

Full House: Occupancy Standards, Normative Zoning, and the Responses of U.S.
Cities to Changing Households

by

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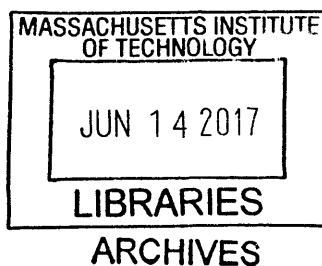
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Abstract

Both long term and more recent socioeconomic, demographic, and cultural shifts have led to changing household formation patterns. Alongside a rise in living alone and adult children remaining in their parental homes have been increases in doubled-up or more-than-one-family households and non-family households. However, U.S. zoning codes and housing markets have long favored single-family homes and living arrangements. Have cities adapted to changing household trends? If so, how? Whether they have or not, what influences their responses? This thesis addresses these questions through a qualitative analysis of the occupancy standards—specifically family or household definitions, limits on the numbers of unrelated people in a single-family dwelling, and spatial requirements—of twenty-four cities across the country and deeper analysis of selected case studies.

The findings show a range in approaches to relationship-based occupancy standards that indicate some acknowledgement of different household structures, but most codes still favor traditional families defined by blood, marriage, or adoption. Both relationship- and space-based occupancy standards are often supported for health and safety reasons or to “maintain neighborhood character,” but these reasons and the typically selective enforcement of these codes often favor wealthier homeowners or have exclusionary intents and impacts. The discrepancies between occupancy standards and household trends have important implications for the form, availability, and affordability of the current and future housing stock, neighborhood dynamics, and the housing security of households in cities nationwide. I argue that planners need to be aware of and resist the normative biases and assumptions about families and homes ingrained in most zoning codes and offer recommendations for planning practice with regards to occupancy standards for single-family dwellings that support more flexible, equitable, and inclusive communities.

Thesis supervisor: Ingrid Gould Ellen
Title: Visiting Professor of Urban Policy and Planning

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Chapter 1 – Introduction

In the fall of 2014, a family moved to a long vacant 9-bedroom mansion on Scarborough Street in the affluent West End neighborhood of Hartford, CT. Shortly thereafter, the area's neighbors issued a cease and desist order against the new family, and in the spring of 2015, the City of Hartford sued the family on the neighbors' behalf.¹ What was the reason for this conflict? According to the city's zoning code, the family was not a family at all, and thus violated the city's regulations for single-family areas.

The Scarborough 11 case, as it came to be called, exemplifies many of the issues at the heart of this thesis. As the case reminds us, zoning rules and regulations are about more than just the use of land and the form of buildings. They also reach into the most private of spheres by regulating who is allowed to live in a dwelling and the relationships between occupants of a dwelling. The fact that zoning does this at all raises important questions: How do cities regulate occupancy and the relationships between members of a household? Why do they regulate them as they do? Who benefits from such regulations as they currently exist, and who bears the burden? What happens when social and economic conditions change the makeup of households, leading to a discrepancy between the reality of a city's residents and the codes that govern their communities? When is enforcement pursued or not, and what influences city officials in each case? Regardless of whether we consider who we live with or want to live with as family members or not, should zoning even extend to this realm?

¹ Vanessa de la Torre, "Hartford Sues Scarborough 11 in Zoning Fight," The Hartford Courant, February 18, 2015. Accessed May 24, 2017 from <http://www.courant.com/community/hartford/hc-hartford-scarborough-st-0219-20150218-story.html>

This thesis begins to address these questions by conducting a qualitative analysis of household or family definitions and occupancy standards in the relevant codes for single-family zones of selected cities across the United States. Specifically, this thesis asks: In what ways do cities use their occupancy standards to regulate who may or may not live within dwelling units in single-family residential districts? What do the language and details of the development, adoption, and enforcement of these codes reveal about the power and social dynamics at play in communities?

The methodology for investigating these questions consists of two parts. The first is a review of the occupancy standards in the zoning, building, or housing codes of 24 U.S. cities. The cities were primarily selected to represent population sizes ranging from those with more than 100,000 people to the largest ten cities with populations of more than 1 million people, as well as a range of geographic areas. This review examines the definition of household or family, the limits, if any, on the numbers of unrelated people that may live together in a single-family dwelling, and the spatial requirements for single-family dwellings in these cities to look for patterns or unique features in order to get a sense of the occupancy standards landscape. The second part of the methodology is qualitative analysis of five case studies. These case studies present cities with particularly interesting features in their occupancy codes or conflicts about the codes that are illustrative of the underlying norms and power dynamics this thesis explores, and of the lessons they may hold for planning officials and communities.

While much literature in planning and other fields has critiqued the relationship between zoning and racial segregation or other spatialized socioeconomic divisions, these critiques have

either focused on external, form- and use-based aspects of codes or have not continued the critique to consider other forms of control over the presence of particular bodies, identities, and relationships, particularly within individual homes as opposed to the neighborhood scale. For example, a significant amount has been written about the dominance of the single-family home in U.S. land use and zoning regimes, but this body of literature largely focuses on the dominance of the use as a whole, or the particular physical expressions of this housing type, and the implications of this dominance in terms of community and economic diversity, vibrancy, and stability. Similarly, much has been written about redlining, racially restrictive covenants, and exclusive zoning, yet these have largely accepted the assumptions of who and how many people should be able to live together in a household in favor of addressing the segregation among households. Even critiques that call for more communal or cohousing models of living seem to assume that traditional nuclear families or empty nesters will be the primary market for such living arrangements, and that they will need or want the same amount of space. Ultimately, by focusing on the regulation of private, internal space and relationships within single-family homes, this thesis contributes to filling an important gap in the literature.

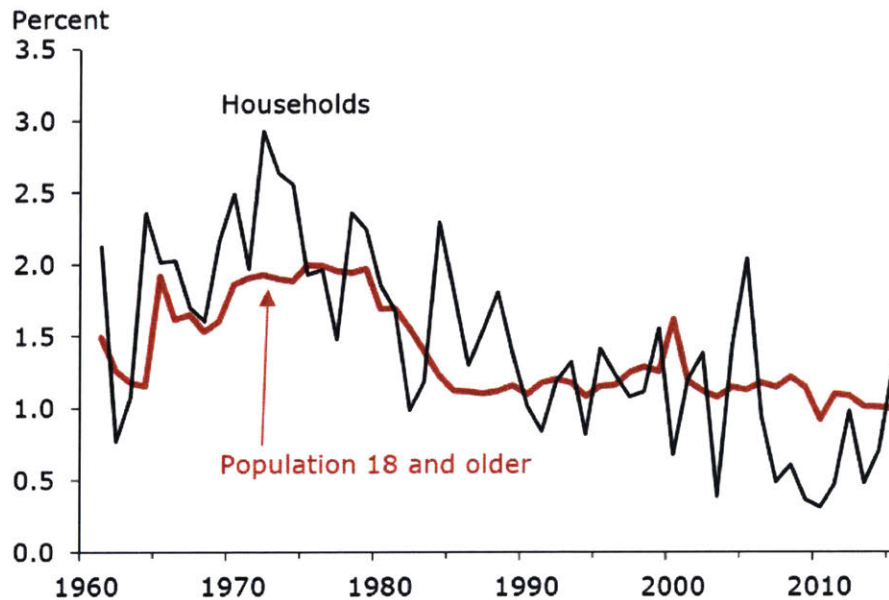
Changing Household Trends in the United States

The questions this thesis researches are important for several reasons. First, the topic of how cities are regulating occupancy and households in single-family homes is timely and important because it is relevant to critical housing and socioeconomic trends. In fact, as the Scarborough 11 case was making its way through the courts and local zoning board appeals, the case garnered national attention in the media, on crowdsourcing websites that fundraised money for the Scarborough 11's legal costs, and among intentional community and cooperative living

advocates.² The case had clearly touched a nerve, reflecting interest and anxiety regarding these trends among the public and those in affected households.

The housing trend most clearly associated with this topic is the decline and delay in household formation or headship rates (which equals the number of households divided by the adult population). Headship rates had increased on average for more than 5 decades until the financial crisis in 2007-2008, when the pace of household formation slowed dramatically and fell relative to population growth after 2007.

Chart 1. Annual Percentage Change in U.S. Adult Population Growth and Household Formation, 1960-2015³



Source: U.S. Census Bureau, Housing Vacancy Survey and Annual Population Estimates; annual rates reflect July year-over-year percent changes.

² See notes 1 and 80. See also Jillian Dunham, "8 Adults, 3 Kids: Modern, Intentional Families Are on the Rise." *The Cut, New York Magazine*, November 10, 2015 for a national media example. Accessed from <http://nymag.com/thecut/2015/11/intentional-communities-modern-family-unrelated-adults.html>.

³ Fred Furlong, "Household Formation Among Young Adults," Federal Reserve Bank of San Francisco Economic Letter 2016-17, May 23, 2016

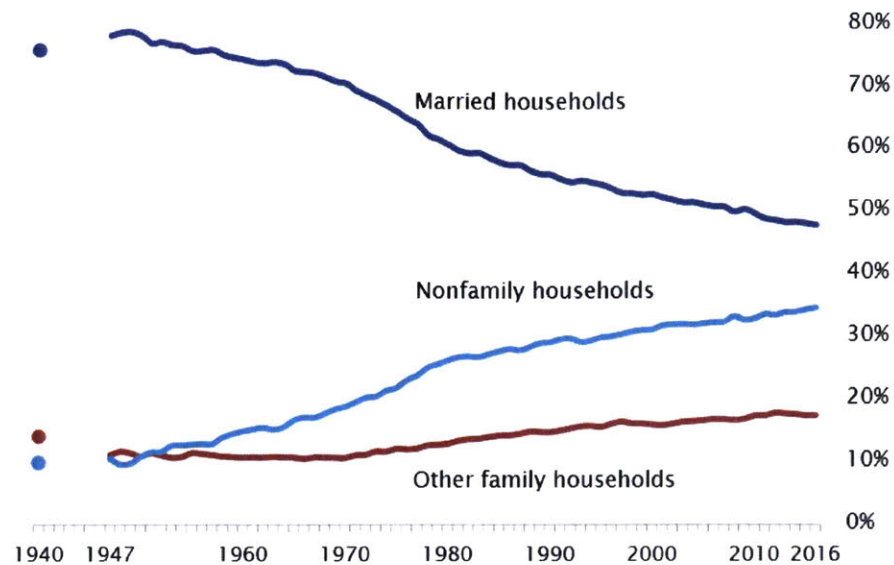
As the economy improved, headship rates rose in 2014 and 2015. Headship rates among older age groups have remained stable. Given that they are among the largest and growing segments of the U.S. population as more adults reach retirement age, as well as the segment most likely to have and maintain their own homes, the recent increases in household formation have been driven by the aging of the population and overall adult population growth.⁴ However, the headship rates among young adults have yet to recover, and in fact, the share of young adults living in their parental home has continued to rise. This phenomenon has gotten significant attention in the press and among research centers. For example, the Pew Research Center has found that in 2014, 18-34 year olds were slightly more likely to live in their parents' home than with a married or cohabiting partner for the first time in 130 years.⁵ Yet, much less attention has been given to changes in households that fall outside of traditional family relationships.

Nonfamily households have steadily risen as a percentage of all household types from approximately 11% in 1947 to about 35% in 2016.

⁴ Jed Kolko, "Who Is Actually Forming New Households?" Turner Center, University of California Berkeley, August 17, 2015. <http://turnercenter.berkeley.edu/blog/new-households>.

⁵ Fry, "For First Time in Modern Era, Living With Parents Edges Out Other Living Arrangements for 18- to 34-Year-Olds."

Chart 2. Percent of households by type, 1940 and 1947-2016⁶



Source: U.S. Census Bureau, Decennial Census, 1940, and Current Population Survey, Annual Social and Economic Supplements, 1968 to 2016.

According to a study of the American Housing Survey from 2003 to 2009, the number of households containing one or more unrelated subfamilies more than tripled during the study period, from 199,000 to 622,000.⁷ The Census Bureau reports that in 2011, 41.2 million adults lived in shared households (“a household in which they were neither the householder, the householder's spouse nor the householder's cohabiting partner”), an increase to 17.9 percent from 16.0 percent in 2007.⁸

Doubled-up households of all kinds are more concentrated in cities and urban areas and a higher percentage of doubled-up households live in single-family homes than non-doubled households (69.6 to 64.1). Older householders are more likely to live in doubled-up households.

⁶ U.S. Census Bureau, Figure accessed May 26, 2017 from <https://www.census.gov/hhes/families/data/households.html>

⁷ Frederick J. Eggers and Fouad Moumen, “Analysis of Trends in Household Composition Using American Housing Survey Data,” *Econometrica*, Bethesda, MD: December 2013. Available at: <http://ssrn.com/abstract=2445473>

⁸ Macartney and Mykyta, “Poverty and Shared Households by State: 2011.” FIX CITE

While this reflects that most doubled-up households are comprised of adult children living with their parents, more and more seniors are choosing to live with roommates to cut down on living expenses and isolation and provide mutual care and support. Just as women are more likely to be householders in single-parent households, householders are also more likely to be women in doubled-up households as well. The study authors speculate this may be due to an increase in single mothers with children living together. Foreign-born and minority householders, particularly those who are Hispanic, Black, non-Hispanic; or other race, non-Hispanic; are more likely to be doubled-up than householders born in the U.S. or its territories or White, non-Hispanic households, respectively. Even so, with regards to foreign born or non-citizen households, the study states, “Although the stereotype of immigrant families living in homes with other immigrant families or with relatives who came to the United States earlier may have some validity, it can account for only a slight fraction of more-than-one-family households.”⁹

Looking at doubled-up households with unrelated subfamilies specifically, this group experienced increases in the percentage of non-Hispanic subfamilies; young adult subfamilies, particularly those aged 26-35 years old; U.S. citizens among the household reference person; and better educated household reference persons. From 2003 to 2009, the reference persons for related and unrelated subfamilies changed from being Hispanic in 30 percent of cases for both groups to remaining at 30 percent for related families but dropping to just above 20 percent for unrelated families. Similarly, the percentages of reference persons in unrelated subfamilies in doubled-up households that had no high school education or that did not finish high school fell from approximately 70 percent in 2003 to 57 percent in 2009. Another change in this group occurred

⁹ See note 7.

with regards to citizenship, such that in 2009 a larger percentage of reference persons in unrelated subfamilies were American citizens compared to related subfamilies.¹⁰ All of these points highlight that strict occupancy limits and definitions of household may negatively affect more vulnerable populations the most, as well as negatively impact more kinds of households than “the usual suspects.” The findings of this study also suggest that such regulations could be particularly harmful in times of economic hardship, when many unrelated doubled-up households form.

Characteristics of the Housing Stock

Another important reason why this topic is important to study is about housing development and the growing disconnect between the housing stock and households in the United States. This thesis focuses on the regulations governing single-family homes because, in addition to the fact that most households with more than one family live in this housing type, single-family homes dominate the housing stock in the U.S., and have similarly dominated housing policy and zoning regulations. Multifamily housing development declined sharply since the elimination of tax benefits for multifamily housing after a tax reform package passed in 1986. In 1992, multifamily housing made up only 14 percent of new construction, and this represented only one-third and about one-half of multifamily housing peaks in 1972 and mid-1980s, respectively. By contrast, federal and state tax and urban development policy strongly favored single-family housing development, and by 2001, 80 percent of new construction was comprised of single-family housing.¹¹ Even if more multifamily housing were built, it would not address the needs of more-

¹⁰ Ibid.

¹¹ Kent W. Colton, *Housing in the Twenty-First Century: Achieving Common Ground*, Cambridge, MA: Harvard University Press, 2003.

than-one-family households that would otherwise choose to live separately for some time, and, just as with cohousing, similar regulations could still apply within dwelling units.

The growth in housing development overall and single-family housing in particular has been accompanied by marked improvement in housing quality. The 1940 census captured that U.S. homes tended to be crowded and suffered from poor conditions, including a lack of plumbing. At the time, about one-fifth of homes were considered crowded (housing more than one person per room) and nine percent were considered severely crowded (housing more than 1.5 persons per room). Crowding decreased from then until 1990s, when it experienced a slight uptick due to migration and immigration to inner cities and urban areas, and then continued to decline to below one percent in 1999. Interestingly, summary data from the AHS show that while doubled-up households increased from 2003 to 2009, this did not also lead to more crowding in housing units, and in fact, crowding measures indicate less overcrowding. The quality of units also does not differ between doubled-up and non-doubled households.¹²

These findings may reflect the fact that, in addition to the increase in housing production, homes have gotten bigger. In the 1940s, homes in postwar housing developments like those in Levittown, Pennsylvania were 750 square feet and cost only \$7,990 at its start. In 1970, new single-family homes had a median living area of 1,385 square feet. By 2000, the median had grown to 2,059 square feet and the average size was even larger, at 2,273 square feet.¹³ In 2015, the median size was 2,467 square feet, and of the 648,000 single-family homes built, 307,000 had four or more

¹² See note 7.

¹³ See note 11.

bedrooms.¹⁴ Yet household sizes have actually gotten smaller. There has been a steady increase in the percentage of households with one person, from approximately 13 percent in 1960 to about 28 percent in 2016.¹⁵ The average household size was 2.53 in 2016, down from 3.29 in 1960.¹⁶

Homes have also been developed with more standard amenities, including bathrooms, air-conditioning, and garages. In 1970, only 16 percent of single-family homes had more than two and a half bathrooms; by 1997, more than half of single-family homes in the U.S. were so equipped.¹⁷ In 2015, 246,000 homes had *three or more*.¹⁸ As homes increased in size and improved in quality, housing also became more expensive to develop and for residents to buy or rent. The median sales price for new single-family homes increased from \$55,700 in 1978 to \$268,900 in 2013, and the average price increased from \$62,500 to \$324,500.¹⁹ However, household incomes have failed to keep pace with rising costs of living, leading to more cost-burdened households, particularly among low-income renters, and a growing housing affordability crisis.²⁰

¹⁴ U.S. Census Bureau, "Highlights of Annual 2015 Characteristics of New Housing," Accessed May 29, 2017 from <https://www.census.gov/construction/chars/highlights.html>

¹⁵ U.S. Census Bureau, Figure accessed May 26, 2017 from <https://www.census.gov/hhes/families/data/households.html>

¹⁶ Lofquist et al, "Households and Families: 2010," U.S. Census Bureau, April 2012, Issue C2010BR-14, Accessed May 29, 2017 from <https://www.census.gov/prod/cen2010/briefs/c2010br-14.pdf>

¹⁷ See note 11.

¹⁸ See note 14.

¹⁹ U.S. Department of Commerce Economics and Statistics Administration, U.S. Census Bureau and U.S. Department of Housing and Urban Development, Office of Policy Development and Research, "Median and Average Sales Prices of New Single-Family Houses Sold," Survey of Construction, 2015, accessed May 29, 2017 from <https://www.census.gov/construction/chars/pdf/soldmedavgprice.pdf>

²⁰ Joint Center for Housing Studies of Harvard University, "Rental Housing Affordability," 2015, Accessed February 15, 2017 from www.jchs.harvard.edu/sites/jchs.harvard.edu/files/ch_4_rental_housing_affordability_from_americas_rental_housing_2015_web.pdf; Leopold et al., "The Housing Affordability Gap for Extremely Low-Income Renters in 2013," June 2015, The Urban Institute, Accessed February 15, 2017 from www.urban.org/sites/default/files/publication/54106/2000260-The-Housing-Affordability-Gap-for-Extremely-Low-Income-Renters-2013.pdf

Social and Cultural Changes

While economic conditions and overall population and life cycles drive many of the trends described above, demographic and cultural changes also inform the context for the codes studied in this thesis and why they are important to research. For example, although the recent decline in household formation among young adults is primarily attributed to the Great Recession, changes such as delays in marriage and lower marriage rates as a whole contributed to the decline in headship rates before the economic downturn.²¹ Moreover, some scholars argue that the changes in household formation are just as indicative of a smaller but permanent shift in preferences as they are a sign of economic hardship. The decline in marriage rates, increasing divorce rates, lower remarriage rates, and delay in childbearing are part and parcel of changing norms and desires around relationships and living arrangements, including the rise of living alone²², as well as of nontraditional housing arrangements, including nonfamily or more than one family households, blended families, cohousing models, and cooperatives.²³

In some cases, Millennials, who came of age during the housing crisis of the Great Recession and amid the pressures of a global economy where mobility is often an asset, express wariness of homeownership even if they have the resources to achieve it. Still others speak to how the changing economy and social norms have contributed to less social cohesion and increased isolation that young people are seeking to alleviate through their housing arrangements.²⁴ Indeed,

²¹ See note 4.

²² U.S. Census Bureau, Figure HH-4. Accessed May 26, 2017 from <https://www.census.gov/hhes/families/data/households.html>

For in-depth discussion, see Eric Klinenberg, *Going Solo*, The Penguin Press: New York, NY, 2012.

²³ Bella M. DePaulo, *How We Live Now: Redefining Home and Family in the 21st Century*. New York, NY: Atria Books, 2015.

