These effects include increased parking and traffic, behavioral and property management shortcomings, and a loss of ownership single-family housing stock to student rental properties. The zoning standards require a distance of 150 feet (about three single family home lot widths) from another student dwelling, and that it provide all necessary parking as if it were a new structure (no nonconforming parking provisions). Additionally, a student dwelling must be registered with the Department of Safety and Inspection. Also of note: relatedness does not factor into what constitutes a student dwelling.

The only instance of a SH district encompasses the blocks around the University of St. Thomas, a result of years of concern by residents in the area. Since implementation of the district, the neighborhood has seen a slowdown in turnover of ownership housing to student rentals. Recently the University of St. Thomas has begun construction of new dormitories on campus, and now requires first- and second-year students to reside on campus, both changes that should accomplish the same relief intended by the SH district spacing requirements.

A change to the definition of *family* would suggest an amendment to the range of occupancies that constitute a student dwelling but would not change the spacing or registration requirements.

Consistency with City plans

The objectives of this amendment conform to the City's 2030 and 2040 Comprehensive Plans, as well as numerous district plans and small area plans.

2030 Comprehensive Plan

The Housing chapter of the 2030 Comprehensive Plan affirms safe and affordable housing as a basic human need, and lists demands on affordable housing resources in Saint Paul. The list includes deferred maintenance costs of its older housing stock; the need for housing for the homeless county-wide; a consistently under-funded Public Housing Agency; and slow growth in new housing construction. The Plan includes major Strategy 3: Ensure the Availability of Affordable Housing Across the City and fills out this strategy with several policies:

Amendments
are consistent
with the 2030
Comprehensive
Plan

3.1. Support the preservation of publicly-assisted and private affordable housing

- Note (d) – Support the preservation of other low-income housing units under private ownership and management.

3.2. Support new housing opportunities for low-income households throughout the city.

3.6. Ensure fair housing.

- Note (a) – Promote fair housing choices for all, particularly those from historically disadvantaged backgrounds;
- Note (c) – Provide opportunities for inclusive patterns of housing occupancy regardless of race, color, religion, sex, familial status, disability, and national origin;

The Land Use chapter similarly acknowledges the changing demographics and housing choices of Saint Paul residents, recognizing the needs of “large, extended families in immigrant communities who desire sizeable single-family houses, ... fewer two-parent households with children ... more couples without children, more singles of all age groups, and more empty nesters.” While these text amendments will predominantly impact low-density areas, the Plan intends those areas (“Established Neighborhoods”) to allow mild increases in density, allowing for densities up to twenty dwelling units per acre (e.g. a standard single-family block with scattered duplexes and townhomes). While the housing stock is not predicted to change because of these amendments, and while the impact of these amendments is not expected to be concentrated on any certain block in the city, allowing more occupants per house functionally allows a mild increase in population density in accordance with the Plan, similar to allowing duplexes or townhouses. Applicable Land Use policies include:

1.1. Guide the development of housing in Established Neighborhoods, commercial areas within Established Neighborhoods, and in Residential Corridors.

- “This policy is intended to provide for the development of housing in Established Neighborhoods, Residential Corridors and adjacent commercial areas consistent with the prevailing character and overall density of these areas. The density goals are residential development of 3-20 dwelling units per acre in Established Neighborhoods and residential development of 4-30 dwelling units per acre in Residential Corridors and adjacent commercial areas.”

1.8. Encourage the development of townhouses and smaller multi-family developments, compatible with the character of Established Neighborhoods.

1.40. Promote the development of housing that provides choices for people of all ages, including singles and young couples, families, empty-nesters, and seniors.

2040 Comprehensive Plan

The Housing Chapter of the 2040 Comprehensive Plan is guided by seven goals, three of which are directly furthered by this amendment: “3. Fair and equitable access to housing for all city residents”; “6. Improved access to affordable housing”; and “7. Strong neighborhoods that support lifelong housing needs.”

Amendments
are consistent
with the 2040
Comprehensive
Plan

One housing policy explicitly mentions the subject of these text amendments:

H-17. Ensure that the regulatory definition of family and allowable dwelling types meet the needs of residents and reflect how people want to live, while meeting fair housing requirements.

Other relevant Housing policies include:

H-15. Accommodate a wide variety of culturally-appropriate housing types throughout the city to support residents at all stages of life and levels of ability.

H-16. Increase housing choice across the city to support economically diverse neighborhoods by pursuing policies and practices that maximize housing and locational choices for residents of all income levels.

H-44. Make achieving the Metropolitan Council’s affordable housing goals a top priority both in planning and legislative efforts.

H-45. Support the preservation and maintenance of historic housing stock as an affordable housing option.

H-54. Support alternative household types, such as co-housing, intergenerational housing, intentional communities or other shared-living models, that allow residents to “age in community.”