²⁴ Alana Semuels, "Eight Parents, One Shower," *The Atlantic*; August 1, 2016, Accessed from <https://www.theatlantic.com/business/archive/2016/08/eight-parents-one-shower/493532/> ; Ilana E. Strauss, "The Hot New Millennial Housing Trend is a Repeat of the Middle Ages," *The Atlantic*, September 26, 2016,

private housing developers are starting to see the opportunities that might be available by addressing this gap by offering single room occupancy (SRO) or other dormitory or cohousing style products that promise a built-in community as an amenity.²⁵ Similar shifts in housing patterns are happening with the elderly. Notably, as aging-in-place has become more popular among healthcare and service providers, more and more seniors are choosing to do just that by, if not remaining in their homes, moving to inner cities to be closer to established care providers and resources. Cohousing has also gained traction among retirees as a way to save money, reduce household chores and maintenance workloads, and gain companionship.²⁶ Meanwhile, developers interested in cohousing products are also marketing their developments towards the elderly specifically or including them in a broader target audience.

Much has been written in various literatures about the importance of fictive kin and extended support networks to marginalized groups, including the lesbian, gay, bisexual, transsexual, and queer (LGBTQ) community, low-income single mothers, particularly in communities of color, and immigrant communities.²⁷ In the last two decades, there have been significant advancements in the social acceptance and legal recognition and protection of LGBTQ individuals and families, from the recognition of civil unions in certain states to the legalization of same-sex marriage with the Supreme Court decision in *Obergefell v. Hodges* in 2015.

Accessed from <https://www.theatlantic.com/business/archive/2016/09/millennial-housing-communal-living-middle-ages/501467/>

²⁵ Alana Semuels, "Dorms for Grownups A Solution for Lonely Millennials?" *The Atlantic*, November 6, 2015. <http://www.theatlantic.com/business/archive/2015/11/coliving/414531/>; Ava Kofman, "Venture Capital's Commune" *Urban Omnibus*, February 3, 2016. <http://urbanomnibus.net/2016/02/venture-capitals-commune/>

²⁶ Sally Abrahms, "Elder Cohousing; Senior Housing, Retirement Option - AARP Bulletin." *AARP*. Accessed December 7, 2016. http://www.aarp.org/home-garden/housing/info-01-2011/elder_cohousing.html.

²⁷ Helen R. Ebaugh and Mary Curry, "Fictive Kin as Social Capital in New Immigrant Communities," *Sociological Perspectives*, Vol. 43, Issue 2., pp. 189-209. 2000.; Ramona f. Oswald, "Resilience within the Family Networks of Lesbians and Gay Men: Intentionality and Redefinition," *Journal of Marriage and the Family*, Volume 64, Issue 2, pp. 374-383. 2002

Alongside these changes in the U.S. population and culture has been the growth of the “sharing economy,” as exemplified by AirBnb, Uber, local tool libraries, and other companies or platforms. Although important critiques have been made about the extent to which many of these companies actually embody an alternative, more collectivist vision of the economy, they do help frame and inform part of the growing comfort with sharing everything from car rides to living spaces, and thus the need of city governments to prepare and respond to different forms of ownership and social organization.

The Invisible Normative Power of Zoning

Another reason why the way occupancy standards are crafted and implemented is important to study is that they speak to the seemingly obvious but often taken for granted fact that zoning regulations and related codes are normative. This quality is usually thought of with regards to zoning’s regulation of external physical space through the separation of uses or activities and specifications for the form of buildings and neighborhoods including height, bulk, and density. However, through occupancy standards and definitions of households, such codes also regulate internal, private space, the people who inhabit them, and the relationships between inhabitants. Indeed, these codes do not merely regulate *but by their nature establish* norms, standards, or even ideals of these personal aspects of home life within and across communities.

Several authors and planning scholars have discussed the normative quality of zoning. Perrin (1977) wrote that zoning functions as “a shorthand of the unstated rules governing what are

widely regarded as correct social categories and relationships.”²⁸ Hirt (2014) expands on this idea by highlighting the fact that zoning and related codes not only *reflect* common norms but also *produce* these norms, as well as the invisible power of this process:

In fact, zoning not only expresses our societal consensus on the "correct" relationships and categories, it also shapes it. Not only does it tell us what we can and cannot do in certain places, it also cements, both metaphorically and literally, our ideas of the proper categories and relationships that occur in space. [...] In governing our building practices, zoning solidifies in our minds what is normal and expected, decent, and desirable. It thus imposes a moral geography on our cities. The ubiquity of zoning makes it so commonplace as to be invisible, but in this invisibility lies power—the power to shape daily practices and the power to shape ideas and ideals.²⁹

We can extend this concept further to say that these codes not only mirror and create norms but through their ubiquity also obscure other realities that deviate from the norm. By investigating the definition of household or family and related occupancy standards in these codes, this thesis may help planners and other city officials make explicit the norms that have been ingrained and passed down in their communities, as well as reveal the household forms and needs that have been hidden by existing codes. Indeed, beyond making one aspect of the invisible visible, this thesis could help planners and others not only unearth but also question the assumptions and ideals that have been built into the codes they sustain. In doing so, they would also be better equipped to meet the needs of families that existing codes have excluded or put into precarious positions. Planners, advocates, and residents alike would also benefit from being able to better match the arguments they provide or parse the arguments they receive for upholding or changing occupancy codes and to identify the unspoken consequences, biases, or misdirection in such arguments, whether they are consciously made or not.

²⁸ C. Perrin, *Everything in its Place: Social Order and Land Use in America*, Princeton, NJ: Princeton University Press, 1977.

²⁹ Sonia Hirt, *Zoned in the USA: The Origins and Implications of American Land-Use Regulation*, Ithaca: Cornell University Press, 2014, p. 3.

Why Understanding and Questioning Occupancy Standards Matters to Planning and Communities

Many of the social changes and policy changes reviewed in this chapter—and by extension, their physical manifestation in single-family homes and communities—have often been accompanied by controversy because they involve different views of the world and how it should be, and of what is morally right or ideal, beneficial, or deserved (e.g. only certain kinds of relationships should be recognized as a family, etc.). These cases or trends and the conflicts around them are in many ways about values, interests, and power, and these shape the policy process. To the extent that we can understand how zoning, housing, and building codes reflect these dynamics, we can understand how these codes are not just technical, objective regulations, but are laden with and perpetuate these ideals and the disparate impacts they might have across groups. It would also help ease enforcement and governance for planners and city officials to be mindful of the interests and values imbued in these codes in order to communicate about them effectively and, if need be, to change them to better serve constituents.

The interaction between these trends and occupancy standards and household definitions in zoning, housing, and building codes could have important impacts on the experiences of households and communities around the country for many years to come. Regardless of whether or not household formation preferences are shifting for a significant portion of the population in a permanent way, these preferences will continue to be strongly shaped by economic conditions that cities should be prepared to experience again in the future given the nature of the economy and the growth of urban populations. Moreover, if preferences are in fact changing, then the implications of these codes are even more important and widespread given the size and influence of the Boomer

and Millennial cohorts leading these trends. Indeed, if the Scarborough 11 conflict happened in a smaller, less wealthy city like Hartford, we might expect the disparities between households and zoning regulations to be more pronounced and have more severe consequences in larger, strong market cities. In any case, these trends have implications not only for the regulations governing the occupancy of existing units, but for the design and construction of new housing products and units that will hopefully serve as homes for generations.

Although household sizes have fallen since the 1960s, such regulations could pose a problem for nonfamily or more-than-one-family households if they have very low limits on the numbers of unrelated adults that may live together or if they require a level of space per person, which would only be satisfied by larger houses they may not be able to afford. Under such circumstances, available large homes could remain on the market for extended periods, potentially contributing to neighborhood decline. In cases where households would choose to combine but refrain from doing so because it would violate such codes or the codes were enforced and they were then separated, very restrictive codes could contribute to affordable housing shortages by spreading these groups into more homes than they might otherwise occupy.

Overly restrictive occupancy regulations, particularly those that limit who may or may not be considered family or household members, could also have harmful equity impacts on marginalized communities. Before the Supreme Court decision to legalize same-sex marriage nationwide, doubled-up or larger LGBTQ households of cohabiting couples could have been at risk of being disbanded for violating zoning codes for the number of unrelated adults living together when there was no way to recognize those in the home as related besides adoption.

Although that particular fear is now allayed, larger, nonfamily LGBTQ households may still be especially vulnerable to the impacts of zoning and housing code enforcement. Similarly, immigrants, undocumented and documented alike, often concentrate in specific “gateway” areas where immigrant communities are already established and live together to share resources and tap into important job and social networks. Understanding household definitions, occupancy regulations, and their enforcement in different cities might help to understand the living experiences of immigrant communities and how they might be at risk of discriminatory zoning and enforcement or how they might be made more stable.

Changing restrictive households and occupancy regulations can help both formal and informal cooperative housing groups or cohousing communities establish themselves, remain stable with regard to compliance with local laws, and perhaps mitigate some of the affordability issues that have kept cohousing in particular cost prohibitive to many of the people who might benefit from it most. It may also be the case that many households in cities across the country are in a precarious position due to being in violation of these codes, unknowingly or not, leaving them vulnerable to enforcement actions. Interestingly, the trends reviewed above seem to indicate that health and safety justifications for very restrictive occupancy standards or definitions of family may be less compelling given the condition of the housing stock.

Thus, having reviewed the context around this topic and several reasons for its salience to planning, policy, and communities generally, the next chapter examines the origin of household definitions and occupancy standards in U.S. cities, the arguments for their adoption, and the values and motivations ingrained within them. Chapter 3 discusses the methodology of the review of

relevant codes in selected cities and the findings of this review. It also analyzes the responses of planning or city officials in selected cities through semi-structured interviews and news articles for insight into how different cities perceive and are responding to changing household types and needs in their policies or enforcement. The conclusion draws out key points from this study and offers some recommendations for cities to consider regarding their occupancy codes as well as suggestions for future research.

Chapter 2 – The Origin of Occupancy Standards and the Normative Regulation of Households

In order to better understand the current forms, uses, and impacts of occupancy standards in the United States today, it is helpful to review how and why these codes developed historically. Why and when were occupancy standards developed, particularly those that distinguish between people based on their relationships? How did society influence the way they were crafted or enforced, and how did these change over time? In what ways, if any, did such codes influence society in turn? This chapter addresses these questions by tracing the trajectory of occupancy standards within the development of zoning from date to date, and asserts that 1) both zoning and occupancy codes specifically have always been intertwined with and reflective of class-based interests and other social dynamics, including racism and sexism, and 2) both have shaped and been shaped by implicit and explicit norms surrounding the concepts of home and family. This history influences the types of occupancy codes that exist today and by extension shape (or, in cases where households do not meet expected norms, distort or hide) our families and communities.

The Development of Zoning and Occupancy Standards to Protect Wealth, Health, and Address the “Urban Crisis”

Modern zoning, housing, and building codes can be traced back to as early as 12th century England with trespass and nuisance doctrines that were initially used to protect royal lands and public roads. Over time, more and more activities were governed or restricted by the doctrines, including subdivision of homes so that communities were not “overpestered” by the poor. These doctrines held the early beginnings of public health and safety concerns shaping city development

as well as of exclusionary zoning practices.³⁰ In the 1600s and 1700s, private deeds spread in use as a means for landowners to minimize uncertainty regarding the value of their property over time. The agreements between landowners, builders, and occupants covered various aspects of the layout and appearance of a site, to some extent controlling the cost to build and live there, thereby helping “to ensure that the class makeup of new residents remained stable and desirable.”³¹

With the onset of the Industrial Revolution, cities in England and elsewhere throughout Europe grew at unprecedented rates as families moved from the countryside to find work in factories and the other jobs that developed alongside them. Cities in the United States that were hubs of industry, such as New York, Chicago, and Detroit, followed a similar trend by the end of the 1800s. Between 1800 and 1900, the population in America’s urban centers increased to 40 percent of the total population, up from 6 percent. At the end of that century, 60 percent of the population of New York City lived in “overcrowded substandard” housing in tenement buildings, often of the “dumbbell” style, and the population density of Manhattan was 100,000 people per square mile. The rapid population growth and uncontrolled development led to dismal conditions in cities, including severe overcrowding, lack of light and ventilation, and inadequate or nonexistent plumbing, which contributed to the spread of diseases like cholera and tuberculosis, poor health outcomes like high infant mortality rates, and higher crime. The death rate in New York City in 1900 was an appalling 20.57 people per thousand.

³⁰ Sonia Hirt, *Zoned in the USA: The Origins and Implications of American Land-Use Regulation*, Ithaca: Cornell University Press, 2014, p. 99. See also Platt (2004), Spencer (1989), and Abrams and Washington, 1989.

³¹ *Ibid*, p. 100.

These conditions were reflected in the dramatic, melancholic poem about London, *The City of Dreadful Night* by James Thomson in 1874, which one critic called “a symbolic vision of the city as a condition of human life.”³² On the other side of the Atlantic, the crushing poverty of life in New York City slums was documented in *How the Other Half Lives: Studies Among the Tenements in New York* by Jacob Riis, published in 1890. The conditions captured in works like Riis’ both shocked and resonated with readers, helping to gather political will to address squalid living conditions in urban areas with greater urgency. As Hirt (2014) points out, such bleak visions of cities and their realities were a serious concern to the powerful classes not only in terms of the material conditions of the affected population, but also in terms of morality, and self-interest in protecting existing power dynamics:

"The "city of dreadful night" was a problem too severe to be long ignored by governments. Not only was it noisy, ugly, smelly, and unhealthy, it was also perceived as posing a serious danger to the morals of the masses (because of widespread crime and prostitution) and because of the related and equally serious danger to the well-being and mere survival of elites (i.e., because of the constant threat of riots).³³

At the same time that rapid industrialization spurred many of the problems facing cities, the modernist and technocratic ethos behind this transformation also informed the solutions that officials used to address them. The faith in science and rationality that led to so many innovations in industry and other fields involved a sense that the world, including natural resources and the economy, could be measured, identified, understood, and thus controlled. For example, scientific management, including Taylorism, applied empiricism and other principles to the workplace to improve efficiency and profits. Similar ways of thinking extended to cities, leading officials to

³² Raymond Williams, *The Country and the City*, Oxford University Press: New York, New York, 1975.

³³ Sonia Hirt, *Zoned in the USA: The Origins and Implications of American Land-Use Regulation*, Ithaca: Cornell University Press, 2014, p. 105.

collect data and establish new regulations in order to combat the health and safety issues they encountered.

By the 19th century, the doctrines and deed agreements of early cities had developed into codes targeting many of the problems plaguing large cities, including overcrowding, poor sanitation, and lack of light and ventilation in buildings. In the U.S., nuisance ordinances that focused on reducing the environmental and health risks of pollution from industrial uses led to the spread of districting models of land-use arrangement by the late 1800s. Three thousand surveys on conditions in urban slums were completed by 1900 as government at the local, state, and federal levels began implementing efforts to understand and address the “urban crisis.”

Armed with this information and spurred on in part by Riis’ work, President Roosevelt and officials and activists around the country took on slums as part of the many reforms of the Progressive Era (1890 to 1920). One of the first pieces of legislation of this period aimed at improving housing quality was the New York Tenement House Act of 1901. The law built on previous legislation that had failed due to several loopholes and lax enforcement by setting specific standards for light access, ventilation, indoor toilets and sufficient plumbing, minimum room sizes, and fire safety while establishing fines for violations and banning tenement buildings that did not pass muster. Although the law was limited to New York state, it became a model for similar legislation around the country at the state or municipal level and also helped shape federal efforts to study and improve the housing conditions of the urban poor. In addition, Roosevelt and Riis

worked together on other important reforms including banning police lodging houses, increasing safety inspections in factories, and regulating working hours for women and children.³⁴

The Development of Family as a Social Construct and Family Regulation through Occupancy Standards

With the exception of the spread of nuisance codes in the 19th century targeting certain moral hazards, such as those against gambling, the history of occupancy standards and other relevant codes discussed so far has largely focused on the regulation of physical space and its effect on health and safety outcomes. The values embedded in these codes could be considered broad-based both in terms of whose will they reflected and whose interests they benefitted. Better health and building security helped rich and poor, urban and suburban alike by reducing the spread of illness and the threat of widespread physical and economic destruction from fire or other structural damage, as well as improving the quality of life for tenement residents. Promoting health and safety through housing, building, and zoning codes also fits within the scope of the government's duty to provide for the general welfare. However, even these well-intentioned and ostensibly neutral or at least widely-supported reforms also often furthered the interests of the elite by staving off discontent and revolt, particularly as the concept of private property evolved and such codes came to be used increasingly for private property rather than the commons or property of the crown. They were also seen as having a moralizing effect on the poor masses who might be tempted to engage in criminal or sexual behavior partly because of the opportunities or exposure to negative examples the density of their living quarters provided.

³⁴ Riis, Jacob (2010). Diner, Hasia R., ed. *How the Other Half Lives: Authoritative Text, Contexts, Criticism*. New York: W.W. Norton & Company, Inc. pp. 342, 344.

Nevertheless, when such codes imposed minimum room sizes or other methods of controlling occupancy, they usually applied to all building occupants equally. When and where, then, did codes that regulate internal space by differentiating between people based on their relationships or identities—particularly the “family” relationship— come from, and how have these developed in U.S. zoning, housing, and building codes over time? To answer these questions we must examine the history of family formation and how this practice came to be linked with zoning and urban planning visions of communities more broadly. As Ritzdorf (19 notes, “Discussions of urban planning policy almost never explicitly center on the concept of family, but it is implicitly central to the way our cities are planned and zoned.”

Despite having such a favored position in U.S. zoning through single-family zones and an image of being a stable, consistent societal unit, the nuclear family as it is commonly imagined today is actually a relatively recent concept in history. The modern idea of the nuclear family can be traced to the norms of the Protestant middle class of the Victorian Era (1837-1901) in England, and is also tied to the development of capitalism and the socioeconomic stratification it supported. Before then, Western Europe had since the Middle Ages developed a pattern of family formation characterized by single-family households based on monogamous marriage that distinguished it from the multifamily households and other patterns in different parts of the world, but even these were very different from the families we recognize today.

From the medieval period to the 19th century, new households were formed when the couple to be married had established enough financial security or skills to establish a household, or if their community approved and assisted the couple with establishing the household. However, the “household” was more of a small community than simply a home, “family” was used to refer

to a much broader range of people who resided in the home, and the physical house and its condition was considered more important to household or family identity than the relationships of the people within it. As Gillis (1997) writes, “Elite families were sometimes referred to as “houses” only because the house defined the family. The term “family” still meant all the members of the house—servants, boarders, live-in employees, as well as resident blood relations. In those days, even visitors were regarded as part of the family.”³⁵ In fact, houses were not thought of in the special, emotionally-laden sense of “homes” we think of today— and the smaller residences of poorer families were not even regarded as houses, nevermind homes. Moreover, family roles were socially rather than biologically defined, and all family relationships were “achieved rather than natural.” The heads of households were considered the social fathers or mothers of household occupants whether or not they were the biological parents of the residents and were given social precedence over biological parents, who may have also been household members. Parenting was considered a set of skills and tasks that anyone could assume or stop as needed regardless of status, and even the identity or role of a child was something to be learned.

These conceptions of home, household, and family were shaped by the religious beliefs, and economic and health realities of the time. Early Christians and the Church, through to the Reformation and the Renaissance period, would have viewed home and family more dispassionately, or even suspiciously, as sources of distraction from the pursuit of holiness and an eternal afterlife. God, not family, would be the source of love and comfort in life, or at least the kind that truly mattered, and all followers of Christ could be considered kin in the greater family of the Church. In any case, such earthly ties would not matter in heaven, which was conceived as

³⁵ John R. Gillis, *A World of their Own Making: Myth, Ritual, and the Quest for Family Values*, New York: Oxford University Press, 1997, p. 13.

a community of friends rather than families. Similarly, the home was not a particularly important location because the faith emphasized movement in the form of pilgrimage and other practices as a reflection of the spiritual journey that followers were supposed to undertake. Although Christian groups like the Puritans shared similar views until the 19th century, it was during the Reformation that the Western conception of the nuclear, patriarchal single-family slowly began to change and solidify with the increasing emphasis on the Holy Family in Christianity, laying the groundwork for the much more narrow sense of family that developed in the Victorian age.

These earlier views of family also related to other norms and realities regarding the economy, health, and public space. The family was less important in the context of an economic system where children often lived with strangers in wealthier households or craft guilds and the elderly were taken care of by charities or religious groups. In a reversal of household patterns in developed countries today, the wealthiest households were largest because only they had the resources to care for their young and elderly in-house. Giving away children to live with others as household employees, farm workers, or a merchant's or a skilled laborer's apprentice ensured a child's wellbeing as well as a poorer household's own, and supported the community in a very interdependent system. High mortality rates and shorter life expectancies also made the need for godparents and other fictive kin, or simply comfort living with "families of strangers" more critical in order to survive.

Geographic location and territory was also much more important to a sense of identity than one's home, family name, or family history. This stemmed in part from an understanding of the universe as a "Great Chain of Being" in which every living thing had its place. In these times, an

individual's "place" was not only in a spiritual hierarchy, but in life this was more likely to be community locations such as the market, Church, or public squares rather than a residence, which was considered more simply as shelter. These views shaped both the interactions of people in their daily lives and the physical layout of homes and towns. For example, except in the wealthiest households, homes usually entered directly into the primary living area, which often served as the space for most activities including eating, sleeping, working, and play. People also moved freely from residence to residence, feeling just as comfortable in another's home as their own, as this account relates: "Visitors do not pause at the threshold, so the community extends smoothly from the grassy fields to every fire, incorporating all kitchens within its territory. The community is precisely the space linking the hearths."³⁶ Notably, ideas such as the "Great Chain of Being" also reified and perpetrated white supremacist beliefs and racial hierarchies and categorizations, which were long reflected in scientific and medical practice as well as the arts. These were used to justify the enslavement, extermination, and control of people of color, including their free movement in or exclusion from various spaces and communities, which continued into recent history with racially restrictive covenants and other practices.