The Land Use chapter of the 2040 Comprehensive Plan is guided in part by its goal number “6. Efficient, adaptable and sustainable land use and development patterns and processes.” “Urban Neighborhoods” are the lowest-density urban category named in the plan, including most of the city’s low-density neighborhoods. As mentioned in the 2030 Comprehensive Plan section of this report, an increase in allowed occupancy achieves a population increase on the scale of smaller missing middle housing types, and so further related policies. Supporting policies in this chapter are:

LU-7. Use land use and zoning flexibility to respond to social, economic, technological, market and environmental changes, conditions and opportunities.

LU-34. Provide for medium-density housing that diversifies housing options, such as townhouses, courtyard apartments and smaller multi-family developments, compatible with the general scale of Urban Neighborhoods.

Neighborhood Plans

Each planning district in Saint Paul has formed a guiding plan that is appended to the City's current comprehensive plan and is vital in transforming community values into actionable policies. Ten neighborhood plans include policies regarding preserving or creating housing affordability or housing variety. Several of those mention specifically ensuring housing for diverse cultures, people of color, or people "from all walks of life".

Amendments
are consistent
with the most
Neighborhood
Plans

Precedent among other cities

Since the early 20th Century, the presence of occupancy regulations in city charters or municipal codes has become ubiquitous, usually in the form a definition of *family* or *household* in their zoning or land development codes. Cities analyzed as part of this report were: Atlanta, GA; Austin, TX; Boston, MA; Charlotte, NC; Chicago, IL; Dallas, TX; Denver, CO; Fort Worth, TX; Minneapolis, MN; Pittsburgh, PA; Portland, OR; San Francisco, CA; and Seattle, WA. (Other cities have been reviewed as parts of larger referenced works; for instance: Ames, IA; Roswell, NM; Tulsa, OK; Beverly Hills, CA; and others are discussed in the American Planning Association's 2004 *Planner's Dictionary* under the entry "family".)

"Family Plus X" Model. Among these peer cities, several models are common. Portland, Oregon allows any occupants who are all related to each other "by blood, marriage, domestic partnership, legal adoption or guardianship, plus not more than 5 additional persons" (which has been called the "Family Plus" model). Notwithstanding building or fire code restraints, this could conceivably reach a large number of related people joined by five extra unrelated residents. Chicago's definition of "household" is similar, allowing a family plus three unrelated. Dallas allows a family plus four.

"Family Or X" Model. Seattle, on the other hand, uses a threshold: if the entire household is related, then there is no (zoning code) limit; however, if even one unrelated person resides in the dwelling unit, a cap of eight total occupants kicks in regardless of relatedness (which can be called a "Family Or" model). Many cities follow this model: Charlotte allows a family or six unrelated occupants, Fort Worth allows a family or five unrelated", and Pittsburgh allows a family or three unrelated, not including domestic staff.

"Functional Family" Model. Some cities attempt to recognize a "functional family" household that gives flexibility to occupancy. A "functional family" is one that has characteristics of a group of relatives but are not related. In San Francisco, up to five unrelated people may live together, *or* more than five unrelated people if the group "(a) has control over its membership and composition; (b) purchases its food and prepares and consumes its meals collectively; and (c) determines its own rules of organization and utilization of the residential space it occupies." Ames, Iowa includes several categories of maximums depending on relatedness, but grants a special use permit to functional families to exceed any maximum if they meet a long list of standards, including "a strong bond or commitment to a single purpose, ... share a household budget; ... prepare food and eat together regularly; share in work to maintain the premises; and legally share in the ownership or possession of the premises." Atlanta allows up to ten occupants if they are all age 60 or older, are "self-caring," and comprise a single, non-profit housekeeping unit. These approaches place a greater burden on the discernment of a city's zoning administration, and can be challenging if not impossible to enforce in day-to-day life.

In 2016, Minneapolis passed an ordinance allowing intentional communities as households of unrelated people who want to exceed the occupancy limit. To establish an intentional community, the group must register with the city and communicate information about the building and occupancy, submit documentation like a lease agreement, building floorplan, or cooperative registration number, and establish information for a primary contact. This process was criticized in the 2017 FHIC report as onerous and still possibly inhibiting fair housing choice.

Tailored Models. Other cities identify a number of unrelated occupants, and then tailor that further by zoning district or residence type. Austin, Texas allows any number of related occupants or up to six unrelated occupants, *except* in one historic neighborhood where only up to three unrelated occupants may constitute a *family*. Atlanta allows up to six unrelated adults in its general provisions, but follows that with a provision that “not more than four unrelated adults may reside on a site” of a long list of low density residence types in a long list of low density zoning districts. Note that this applies to adults only, so minors are exempted by exclusion. Denver’s “household” term lists occupancy categories by dwelling type, allowing up to two spouses or domestic partners and their close relatives in any residence, up to two unrelated adults plus their relatives in any single-family home, and up to four unrelated adults and their close relatives in two-unit or multi-unit dwellings only. (The close relatives listed are those to the second level of consanguinity – grandparents, uncles and aunts, and nieces and nephews.) These tailored approaches are clearly guided by the priorities of low-density, single-family zoning for nuclear families.