Thus, we see that even when home and family was understood to mean very different things than they do today, their meanings have long been tied up with religious beliefs, the economy, class identity, gender roles, race, property, and the distinctions between public and private space, among other concepts. As Gillis writes, changes in these larger systems and beliefs shaped and were reflected by changes in the home:

Protestantism's idealization of the patriarchal single-family household was not only a logical extension of the Western family system but a timely complement to the emergent absolute monarchies and commercial capitalism, both of which began to shape the Western

³⁶ Ibid, p.37.

world in the sixteenth and seventeenth centuries. Absolute monarchy legitimated itself as a hierarchy of patriarchal households, with the monarch at the top, ruling through the loyal heads of households constituting his kingdom. Capitalism in its commercial proto-industrial phase was equally dependent on the godly household as the central place of production. [...] Although guilds and journeyman's associations continued to imagine themselves in familial and fraternal terms, serving as homes away from home until the 19th century, the Western family imaginary was sharply contracting.

By the time of the Industrial Revolution during Queen Victoria's reign, the shift to a nuclear, patriarchal family, particularly among the middle and elite classes, was clear. The increasingly competitive and individualist nature of the changing economy meant that the former system of patron families gave way to biological families staying together in one household to produce goods and services. As factories and other workplaces developed, the economy took work out of the home, and the previous interdependent community relationships gave way to relationships between individual employers and employees. The separation between certain kinds of work and the home led to a sharper distinction between public and private space, closing off the home from the openness of previous iterations. Similarly, the divide between urban and suburban grew as affluent families sought to distance themselves from the crowded, dirty, noisy, foul-smelling, unhealthy, and sometimes unsafe conditions in the rapidly growing cities. The changing work conditions also contributed to stricter gender roles that associated paid work outside of the home with men and masculinity, and domestic work with women and femininity (though not *work* as such). On a related note, Victorian morality, shaped in large part by the queen herself and which emphasized religion, sexual restraint, law and order, and strict recognition of social codes of conduct, also affected and reinforced a narrower sense of home and family, as well as the ways

related norms and spaces were enforced. Of course, these changes were mostly true for the middle and upper classes, but they “set a standard for what was “proper and desirable.””³⁷

These norms and ideas had significant influence on many of the U.S. founders as well as important architects, landscape architects, designers, and urban planners, and thus on the development of communities across the country. For example, Thomas Jefferson was among the many prominent proponents of an agrarian and pastoral vision of America, which dominated intellectual and public policy circles in the 1700 and 1800s. These ideals were noted by Toqueville in his observations of early American life, and were both supported and reflected by the general sense that land was an unlimited resource to be settled and mastered by individuals, as exemplified by the Manifest Destiny doctrine. The problems of rapid industrialization and urbanization in cities like New York and Chicago seemed to validate the warnings of Jefferson and others against dense, European style cities. The Garden City and Broadacre City design concepts advanced by designers and planners like Ebenezer Howard, Frederick Law Olmstead, and Frank Lloyd Wright from the late 19th through the early 20th centuries were in many ways responding to and rejecting the urban growth through this period. These visions and the values embedded in them did not just affect the look and feel of communities externally or at a large scale, but also at the scale of individual homes and the spaces within them:

Rooms acquired increasingly specialized functions (e.g., rooms for adults and rooms for children). Spaces that served public and private purposes became more separate (e.g., dining and living rooms on the first floor, bedrooms on the second; Archer 2005). The growing popularity of the open first-floor layout during the first half of the twentieth century was a move in the same direction, toward drawing borders around the home and the family. In older interior layouts, the kitchen and the dining room were separated by a wall. This allowed the dining room to be used as a bedroom and be rented out. The elimination of the physical separation between the kitchen and dining room minimized this

³⁷ Sonia Hirt, *Zoned in the USA: The Origins and Implications of American Land-Use Regulation*, Ithaca: Cornell University Press, 2014.

possibility, reflecting the notion that "good" middle class families did not need to invite renters (that is, outsiders) into their homes for income-producing purposes (Kelly 1993). Income generation came to be seen as utterly incompatible with good home-making; the two were to form two physically separate, mutually exclusive domains (Perrin 1977)."³⁸

In addition to reflecting class based standards and the desire to protect property values, the zoning, building, and housing codes and norms that developed throughout this period were also a reflection of racial, ethnic, and religious prejudice against massive immigrant and Black migrant population growth in cities. Much of the population growth in urban areas in the 1840s and 1850s was due to immigration, and most of these arrivals settled in cities because there was more opportunity to find jobs and cheaper housing. As early waves established themselves and built up support networks, these areas became "gateway cities" that attracted more immigrants. Immigrant families were often larger and immigrant households often included multiple families or unrelated individuals living together. These households lived together for several reasons, including saving costs and sharing resources, but also because they were barred from other areas financially or socially. While living together was an important survival strategy as well as cultural norm for many immigrants, they often lived in the most severely overcrowded conditions. These new waves of immigrants were of different racial and ethnic backgrounds from earlier groups and were received with hostility, anxiety, and resentment because of their backgrounds, anger over perceptions that they were taking jobs from more established communities, disdain for their poverty and living conditions, and fears of their assumed lax morals, criminal proclivities, and sexual appetites. Similar prejudices targeted the African American population and, more broadly, the poor. Some charities, social service organizations, universities, and volunteers established settlement houses, such as Chicago's Hull House, to welcome immigrants and help ease their

³⁸ Ibid, p. 125.

assimilation to American life. However, while well intentioned, these efforts were undergirded by similar assumptions and judgements about the residents, and the residents' participation in the programs, as well as the presence of the volunteers who lived among them, were thought to have a civilizing effect. Here the house is a site of surveillance and education, the embodiment of values, and is both reflecting and molding individuals and communities.

Despite the interests they served, these codes encountered resistance in their early days in the United States because they ran counter to many of the strongest traditions and ideals that have influenced the country from its beginning, including freedom from government intrusion on private matters, individualism, and independence. As discussed above, Ritzdorf summarizes the arguments in favor of municipal zoning ordinances as 1) taking action to combat the deteriorating quality of life in urban areas, and 2) creating a consumer oriented culture to support the capitalist economy. She adds that supporting a nuclear, single-family ethic "reinforced the growing industrial expansion and provided a way to translate the increasing economic separation between middle-class and working-class lives into a spatial reality."³⁹ Similarly, Hirt argues that zoning codes were allowed to spread and develop precisely because they pitted economic and spatial individualism against political individualism, and the appeal of the former won against the latter because of their favor among the elite. These explanations also complement Fischel's homevoter hypothesis which identifies homeownership as the key variable behind the popularity and expression of zoning in the U.S.

³⁹ Miranne, Kristine B., Young, Alma H. (Eds). *Gendering the City: Women, Boundaries, and Visions of Urban Life*, Rowman and Littlefield Publishers, Inc., 2000, p. 179.

U.S. Zoning Codes, Occupancy Standards, and the Courts in the 20th and 21st Centuries

In 1921, an advisory commission on zoning appointed by then Secretary of Commerce Herbert Hoover developed the Standard State Zoning Enabling Act (SZEA), a model law to encourage local governments to establish zoning ordinances. At the time that the commission was formed, only 48 localities had adopted zoning regulations. Notably, the act explicitly highlighted its ability to help create single-family districts.⁴⁰ As zoning is considered a tool of municipal government, the SZEA remains the only federal intervention of this type regarding the issue. U.S. zoning was officially legitimated as an acceptable form of land-use control and use of local government's police powers to secure the general welfare by the Supreme Court decision in *Village of Euclid v. Ambler Realty Co.* in 1926. These two developments, along with subsequent revisions to the SZEA, helped spread the practice in cities and towns across the country. By the start of 1926, zoning had been adopted in 425 municipalities, covering more than half of the country's urban population.

As zoning codes were adopted nationwide and developed in complexity, both they and private covenants were used to exclude “undesirables” including people of color, immigrants, and the poor from White and affluent communities—often under the guise of promoting health and safety or other ends. Methods of doing so through zoning include requiring larger lot sizes, larger setbacks, certain building materials, or a high minimum square footage per home, which work to increase the cost of single-family homes, or low-density requirements that prohibit multifamily homes and make public housing difficult to build. In terms of occupancy, municipalities may set an occupancy limit per dwelling, require a minimum square footage per occupant, or set a limit on

⁴⁰ SZEA Revised Edition, 1926 Accessed from https://planning-org-uploaded-media.s3.amazonaws.com/legacy_resources/growingsmart/pdf/SZEnablingAct1926.pdf

occupants per room. They may also forbid converted garages, in-law apartments, or the addition of more bedrooms.

In addition to these measures, local governments have also restricted occupancy by establishing definitions of family for residential areas and particularly single family zones. Usually, cities will have both a definition of family and a cap on groups of unrelated people. Some cities will include both a general limit on the number of unrelated people as well as a “family plus” code which specifies how many unrelated people in addition to the householder and their family, if any, may live in a dwelling unit. Often times, such codes exempt live-in domestic servants such as maids from the limit on unrelated individuals or they are included in the family relationship. There are still localities that ban more than a certain number of unrelated women from living together, and thus ban sororities and similar dormitory arrangements, because of fears these would act as covers for brothels. Though likely rare if not no longer used, in the past cities have even differentiated between degrees of family relationship, excluding all but the most immediate family members. Many cities changed their definitions around the 1960s and have since become more restrictive in response to social changes that to some threatened the status or morals of “traditional” families or the “character” of single-family neighborhoods.

These definitions and the other kinds of zoning, housing, or building codes mentioned above have often been challenged as discriminatory against the poor and people of color. In 1948, the Supreme Court decided in the landmark case *Shelley v. Kraemer* that the courts could not enforce private racial covenants on real estate because doing so would constitute discriminatory state action in violation of the Equal Protection clause of the Fourteenth Amendment. Such

covenants were officially outlawed with the Fair Housing Act of 1968. Although the ruling was an important victory for racial justice, scholars have noted that nonracial agreements that regulate people and spaces in other ways but may have similar exclusionary effects have proliferated as homeowner's associations have significantly increased over time. The danger of exclusionary tactics being perpetuated by seemingly neutral private regulations rather than municipal ordinances is a concern planners and other officials need to remain aware of as more such developments are built or expand.

With regard to public zoning ordinances, many arguments against such regulations have failed to pass muster in the courts on equal protection or other grounds, or at least have strikingly mixed records, particularly when relying on federal law. In the case *Village of Belle Terre v. Boraas* (1974), in which a group of six college housemates was sued by a local homeowner, the Supreme Court upheld the Long Island town's restriction on the number of unrelated people that may live together. In its decision, the majority ruled that the ordinance was constitutional because it was a reasonable use of the local government's police power, but the court also relied heavily on the primacy of the traditional family in its reasoning in surprisingly moralizing language:

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. This goal is a permissible one. ... The police power is not confined to elimination of filth, stench, and unhealthy places. 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.

However, only three years later the Supreme Court struck down a family definition ordinance which limited households to specific family members in *Moore v. City of East Cleveland, Ohio*

(1977). The code restricted occupancy of dwelling units to “the head of a household, his or her spouse, the couple's childless unmarried children, at most one child of the couple with dependent children, and one parent of either the head of the household or his or her spouse.” At issue was a household which included a resident who lived in her home with her adult son, his son, and another grandson from a different adult child. The court struck down the ordinance on the basis that it did not sufficiently serve the legitimate purpose of preventing overcrowding (the household in question met the requirements of an additional code that set an occupancy limit dictated by habitable floor area) and its associated burdens on local resources, and thus violated the Due Process clause of the Fourteenth Amendment. In reversing the lower court’s ruling, the Supreme Court clarified that this case was different from *Belle Terre* because while the Long Island ordinance applied to unrelated residents, East Cleveland “regulate[d] the occupancy of its housing by slicing deeply into the family itself”.

That the Supreme Court made this distinction between unrelated and related individuals reintroduces the question of whether there should be such a distinction and limitation on who people choose to live with in the first place. Although the Court sought to make it clear why the two cases were different while leaving its reasoning intact, the ruling highlights how arbitrary family definitions can be, and how many are based on relatively recent, biological, static conceptions of the family unit. Several legal and planning scholars have noted that such framings of family are increasingly out of sync with changing household and family formation patterns or at least unnecessarily restrictive of alternative households within the bounds of reasonable occupancy standards. They echo Justice Marshall in his dissenting opinion in *Belle Terre* that the case should have been judged using strict scrutiny rather than the rational basis test, that the choice

of housing companions is essential to due process, and that the city ordinance was both overinclusive and underinclusive⁴¹ with respect to the city's stated aims.

Four notable breaks from the Supreme Court's line of thinking include the California, New Jersey, Michigan, and New York State Supreme Courts, who each struck down ordinances that differentiated between family and non-family households in applying occupancy limits that were unrelated or in addition to typical space limits. They essentially found that the restrictions on non-family households did not serve the claimed purposes of preventing overcrowding, traffic congestion, and the like, because no such limits applied to family households and there was no reason to believe that unrelated households would behave in such a different manner as to change the residential, family-oriented character of neighborhoods. The California court also applied its state constitutional right to privacy in making its decision. Beyond a potential shift in understandings of family among some judicial benches, the different approaches may also reflect "a divergence in views on the proper attitude of the judiciary toward zoning and degrees of deference due local governments." These views have already led to and could continue to result in controversial decisions that have important implications for communities and broader understandings of the relationship between states and cities, including the police power of government, home rule, and Dillon's rule. Nevertheless, after *Belle Terre* such cases have largely been decided by the state courts and though results have been mixed, they have tended to favor municipalities and thus traditional family definitions.

⁴¹ Overinclusive means that the ordinance targeted more people than necessary to achieve the stated goal, while underinclusive means it targeted too few. For example, the *Belle Terre* ordinance would have prohibited three friends with only one car and one or two incomes from living together but would have allowed any number of people with vehicles as long as they were related, which would arguably affect neighborhood character more than the first group.

The situation may be even murkier and legally harder to challenge in cases involving more physically oriented codes, which are often considered matters of health and safety but also get defended on the grounds of maintaining a neighborhood's character. As municipal codes and private covenants have shifted away from being explicitly exclusionary, challenges to codes, particularly on equal protection grounds, became more difficult to prove without evidence of discriminatory intent. For example, four years before *Belle Terre*, a trial court found that ordinances in Los Altos Hills, California requiring a minimum lot size of one acre and effectively prohibiting multi-family housing did not merit strict scrutiny and thus were permissible because they were "rationally related to preserving the town's rural environment."⁴² Overall, courts tend to uphold regulations that stipulate a minimum lot size or floor area. When family composition or physical ordinances do get successfully challenged, it is often because of evidence of selective enforcement. Such was the case in a settlement in 2009 in which the courts found that the city of Waukegan, Illinois discriminated against its Latino residents when it passed a family definition ordinance that disproportionately affected Latino households, and only Latino households had been affected by enforcement.⁴³

Both the fact that these zoning codes are a local government tool and the different decisions among state and federal courts have resulted in a policy landscape where occupancy standards and family definitions vary significantly from city to city, nationwide. In March 1991, the Department of Housing and Urban Development's General Counsel, Frank Keating, issued a memo to HUD

⁴² Steven W. Bender, *Tierra y Libertad: Land, Liberty, and Latino Housing*, New York, New York: New York University Press, 2010.

⁴³ *Ibid.*

staff (which was then printed in the Federal Register) in an effort to ease confusion over determining violations “with respect to complaints of discrimination under the Fair Housing Act [...] on the basis of familial status which involve an occupancy standard established by a housing provider.” According to Keating’s guidelines, in general, a maximum of two people per room would be considered reasonable under the Fair Housing Act, in consideration with other factors like the size of the bedrooms, the size of the unit, the age of the children, state and local law, and other factors such as previous discriminatory statements by the housing provider. While Keating clearly states that it is not intended to establish a national occupancy standard policy, the memo’s guidelines has been adopted by landlords and attorneys around the country so that many follow a “2 people per bedroom” or a “2 people per bedroom, plus 1” rule as a baseline when establishing their own limits.⁴⁴

In the wake of many of these court decisions and policies, planning scholar Marsha Ritzdorf conducted a nationwide zoning survey with a stratified random sample set of cities in 1984 and a longitudinal follow up in 1994 to see how city zoning ordinances were responding to the needs of changing households and families. The surveys showed a little responsiveness related to definitions of child care, child care homes, and home occupations, but not in family definitions. She found that the percentage of communities that defined family in their ordinances increased slightly from 91 percent in 1984 to 93 percent in 1994. In addition, there was an increase in localities that placed a numerical limit on the number of unrelated people that could live together, from 60 to 64 percent. Only about 40 percent of communities each year allowed a broad definition of family as unrelated people functioning as a single housekeeping unit. Most set a limit of 6 or

⁴⁴ Frank Keating, “Fair Housing Enforcement Policy: Occupancy Cases,” *Federal Register*, Vol. 63, No. 245, Tuesday, December 22, 1998.

fewer unrelated people but did not specify how to determine who is related to whom, so doubled up households could be vulnerable to enforcement actions. She also found that in 1984, 55 percent of responding planners had investigated complaints related to the violation of local family definitions, and 42 percent had enforced them. In 1994, that figure was 54 and 47 percent, respectively.⁴⁵ Ritzdorf argues that the formulation of most of the codes, the increase in the number of cities which adopted family definitions, and the increase in the number of enforcement actions signal a disconnect between a growing number of households, and certainly disadvantage the most vulnerable households, particularly those headed by low-income, single parent, Black women. “Both racial prejudice and sexism,” she writes, “drive the use of the supposedly neutral ways in which family is defined for purposes of municipal zoning. The historical use of family definitions in zoning ordinances is to discriminate against those who, by choice or by chance, live in family arrangements that do not conform to the traditional white middle-class nuclear, family model.”

Thus, we can see that ideas and experiences of home and family have long been intertwined with larger socioeconomic forces, and how these have shaped zoning, housing, and building codes in the United States. These codes originated and have been used not just to regulate the external form and aesthetic of structures but also the internal space of homes, the number and types of people who can live in certain homes, and how those individuals relate to each other. Such codes have always been imbued with the values or interests of different groups, particularly the White middle and upper classes, including the protection of property value, appreciation of individualism and nature, class ideals of respite from work and urban life, gender roles, religion, progressivism, and various types of prejudices. These mixed influences have led to both beneficial and harmful

⁴⁵ p. 175-177

outcomes. While occupancy standards addressed critical health and safety issues, there is a long history of such codes being used against immigrant and minority populations. In the process of shaping the physical and social fabric of our homes and communities, these codes move beyond codifying accepted norms to simultaneously create and reinforce them, forming an iterative cycle of policy and social consciousness.

Given this relationship, the family and household formation trends discussed in chapter 1, and the frameworks of Ritzdorf, Hirt, Bender, and others, the hypothesis of this thesis is that the majority of zoning, housing, and building codes relating to occupancy standards and household definition are out of sync with the housing trends that have more Americans living in more-than-one-family or non-family households by choice or because of economic hardship. In addition, I argue these codes are out of sync not only because they are outdated, but because they have been intended and enforced to serve nuclear, traditional visions of family and primarily White, upper or middle-class neighborhoods. Specifically, I hypothesize the following:

- All of the selected cities will have one or more of the relevant regulations though they may not have each type (e.g. an unrelated adult code, a family code, a minimum square footage per person, etc.).
- The codes may have gotten more inclusive, particularly around embracing non-nuclear family structures or same-sex couples, but will still hinge on legal or biological relationships defined by blood, marriage, adoption, or civil union.
- In general, cities will have low thresholds for the numbers of unrelated adults living together (4 or fewer). However, the largest cities (population of 1,000,000 or more) will

have more flexible, inclusive zoning that allows for higher density, such as a higher number of unrelated people that may live together, due to greater housing demand.

- Regulations are enforced or changed according to the wishes and interests of wealthier homeowners with traditional family structures and sizes.
- Lack of data, lack of political power among group housing members, and the political resistance and power of traditional, single-family households may be important factors in preventing cities from responding to these issues.

Chapter 3 examines the codes of 24 U.S. cities and takes a closer look into selected cases to analyze the experiences and rationales that informed the codes or enforcement actions in those communities.

Chapter 3 – Review of Occupancy Standards and Family Definitions in 24 Cities

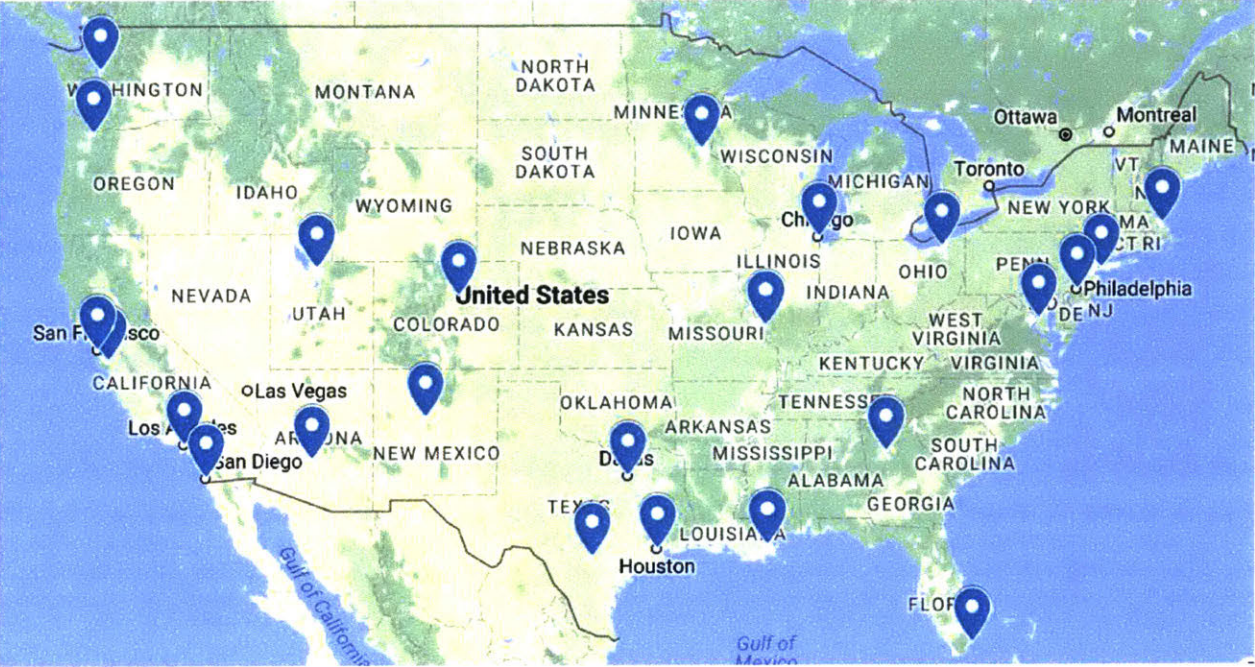
Methods

This thesis is a qualitative study of municipal zoning, housing, and building codes related to occupancy standards and definitions of household or family in selected cities across the United States. The methodology consists of two parts. The first is a review and analysis of the relevant codes in twenty-four (24) cities to catalog the ways that some municipalities in the U.S. attempt to control who may live in a single-family dwelling unit. The second part is analysis of news articles and semi-structured interviews from planning officials in selected cities that offer insight into the values, interests, and motivations that inform policy and enforcement decisions about occupancy and family definition codes among city officials and residents. This chapter presents the findings of this study.

The twenty-four cities for which codes were analyzed were primarily selected to represent a range of population sizes and geographic regions. First, the largest ten cities in the United States in terms of population were selected in order to get a sense of the municipal codes which affect the most people. The top ten cities all have a population of more than one million and range from just above that threshold to almost nine million, so even within this group there is significant differences in scale. In order to get a sense of the variation, if any, in codes from smaller cities, seven cities with populations within a band of 100,000-400,000 and seven cities with populations between 500,000-900,000 were also selected. While it would have been preferred to have ten cities for each population band, only seven each were chosen due to time constraints. The first ten cities are largely concentrated in the Northeast, Texas, and in California, so the remaining cities were also selected with an eye toward keeping a balance among the different regions of the country. The

final list of cities has about 3-6 cities in each area, which follow the Census Bureau’s regions and divisions: Northeast, Midwest, South, Mountain (West), and Pacific (West).

In total, the cities are located in eighteen states and the District of Columbia. The cities also represent a wide range of other factors and conditions, including weaker and stronger economies, weaker and stronger housing markets, varying land areas, different population demographics, etc. The twenty-four cities are as follows: New York, NY; Los Angeles, CA; Chicago, IL; Houston, TX; Philadelphia, PA; Pheonix, AZ; San Antonio, TX; San Diego, CA; Dallas, TX; San Jose, CA; San Francisco, CA; Seattle, WA; Denver, CO; Washington, D.C.; Boston, MA; Portland, WA; Albuquerque, NM; Atlanta, GA; Miami, FL; Minneapolis, MN; New Orleans, LA; Cleveland, OH; St. Louis, MO; and Salt Lake City, UT. The cities are marked in the map below.



Once the cities were selected, the relevant codes were found online by looking at city government websites. Codes were found on various kinds of pages, including for offices of codes

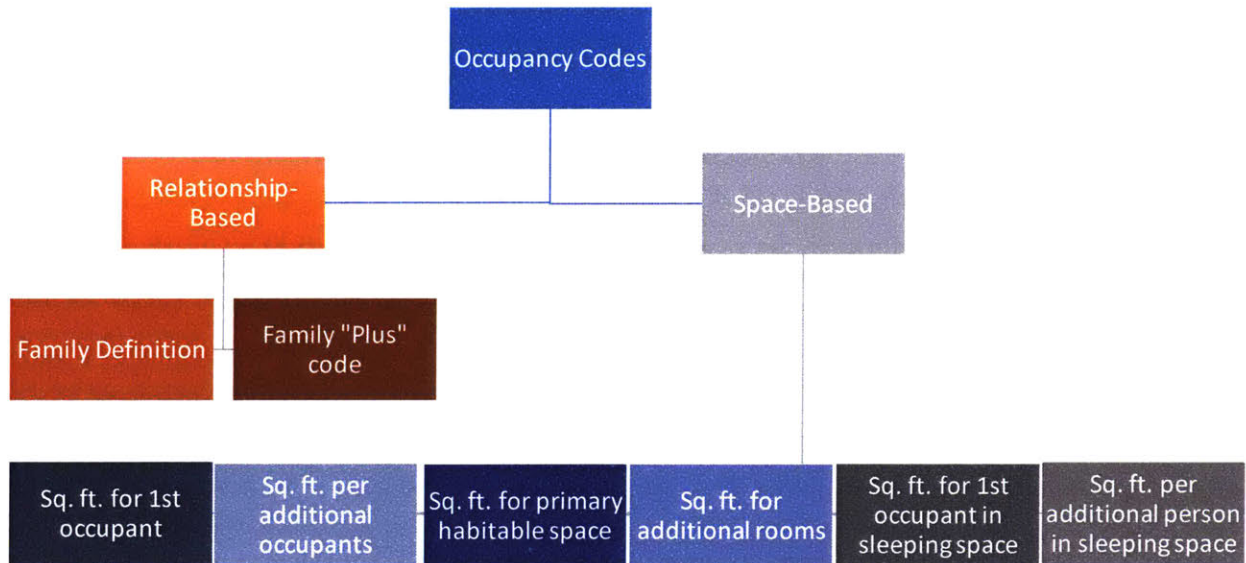
enforcement, buildings and construction, development, planning and zoning, records, and municipal ordinance databases. Search terms such as “single-family”, “unrelated”, “occupancy” and others were used in addition to visually scanning the codes in order to find relevant sections, which were usually within chapters marked as the Zoning Code, Housing Code, or Building Code for the municipality. Codes relating to definitions of household, family, or overcrowding, and those specifying a minimum space per person, minimum room area, or minimum unit area were recorded. Sometimes secondary sources were consulted such as legal briefs or tenant rights information sources. After the code information was found, a subset of cities which would be investigated more deeply were selected for having notable codes such as identifying certain relationships within the family definition, recent changes, high or low limits, or other features. Other secondary sources include national and local newspaper and magazine articles covering stories related to shared living situations, both in the twenty-four cities and elsewhere around the country.

Findings

The review of occupancy codes found several key points as well as important similarities and differences among the cities’ policies. In general, cities will have two categories of codes that comprise their occupancy limits: those that are relationship-based, and those that are space-based (see Figure 1). In the former category, most cities will have a code for the maximum number of unrelated people that may live together in a single-family dwelling as well as a family definition. In the latter, there are generally three sets of codes, though they don’t always get paired together: minimum square footage for the first occupant and per additional occupant, minimum square footage for at least one habitable room and minimum square footage for additional rooms, and

minimum square footage for sleeping spaces and minimum square footage per additional person in sleeping spaces.

Figure 1: Types of Occupancy Codes



The key points of the relevant codes are summarized in the tables and graphs below. Where the tables are blank, the code is silent on the topic. While a city may not specify an occupancy limit for one or more categories of households, or may otherwise be silent on it, there are usually still space requirements that also regulate occupancy. However, in some cases, single-family homes that are owner-occupied are explicitly exempted from even these requirements. This chapter continues with a deeper examination of particularly interesting or unique cases in the selected cities and beyond through court cases, interviews, and news articles.

Table 1. Summary of Relationship Based Occupancy Limits and Family Definitions in Selected Cities

City	Occupancy Limits		Family or Household Definition				
	All Unrelated (Including Householder)	Family +	Foster children	Servants	Domestic/lifelong partnership	Students	Group homes, etc.
New York	3 ⁴⁶	2	Included		Included	Included	Included
Los Angeles	N/A	N/A					Excluded ⁴⁷
Chicago	Unspecified	1		Included			
Houston	10						
Philadelphia	3				Included		
Phoenix	5			Included			
San Antonio	Code official determination	Code official determination					Excluded
San Diego	N/A	N/A					
Dallas	5						
San Jose	N/A	N/A					
San Francisco	N/A	N/A					
Seattle	8						
Denver	2 ⁴⁸						
Washington	6 ⁴⁹		Included				Included
Boston	5		Included		Included	Excluded ⁵⁰	Included
Portland	6	5	Included		Included		Included
Albuquerque	5		Included	Included			
Atlanta	6	4		Excluded ⁵¹			
Miami	Unspecified	Unspecified		Included			
Minneapolis	Unspecified ⁵²		Included	Included	Included		Both ⁵³
New Orleans	4			Included	Included		
Cleveland	3 ⁵⁴		Included				
St. Louis	3						
Salt Lake City	3		Included				Excluded

⁴⁶ 7 if students.

⁴⁷ The code specifically excludes rooming houses from the family definition.

Of the selected cities, only six had a “family plus” code specifying how many unrelated people can live with a family in addition to the first two types. In terms of total occupancy, while the specific city codes rule, it seems that many landlords and lawyers follow or recommend a 2 people per bedroom or 2 people per bedroom + 1 person as a basic standard to avoid charges of discrimination against renters because of familial status, in keeping with the Keating Memo. As in the memo, this standard is understood to be contingent on the size of the unit and other factors when determining whether to rent or if there was violation of the Fair Housing Act.

When specified, the maximum number of unrelated people that can live together (including the householder) range from a low of 2 in Chicago’s “family plus” code, to ten in Houston for households where all members are unrelated. In Washington, D.C., that number is even higher (fifteen), but only for religious communities. Like D.C., some cities have multiple occupancy limits depending on the relationships of those who comprise the household. For example, New York City has a limit of 3 people for households where all members are unrelated, a limit of 2 unrelated people may live with a family of any size, while up to 7 people may live together and considered a family if they are all students. A plurality of cities, including New York City, Philadelphia, Cleveland, St. Louis, and Salt Lake City, have a maximum occupancy of 3 unrelated people who may live together as at least one of their limits (see Chart 1).

⁴⁸ 3 with home occupation permit.

⁴⁹ 15 if religious community.

⁵⁰ Boston’s code specifically excludes undergraduate students from the family definition, but not other unrelated households.

⁵¹ Servants are excluded from the family definition but are not counted against the occupancy limit for unrelated household members.

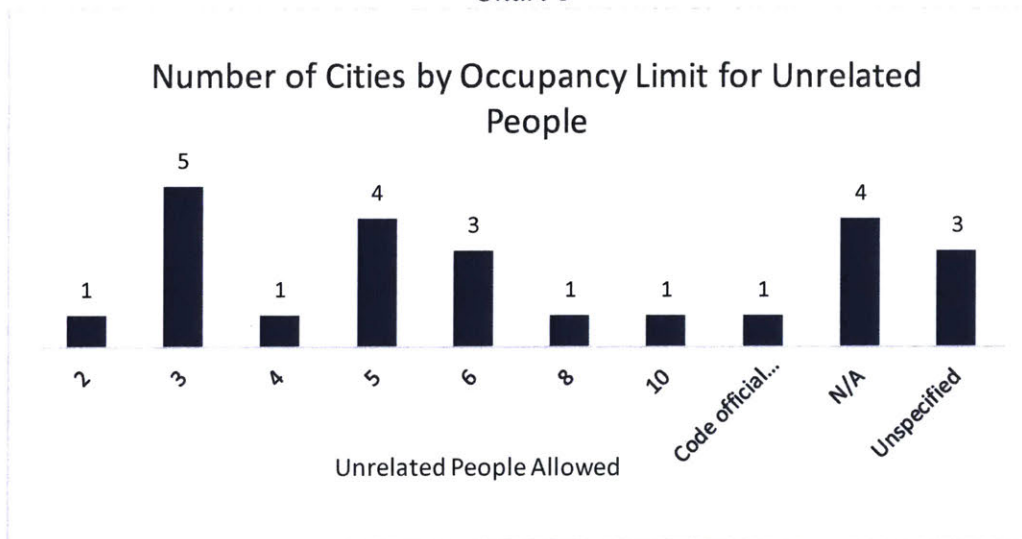
⁵² Minneapolis allows 2 or more unrelated people to live together in “intentional communities.” For more, see below.

⁵³ The code excludes rooming houses from the definition of intentional community but still allows flexibility for group homes.

⁵⁴ 5 for foster children.

Several cities allow an unspecified number of unrelated people to live together, depending on space requirements or other factors. For example, Miami seems to allow any number of gratuitous guests for households of one person or more. In San Antonio, it is up to a code official to decide what is unsafe or overcrowded in terms of total occupancy and there is no distinction between related or unrelated household members. Similarly, the California cities don't have an occupancy limit for households where all members are unrelated. Instead, they simply have a much more inclusive, general definition of family, such as "one or more persons living together in a dwelling unit," with shared access to and use of all common spaces.

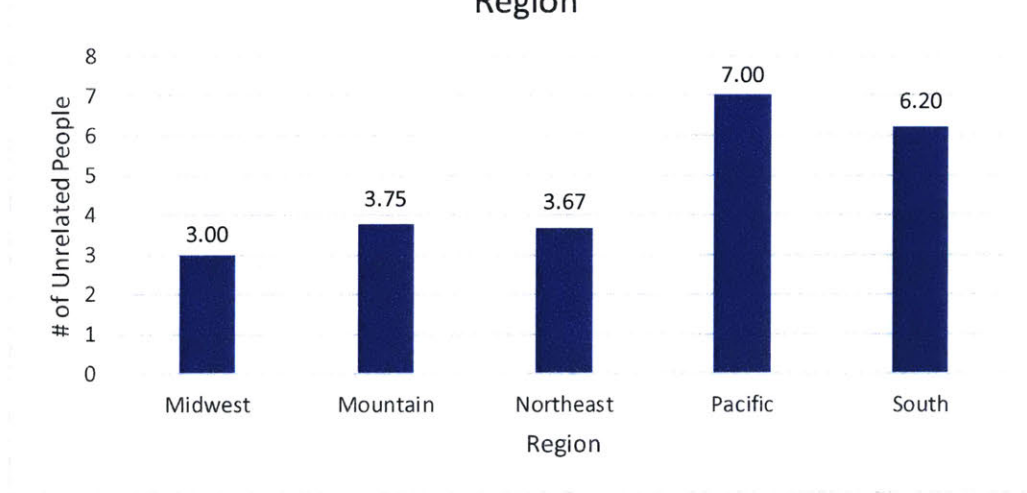
Chart 3



When the selected cities are considered by region, it appears that the South and Pacific regions allow the highest numbers of unrelated people, while the Midwest allows the fewest.

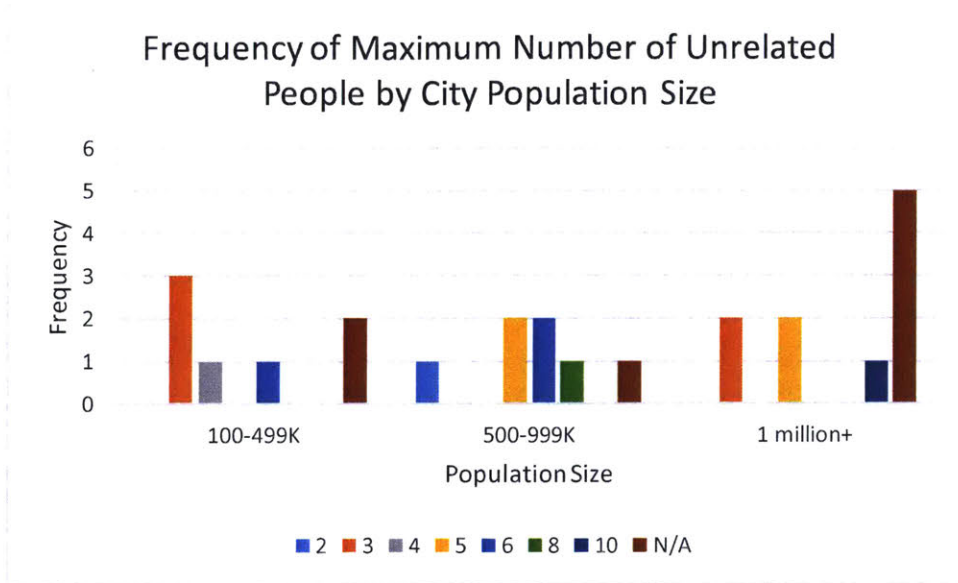
Chart 4

Average Number of Unrelated People Allowed by Region



In terms of population size, the number of unrelated people allowed to live in a dwelling seems to mirror the population groups of the selected cities. The smaller cities (those with a population of 100,000-400,000) tend to have more low limits (four and under), while cities in the middle population band had more representation of higher limits (five, six, and eight people). Similarly, the largest cities (a population of 1 million or more) had the highest specified limit of ten unrelated people, and 5 cities where such limits did not apply.

Chart 5



Most codes specify that the family relationship encompasses people who have been legally adopted, and this legal relationship is likely to be recognized in enforcement cases so this category has been excluded from analysis. However, eight cities have specified that foster children are also included in their definitions of family, and Cleveland has placed a limit of five on the number of foster children per dwelling. Other categories of household or family relationship that were specified in the codes include live-in domestic servants, domestic or lifelong partnerships, students, and group homes or other formal kinds of shared living arrangements. Six cities explicitly allow counting domestic servants that reside in the dwelling as family members and thus exempt from occupancy limits for unrelated people. Only one city, Atlanta, explicitly forbids servants from being considered as family members, but they are still exempted from occupancy limits.

Six cities explicitly include domestic or lifelong partnerships among the family relationships they recognize. Only two cities, Boston and New York, even mention students in their definitions, but they take completely opposite approaches. While New York accepts up to 7 students living together as a family if they meet a few other conditions, Boston specifically singles

out undergraduate students as not eligible to be considered a family under their code for unrelated individuals. Eight cities also either include or exclude other kinds of living arrangements, which are often controversial, such as group homes for the elderly or disabled, in their family definitions. Four cities include these kinds of arrangements in their definitions of family or household, while three exclude them (though they may be addressed elsewhere in their codes), and one, Minneapolis, excludes rooming houses specifically.

With regards to the first type of space-based codes (see Table 2), the square footage required for the first occupant ranges from a low of 80 sq. ft. in New York City to 250 sq. ft. in Phoenix. The square footage required for each additional occupant ranges from 70 sq. ft. in Minneapolis to 150 sq. ft. in Phoenix. Of the eleven cities with this type of code, seven required 150 sq. ft. of floor area for the first occupant of a dwelling. Fourteen cities require a minimum square footage for habitable spaces, ranging from 120 sq. ft. to 150 sq. ft. Thirteen of these require a minimum of at least 120 sq. ft. Of the same fourteen, only nine cities require a minimum square footage for additional, unspecified rooms, and all require 70 sq. ft. Nineteen cities have at least one of the third type of codes related to sleeping spaces. Fifteen cities have both a code for the minimum square footage of sleeping spaces, and for the minimum square footage for each additional person in a sleeping space. With the exception of Miami, which requires 80 sq. ft., the other cities require 70 sq. ft. for the primary sleeping area. There is slightly more variety in the required square footage per additional occupants in sleeping spaces, ranging from 45 to 90 sq. ft. but most cities require 50 sq. ft. per person.

Ten cities have a combination of the first and third type of codes, while nine cities have a combination of the second and third types of codes. Only New York City, Philadelphia, and Denver have only one set of the codes. Phoenix has the most space based occupancy regulations of the selected cities, with 5 of the 6 types, while Cleveland has the least with only one area requirement. Six cities have an exemption in their space requirements for children of various ages or count children of certain ages as only part of a person for the purposes of figuring out occupancy.

Table 2. Summary of Space Based Occupancy Limits

City	Sq. ft. per 1st Occupant	Sq. ft. per Additional Occupants	Minimum Habitable Space (Sq. Ft.)	Minimum Habitable Space for Additional Rooms (Sq. Ft.)	Minimum Sleeping Space	Minimum Sleeping Space per Additional Person	Exceptions
New York	80 ⁵⁵	80					Children under 4 ⁵⁶
Los Angeles			120	70		50 ⁵⁷	
Chicago	125 ⁵⁸	100 ⁵⁹			70	50 ⁶⁰	Children under 2
Houston	150 ⁶¹	100			70	50	Children under 1 ⁶² ; Ceilings < 7 ft.
Philadelphia			120	70			
Phoenix	250 ⁶³	150	120		70	50	Children under 13
San Antonio			120		70		
San Diego			120	70		50 ⁶⁴	
Dallas	150	100			70	50	Children under 1 ⁶⁵ ;

⁵⁵ Total livable floor area.

⁵⁶ For every 2 adults allowed, 1 child under 4 is allowed. 1 adult can also have 1 child under 4.

⁵⁷ After the first 2 occupants.

⁵⁸ For each of the first 2 occupants.