Limits can be tailored by zoning district or dwelling type

Until recently, Minneapolis had a traditional “blood, marriage, adoption, or domestic partnership” definition of *family* in its Zoning Code, and then specified how many unrelated people could reside with the family per zoning district. In lower-density residential zones, for instance, unless the entire household was related, only two unrelated people could reside with a family not to exceed five occupants total; or, only up to three occupants were allowed if all were unrelated. Following the definition was an explanatory statement: “This definition of family is established for the purpose of preserving the character of residential neighborhoods by controlling population density, noise, disturbance and traffic congestion...” The FHIC Analysis of Impediments gave Minneapolis a score of 3 (high risk of discriminatory or arbitrary regulation) because of this strict limitation. In December 2019, Minneapolis removed all mention of occupancy from the Zoning Code, falling back on its definition of *family* in its Housing Maintenance Code, which is a “family *or* 5” limit. The City is currently considering revisions to that Code’s definition.

Minneapolis is currently revising its definition(s)

Austin, TX is the only city of those analyzed with an ordinance applying only to adults and exempting minors. This unique characteristic allows more flexibility in childcare.

Limits can apply to or exempt minors

Recommendations & Discussion

The following three options for amendments to the definition of family allow up to six unrelated adults and any number of minors in their care. Of these alternatives, Option 1 is the most restrictive, and Option 3 is the least restrictive.

Proposed Amendment Option 1: “Any Six”

- *Text:*

Family. Six (6) or fewer adults, together with minor children in their care, living as a single housekeeping unit.

- *Analysis:*

- **Related** – No outlet for a household of occupants related all to each other. This option keeps the definition simple and avoids basing it on how the occupants of a dwelling unit are related, which can be legally problematic and difficult to enforce. Relatedness is difficult for inspectors to ascertain, so regulations based on relatedness are often unenforced. Six adults plus any number of minor children in their care is substantially less restrictive than the current definition and reasonably provides for a much broader range of family types.
- **Unrelated** – Six adults of any relation may occupy the dwelling. Minnesota Statute § 462.357 subdivisions 7 and 8 require that state-licensed residential facilities of up to six

Option 1: Maximum of six adults; removes relatedness

residents be permitted as single-family residential uses by right. Allowing six residents by right is consistent with the state statute language.

- **Minors** – Any number of minors are allowed and they do not need to be traditionally related, allowing flexibility in childcare within a community;
- **Adult care home** – The threshold at which adult care homes require a larger lot size in residential and T1 traditional neighborhood districts would rise from five guest rooms to seven.
- **Community residential facility, licensed correctional** – The occupancy threshold at which community residential facilities are subject to spacing requirements would rise from five occupants to seven adult occupants. Additional minimum lot area would be required starting at the seventh guest room rather than the fifth.
- **Overnight shelters** – The occupancy threshold at which overnight shelters are subject to spacing requirements would rise from five occupants to seven adult occupants.
- **Roominghouses** – The threshold at which a dwelling is considered a roominghouse would rise from five occupants to seven adult occupants. Additional minimum lot area would be required starting at the seventh guest room rather than the fifth.
- **Shelter for battered persons** – The threshold at which a conditional use permit is required would rise from five occupants to seven adult occupants. The occupancy threshold at which congregate living facilities are subject to spacing requirements would also rise to seven adults. Additional minimum lot area would be required starting at the seventh guest room rather than the fifth.
- **Sober houses** – Instead of a request for reasonable accommodation being required for between five and ten occupants in RL-R4 districts, it would be required for between seven and ten. All other parts of this ordinance would remain unchanged.
- **Supportive housing facility** – The occupancy threshold at which supportive housing facilities are subject to spacing requirements would rise from five occupants to seven adult occupants.
- **Short term rentals** – Still subject to this definition. The requirement for a conditional use permit to allow occupancy to exceed this would remain in place, as would the spacing requirements.
- **Accessory dwelling units** – Still subject to sharing this definition with its associated principal dwelling unit. This would allow up to six adults between both the principal and accessory dwelling units. ADUs are still subject to size standards, which already limit them to low levels of occupancy per Fire Code.
- **Student dwellings** – The definition of “student dwelling” in the SH student overlay district would increase from a range of 3-4 to 3-6. They would still be registered and be subject to spacing requirements. Relatedness does not affect this standard.

Proposed Amendment Option 2: “Family or Six”

- *Text:*

Family. Six (6) or fewer adults, or any number of adults who are all related to each other by blood, marriage, guardianship, or domestic partnership as defined by Chapter 186 of the Saint Paul Legislative Code, together with minor children in their care, living as a single housekeeping unit.

Option 2: all related adults or six unrelated adults

- *Analysis:*

- **Related** – If all adults in a household are related to each other, the household may include as many occupants as the Fire Code will allow. While this allows larger groups of related adults to reside together, land use regulation based on how people are related can be legally problematic and difficult to enforce. Relatedness is difficult for inspectors to ascertain, so regulations based on relatedness are often unenforced.
- **Unrelated** – If not all adult occupants are related to each other, six adults may occupy the dwelling.
- **Minors** – Any number of minors are allowed and they do not need to be traditionally related, allowing flexibility in childcare within a community.
- Application to other land uses in the Zoning Code are the same as those of Version 1.