⁵⁹ For each of the next 2 occupants. 75 sq. ft. for each occupant thereafter.

⁶⁰ For occupants 12 years of age or older. If the additional occupants are under 12 years old, there must be at least 35 sq. ft. per person.

⁶¹ Net floor area. Rooms with ceiling heights of less than 7 ft. are not considered in calculations.

⁶² Children under 6 years old but older than 1 year old are considered half of one resident.

⁶³ For the first 2 occupants. Floor space is based on gross floor area.

⁶⁴ After the first 2 occupants.

⁶⁵ Children under 12 years old are considered half of one resident.

City	Sq. ft. per 1st Occupant	Sq. ft. per Additional Occupants	Minimum Habitable Space (Sq. Ft.)	Minimum Habitable Space for Additional Rooms (Sq. Ft.)	Minimum Sleeping Space	Minimum Sleeping Space per Additional Person	Exceptions
							Ceilings < 7 ft.
San Jose			150	70		50	
San Francisco			120 ⁶⁶	70	70	50 ⁶⁷	Children under 6
Seattle			120 ⁶⁸		70	50 ⁶⁹	
Denver			120	70			
Washington	130	90 ⁷⁰			70	50	
Boston	150	100			70 ⁷¹	50	
Portland			120	70	70	50 ⁷²	
Albuquerque	150	100			70	45	
Atlanta	150	100			70	50	
Miami	150	100 ⁷³			80	50	
Minneapolis	150	70 ⁷⁴			70	90 ⁷⁵	
New Orleans			120 ⁷⁶		70	50	
Cleveland			120 ⁷⁷				
St. Louis			120 ⁷⁸	70	70		
Salt Lake City			120	70	70	50 ⁷⁹	

Given the clustering around 120, 150, 70, and 50 sq. ft. for the various code types, there does not seem to be a correlation between city population sizes and minimum square footages. On the other hand, when there were higher minimums such as 250 sq. ft. for the first occupant, 150

⁶⁶ 144 sq. ft. is required for open floor plans that combine living and cooking or living and sleeping spaces.

⁶⁷ After the first 2 occupants.

⁶⁸ Rooms with combined living and cooking or living and sleeping purposes require 130 sq. ft. for 1 person or 150 sq. ft. for 2 people.

⁶⁹ After 2 occupants.

⁷⁰ Up to 7 occupants. For more than 7 occupants, at least 75 sq. ft. per person is required.

⁷¹ Rooming units require 80 sq. ft. for the first person and 60 sq. ft. for each additional person.

⁷² After 2 occupants.

⁷³ For the next two occupants. After 3 occupants, 75 sq. ft. per person is required.

⁷⁴ After 2 occupants, 100 sq. ft. per person is required.

⁷⁵ For the second occupant. After 2 occupants, 50 sq. ft. per person is required.

⁷⁶ Increases to 150 sq. ft. with 6 or more occupants.

⁷⁷ Combined living and cooking or living and sleeping spaces require 150 sq. ft.

⁷⁸ Net floor area.

⁷⁹ After 2 occupants.

sq. ft. for the primary habitable space, or 80 sq. ft. for the sleeping area, it is cities in the South and West that have them. Furthermore, while one might expect to see a correlation between the number of unrelated people allowed to live together and the minimum square footage required for the first person or per additional occupants, such a relationship, if there is one, remains unclear due to too few observations with both types of codes (see charts above as well as in the Appendix).

Many of the city codes are based on model codes by the International Code Council, a membership-based organization that crafts standardized zoning, building, and housing codes and provides technical assistance regarding codes to municipalities. Sometimes a city adopts only certain ICC codes or sections within each code to supplement their own regulations. When a city's codes or amendments might conflict with ICC codes or other parts of the city code, the most restrictive version applies unless otherwise specified. Notably, the space requirements in ICC-based codes seem to have gotten smaller from 2012 to 2015, both in terms of the required square footage and in terms of using net floor area rather than gross floor area. None of the versions of the ICC codes used by the selected cities has a definition of household or family.

Part II – Case Cities

Hartford

The group involved in the Scarborough 11 case is comprised of eleven people: a married couple, two unmarried couples, two single adults, and their three children. The adults had been close friends and acquaintances for many years before deciding to live together in order to meet health care, child care, financial, and social needs. The adults pooled their resources to buy the home, and though only two could be named on the mortgage paperwork, they worked with a lawyer

to develop a partnership agreement to ensure collective ownership of the property. The group shared meals, chores and other responsibilities, and also companionship. They had come to think of themselves as an “intentional family”. However, the city zoning code at the time, originally adopted in 1969, read:

“Family means, one (1) person; a group of two (2) or more persons living together and interrelated by consanguinity, marriage, civil union, or legal adoption; or a group of not more than two (2) persons who need not be so related, occupying the whole or part of a dwelling unit as a separate housekeeping unit with a common set of cooking facilities. The persons constituting a family may also include foster children; the number of which shall be in accordance with general statutes as amended and live-in domestic employees. For the purposes of determining density, a roomer, boarder or lodger shall not be considered a member of a family.”⁸⁰

As a group of eleven people not all related in the specified ways, they were well outside the bounds of the zoning code, both in terms of *numbers* and in the *nature* of their relationships, though notably, the code allowed an unlimited number of domestic servants. The neighbors and the City argued in their lawsuit that allowing the Scarborough 11 to continue in their home would “threaten the character of the neighborhood” and open the area to unruly rooming houses favored by students attending the local universities, bringing with them less parking space, and increased congestion, pollution, and noise. The lawsuit sought to enforce the cease and desist order, which required the group to “remove the additional families and restore the legal single-family use,” as well as the ability to collect fines as high as \$100 per day.

The Scarborough 11 fought the cease and desist order and the subsequent lawsuit by arguing that they functioned as a family and considered themselves as such for all intents and purposes, and that the zoning code was overstepping its bounds by trying to define a family in the

⁸⁰ Rozza et al, “Zoning Nightmare: Hartford’s Scarborough Street House,” *Communities*, 2015; Volume 168.

first place. While the group was dealt a blow when the federal courts declined to hear a constitutional challenge to the zoning code's definition of family, the case was later accepted by the court after they successfully showed that following the local path of seeking a variance would have been futile.⁸¹

In the meantime, Hartford had elected a new mayor, and the city completed the first overhaul of its zoning code in almost half a century. The changes, adopted in January 2016, included new form based codes and new chapters on landscaping and parking, as well as removing the previous definition of family. Instead, the new regulations define a "household unit" as, "A collection of individuals occupying the entire dwelling unit, sharing a household budget and expenses, preparing food and eating together regularly, sharing in the work to maintain the premises, and legally sharing in the ownership or possession of the premises," and a household, in part, as, "up to 3 persons all of whom are not necessarily related to each other by blood, marriage, or adoption, and their children living together as a common household unit."⁸²

On October 26, 2016, the City of Hartford withdrew its case against the Scarborough 11, ending two years of legal struggle. The case was not a priority for the new mayoral administration, and city lawyers said that "continuing to pursue an enforcement action against this household is not the best use of the city's time or resources." While this development meant that the Scarborough 11 did not have to worry about eviction and legal fees for the time being, their living arrangement

⁸¹ Vanessa de la Torre, "Federal Judge Grants Motion to Reopen 'Scarborough 11' Zoning Case in Hartford, The Hartford Courant, October 27, 2015. Accessed May 24, 2017 from

<http://www.courant.com/community/hartford/hc-hartford-scarborough-reopen-case-1028-20151027-story.html>

⁸² Vanessa de la Torre, "Hartford Adopts Biggest Change in Zoning Rules in Nearly 50 Years," The Hartford Courant, January 13, 2016. Accessed May 24, 2017 from <http://www.courant.com/community/hartford/hc-hartford-zoning-change-0113-20160112-story.html>

still violated the updated zoning regulations, leaving the group in an uncertain position. The group has stated they intend to pursue their federal case against the City until “functional families” like theirs are included in the codes to prevent a similar situation in the future.⁸³

This case offers many interesting avenues of analysis. First, the political dynamics show that the West End neighbors of the Scarborough 11 had significant influence to get the city to act on their behalf. This fact may not be surprising, given the longstanding wealth and power of that area, which has been home to many politicians, community leaders, and entrepreneurs involved with the insurance companies based in Hartford or other businesses. The area is whiter, older, and richer than the rest of Hartford, which has high levels of poverty and a larger minority population than other areas of the state, including African American and Puerto Rican communities. The divide between this neighborhood and the rest of the city is illustrative of the income inequality prevalent in Connecticut, which is among the highest in the nation. Interestingly, both of the mayors who were in office while the case was being litigated lived in the West End.

The neighbors who opposed the Scarborough 11 used a few tactics to try to sway opinion and events in their favor. They utilized “slippery slope” rhetoric to argue that allowing the group to stay would open the door to a worst-case scenario where frat houses for Trinity College, University of Connecticut, or University of Hartford students, or others, would disrupt their neighborhood quality of life. However, encoded into this message is anti-multifamily housing

⁸³ Vanessa de la Torre, “City of Hartford Withdraws Suit in ‘Scarborough 11’ Case,” *The Hartford Courant*, October 27, 2016. Accessed May 24, 2017 from <http://www.courant.com/community/hartford/hc-hartford-scarborough11-withdrawal-1028-20161027-story.html>

sentiment, and by extension, bias against poorer households. The messaging may reveal implicit and explicit biases that reinforce the socioeconomic segregation of the neighborhood. In addition, comments by opponents at planning board meetings expressed dismay at the speed at which the zoning code was being reevaluated. This language belies an attempt to use a process critique to slow down or affect the decision by the board and draw attention away from the substantive issue.

For their part, the Scarborough 11 utilized media to their advantage. Calling themselves an intentional or functional family as opposed to an intentional community, which is more commonly used to describe similar groups. This rhetoric appeals to the emotions of audiences, including those with more conservative views by highlighting similarities or compliance with accepted family norms. They spread their message far and wide in the local newspaper and in national magazines and other outlets. The coverage may have helped to shame the administration, or at least certainly act as a nuisance if not a blemish for the new administration once Mayor Bronin was elected into office. While the Scarborough 11 may not have had the same power and wealth of their neighbors, they had significant social capital in the community, particularly through member Julia Rosenblatt, who has been active in the arts community in Hartford for many years. In addition, they may have benefitted from the fact that all members of the household are white and that they bought the home, which may have positively affected outsiders' perceptions of their stability in the neighborhood, respectability, or other qualities in ways that renters often do not experience.

Although their occupancy issues are not completely resolved, the Scarborough 11 were clearly effective in uplifting the political, moral, and social issues involved to affect planning

decisions. For example, in the rezoning process that occurred in Hartford during the Scarborough 11 case, the codes were updated with the aim of making the city more walkable, bike friendly, and more attractive for sustainable (i.e. green) economic development while “protecting the character of neighborhoods.”⁸⁴ Although the process itself began before the case, and although most of the stated goals of the rezoning process had to do with land use or physical changes in public spaces, the code changes also clearly responded to and had to navigate the complex political situation surrounding the Scarborough 11 family, their affluent neighbors, and broader city dynamics. City officials recognized that “protecting the character of neighborhoods” becomes hard to justify as a reason for regulation of relationships within homes to achieve the stated aims because they might be accomplished by other means, or because the same restrictions do not apply to other groups of people that fit the same criteria. This point was made by Hartford’s planning and zoning commission Chairwoman at the time in a memo to the city in which she wrote, “To some, it might seem difficult to justify limiting the number of unrelated adults to two when we allow an unlimited number of servants.”⁸⁵ A local professor echoed the sentiment, saying the city ordinance amounts to “class-based exclusionary zoning, which is legal but ‘problematic.’”⁸⁶

The case also shows how new this type of situation appears to be for Hartford and potentially other cities. While novelty can lead to conflict, it also poses an opportunity to shape policy for years to come. In fact, as part of Hartford’s rezoning process the city organized a series of community forums to discuss “new living arrangements” including “accessory dwelling units, Airbnb, the

⁸⁴ See note 82.

⁸⁵ Vanessa de la Torre, “Legal Battle Possible Over Unconventional Family in City Mansion,” *The Hartford Courant*, February 18, 2015 Accessed May 24, 2017 from <http://www.courant.com/community/hartford/hc-hartford-scarborough-st-0219-20150218-story.html>

⁸⁶ *Ibid.*

makeup of a household, roomers and boarders and bed-and-breakfasts.” In discussing these forums, the zoning commission Chairwoman highlighted how these norms and uses were an area that the city code and government needed to adapt to: “Some of these uses were allowed in the old code and some were not, and there may be some unresolved issues with regard to the makeup of the household as it's defined in zoning. There's still work to do.”⁸⁷

Minneapolis

One of the more interesting codes in the selected cities comes from Minneapolis, Minnesota. In terms of its space-based requirements, the city uses the first and third set of code types, or minimum square feet per person and minimum square feet for sleeping areas. It is worth noting that the city requires the lowest square footage per additional occupant and the highest square footage per additional occupant in sleeping rooms of all the cities. However, the most important aspect of Minnesota's occupancy codes is found in its relationship-based codes. On December 09, 2016, the city passed an ordinance that changed its zoning code and specifically its limits on the number of unrelated people to allow for “intentional communities.” Before this change, this concept was not included in the codes except as it applied to group homes or other institutional uses. The new language defines intentional communities as:

A group of two (2) or more persons living together as a single household, sharing in the management of resources and household expenses, that meets the requirements of Chapter 244, Housing Maintenance Code. An intentional community shall share an entire dwelling unit and may not function as a rooming house.⁸⁸

⁸⁷ See note 82.

⁸⁸ Minneapolis, MN Code of Ordinances, Title 20. Zoning Code, Ch. 520. Introductory Provisions, Section 520.160. Definitions, Accessed from https://www.municode.com/library/mn/minneapolis/codes/code_of_ordinances?nodeId=COOR_TIT12HO_CH244MACO_ARTVIIIISPUSLO&showChanges=true

Thus the limit on unrelated people is unspecified and depends on the space requirements. Previously, the occupancy code limited households of unrelated individuals to three or five people (including the householder and their family) depending on the residential zone. In addition, the city still has a traditional family definition, which defines family as:

An individual or two (2) or more persons related by blood, marriage, domestic partnership as defined in Chapter 142 of the Minneapolis Code of Ordinances, or adoption, including foster children and domestic staff employed on a full-time basis, living together as a permanent household.⁸⁹

The language goes on to state that the definition is intended to preserve “the character of residential neighborhoods by controlling population density, noise, disturbance and traffic congestion” but should not be understood to prevent the city from providing group homes or other housing arrangements for disabled residents in single-family areas. The city’s original code in 1924 was much more inclusive, defining family simply as “any number of individuals occupying a single housekeeping unit not herein defined as a Boarding House, Lodging House, or Hotel”⁹⁰ but, as discussed in the previous chapter, was updated with more restrictions in the 1960s.

The inclusion of the justification for the family definition belies some controversy around the issue. Indeed, the new intentional communities ordinance was the result of sustained pressure and advocacy from community residents after several conflicts around shared living situations. Local newspapers reported on a couple such homes that were forced to disband when they were found to be in violation of zoning codes. For example, the city withheld the occupancy permit from one group, which called themselves Dreamland, because they had too many unrelated people

⁸⁹ Ibid.

⁹⁰ John Edwards, “Intentional Communities’: A Path to Legal Status for White People,” The Wedge Times-Picayune, December 04, 2016, Accessed from <http://www.wedgelive.com/2016/12/minneapolis-to-legalize-households-who.html>

living together even though their new home had 10 bedrooms. One resident called the old restrictions “fairly ridiculous” and noted that, “The real frustrating part is you build community, you bond with people, it's practically like family.” Another group, Winona House, was able to negotiate with regulators after several zoning board meetings to stay in their home because they housed several members of a volunteer program at the time. A resident of this house framed the goals of shared living as aligned with city officials’ goals, but lamented the lack of receptivity to the argument:

It’s such a shame because the city self-professes that they’re trying to increase their urban population, they’re trying to get more population density, reduce the urban sprawl, and support the inner city. One of the ways that organized people are trying to do that is through intentional communities, and the city is utterly failing to recognize that.⁹¹

A member of another shared living house said that she came to realize that many of the city’s shared living houses were able to operate illegally but unnoticed because they did not “cause too much trouble” or relied on social networks like connections to council members. She described her discomfort with this, saying, “It has to function through people’s privilege, which is pretty messed up.”⁹²

In response to the evictions of different shared living homes as well as a desire to live openly, residents of such homes banded together to create the Minneapolis Coalition for Intentional Communities (MCIC). The group conducted outreach to garner support and inform the community about such living arrangements, held meetings to decide strategy, and worked with City Council aides to draft the ordinance. Provisions include registering with the city for an intentional community license, abiding by the occupancy limits set by the building and housing

⁹¹ Bill Lindeke, “Changes to unrelated-adult housing rules could bring intentional communities out of the shadows,” *MinnPost*, May 31, 2016, Accessed January 1, 2017 from <https://www.minnpost.com/cityscape/2016/05/changes-unrelated-adult-housing-rules-could-bring-intentional-communities-out-shad>

⁹² *Ibid.*

code according to a unit's size, and making the license revocable because of repeated nuisance complaints. The ordinance was actually originally introduced in 2008 and took eight years to revise and gather enough support to pass.

Even so, the final bill still faced pushback from supporters and opponents of shared living alike. Supporters said the bill did not do enough to promote density and should have done away with certain occupancy restrictions altogether. Some also critiqued the bill as potentially entrenching racial and ethnic housing disparities by offering a way for mostly white financially stable commune members to get the legal benefit of the doubt but not others who would not be able to navigate the many requirements to obtain a license.⁹³ This critique may be speaking to the high levels of racial segregation in the Minneapolis-St. Paul area, exacerbated by the lack of affordable housing outside of low-income neighborhoods.⁹⁴ While Minneapolis is a majority white city, African Americans make up almost 20 percent of the population and there is significant immigrant presence from places like Somalia, Ethiopia, Cambodia and Laos because of refugee resettlement. The group houses covered by the local media appear to be all or mostly made up of white members. Opponents worried about things like lack of parking, congested neighborhood streets, and noise. As one city council member put it, "I just think that throwing caution to the wind and expecting people to behave will work in some neighborhoods but not others."⁹⁵

⁹³ John Edwards, "Intentional Communities': A Path to Legal Status for White People," *The Wedge Times-Picayune*, December 04, 2016, Accessed from <http://www.wedgelive.com/2016/12/minneapolis-to-legalize-households-who.html>

⁹⁴ Alana Semuels, "Segregation in Paradise?" *The Atlantic*, July 12, 2016, Accessed from <https://www.theatlantic.com/business/archive/2016/07/twin-cities-segregation/490970/>

⁹⁵ Emma Nelson, "Change allows 'intentional communities' in Minneapolis," *Star Tribune*, December 9, 2016, Accessed from <http://www.startribune.com/emma-nelson/261800211/>

Others on both sides expressed concern about last-minute deletions of language from the bill which further specified the definition of intentional communities to include households that have established a set of rules and which share household expenses. While some felt this was beyond the scope of government to regulate, others worried that the definition was too broad otherwise. “Unfortunately, we have to think about the people who would try to take advantage of the regulation and open rooming houses or otherwise over-increase their occupancy to make money or for other reasons,” said a council member who co-drafted the bill.⁹⁶ The fact that one of the bill’s coauthors wished to apply such language, apparently contradictory to the spirit of the bill itself, shows just how politically strong arguments to limit households based on narrow characteristics remain. The sponsor must balance well-intentioned concerns about unscrupulous landlords with the desire to allow intentional communities and may have faced public pressure from advocates or others about each position. Another argument in support of the bill had renewed urgency after the Ghostship tragedy, a fire which broke out at an overcrowded, unauthorized shared home in a converted warehouse building in Oakland, CA, and killed 36 people days before the ordinance passed. One community member called the fire a “wake-up call to a lot of people and a lot of city officials throughout the country that these things are happening” and said that excluding intentional communities from city codes and thus unregulated would not “make them more safe.”⁹⁷ In the end, the ordinance passed with support from all but one council member and seems to have been accepted by the community with little difficulty so far. It is the only city among the twenty-four reviewed that has this type of code.

⁹⁶ Ibid.

⁹⁷ Ibid.

Denver

Denver, Colorado is another city where its relationship-based occupancy codes are of interest for three reasons. First, as will be discussed more below, it has the lowest specified limit of any of the cities reviewed, restricting unrelated occupants to two people, or three with a home occupation permit. Second, it was one of the few cities to specify the family relationships it recognizes in its household definition and had the longest list of any city. While the list includes most major family relationships, it excludes cousins, and it is unclear how family members of other degrees or kinds of relationships would be considered, which could lead to a legal challenge similar to that in *Moore v. City of East Cleveland*. This restriction is all the more interesting considering that Denver has one of the least restrictive space-based codes, with standard minimums for only two of the code types described previously. Third, there are apparent discrepancies between the code and how it is described for enforcement purposes. The zoning code lists four categories of households that are distinguished based on the householder and the relationship of other occupants to them (an individual, a married couple, or unrelated individuals) and whether the dwelling is a single-family unit or more. Specifically, the code states that households of unrelated adults in single-family units are limited to:

Two unrelated adults over the age of 18 years plus, if applicable, any persons bearing to either of the two unrelated adults the relationship of mother, father, grandmother, grandfather, son, daughter, brother, sister, stepson, stepdaughter, stepbrother, stepsister, stepmother, stepfather, grandson, granddaughter, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, uncle, aunt, nephew or niece [...]⁹⁸

⁹⁸ Denver Zoning Code, "Article 11. Use Limitations and Definitions" Section 11.12.2.1 Primary Residential Uses, Definition of Household Living Use Category, Part B.2. Household. Accessed from https://www.denvergov.org/content/dam/denvergov/Portals/646/documents/Zoning/DZC/Denver_Zoning_Code_Article11_Use_Limitations.pdf

The language of the code is confusing because, besides the uncertainty about the degree of allowed relationships mentioned previously, it is also unclear what limit, if any, applies regarding the number of relatives of each of the primary occupants. Although it may mean the same thing, the language is distinct from the other categories of households for individuals and married couples, which specifies that *any number* of the listed family members are allowed. In addition to this doubt, however, is the city's website, specifically the page for code enforcement conducted by the Neighborhood Inspection Services, which says, "Any number of persons related by blood, marriage or adoption may live together in a dwelling. In a single-unit dwelling, two unrelated persons per household are allowed, and with a home occupation permit, an additional unrelated person is allowed."⁹⁹ While this limit may not apply to family members of the two occupants, the language on the website could either make someone think that it does and thus believe they need a permit for a family member, or that such family members aren't allowed at all for these households. Given that neighbors often are the ones to make occupancy complaints, this difference between the code and the explanation provided on a city service website could lead to false reports.

The distinction between family and nonfamily households in Denver's code is harder to understand in light of the city's passage in the summer of 2016 of measures allowing short-term rentals in primary residences, thereby facilitating the legal use of Airbnb and similar businesses. Opposition to the ordinance used many of the same reasoning as opponents of loosening restrictions on households with unrelated people, such as that it "undercuts the fabric of a neighborhood" while supporters argued that the economic benefits outweighed the negatives of

⁹⁹ Denver Development Services, "Common Code Violations," 2017, Accessed from <https://www.denvergov.org/content/denvergov/en/denver-development-services/help-me-find-inspections/common-code-violations.html>

the proposal.¹⁰⁰ The allowance of short-term rentals highlights the enduring influence of potential economic gains at the city and individual level in shaping zoning decisions. The fact that an exception is made in the occupancy code for a third resident with a home occupation permit also shows that the code favors wealthier households (or at least the ideal of wealth) because this permit is used for someone who both lives and works in the home. This person could be a domestic servant, or they may be someone with the resources to manage their own home business.

Overall, the low limit for the number of unrelated people in a single unit reflects an anti-density attitude which has shaped Denver's growth until recent years. Local media coverage around occupancy standards mention optimism about Denver's future due to low unemployment and a strong economy tempered by anxiety about the accompanying development and rising home prices, underscoring the anti-density preferences of parts of the population. Some of the fears discussed in local media echo the concerns in Hartford and elsewhere: students and tourists are pushing families out of homes, stressing local infrastructure capacity, or being rowdy and ruining neighborhood integrity. It seems that for the time being Denver is not considering any changes to its codes. Until then, the balance of power favors anti-density homeowners.

Boulder

Other cities in Colorado, such as Aurora and Boulder, have also had controversy around short-term rentals, cohousing communities, shared living or group houses, and their occupancy codes. Boulder in particular experienced several grassroots efforts to get an increase in the number of unrelated people that can live together, which currently stands at three in most areas, on the

¹⁰⁰ Carlos Illescas, "Denver City Council passes short-term rentals," *The Denver Post*, June 13, 2016, Accessed from <http://www.denverpost.com/2016/06/13/denver-city-council-considers-short-term-rentals/>

ballot in 2016. University students led many of the efforts or are often members of group houses negatively affected by enforcement actions. They argue that the occupancy limits restrict choice, drive up housing costs for lower-income residents, leave rooms in large homes vacant, promote sprawl, contribute to distrust of neighbors and police, and are only kicking the can down the road as housing demand is only expected to grow in the region. They call the opposition to their proposals elitism and NIMBYism, and also link it to opposition to density or smart growth overall. Some framing is more striking, seemingly trying to draw parallels with racial segregation and exclusive covenants, saying that the codes “effectively ban [people] from certain neighborhoods.” Others simply reject that the relationship based limits are within the scope of what government should regulate.¹⁰¹

Opponents have said that such group houses have caused legitimate concerns among neighbors because of histories of unkempt or unsafe properties including failing to pick up trash or shovel snow, disturbances due to loud music, and more. This behavior has led to the name “mini-dorms” or “stealth-dorms” for shared living in Boulder and other cities. Opponents of more liberal occupancy limits have typically been more established members of the community, wealthier, older, and connected to business interests. They have also had more political power because of organizational strength through homeowners’ or neighborhood associations and their own social and political capital. In February of 2016, Boulder passed an update to their occupancy standards which required landlords to report their legal occupancy to the city, criminalized

¹⁰¹ Alex Burness, “New Boulder ballot petition targets occupancy laws favoring nuclear families,” *Daily Camera*, June 15, 2016, Accessed from http://www.dailycamera.com/news/boulder/ci_30021484/new-boulder-ballot-petition-targets-occupancy-laws-favoring

advertising occupancies that are over the legal limit, and increased fines for households found to be in violation.¹⁰²

As the controversy brewed, separate efforts to pass a workable co-op policy were also underway. City officials held a moratorium on enforcement actions against known, self-identified co-ops but only two are known to have benefitted from this reprieve. The city attorney acknowledged the importance of “overoccupancy” and by extension, strategic or selective enforcement plays in communities, admitting, “We’ve purposely not enforced because overoccupancy serves a purpose.”¹⁰³ Similar to the groups in Minneapolis, co-op members in Boulder attended zoning board meetings and conducted outreach to build support. However, some found their efforts backfired when it prodded neighbors to break a so-called “don’t ask, don’t tell” unspoken agreement among them and allegedly threaten to report their landlord to city officials, leading their landlord to not renew the lease.¹⁰⁴

Ultimately, the occupancy petitions failed to gather enough signatures to appear on the ballot in the November elections. On the other hand, in early 2017, Boulder passed a compromise co-op ordinance which increased occupancy limits for co-ops to twelve or fifteen people depending on the density of the area, requires 200 sq. ft. per person, and caps co-ops registration to ten per

¹⁰² Erica Meltzer, “Boulder City Council tweaks new occupancy enforcement rules,” *Daily Camera*, February 29, 2016. Accessed from http://www.dailycamera.com/news/boulder/ci_29578361/boulder-city-council-tweaks-new-occupancy-enforcement-rules?source=pkg

¹⁰³ Henry Grabar, “Full House,” *Slate*. August 23, 2016.

http://www.slate.com/articles/business/metropolis/2016/08/boulder_colorado_s_picklebric_show_why_expensive_cities_need_group_housing.html

¹⁰⁴ *Ibid.*

year.¹⁰⁵ While most supporters viewed the ordinance as a victory, some were still put off by the extensive regulations and monitoring imposed by the code, and some expressed worry about the lack of options and protections for non- or loosely co-op households that do not qualify under the code. For their part, Council members were mixed on the outcomes of the various code struggles. Some felt the final result was much too one-sided in favor of co-ops, while others expressed views friendlier to co-ops, or a pragmatic wait-and-see approach that emphasized the role of enforcement: "There will always be people who don't want a co-op next to them. [...] I think if we can help ensure people in (co-ops) are playing by the rules, that's the best we can do." As for occupancy, council members were much less willing to revisit the controversial issue. As one city official commented, "I don't know of a single council member that wants to raise the occupancy limit. [...] I feel good with where we're at."¹⁰⁶ Nevertheless, some observers and advocates see reason to feel that the political power and fortunes of density-friendly proposals is improving, given the passage of the co-op proposal and the failure of two anti-growth measures that also occurred in November 2016.¹⁰⁷

Boston

A third case of an interesting code and context around it comes from Boston, Massachusetts, which, as noted previously, is one of two cities that explicitly mentions students in its relationship-based occupancy codes. Unlike New York, Boston's code, which went into effect

¹⁰⁵ Alex Burness, "At long last, Boulder approves new co-op housing ordinance," *Daily Camera*, January 04, 2017, Accessed from http://www.dailycamera.com/news/boulder/ci_30703047/at-long-last-boulder-approves-new-co-op

¹⁰⁶ Alex Burness, "Boulder set out to prove it can enforce co-op and occupancy laws," *Daily Camera*, January 07, 2017, Accessed from http://www.dailycamera.com/news/boulder/ci_30710351/boulder-sets-out-prove-it-can-enforce-co

¹⁰⁷ See note 103.

in 2008, singles out undergraduates as excluded from the definition of family, even under the code for unrelated people in a household and allowances for other arrangements:

Family. One person or two or more persons related by blood, marriage, adoption, or other analogous family union occupying a dwelling unit and living as a single non-profit housekeeping unit, provided that a group of five or more persons who are enrolled as full-time, undergraduate students at a post-secondary educational institution shall not be deemed to constitute a family. A group residence, limited, as defined in "Group residence, limited" of this Section 2-1 shall be deemed a family.¹⁰⁸

This detail echoes the situations in Denver and Minneapolis and highlights tensions experienced by communities across the country that host or are close to colleges and universities in that group houses are often filled with students and perceived as taking away housing options from families. The conditions in the Boston area are perhaps even more dramatic due to a large number of high profile schools; a booming housing market that has spurred development and high rental prices; a strong economic performance with particular growth in the technology, biotech, health, and financial services sectors; and the second smallest land area of a major city in the U.S. besides San Francisco of 48.28 square miles.¹⁰⁹ These factors have contributed to making the Boston area, including neighboring cities Somerville and Cambridge, some of the most densely populated areas in the country outside of New York City. The need for more affordable housing also exacerbates longstanding issues around gentrification and racial/ethnic segregation throughout Boston. In addition, safety remains an important concern, particularly after a fatal fire in the neighborhood of Allston in 2013¹¹⁰, and other national tragedies like the Ghostship fire in Oakland, CA more recently.

¹⁰⁸ Boston Zoning Code, Article 2. Definitions, Section 2-1. Accessed from

https://www.municode.com/library/ma/boston/codes/redevelopment_authority?nodeId=ART2DE

¹⁰⁹ Boston Redevelopment Authority Research Division, "Boston by the Numbers: 2015," December 2015. Accessed from <https://www.bostonplans.org/getattachment/1fd5864a-e7d2-4ebc-8d4a-a4b8411bf759>

¹¹⁰ Rich Vetstein, "Allston Landlord Cited for Illegal Lodging House After BU Student Dies in Tragic Fire," April 30, 2013, The Massachusetts Real Estate Blog, Accessed from <http://massrealestatelawblog.com/2013/04/30/allston-landlord-cited-for-illegal-lodging-house-after-bu-student-dies-in-tragic-fire/>

However, the long-term effectiveness and stability of this code, if not the outright legality, has been called into question since the decision of the state court in *City of Worcester v. College Hill Properties, LLC* (465 Mass. 134) in 2013. In the case, the nearby city of Worcester sued a property management company for violating its prohibition against lodging houses without licenses by renting apartments in two- and three-family homes to groups of students. The court ruled that renting such apartments to students could not be considered lodging houses despite the number of unrelated occupants as long as the apartments met the space-based occupancy requirements and other safety features in the building codes because apartments have different amenities today compared to the lodging houses most codes are understood to reference.¹¹¹ The ruling raises the possibility that the Boston code could be challenged in court, and likely contributed pressure to the struggle between those advocating for more density in the Boston area and opposing forces¹¹². In fact, in the same year the case was decided, Boston's Mayor at the time, Thomas Menino, instituted new rental registration and inspection rules to combat over-occupancy and related issues.

The uncertainty also makes the city's relationship with area colleges and universities more salient, particularly as several have and continue to undergo expansion. Boston alone is host to thirty-one colleges and universities and two community colleges. Of enrolled students at these institutions, 68 percent live off-campus, and of this group, 38 percent live within city limits. Approximately 38,000 students fall into this category.¹¹³ Such institutional relationships are

¹¹¹ Commonwealth of Massachusetts, "*City of Worcester v. College Hill Properties, LLC*," Trial Court Law Libraries, Accessed from <http://masscases.com/cases/sjc/465/465mass134.html>

¹¹² Rich Vetstein, "Boston Rental Occupancy Limits," May 15, 2013, The Massachusetts Real Estate Blog, Accessed from <http://massrealestatelawblog.com/tag/boston-rental-occupancy-limits/>

¹¹³ Boston Redevelopment Authority Research Division, "Boston by the Numbers: 2015," December 2015. Accessed from <https://www.bostonplans.org/getattachment/1fd5864a-e7d2-4ebc-8d4a-a4b8411bf759>

complicated enough on their own, but they are made more challenging by the fact that many students who live in Boston attend universities that are not based in the city limits and thus the city must navigate competing claims from other cities as well. For example, MIT's slated redevelopment of the Volpe National Transportation Systems Center campus is expected to bring significant transportation, economic development, and housing stresses and investments to the area, but MIT and the project are both based in neighboring Cambridge. Nevertheless, for these and other developments around the region, community benefits agreements and other negotiations with schools often involve demands for more student housing, for both undergraduates and graduate students, with the understanding that it will benefit the host city and surrounding communities.¹¹⁴

In addition to leveraging relationships with area colleges and universities, Boston city offices like the Department of Neighborhood Development and the Housing Innovation lab work to create policies and programs that will provide more affordable housing and prevent displacement. Among the issues being considered are supporting cooperative homes and businesses, as well as re-evaluation of the occupancy codes. Such efforts would complement current development oriented strategies by making better use of the existing housing stock.

¹¹⁴ MIT Grad Students for Fair Housing, "MIT: House graduate students, support a Better World," 2017. Accessed May 2017 from <https://actionnetwork.org/petitions/mit-support-a-better-world-by-housing-graduate-students>

Chapter 4 – Conclusion: Lessons for Planning Practice and Advocacy

The language of municipal zoning ordinances, like any culturally bound discourse, is a language that both persuades and informs us about values and attitudes. It supports a specific type of social tie--the nuclear family unit--in a neighborhood separated from the work place and removed from commercial and social services. The relatively narrow range of choices this creates in most American environments needs to be altered to meet the needs of a changing population while preserving the shared standards of behavior that are culturally important to most Americans. In many communities, land-use and zoning have become more environmentally and economically sophisticated, but they have not necessarily become more socially attuned to the realities of contemporary life.

—Marsha Ritzdorf, (Miranne and Young, 2000)

As Ritzdorf notes in the above quote, the codes examined in the previous chapter both reveal and shape the choices of society at large regarding the development of cities and the households that reside within them. The need she describes for more choices and acceptance of different living arrangements, whether made by choice or necessity, remains as relevant as ever today in the wake of the Great Recession, ongoing global economic pressures, and widespread social change, and may only grow more pressing. By drawing connections between the existing codes and the dialogues planners and community members are having about them reviewed in chapter 3, as well as the trends and history discussed in chapters 1 and 2, this chapter identifies key takeaways about who is or is not being served by these codes, why, and how to change such codes to become more inclusive of changing and diverse households.

Occupancy Standards Support Social Exclusion and Stratification

First, occupancy codes, particularly relationship-based standards, contribute to racist, classist, sexist and other forms of social hierarchies and exclusion. While there is interesting diversity and idiosyncrasies to the codes, they are united in both being influenced by and perpetuating social norms, biases, and power discrepancies. Occupancy codes have always been

and continue to be engaged with religious, racialized, classist, sexist and ableist ideals and realities in ways that are mutually constitutive. For example, the inclusion of live-in domestic servants in family definitions or the exemption of the same from limits on the numbers of unrelated people in households both clearly favor affluent families who can afford to employ someone. These codes offer and reinforce advantages enjoyed by more privileged groups but ignore low-income people who may live together in order to help each other with the same services, such as child care or other tasks. Such codes could be particularly damaging to low-income families and individuals in times of economic recession.

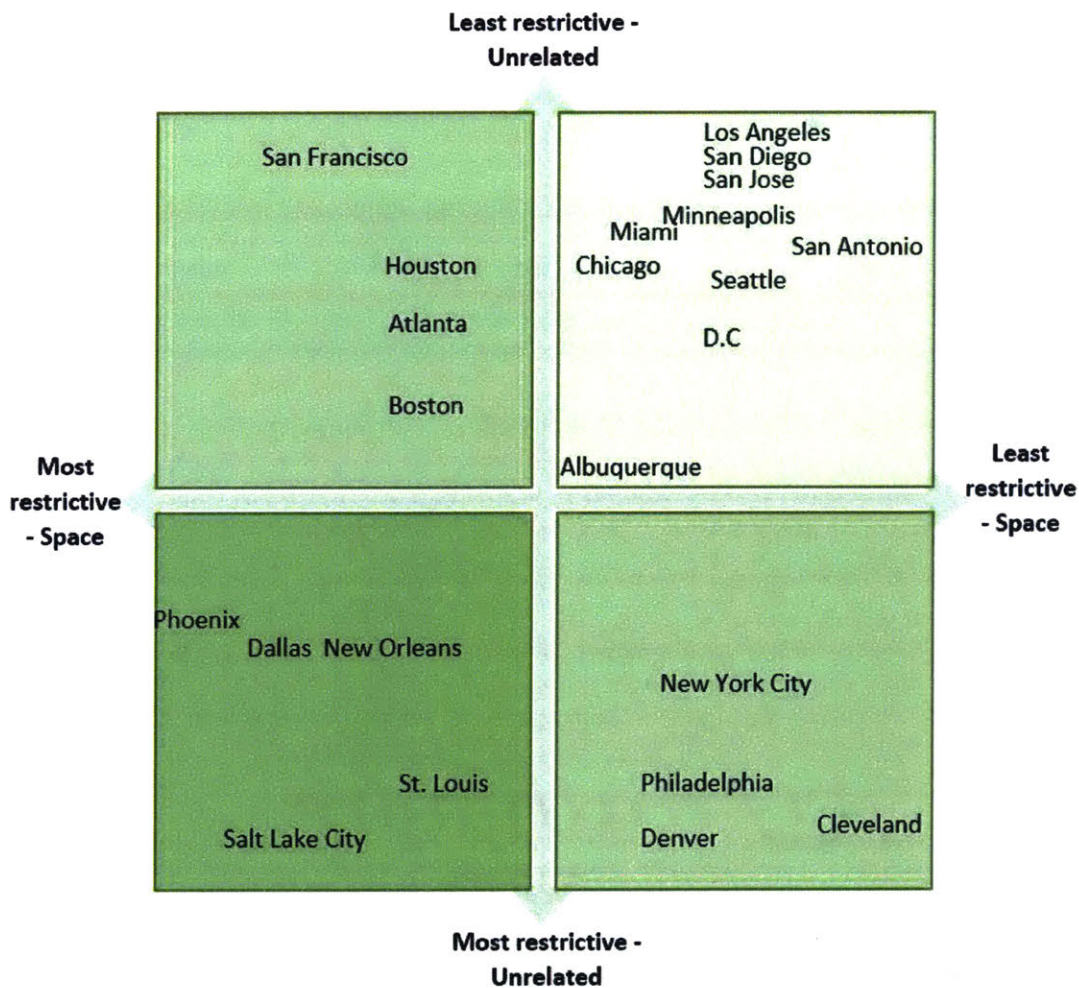
The exclusion or inclusion of foster children, particularly Cleveland's limit of five per dwelling and Denver's listing of specific acceptable family relationships, show that cities still have some interest in drawing lines among degrees of family relationships even after *Moore v. City of East Cleveland, Ohio*. It also raises a question as to whether or to what extent city officials or courts would recognize foster children relationships in occupancy limit enforcement cases. Although placing limits on the numbers of foster children allowed per home may be advisable to prevent suboptimal conditions for their development or abuse of the foster system for payments, these limits could be placed on a case-by-case basis through the foster system, rather than codified in city law. Even if the intentions of such a limit are good, they still stigmatize foster families in ways that do not apply to biological or adoptive families, and the reasoning potentially reinforces similar classist and racist arguments used against families receiving government assistance. Similarly, the inclusion or exclusion of the category of "domestic partnerships" or "lifelong partnerships" is another example of how codes reflect and shape concepts of family. These terms likely refer to same-sex relationships and may date from before the legalization of same sex

marriage in the United States. As a result, the fact that some cities have this language while others do not may not make much difference now. Nevertheless, these variations show the ability and interest cities have in changing their codes to be more inclusive of nontraditional households when cultural norms change. However, it also leaves open the possibility of, for better or for worse, many more kinds of households and relationships being defined and/or recognized legally in the codes of cities across the United States. While such changes may be toward more inclusive communities and policies, they can also lead to increasingly narrower and arbitrary distinctions between relationships (intimate or otherwise) that are considered legitimate or not, potentially intruding on people's lives and negatively impacting the most marginalized.

Although most of these biases are expressed in the relationship-based codes, they can also occur in the space-based codes. For example, higher minimum square footages per person or per living or sleeping spaces, such as those found in Phoenix, can make housing more expensive by requiring groups to seek larger homes. According to the results of the code review, in general, cities in the south and west seem to have higher maximum occupancies for unrelated people or less restrictive household definitions, but also require more space per person or larger minimum room areas. These differences may reflect not only specific class biases from the cities and times the codes were adopted, but also speak to the influence of broader, historical American mythologies about the abundance of land, the need to master such land, and the American Dream that have shaped the development of regions of the country differently as the country expanded westward.

As Hirt commented, the norms and preferences inscribed in zoning, housing, and building codes impose a “moral geography” within and across our cities. Figure 2 attempts to summarize some of this geography according to both the number and content (e.g. higher square footage minimums, exemptions, etc.) of occupancy standards in municipal codes.