Proposed Amendment Option 3: “Family *plus* 5”

- *Text:*

Family. Any number of adults who are all related to each other by blood, marriage, guardianship, or domestic partnership as defined by Chapter 186 of the Saint Paul Legislative Code and up to five (5) additional adults, together with minor children in their care, living as a single housekeeping unit.

Option 3:
any related
adults plus
five
additional
adults

- *Analysis:*

- **Related** – The household may always include as many related occupants (in only one group of relatives) as the Fire Code will allow. While this allows larger groups of related adults to reside together, land use regulation based on how people are related can be legally problematic and difficult to enforce. Relatedness is difficult for inspectors to ascertain, so regulations based on relatedness are often unenforced.
- **Unrelated** – In addition to any number of related adults, five additional adults may also occupy a dwelling unit. If no occupants are related to each other, this results in a maximum of six unrelated occupants.
- **Minors** – Any number of minors are allowed and they do not need to be traditionally related, allowing flexibility in childcare within a community.
- Application to other land uses in the Zoning Code are the same as those of Versions 1 and 2.

No change

To keep the current definition is to ignore a barrier to achieving the City’s goal of greater housing opportunity for present and future residents. The FHIC’s score of “medium risk” of discriminatory or arbitrary regulation indicates this regulation may be contributing to unfair housing conditions, leaving the City open for legal action. The unfair housing conditions may appear in the form of a cost-burdened household unable to pay rent without a fifth or sixth unrelated occupant’s income, or an elderly or adolescent community member unable to find appropriate care because they are not linearly related according to the definition, or as a household that has to make a choice between taking in one occupant’s spouse or another occupant’s sibling.

The current
definition
could be
enforcing
discriminatory
housing
conditions

Effect of the options

With either of the proposed amendments, the Zoning Code will no longer impede a median sized single-family home in Saint Paul – 1,282 square feet – from being occupied to its fullest safe allowance. Under Option 2 (“Family *or* 6”), a household consisting entirely of related occupants is subject only to the Fire Code; under Option 3 (“Family *plus* 5”), a household may be subject only to the Fire Code as long as no more than five occupants are unrelated to the householder or primary family

All proposed
options open
up housing
opportunity

group. Appendix C shows the Version 1 regulation as applied to dwelling units of increasing square footage.

Option 1 “Any 6” keeps the definition simple and avoids basing it on how the occupants of a dwelling unit are related, which can be legally problematic and difficult to enforce. Option 2 “Family or 6” gives an allowance for a household with only occupants who are all related to each other to better achieve the goal of opening up housing opportunity for large families to reside together. Option 3 would allow more people in a household in the rare circumstances of a very large house, though it could also allow for greater fragmentation within a household between the householder (whoever in the household is on the lease or owns the home) and other occupants who may have less stake in property or neighborhood well-being. Saint Paul code enforcement staff and nonprofit housing partners have echoed that, historically, the more degrees of separation there are between an occupant and the legal and financial responsibility for the property, the greater the presence of trash, noise, traffic, and other problems. Option 2 allows larger households in recognition of the mutual reliance and familiar hierarchical relationships that structure kinship groups, a system that traditionally supports the householder’s legal and financial responsibilities.

Three concerns have been expressed about results from these amendments: negative effects of higher population density; degradation of neighborhood maintenance and character; and manipulation of the housing stock and cost to benefit landlords.

Concern has been expressed about potential adverse effects from increased population density in low density residential areas as a result of the proposed text amendments. Increased density may bring increased cars on neighborhood streets, decreased availability of on-street parking for neighbors, a net decrease in open space per neighborhood resident, and an increase in noise generated by cars, music, get-togethers, etc. Increased traffic may accelerate wear-and-tear on roadways and an increased need for repair and maintenance costs. Other public utilities like sewer capacity and public services like police patrols may experience a heavier burden than has been previously projected. As these effects of density increase, the ability to plan for them in an organized way may be reduced. Dwelling units, especially detached single-family homes, are allowed most anywhere in the City, and an increase in occupancy limits may lead to higher density in unexpected areas.

Concern 1:
Amendments may increase negative effects of density.

While these are all potential effects of a concentrated increase in population density, no evidence has been found that allowing a small increase in dwelling unit occupancy, diffused across the city, will produce these effects to a significant extent. Saint Paul Public Works uses the occupancy standards in the Fire and Building Codes to calculate the amount of potential water usage by a property. Similarly, because the impact of these amendments will be spread city-wide, the likelihood that these amendments would allow a neighborhood’s utility or service burden to escalate so unpredictably and uncontrollably that the intention of low-density zoning districts would be undermined, and that city services would be unable to handle the resulting disorder, is low.