Figure 2. "Moral Geographies": Selected Cities by Code Restrictiveness



As the matrix helps to show, a plurality of the cities reviewed fall into the least restrictive category, but there is significant variation within and across categories and, overall, more cities have stricter

standards along one or both axes.¹¹⁵ While the more restrictive codes could pose problems for certain residents in those cities, the differences between codes could pose another challenge for households that move between cities. In some circumstances, they may find that they are now breaking the law, or if they keep households from making moves that would be beneficial because they would be at risk of enforcement actions or would need to split up.

Selective Enforcement Reinforces Social Power Dynamics and Inequality

In addition to the arbitrary distinctions inherent in the language of the codes, inconsistent and insensitive enforcement play a role in creating and supporting social disparities. The case studies highlight just how much enforcement of these codes relies on neighbor complaints, which could magnify the power of personal biases with the police power of the state. Nonfamily or more-than-one-family households may be at higher risk of enforcement action depending on their neighbors' views on LGBTQ people, people of color, cohabitation or children out of wedlock, or other issues that characterize groups more likely to be in that kind of living arrangement. Disparities may also arise in the punishments for code violations given the disparities that exist in the government bureaucratic and legal systems.

Socioeconomic disparities due to selective enforcement may be even more pronounced at the neighborhood level. In the Scarborough 11 case in Hartford, while the lawsuit was brought

¹¹⁵ This graphic does not take the average square footage of homes in each city into account, which could alter the restrictive effect of the codes. For example, if land is so cheap in Phoenix that most homes are larger anyway, then Phoenix's noticeably higher minimum square footage requirement may not be as much of a burden compared to lower requirements in other cities. However, a 2014 study found that "areas with the largest median home sizes also had among the nation's higher estimated median home prices" and that many large homes were still more costly per square foot. Thus, these homes would require higher incomes to purchase, and indeed, "all of the areas with the largest homes had median household incomes well above the national figure of \$52,250 in 2013." See Thomas C. Frolich, "The Cities with the Largest Homes," 24/7 Wall St., December 20, 2014. Accessed from <http://247wallst.com/special-report/2014/12/20/the-cities-with-the-largest-homes/2/>

against a white, middle-class collective that might otherwise fit in with the surrounding community, the ultimate effect and goal of the lawsuit, had it been successful, would be to keep other groups of residents out of the neighborhood to preserve its “character.” This exclusivity would keep lower-income people from banding together to buy or rent available housing in upscale neighborhoods and keep people segregated along socioeconomic lines. Notably, most if not all of the households identified in news reports from the case cities appear to be white, middle-class individuals, and often students. Although the cases describe situations where similar households were disbanded, they also show examples where enforcement was not pursued, highlighting the role of city officials’ discretion and the social capital and wherewithal of residents in determining enforcement outcomes. Moreover, enforcement provisions of occupancy codes usually make no mention of what should happen to the occupants of the offending household. By not paying attention to circumstances of residents evicted or otherwise punished for over-occupancy, cities may exacerbate problems like poverty and homelessness, as well as related health impacts such as stress from housing insecurity. The cases also highlight the opposing pressures that cities with colleges and universities within their limits or nearby face between the social and economic benefits of hosting student populations and the strain of housing them. Selective enforcement of occupancy standards against student households leaves official policy unclear, may push students to housing that is less safe, and discredits city claims about safety concerns and law and order if cities look the other way when it benefits them.

The different approaches case cities took to short-term rental uses like AirBnB or VRBO also highlight how power and economic interests affect enforcement. Although even restrictive occupancy standards usually allow short-term guests that may or may not be related to the tenants and short-term rentals would be addressed in different parts of the zoning code, the different

reactions to these living rearrangements is still instructive because many of the arguments against short-term rentals reflect those made against more liberal occupancy standards. These include increased traffic, pollution, noise or other disturbances, the loss of units that would otherwise be available to families, and ultimately, a disruption of neighborhood character. However, communities like Boulder and others have made provisions for these arrangements in their ordinances while debate over occupancy limits continues. In fact, news sources reported that homeowners utilized these services illegally before their cities approved them yet enforcement focused on shared living arrangements such as co-ops. The different treatment of these two issues is hard to square with the common reasoning against them when, arguably, cohesive neighborhood life is more likely to be negatively impacted by frequent turnover in guests than by unrelated residents sharing a home for longer terms. However, the financial benefits of short-term rentals and tourism to more powerful homeowners and to the city as a whole help explain the disparate responses. The Boulder case and those like it are good examples of Hirt, Ritzdorf, Finschel and others' assertions, in various forms, that economic factors often decide zoning decisions, even when they pit financial interests against political and spatial individualism.

Cities Should Eliminate Relationship-based Occupancy Codes

Chief among the reasons given for space- and relationship-based occupancy standards are 1) health and safety and 2) maintaining neighborhood character. Both are valid concerns, and promoting the wellbeing of residents is particularly critical. Indeed, the zoning, building, and housing code reforms of the Progressive Era saved lives and greatly improved the quality of life for millions of people by stemming the tide of communicable diseases, reducing overcrowding, and improving building quality and amenities. Although maintaining neighborhood character can

be an insidious mask for discriminatory practices, the goal can help protect historic architectural styles of buildings and districts, as well as protect the intangible qualities of neighborhoods from haphazard or aggressive development and gentrification.

However, it is unclear how limiting occupancy of unrelated people advances these goals more than universal standards. Specifying limits for unrelated people that do not apply to families related by blood, marriage, or adoption assumes that groups of unrelated people want fundamentally different things in a neighborhood or inherently behave differently. It also implies that similar or even higher occupancy levels by related people has no impact on either safety or neighborhood character. As certain state courts and others have noted, cities can achieve both of these goals through means that do not discriminate between groups of people arbitrarily. Space-based codes, supplemented by other standards like fire codes, are sufficient to promote health and safety issues related to occupancy. Land-use and form-based regulations are better suited to safeguarding the aesthetic character of communities while nuisance codes could address the behavioral issues that affect quality of life. If cities want to protect against short-term rentals they can adopt more targeted policy solutions like rental registration, restrictions targeting short-term stays, and limitations against short-term rentals in second homes and investment properties, as certain cities have done. All of these standards can apply without regard to the relationship among occupants.

It is also worth pointing out that, though it is less commonly framed as such, safety can be an important reason in favor of loosening or eliminating restrictions on households of unrelated

people. As each of the cases in Chapter 3 referenced in one way or another, large groups living together “under the radar” in single-family homes or apartments, particularly in settings such as converted warehouses or other buildings, would be safer from fire and other hazards if they were able to register with city officials and be regulated rather than persist in dangerous conditions for fear of being disbanded. Relatedly, the safety of the community as a whole may be compromised by the fear, suspicion, and distrust such regulations might breed among neighbors and between residents and police or city officials. Larger nonfamily or more-than-one family households may be less likely to report crimes or may be more vulnerable to unscrupulous landlords because they do not want to risk disrupting their living situation. Such fears can doubly affect households with undocumented people, people of color, LGBTQ people, or people in abusive relationships who often already have reason to fear or distrust police or other community figures. While a similar argument could be made for lowering minimum square footage requirements, minimums can only get so low before the overall health and safety of the occupants are once again threatened or the living space becomes undesirable. This quality makes space-based codes much more closely related to the often-stated purpose of protecting the wellbeing of households and much less likely to be altogether dispensable.

As a result, relationship-based occupancy codes are unnecessary at best and physically and socially harmful at worst. Thus, in order to promote health and safety, neighborhood dynamics such as trust, and inclusivity, cities should eliminate relationship-based occupancy codes that place limits on nonfamily households. This means adopting occupancy limits like those of California cities including Los Angeles or San Diego. As discussed in Chapter 2, these cities use general, inclusive definitions of “household” that do not distinguish between family and non-

family households or place a limit on the number of occupants for one that does not apply to the other. Such a change would not be very radical since most U.S. cities had similarly liberal codes until the 1960s.

Although the California cities' codes stem in large part from the state court's decision in *Santa Barbara v. Adamson*, which in turn cites the right to privacy in California's state constitution, legal scholars have identified other arguments that could be effective in court. These include using strict scrutiny to judge the merits of ordinances, and the fact that family definition ordinances in particular are both underinclusive and overinclusive (in other words, the code targets both too many people and too few people to effectively meet the goal of the code). These arguments could hold the most sway in non-home rule states or in courts that favor limited views of cities' police powers. A common strategy in the cases for changing these codes is community organizing to engage residents for ballot initiatives or to persuade local representatives to pass new ordinances. Although risky, pursuing state preemption on the issue is another potential course of action. If all else fails, rather than getting rid of distinctions for non-family households, cities can increase their limits to allow more unrelated people to live together.

Although occupancy codes originated with good intentions, sometimes the intent, and more often than not the impact, of low occupancy limits and narrow definitions of family are to discriminate against and exclude certain groups or types of people in order to maintain a single-family, nuclear, often middle-class or wealthier, and heteronormative neighborhood. In such cases, social justice minded planners and others can and should challenge such regulations. Otherwise, if

unnecessarily restrictive regulations persist, planners and residents may have to pursue legal challenges in the future, or prepare to defend against them.

Signs of Change

Although the restrictive natures of most of the codes –particularly the relationship based codes– may be concerning for many, there are some signs of changing attitudes about such codes that may lay the groundwork for more inclusive communities. Among these are, as noted previously, the fact that model codes by the ICC have downsized their minimum square footage requirements in recent years. This change indicates a recognition of the growing mismatch between household sizes and home sizes, the need to be more efficient to provide more affordable housing, and the improvement in housing quality that makes smaller, more densely populated homes safer and healthier than they were during the Progressive Era. The lower minimums also signal a need and desire for more diverse housing options for changing household preferences and different times of the lifecycle. Although cities may adopt ICC codes with local amendments that require more square footage, many municipalities adopt the codes as they are, so these standards will likely be widespread if cities update to recent versions. Another marker of the potentially growing acceptance of more diverse households is the small but increasing number of cities that have passed or are considering passing revised family definitions or alternatives like Minneapolis’ intentional communities ordinance. The fact that these proposals have been passed or raised in the past few years may show that these options are gaining traction.¹¹⁶

¹¹⁶ One definition of intentional communities is “a self-governed association of 10 or more adult residents, most of them unrelated, who as a matter of ideology not only share living spaces but also dine together for some or all of their meals.” By this definition, one estimate placed the number of intentional communities in the U.S. at 1,000 in 2007. See: Robert C. Ellickson, *The Household: Informal Order around the Hearth*, Princeton, New Jersey: Princeton University Press, 2008. This thesis considers any number of unrelated people living together eligible to be classified

Other Implications

This research revealed additional lessons for planners and other city officials related to occupancy standards. These include but are not limited to the following:

Reconsider occupancy enforcement goals and tactics

One of the common threads in the news stories analyzed for this research was that groups of people living in violation of occupancy standards had to move from their homes or were most at risk of having to do so precisely when they reached out to local government and their neighbors to advocate for their legitimization. Such a risk could chill community engagement with planning boards and other city officials on development decisions or other issues, and make it harder for planners to do their jobs well. This should prompt planners to reevaluate enforcement tactics and the way actions are deployed on behalf of certain interests and groups against others. Code enforcement officials should be trained so that biases against untraditional families or household structures, if any, do not affect their decisions. In fact, code officials should know whether they can even take action based on the relationships of people in a dwelling at all. While this may seem obvious, a study of California occupancy code enforcement practices found that as recently as 2002, one-third of local zoning ordinances included illegal definitions of family that placed limits on the numbers of unrelated people allowed to live together, and that some staff attempted to enforce them.¹¹⁷ In addition, planners and others should create service linkages or provide guidelines on how to assist residents that have violated occupancy standards so that fines,

as an intentional community, and does not necessarily require shared meals as a criteria. Thus, the number of households that could be categorized as intentional communities is likely much higher.

¹¹⁷ Barbara Kautz, "Select California Laws Relating to Residential Recovery Facilities and Group Homes," April 22, 2011. Accessed from <https://www.cacities.org/Resources-Documents/Policy-Advocacy-Section/Hot-Issues/Group-Homes/California-Land-Use-Laws-Related-to-Recovery-Facil>

evictions, or other penalties do not cause undue hardship or prove counterproductive to other city goals, such as fighting homelessness. All of this information should be stated clearly on city websites to avoid false or unnecessary reports by neighbors.

More occupancy data is needed

Data specifically on nonfamily, non-cohabiting couple households or households with other occupants besides couples, was notably lacking in both primary and secondary sources. Addressing this gap would be very helpful in learning more about this segment of the population. On a related note, planners need to be aware of the broader household socioeconomic trends discussed here and others in the future, in order to better anticipate and meet the housing needs of their community. Knowing the extent to which such trends are playing out locally and how these conditions interact with occupancy codes can inform planner relationships with developers and influential institutions based in their communities, including colleges and universities. Planners can use this information to negotiate with these players to support development of student housing that alleviates pressure on the local housing market and provide housing for the general population that fits more diverse populations, families, and living arrangements.

Be aware of potential unintended consequences

Although amending or adding ordinances to be more welcoming of intentional communities and other nontraditional or nonfamily households is a positive step, the cases provide important warning to be mindful of the ways these ordinances might reinforce racial and socioeconomic disparities in housing security and policing. Again, more liberal occupancy standards, particularly household definitions, might be preferable. Otherwise, intentional communities ordinances should be broad in their eligibility requirements to avoid treating

functionally similar households differently based on specific practices, such as shared meals, which may not be prevalent even among family households.

Limitations and potential research

Of course, this thesis is only an initial attempt to build on previous work examining these issues. More research, including a larger sample of city codes, case studies, or interviews would be helpful to explore the topics involved further and draw more conclusions. A recreation of Marsha Ritzdorf's survey of codes and planning officials would be valuable to see whether and how more codes have changed since her study, and to improve the available data on occupancy code enforcement related to household definitions. A quantitative analysis of the codes could be helpful to see for example, what, if any, factors are significant in determining the type or restrictiveness of occupancy codes a city has. Factors which would be interesting to investigate could include land area, median income, and demographic data such as the largest ethnic groups of the city. It might be expected that cities with smaller land areas, higher density, and higher percentages of foreign-born residents or residents of certain ethnic groups may be related to more lenient occupancy standards because of need and different cultural norms. Other questions which were raised during this study which could be fruitful to research further are how many households across the country or in specific cities are over occupancy (as distinct from overcrowded) or have unoccupied rooms, and how many cities have settled occupancy related cases with the Department of Justice.

In conclusion, planners need to be more aware of the often-unquestioned normative judgements they may be making or reinforcing through occupancy standards and other aspects of their work. Planners may think of their jobs as having to do more with buildings or zoning districts

than with seemingly natural categories like family, but cities and their codes “are reaching inside the home and affecting familial relationships”¹¹⁸ as well as close ties of friendship and those forged by economic hardship or necessity. Knowing some of the history and more recent socioeconomic household trends discussed in previous chapters can help planners be aware of the ways zoning codes have been used as tools of social control to perpetuate racism, classism, sexism, and ableism; be vigilant against discriminatory arguments for new codes; and change existing codes. By eliminating or liberalizing relationship-based occupancy codes and following the other recommendations presented here, planners, researchers, advocates, residents, can support inclusive communities and changing households across the United States.

¹¹⁸ Marsha Ritzdorf, quoted in Miranne, Kristine B., Young, Alma H. (Eds). *Gendering the City: Women, Boundaries, and Visions of Urban Life*, Rowman and Littlefield Publishers, Inc., 2000, p. 178.

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Appendix: Occupancy Codes (Excerpted Text)

Albuquerque, New Mexico

Estimated Population (2015): 559,121

Family/Household Definition:

FAMILY.

- (1) An individual;
- (2) Two or more persons related by blood, marriage, legal guardianship, or adoption, plus resident domestic servants; or
- (3) Any group of not more than five persons living together in a dwelling.

Albuquerque Code of Ordinances, Chapter 14. Zoning, Planning and Building, Article 16. Zoning Code, Part 1. General Provisions, Section. 14-16-1-5 Definitions.

Minimum Space per Occupant/Minimum Space:

(B) Floor Space.

(1) Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area.

(2) In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 45 square feet of floor space for each occupant thereof.

Albuquerque Code of Ordinances, Chapter 14. Zoning, Planning and Building, Article 3. Uniform Housing Code, Part 2. Space and Occupancy Standards, Section 14-3-2-1 Room Dimensions.

Sources:

[http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter14zonin gplanninga ndbuilding/article16zoningcode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:albuquerque_nm _mc\\$anc=JD_Chapter14Article16](http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter14zonin gplanninga ndbuilding/article16zoningcode?f=templates$fn=default.htm$3.0$vid=amlegal:albuquerque_nm _mc$anc=JD_Chapter14Article16)

<http://164.64.110.239/nmac/parts/title14/14.007.0003.htm>

<http://legacycodes.iccsafe.org/app/book/content/2015-I-Codes/2015%20IRC%20HTML/Chapter%203.html>

Atlanta, Georgia

Estimated Population (2015): 463,878

Family/Household Definition:

Family: One or more persons occupying a single dwelling or lodging unit, provided that, unless all members are related by blood, marriage or adoption, no such family shall contain over six

persons, with the following exceptions. Domestic servants employed on the premises may be housed on the premises without being counted as a family. In a dwelling unit, not more than two rooms not containing independent kitchen facilities may be occupied by a total of four or less roomers who may also board with the family. Four or less boarders, including but not necessarily restricted to roomers on the premises, may be accommodated for compensation for any period, including daily, weekly or monthly periods. The term "family" shall not be construed to mean fraternity, sorority, club, student center, group care homes, foster homes and similar uses.

Atlanta, GA Code of Ordinances, Part III. Code of Ordinances - Land Development Code, Part 16. Zoning, Ch. 29. Definitions, Sec. 10-b.

Minimum Space per Occupant

Every applicable dwelling and its premises shall conform to this Section.

(a) Required Space in Dwelling Units. Every dwelling unit shall contain a minimum gross floor area of not less than one hundred fifty (150) square feet for the first occupant, and one hundred (100) square feet for each additional occupant. This floor area shall be calculated on the basis of the total habitable area of all habitable rooms.

(b) Sleeping Room Floor Space. In every dwelling unit of two or more rooms, every room occupied for sleeping by one occupant, except as indicated in Subsection (e) hereinafter, shall contain at least seventy (70) square feet of floor space; and every room occupied for sleeping purposes by more than one occupant shall contain at least fifty (50) square feet of floor space for each occupant thereof.

Atlanta, GA Code of Ordinances, Part III. Code of Ordinances - Land Development Code, Appendix E - Atlanta Housing Code of 1987, Article II. Minimum Standards, Sec. 24. Minimum Space, Use and Location requirements.

Sources:

https://www.municode.com/library/ga/atlanta/codes/code_of_ordinances?nodeId=PTIICOORANDECO_PT16ZO_CH29DE

<http://www.dca.state.ga.us/development/constructioncodes/programs/codes2.asp>

<http://codes.iccsafe.org/app/book/content/PDF/2012%20International%20Codes/IRC/Chapter%2003-Building%20Planning.pdf>

Boston, Massachusetts

Estimated Population (2015): 667,137

Family/Household Definition:

Family. One person or two or more persons related by blood, marriage, adoption, or other analogous family union occupying a dwelling unit and living as a single non-profit housekeeping unit, provided that a group of five or more persons who are enrolled as full-time, undergraduate

students at a post-secondary educational institution shall not be deemed to constitute a family. A group residence, limited, as defined in "Group residence, limited" of this Section 2-1 shall be deemed a family.

Group residence, limited. Premises licensed, regulated, or operated by the Commonwealth of Massachusetts or operated by a vendor under contract with the Commonwealth for the residential living, care, or supervision in any single dwelling unit of five or more mentally ill or mentally retarded persons or persons with disabilities.

Boston Zoning Code, Article 2. Definitions, Section 2-1.

Minimum Space per Occupant:

410.400: Minimum Square Footage

(A) Every dwelling unit shall contain at least 150 square feet of floor space for its first occupant, and at least 100 square feet of floor space for each additional occupant, the floor space to be calculated on the basis of total habitable room area.

(B) In a dwelling unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space; every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant.

(C) In a rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 80 square feet of floor space; every room occupied for sleeping purposes by more than one occupant shall contain at least 60 square feet for each occupant.

CMR 105 State Dept. of Public Health. MA State Sanitary Code, Ch. 2. Minimum Standards of Fitness for Human Habitation. Sec. 410.400

Sources:

<http://www.mass.gov/eohhs/docs/dph/regs/105cmr410.pdf>

<http://archives.cityofboston.gov/repositories/2/resources/384>

https://www.municode.com/library/ma/boston/codes/redevelopment_authority?nodeId=ART2DE

<http://www.mass.gov/courts/case-legal-res/law-lib/laws-by-subj/about/landlord.html>

Text Amendment #346: <http://www.mass.gov/courts/docs/lawlib/docs/bostonzoningchanges.pdf>

Chicago, Illinois

Estimated Population (2015): 2,720,546

Family/Household Definition:

A "family" consists of one or more persons each related to the other by blood (or adoption), together with such blood relations' respective spouses, who are living together in a single dwelling and maintaining a common household. A "family" includes any domestic servants and not more

than one gratuitous guest residing with said “family”. A “family” also consists of the residents of a family home.