Saint Paul’s urban form, housing stock, and utilities were largely already built out by the 1960s, when the average household size was about 20% larger than it is today. Prior to 1975 the City’s Zoning Code allowed smaller lot sizes and larger dwelling sizes, and the definition of *family* did not limit family size. Most of the streets, utilities, and houses that still exist today were built before 1975 and were designed to accommodate denser urban form and larger families.

These effects should also be discussed in the context of the purpose of zoning, particularly low-density residential zoning, which is likely to be more affected by these amendments. The quote from *Belle Terre v. Boraas* in the Existing Conditions section of this report points out that low-density residential zoning in its most innocent conception is intended to support “family needs”, “family values”, and “youth values”, without clarifying what those are, and that “the blessings of quiet seclusion and clean air make the area a sanctuary for people.” Affordable housing for families, especially those with youth, fits the above value categories. While lower-density areas may have some benefits for people fortunate enough to own or rent property within them, to exclude larger families and households from accessing both affordable housing and such benefits is to privilege nuclear family households and higher-income residents at the expense of others. Allowing greater use of the streets, utilities, and houses we already have reduces the costs of sprawl and the need to construct and maintain additional streets, utilities, and houses.

In interviews with community partners, nonprofit housing management staff, and City inspection staff, anecdotes have been shared of uncivil behavior and poor property and neighborhood care associated with larger household sizes. The detriment is said to stem from occupancy by people who are not associated closely with the head of the household and are transient, and therefore have less stake in the wellbeing of their house, yard, street, and neighbors. Practical effects of this include substantially increased litter, noise, property damage, property neglect, and disruptions of the peace.

Concern 2:
Larger households may produce detrimental behavioral problems.

While low occupancy maximums may reduce such issues, this must be balanced by the need for housing, as well as consideration of those many large, quiet households that do not produce anything but stability, care, and positive community contributions. The Zoning Code is generally not a good tool for addressing behavioral disturbances; it is inferior in many ways to public services dedicated specially to address these issues without posing a barrier to fair housing choice.

Concern has been expressed that landlords may add bedrooms to rental properties to fit more tenants and make a higher profit, damaging the architectural quality of Saint Paul's housing stock and accelerating the conversion of ownership housing to dwellings resembling roominghouses. It has also been suggested that, as more renters are fit into dwellings, the total value of the house and property increase, increasing the value of the surrounding properties and the resulting tax burden. No evidence that this would result from the proposed amendments has been presented. In the case that evidence is presented, it should be evaluated not only by the question "Would this happen?", but also "Does the harm this would cause outweigh the benefits of fair and affordable housing?" and "Are Zoning Code occupancy regulations the appropriate tool with which to discourage these effects?"

Concern 3:
Landlords will degrade the housing stock and increase surrounding property values

Definition of *dwelling unit*

In addition to the definition of *family*, the definition of *dwelling unit* has received new scrutiny. The proposed amendment to the definition of *dwelling unit* is:

Dwelling unit. A building or part thereof that provides complete independent living facilities, including bathroom and kitchen facilities, for the exclusive and unhindered use of one family.

Also proposing an amendment to the definition of "Dwelling unit"

Dwelling unit and *family* are terms that are linked as used in the Zoning Code. A *family* is a group of people living together in a dwelling unit, and a *dwelling unit* provides living accommodations for a family. Given the relationship between these terms, it is good to consider amendments to both of them together. Consistent with the intent of the proposed amendments to the definition of *family*, the proposed amendment to the definition of *dwelling unit* is more accommodating to diverse families.

The proposed amendment is also more consistent with state Building Code definitions. It is generally useful for city definitions to be consistent with state definitions. Unlike state Building Code definitions for *dwelling unit* and *congregate living facilities*, the current definition of *dwelling unit* in the Zoning Code is based on unclear language about what rooms were designed for or intended for:

Dwelling unit. One (1) or more rooms, designed, occupied or intended for occupancy as a separate living quarter, with a single complete kitchen facility (stove and/or oven, refrigerator, and sink), sleeping area, and bathroom provided within the unit for the exclusive use of a single household

The proposed amendment to this is based on state Building Code definitions. "A building or part thereof that" is from the Building Code definition of *congregate living facilities*. "Provides complete independent living facilities, including" is from the Building Code definition of *dwelling unit*. "Bathroom and kitchen facilities" is from the Building Code definition of *congregate living facilities*.

Additional potential approaches

Household styles are sure to diversify in unexpected ways, both in occupancy numbers, household constitution, and physical dwelling forms. The following suggestions may contribute to more affordable and equitable housing.

- Consider a review of the *roominghouse* and *shareable housing* land uses in the Zoning Code
- Initiate zoning studies that would increase by-right infill and/or missing middle housing opportunities, including developing a program for City-owned small lots
- After some period of time passes in which the City can ascertain the impacts of an updated definition of *family*, consider studying the fair housing impact of establishing some form of intentional community or functional family program, wherein a group of people that does not conform to Saint Paul's definition of *family* forms a household that is mutually beneficial and contributes to the city's strong neighborhoods.

Other approaches to allowing non-conforming household styles should be considered.

Staff recommendation

Staff recommends that the Comprehensive and Neighborhood Planning Committee forward this report and its attachments to the Planning Commission with a recommendation to initiate a study on the definition of *family* and related issues and requirements, release it for public review and comment, and to set a public hearing for October 16, 2020.

Appendices

Appendix A – Text amendments

Appendix B – “Occupancy Limits for a Residential Property”

Appendix C – Current and proposed occupancy restrictions in Saint Paul by dwelling unit square footage, 2018-2020 combined

Appendix A – Text Amendments

Existing language to be deleted shown by ~~strikeout~~. New language to be added shown by underlining.

Chapter 60. Zoning Code – General Provisions and Definitions; Zoning Districts and Maps Generally

ARTICLE II. – 60.200. GENERAL DEFINITIONS

Sec. 60.205. – D.

Dwelling unit. A building or part thereof that provides complete living facilities, including bathroom and kitchen facilities, for the exclusive and unhindered use of one family. ~~One (1) or more rooms, designed, occupied or intended for occupancy as a separate living quarter, with a single complete kitchen facility (stove and/or oven, refrigerator, and sink), sleeping area, and bathroom provided within the unit for the exclusive use of a single household.~~

Sec. 60.207. – F.

Family. ~~One (1) or two (2) persons or parents, with their direct lineal descendants and adopted or legally cared for children (and including the domestic employees thereof) together with not more than two (2) persons not so related, living together in the whole or part of a dwelling comprising a single housekeeping unit. Every additional group of four (4) or fewer persons living in such housekeeping unit shall be considered a separate family for the purpose of this code.~~

Family. Six (6) or fewer adults, together with minor children in their care, living as a single housekeeping unit.

OR

Family. Six (6) or fewer adults, or any number of adults who are all related to each other by blood, marriage, guardianship, or domestic partnership as defined by Chapter 186 of the Saint Paul Legislative Code, together with minor children in their care, living as a single housekeeping unit.

OR

Family. Any number of adults who are all related to each other by blood, marriage, guardianship, or domestic partnership as defined by Chapter 186 of the Saint Paul Legislative Code and up to five (5) additional adults, together with minor children in their care, living as a single housekeeping unit.

Chapter 65. Zoning Code – Land Use Definitions and Development Standards

ARTICLE II. – 65.100. RESIDENTIAL USES

Division 3. – 65.150. Congregate Living

Sec. 65.151. Adult care home.

...

Standards and conditions:

- (a) In residential and T1 traditional neighborhood districts, the facility shall have a minimum lot area of five thousand (5,000) square feet plus one thousand (1,000) square feet for each guest room in excess of ~~four (4)~~ six (6) guest rooms. In T2-T4 traditional neighborhood districts, the density shall be regulated as for multifamily uses.

...

Sec. 65.152. – Community residential facility, licensed correctional.

...

Standards and conditions:

...

- (b) The facility shall be a minimum distance of one thousand three hundred twenty (1,320) feet from any other of the following congregate living facilities with more than ~~four (4)~~ six (6) adult residents, except in B4-B5 business districts where it shall be at least six hundred (600) feet from any other such facility: supportive housing facility, licensed correctional community residential facility, emergency housing facility, shelter for battered persons, or overnight shelter.

...

- (e) In residential and T1 traditional neighborhood districts, the facility shall have a minimum lot area of five thousand (5,000) square feet plus one thousand (1,000) square feet for each guest room in excess of ~~four (4)~~ six (6) guest rooms. In T2-T4 traditional neighborhood districts, the density shall be regulated as for multifamily uses.

Sec. 65.155. – Overnight shelters.

...

Condition:

The facility shall be a minimum distance of six hundred (600) feet from any other of the following congregate living facilities with more than ~~four (4)~~ six (6) adult residents: overnight shelter, supportive housing facility, licensed correctional community residential facility, emergency housing facility, or shelter for battered persons.

Sec. 65.158. – Roominghouse.

~~(1) A dwelling unit that provides living and sleeping arrangements for more than four (4) unrelated individuals for periods of one (1) week or longer; or~~

(2) A residential structure or dwelling unit that provides single room occupancy (SRO) housing as defined in CFR section 882.102 to more than ~~four (4) unrelated individuals~~ six (6) adults; or

(3) A building housing more than ~~four (4) unrelated individuals~~ six (6) adults that has any of the following characteristics shall be considered and regulated as a roominghouse:

...

Standards and conditions:

- (a) In residential and T1 traditional neighborhood districts, a minimum lot area of five thousand (5,000) square feet plus one thousand (1,000) square feet for each guest room in excess of ~~four (4)~~ six (6) guest rooms. In T2-T4 traditional neighborhood, BC community business (converted), and industrial districts the density shall be regulated as for multifamily uses.

Sec. 65.160. – Shelter for battered persons.

...

Standards and conditions for shelters for battered persons serving more than ~~four (4)~~ six (6) adult facility residents and minor children in their care:

- (a) In residential, traditional neighborhood, Ford and OS-B2 business districts, a conditional use permit is required for facilities serving more than ~~four (4)~~ six (6) adult facility residents and minor children in their care.
- (b) The facility shall be a minimum distance of one thousand three hundred twenty (1,320) feet from any other of the following congregate living facilities with more than ~~four (4)~~ six (6) adult residents: shelter for battered persons, supportive housing facility, licensed correctional community residential facility, emergency housing facility, or overnight shelter.

...

- (e) In residential and T1 traditional neighborhood districts, facilities serving seventeen (17) or more facility residents shall have a minimum lot area of five thousand (5,000) square feet plus one thousand (1,000) square feet for each guest room in excess of ~~four (4)~~ six (6) guest rooms. In T2-T4 traditional neighborhood districts, the density shall be regulated as for multifamily uses.

Sec. 65.161. – Sober house.

A dwelling unit occupied by more than ~~four (4)~~ six (6) persons, all of whom are in recovery from chemical dependency and considered handicapped under the Federal Fair Housing Act Amendments of 1988, that provides a non-institutional residential environment in which the residents willingly subject themselves to written rules and conditions, including prohibition of alcohol and drug use (except for prescription medications obtained and used under medical supervision), intended to encourage and sustain their recovery.

Sec. 65.162. – Supportive housing facility.

Standards and conditions:

- (a) The facility shall be a minimum distance of one thousand three hundred twenty (1,320) feet from any other of the following congregate living facilities with more than ~~four (4)~~ six (6) adult residents, except in ~~B5B4~~-B5 business districts where it shall be at least six hundred (600) feet from any other such facility: supportive housing facility, licensed correctional community residential facility, emergency housing facility, shelter for battered persons, or overnight shelter.
- (b) In RL-RT1 residential districts, the facility shall serve six (6) or fewer facility residents. In RT2 residential, T1 traditional neighborhood, OS-B3 business and IT-I2 industrial districts, the facility shall serve sixteen (16) or fewer facility residents.

...

ARTICLE VII. – 65.900. ACCESSORY USES

Sec. 65.913. – Dwelling unit, accessory.

...

(d) *Unit occupancy.*

- (1) The total occupancy of the principal dwelling unit and accessory dwelling unit shall not exceed the definition of family in section 60.207 ~~allowed in a single housekeeping unit.~~

Chapter 67. Zoning Code – Overlay Districts

ARTICLE VII. – 67.700. SH STUDENT HOUSING NEIGHBORHOOD IMPACT OVERLAY DISTRICT

Sec. 67.702. – Student dwellings.

Within the SH student housing neighborhood impact overlay district, a student dwelling is a one- or two-family dwelling requiring a fire certificate of occupancy in which at least one (1) unit is occupied by three (3) or ~~four (4)~~ more students. ...

Sec. 67.708. – Revocation of status as registered and established student dwellings.

The department of safety and inspections may remove properties from the list of registered and established student dwellings under the following circumstances:

- (1) Suspension or revocation of fire certificate of occupancy;
- (2) Residence by more than ~~four (4)~~ six (6) students in any unit; ...

Appendix B – Occupancy Limits for a Residential Property



Occupancy Limits for a Residential Property

The number of people allowed in a residential property must comply with both of the following requirements:

☐

Zoning Code Requirements


The Zoning Code limits the number of people allowed in any dwelling unit. The following tool is intended to assist you in understanding how many people are allowed. You may select up to 4 of the following boxes to reach the maximum number of people allowed.

☐



1 Adult with Kids:
1 Parent & their direct lineal descendants & adopted or legally cared for children (e.g. children [kids and adults], grandchildren, etc.)

☐



1 Adult with Kids:
1 Parent & their direct lineal descendants & adopted or legally cared for children (e.g. children [kids and adults], grandchildren, etc.)

☐



Adult:
1 adult with no kids. Adult can be the other parent, a friend, guest, etc.

☐



Adult:
1 adult with no kids. Adult can be the other parent, a friend, guest, etc.

☐



Adult:
1 adult with no kids. Adult can be the other parent, a friend, guest, etc.

☐



Adult:
1 adult with no kids. Adult can be the other parent, a friend, guest, etc.

☐

Building Code & Property Maintenance Code Requirements

The Building Code limits the number of people allowed by setting minimal square footage requirements per person:

- Total required space in dwelling units – a minimum habitable gross floor area of at least one hundred fifty (150) feet for the first occupant, at least one hundred (100) square feet for each occupant thereafter.
- Required space and ceiling heights in sleeping rooms – a minimum gross floor area of at least seventy (70) square feet for the first occupant and for every room occupied for sleeping purposes by two (2) or more occupants shall have a minimum gross floor area of fifty (50) square feet per occupant thereof. Only those portions of the floor area of a room having a clear ceiling height in excess of five (5) feet may be included. At least half of the floor area of any habitable room shall have a clear ceiling height of seven (7) feet or more.

Appendix C – Current and proposed occupancy restrictions in Saint Paul by dwelling unit square footage, 2018-2020 combined¹

CURRENT (Shaded cells indicate which regulation is the most limiting at any square footage)

Dwelling Size – total square feet	Building Code <i>150 + 100 * (n+1)</i>	Fire Code <i>200 * n</i>	Current Zoning Code <i>4 unrelated or 2 lineal families + 2 unrelated</i>
200	1	1	4 unrelated or 2+2
300	1	1	4 unrelated or 2+2
400	2	2	4 unrelated or 2+2
450	3	2	4 unrelated or 2+2
500 (~ national average studio apartment)	4	2	4 unrelated or 2+2
550	4	2	4 unrelated or 2+2
600	5	3	4 unrelated or 2+2
700	6	3	4 unrelated or 2+2
750 (~ national average one-bedroom apartment)	6	3	4 unrelated or 2+2
800	7	4	4 unrelated or 2+2
900	8	4	4 unrelated or 2+2
950	8	4	4 unrelated or 2+2
1000 (~ St Paul median two-bedroom apt)	9	5	4 unrelated or 2+2
1100 (~ national & St Paul average two-bedroom apt)	10	5	4 unrelated or 2+2
1200	11	6	4 unrelated or 2+2
1250 (~ St Paul median 1-family home – 1,282 sf)	11	6	4 unrelated or 2+2
1300	12	6	4 unrelated or 2+2
1350	13	6	4 unrelated or 2+2
1400 (~ St Paul avg. 1-family home – 1,430 sf)	13	7	4 unrelated or 2+2
1500	14	7	4 unrelated or 2+2
1600	15	8	4 unrelated or 2+2
1700 (~ St Paul median four-bedroom house)	16	8	4 unrelated or 2+2
1800 (~ St Paul avg. four-bedroom house)	17	9	4 unrelated or 2+2
1900	18	9	4 unrelated or 2+2
2000	19	10	4 unrelated or 2+2
2100	20	10	4 unrelated or 2+2
2200 (~ St Paul median five-bedroom house)	21	11	4 unrelated or 2+2
2300	22	11	4 unrelated or 2+2
2350 (~ St Paul avg. five-bedroom house)	23	11	4 unrelated or 2+2

¹ Data sources: Ramsey County parcel data, RentCafé/Yardi Matrix (<https://www.rentcafe.com/blog/rental-market/real-estate-news/us-average-apartment-size-trends-downward/>)

PROPOSED (Blue shaded cells indicate which regulation is the most limiting at any square footage; teal shows where the functional family allowance of any ten occupants begins)

Dwelling Size – total square feet	Building Code <i>150 + 100 * (n+1)</i>	Fire Code <i>200 * n</i>	Proposed Zoning Text Amendments (Option 1) <i>maximum of six unrelated adults + kids</i>
200	1	1	6 unrelated adults + kids or all family
300	1	1	6 unrelated adults + kids or all family
400	2	2	6 unrelated adults + kids or all family
450	3	2	6 unrelated adults + kids or all family
500 (~ national average studio apartment)	4	2	6 unrelated adults + kids or all family
550	4	2	6 unrelated adults + kids or all family
600	5	3	6 unrelated adults + kids or all family
700	6	3	6 unrelated adults + kids or all family
750 (~ national average one-bedroom apartment)	6	3	6 unrelated adults + kids or all family
800	7	4	6 unrelated adults + kids or all family
900	8	4	6 unrelated adults + kids or all family
950	8	4	6 unrelated adults + kids or all family
1000 (~ St Paul median two-bedroom apt)	9	5	6 unrelated adults + kids or all family
1100 (~ national & St Paul average two-bedroom apt)	10	5	6 unrelated adults + kids or all family
1200	11	6	6 unrelated adults + kids, or all family
1250 (~ St Paul median 1-family home – 1,282 sf)	11	6	6 unrelated adults + kids, or all family
1300	12	6	6 unrelated adults + kids, or all family
1350	13	6	6 unrelated adults + kids, or all family
1400 (~ St Paul avg. 1-family home – 1,430 sf)	13	7	6 unrelated adults + kids, or all family
1500	14	7	6 unrelated adults + kids, or all family
1600	15	8	6 unrelated adults + kids, or all family
1700 (~ St Paul median four-bedroom house)	16	8	6 unrelated adults + kids, or all family
1800 (~ St Paul avg. four-bedroom house)	17	9	6 unrelated adults + kids, or all family
1900	18	9	6 unrelated adults + kids, or all family
2000	19	10	6 unrelated adults + kids, or all family
2100	20	10	6 unrelated adults + kids, or all family
2200 (~ St Paul median five-bedroom house)	21	11	6 unrelated adults + kids, or all family
2300	22	11	6 unrelated adults + kids, or all family
2350 (~ St Paul avg. five-bedroom house)	23	11	6 unrelated adults + kids, or all family