Chicago Building Code, Subdivision 302, Chapter 13-56-030

Minimum Space per Occupant:

Every family unit shall contain at least 125 square feet of floor area for each of the first two occupants, and at least 100 square feet of each of the next two occupants, and at least 75 square feet for each additional occupant. For the purpose of this section, floor area is the area within the perimeter of the space or building occupied by the family unit, not including elevators, stairs, or other shaft enclosures. (Prior code § 78-46)

Chicago Building Code, Division 34, Subdivision 3401, Chapter 13-196-480

Minimum Space:

In every family unit and every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, or if of original configuration need only comply with the regulations in effect at the time of its construction. Every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age. For the purpose of this section a person under two years of age shall not be counted as an occupant. (Prior code § 78-47)

Chicago Building Code, Division 34, Subdivision 3401, Chapter 13-196-490

Other:

No person shall occupy or cause or permit the continued occupancy of any family unit which does not comply with the standards of occupancy set forth in Sections 13-196-480 through and including 13-196-520 of this chapter.

The provisions of Sections 13-196-480 through and including 13-196-520 shall not be applicable to single-family dwellings occupied only by an owner and persons within the family relationship. (Prior code § 78-45)

Chicago Building Code, Division 34, Subdivision 3401, Chapter 13-196-470

Sources:

[http://library.amlegal.com/nxt/gateway.dll/Illinois/chicagobuilding/buildingcodeandrelatedexcerpts/themunic?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:chicagobuilding_il](http://library.amlegal.com/nxt/gateway.dll/Illinois/chicagobuilding/buildingcodeandrelatedexcerpts/themunic?f=templates$fn=default.htm$3.0$vid=amlegal:chicagobuilding_il)

<http://chicagoeviction.com/2013/01/maximum-occupancy-restrictions-and-the-illinois-landlord/>

Cleveland, Ohio

Estimated Population (2015): 388,072

Family/Household Definition:

“Family” means one (1) or more persons related by blood, adoption or marriage, or a family foster home, living and cooking together as a single housekeeping unit, exclusive of house-hold servants. A number of persons, but not exceeding three (3) living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage shall be deemed to constitute a family. A “family foster home” means a family related by blood, adoption or marriage as defined above with no more than five (5) foster children.

(Ord. No. 919-88. Passed 6-20-88, eff. 6-24-88)

Cleveland Code of Ordinances, Part Three: Land Use Code, Part IIIB: Land Use Code - Zoning Code, Title VII: Zoning Code, Ch. 325. Definitions, Section 325.22

Minimum Space:

Every dwelling unit shall conform to the following standards:

(a) Every dwelling unit shall contain at least one (1) room which shall have not less than one hundred twenty (120) square feet of habitable floor area. However, any room used for both living and cooking, or both living and sleeping, or for living, cooking and sleeping purposes shall have not less than one hundred fifty (150) square feet of habitable floor area.

(b) No portion of any room which is less than seven (7) feet in width shall be included in determining habitable floor area.

(c) All habitable rooms shall have a clear ceiling height of not less than six (6) feet, nine (9) inches, provided that rooms with sloping ceilings shall have a clear ceiling height of not less than six (6) feet, nine (9) inches in at least one-half (1/2) of their habitable floor area. In determining the habitable floor area of rooms with sloping ceilings, all portions of less than five (5) feet in height shall be disregarded.

(Ord. No. 2409-59. Passed 4-4-60, eff. 4-6-60)

Cleveland Code of Ordinances, Part Three: Land Use Code, Part IIIC: Land Use Code - Housing Code, Title IX: Housing Code, Ch. 369. Residential Occupancy Standards. Section 369.1. Requirements for Habitable Rooms.

Source:

[http://library.amlegal.com/nxt/gateway.dll/Ohio/cleveland_oh/partthreelandusecode/partiiilandu secode-buildingcode/titlexiiibuildingcode/chapter3111-ohiobuildingcode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:cleveland_oh](http://library.amlegal.com/nxt/gateway.dll/Ohio/cleveland_oh/partthreelandusecode/partiiilandu secode-buildingcode/titlexiiibuildingcode/chapter3111-ohiobuildingcode?f=templates$fn=default.htm$3.0$vid=amlegal:cleveland_oh)

Dallas, Texas

Estimated Population (2015): 1,300,092

Family/Household Definition:

(36) FAMILY means individuals living together as a single housekeeping unit in which not more than four individuals are unrelated to the head of the household by blood, marriage, or adoption.

City of Dallas Texas Code of Ordinances, Volume III, Ch. 51A Dallas Development Code. Ordinance Number 19455 as amended. Article II. Interpretations and Definitions. SEC. 51A-2.102.

Minimum Space per Occupant/Minimum Space:

A structure or dwelling unit is overcrowded if the following standards are not met:

(1) Floor space per person. Each structure or dwelling unit must contain at least 150 square feet of habitable floor space for the first occupant and at least 100 square feet of additional habitable floor space for each additional occupant.

(2) Sleeping space per person. In each structure or dwelling unit of two or more rooms, each room occupied for sleeping purposes by one occupant must contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one person must contain at least 50 square feet of floor space for each occupant.

(3) Special provisions. Children under 12 months of age are not considered occupants, and children under 12 years of age are considered as 1/2 of one occupant for purposes of Subparagraphs (1) and (2).

(4) Ceiling height. For purposes of Subparagraphs (1) and (2), a room of a structure must have a ceiling height of at least seven feet to be considered habitable space. (Ord. Nos. 15198; 16473; 19234; 20470; 24086; 26455)

Dallas TX Code of Ordinances, Volume I, Ch. 27. Minimum Urban Rehabilitation Standards, Article IV. Vacation, Reduction of Occupancy Load, and Securing of Structures and Relocation of Occupants. Sec. 27-15

Sources:

[http://library.amlegal.com/nxt/gateway.dll/Texas/dallas/cityofdallastexascodeofordinances?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:dallas_tx](http://library.amlegal.com/nxt/gateway.dll/Texas/dallas/cityofdallastexascodeofordinances?f=templates$fn=default.htm$3.0$vid=amlegal:dallas_tx)

<http://codes.iccsafe.org/app/book/content/2015-I-Codes/2015%20IBC%20HTML/Chapter%2012.html>

<http://www.statutes.legis.state.tx.us/Docs/PR/htm/PR.92.htm#92.010>

<http://www.austincontrarian.com/austincontrarian/2014/02/fact-checking-occupancy-limits.html>

Denver, Colorado

Estimated Population (2015): 682,545

Family/Household Definition:

Household

A dwelling unit occupied by persons in any one of the following four categories living as a single non-profit housekeeping unit, including any permitted domestic employees:

a. A single person plus, if applicable, any number of persons bearing to each other the relationship of: mother, father, grandmother, grandfather, son, daughter, brother, sister, stepson,

stepdaughter, stepbrother, stepsister, stepmother, stepfather, grandson, granddaughter, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, uncle, aunt, nephew or niece; or

b. A husband and wife plus, if applicable, any number of persons bearing to either the relationship of: mother, father, grandmother, grandfather, son, daughter, brother, sister, stepson, stepdaughter, stepbrother, stepsister, stepmother, stepfather, grandson, granddaughter, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, uncle, aunt, nephew or niece; or

c. In a single unit dwelling use only: Two unrelated adults over the age of 18 years plus, if applicable, any persons bearing to either of the two unrelated adults the relationship of mother, father, grandmother, grandfather, son, daughter, brother, sister, stepson, stepdaughter, stepbrother, stepsister, stepmother, stepfather, grandson, granddaughter, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, uncle, aunt, nephew or niece

Minimum Space:

Every dwelling unit shall have no fewer than one room that shall not have less than 120 square feet (11.2m²) of net floor area. Other habitable rooms shall have a net floor area of not less than 70 square feet (6.5m²). Exception: Kitchens are not required to be of a minimum floor area.

Habitable spaces, other than a kitchen, shall not be less than seven feet (2134 mm) in any plan dimension. Kitchens shall have a clear passageway of not less than three feet (914 mm) between counterfronts and appliances or counterfronts and walls

2015 IBC. Chapter 12. Interior Environment. Section 1208 Interior Space Dimensions.

Sources:

<http://codes.iccsafe.org/app/book/content/2015-IBC/Codes/2015%20IRC%20HTML/Chapter%203.html>

<http://codes.iccsafe.org/app/book/content/2015-IBC/Codes/2015%20IBC%20HTML/Chapter%2012.html>

<https://www.denvergov.org/content/denvergov/en/denver-development-services/help-me-find-building-codes-and-policies.html>

<https://www.denvergov.org/content/dam/denvergov/Portals/771/documents/PHI/HFHH/Residential-Housing-Regulation.pdf>

<https://www.denvergov.org/content/denvergov/en/denver-development-services/help-me-find-inspections/common-code-violations.html>

https://www.denvergov.org/content/dam/denvergov/Portals/646/documents/Zoning/DZC/Denver_Zoning_Code_Article11_Use_Limitations.pdf

Houston, Texas

Estimated Population (2015): 2,296,224

Family/Household Definition:

"Family means an individual; or two or more individuals related by blood or by marriage; or a group of not more than ten individuals, who need not be related by blood or marriage, living together in a dwelling unit."

Houston Code of Ordinances, Chapter 10, Article 9 (Houston Building Standards Code), Division 1, Sec. 10-317. – Definitions

Minimum Space per Occupant/Minimum Space:

Overcrowded describes:

A dwelling unit or a congregate living facility not containing at least 150 square feet of net floor area for the first resident and at least 100 square feet of additional net floor area for each additional resident; or

(2) A dwelling unit or a congregate living facility of two or more rooms not containing at least 70 square feet of net floor area in each room occupied by one resident for sleeping purposes; or

(3) A dwelling unit or a congregate living facility of two or more rooms not containing at least 50 square feet of net floor area per resident in each room occupied by more than one resident for sleeping purposes; provided that, in a calculation of net floor area for the purposes of this article, children younger than one year old shall not be considered residents; children at least one year old but younger than six years old shall be considered one-half of one resident; and floor area in a room with a ceiling height of less than seven feet shall not be included in the calculation.

Source:

https://www.municode.com/library/tx/houston/codes/code_of_ordinances?nodeId=COOR_CH10_BUNEPR_ARTIXBUST_DIV1GE

Los Angeles, California

Estimated Population (2015): 3,971,883

Family/Household Definition:

"One or more persons living together in a dwelling unit, with common access to, and common use of all living, kitchen, and eating areas within the dwelling unit. (Amended by Ord No. 177,325. Eff. 3/18/06.)

However, for situations where rooms are rented, people maintain separate appliances, or members of the group are changed at frequent intervals (such as each month or so), are nothing else than rooming houses, or other guest room arrangement not within the realm of a single family." See section 12.03.

City of Los Angeles, Zoning Code Manual and Commentary, Fourth Edition. p. 12

Minimum Space:

CA Health and Safety Code Section 17922. See 1997 Uniform Housing Code Section 503(b): Every residential rental unit must have at least one room that is at least 120 square feet; other rooms used for living must be at least 70 square feet; and any room used for sleeping must increase the minimum floor area by 50 square feet for each occupant in excess of two). Different rules apply in the case of “efficiency units.” (See 1997 Uniform Housing Code Section 503(b), Health and Safety Code Section 17958.1.)

California Tenants: A Guide to Residential Tenants’ and Landlords’ Rights and Responsibilities, 2012, p. 8

Sources:

<http://codes.iccsafe.org/app/book/content/2016%20California%20Codes/Residential/Chapter%2002%20Definitions.pdf>

<http://www.dca.ca.gov/publications/landlordbook/catenant.pdf>

<http://legalbeagle.com/12167016-occupancy-limit-regulations-california.html>

<https://www.cacities.org/Resources-Documents/Policy-Advocacy-Section/Hot-Issues/Group-Homes/California-Land-Use-Laws-Related-to-Recovery-Facil>

<https://www.ladbs.org/docs/default-source/publications/information-bulletins/zoning-code/zoning-code-manual-and-commentary.pdf?sfvrsn=17>

Miami, Florida

Estimated Population (2015): 441,003

Family/Household Definition:

Family. One (1) person, or group of two (2) or more persons living together and interrelated by blood, marriage or legal adoption, occupying a dwelling unit designed as a single-family use, as a separate housekeeping unit with a single set of kitchen facilities. The persons thus constituting a family may also include gratuitous guests and domestic servants.

Miami - Dade County, FL Code of Ordinances, Ch. 33. Zoning, Article I. In General, Section 33-1. Definitions

Minimum Space per Occupant/Minimum Space:

No person shall occupy, or let to another for occupancy, any dwelling or dwelling unit for the purpose of living therein, which does not comply with the following requirements:

(1) Every dwelling unit shall contain a minimum gross floor area of at least one hundred fifty (150) square feet for the first occupant, one hundred (100) square feet for each of the next two (2) occupants, and at least seventy-five (75) square feet for each occupant thereafter. Floor space shall be calculated on the basis of total habitable room area.

(2) In every dwelling unit of two (2) or more habitable rooms, every room occupied for sleeping purposes by one (1) occupant shall have a minimum gross floor area of at least eighty

(80) square feet. Every room occupied for sleeping purposes by more than one (1) occupant shall have a minimum gross floor area of fifty (50) square feet per occupant. Every room used for sleeping purposes shall have a minimum width of eight (8) feet. Kitchens shall not be used for sleeping purposes. Porches shall not be used as permanent sleeping quarters.

Miami - Dade County, FL Code of Ordinances, Ch. 17. Housing, Article III. City of Miami Minimum Housing Standards, Sec. 17-62. Minimum Space, Use and Location Requirements

Source:

https://www.municode.com/library/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH17HO_ARTIICIMIMIHOS_T_S17-62MISPUSLORE

Minneapolis, Minnesota

Estimated Population (2015): 410,939

Family/Household Definition:

Family. An individual or two (2) or more persons related by blood, marriage, domestic partnership as defined in Chapter 142 of the Minneapolis Code of Ordinances, or adoption, including foster children and domestic staff employed on a full-time basis, living together as a permanent household. 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, and shall not be applied so as to prevent the city from making reasonable accommodation where the city determines it necessary to afford handicapped persons living together in a permanent household equal access to housing pursuant to the Federal Fair Housing Amendments Act of 1988.

Minneapolis, MN Code of Ordinances, Title 20. Zoning Code, Ch. 520. Introductory Provisions, Section 520.160. Definitions

Intentional Community definition:

Intentional community. A group of two (2) or more persons living together as a single household, sharing in the management of resources and household expenses, that meets the requirements of Chapter 244, Housing Maintenance Code. An intentional community shall share an entire dwelling unit and may not function as a rooming house.

Minneapolis, MN Code of Ordinances, Title 20. Zoning Code, Ch. 520. Introductory Provisions, Section 520.160. Definitions

Minimum Space per Occupant:

Every dwelling unit shall contain a minimum superficial floor area of not less than one hundred fifty (150) square feet for the first occupant, seventy (70) additional square feet for the second occupant and one hundred (100) square feet for each additional occupant in excess of two (2). The floor area shall be calculated on the basis of the total habitable floor area of all habitable rooms. Single room dwelling units shall not be occupied by more than four (4) persons. Rooms used

exclusively for sleeping purposes shall have the following minimum superficial floor area, seventy (70) square feet for one person, ninety (90) square feet for two (2) persons and the required superficial floor area shall be increased at the rate of fifty (50) square feet for each occupant in excess of two (2). However, occupancy of a sleeping room shall not exceed four (4) persons. Habitable rooms having a multiple use shall have not less than one hundred fifty (150) square feet of superficial floor area. Other habitable rooms shall have not less than seventy (70) square feet of superficial floor area, except kitchens. No habitable room other than a kitchen shall be less than seven (7) feet in any dimension.

Multiroomed dwelling units, when let to another, shall include a kitchen room. The floor area of such required kitchen room is not to be included when calculating floor area for the purposes of determining occupant load. (Code 1960, As Amend., § 73.030; 82-Or-107, §§ 28, 37, 6-11-82)

Maximum Occupancy:

546.50. - Maximum occupancy.

(a) Dwelling units. The maximum occupancy of a dwelling unit located in the R1 through R3 Districts shall not exceed one (1) family plus up to two (2) unrelated persons living together as a permanent household, provided that the family plus the unrelated persons shall not exceed a total of five (5) persons. The maximum occupancy of a dwelling unit located in the R4 through R6 Districts shall not exceed one (1) family plus four (4) unrelated persons living together as a permanent household, provided that the family plus the unrelated persons shall not exceed a total of five (5) persons.

(b) Rooming units. The maximum occupancy of a rooming unit shall be as regulated by Chapter 244 of the Minneapolis Code of Ordinances, Housing Maintenance Code.

Minneapolis, MN Code of Ordinances, Title 20. Zoning Code, Ch. 546. Residence Districts, Article I. General Provisions, Section 546.50 Maximum Occupancy

Intentional Community Ordinance:

244.820. - Dwelling unit to be occupied by one (1) family.

(a) No dwelling unit shall be occupied by more than one (1) family. However, unrelated persons may occupy a dwelling unit when such occupancy is permitted and authorized.

(b) When, in the opinion of the director of regulatory services, it is necessary for the protection of the health, safety and welfare of the occupants, the owner or agent of dwelling units let to another may be required to post in a conspicuous place, with a transparent cover, a card issued by the director of regulatory services setting forth the maximum number of persons who may lawfully occupy such a dwelling unit. Said card shall be posted inside the dwelling unit at eye level on, or within four (4) feet of, the main entrance door.

(c) For purposes of this section, a family may include a group of two (2) or more unrelated adults living together in a dwelling unit when operating as an intentional community.

(d) Occupation of a dwelling unit as an intentional community shall be subject to the following limitations:

(1) A dwelling unit in which the various occupants act as separate roomers may not be deemed to be occupied by an intentional community.

(2) A rental property owner may have an ownership interest in no more than one (1) dwelling occupied as an intentional community. Cooperatives whose members live in the dwellings they own will not be subject to this limitation, nor will rental property owners which are nonprofit organizations registered with or organized pursuant to the laws of the State of Minnesota.

(3) No registration may be accepted for any intentional community to be located at a property at which a rental property owner with any ownership interest in properties classified as Tier II or Tier III by the director of regulatory services has an ownership interest.

(4) If the representative member of the intentional community ceases residence in the intentional community, the intentional community must provide a representative member to update the registration required by this section.

(5) If a household or the members of a household registered as an intentional community do not meet or no longer meet the standards of this section, the household shall not qualify for recognition as an intentional community and shall be subject to enforcement for violation of this section or any other applicable section of this Code. Additionally, intentional communities and the members thereof shall comply with all provisions of this Code involving noisy and unruly assemblies or other regulations protecting the public health, safety, and repose and violation thereof may constitute good cause to determine that such standards have not been met.

(6) An intentional community that dissolves shall inform the director of regulatory services of its dissolution within ten (10) days. Furthermore, if any of the information required to be provided with the initial registration of the intentional community should change, the intentional community shall inform the director within ten (10) days.

(7) A dwelling unit in which various occupants are part of a residential program of the type regulated by sections 535.120 and 535.130 may not be deemed to be occupied by an intentional community.

(e) In order to occupy a dwelling unit as an intentional community pursuant to this section, the community shall file a registration with, and on a form approved by, the director of regulatory services, which shall include the following information:

(1) The name and address of the intentional community;

(2) The name and current contact information of a representative member of the intentional community;

(3) The name and current contact information, and a notarized statement of approval of the intentional community, from the property owner;

(4) A notarized statement from the representative member of the intentional community, attesting that the intentional community meets the standards established by this section and that it will be operated in compliance with all other applicable requirements of this Code;

(5) An accurate and current floor plan of the dwelling unit, so that the maximum legal occupancy pursuant to the housing maintenance code and building code can be determined;

(6) If applicable and available, a cooperative registration number or other legal documentation establishing the existence of the intentional community as a recognized and legal entity; and

(7) A copy of any applicable lease, if one exists or is required by law.

(Code 1960, As Amend., § 73.040; 78-Or-244, § 32, 11-22-78; 82-Or-106, § 29, 6-11-82; Pet. No. 252271, § 22, 5-11-90; 2013-Or-161, § 24, 12-6-13; Ord. No. 2016-085 , § 1, 12-9-16)

Minneapolis, MN Code of Ordinances, Title 12. Housing, Ch. 244 Maintenance Code, Article VIII. Space, Use, and Location, Section 244.820. Dwelling Unit to be Occupied by 1 Family)

Sources:

https://www.municode.com/library/mn/minneapolis/codes/code_of_ordinances?nodeId=COOR_TIT12HO_CH244MACO_ARTVIIIISPUSLO&showChanges=true

Intentional community ordinance:

https://www.municode.com/library/mn/minneapolis/ordinances/code_of_ordinances?nodeId=804436

New Orleans, Louisiana

Estimated Population (2015): 389,617

Family/Household Definition:

Family. An individual or two (2) or more persons who are related by blood, marriage, or registered domestic partnership, living together and occupying a single housekeeping unit with single culinary facilities, or a group of not more than four (4) persons living together by joint agreement and occupying a single housekeeping unit with single culinary facilities.

Notwithstanding the above, domestic servants, employed and residing on the premises shall be considered as part of the family.

New Orleans Comprehensive Zoning Ordinance, Article 26. Definitions, Section 26.6

Minimum Space:

Every bedroom and living room shall comply with the following requirements:

(1) Every living room shall contain at least 120 square feet and every bedroom shall contain a minimum of 70 square feet, and every bedroom occupied by more than one person shall contain a minimum of 50 square feet of floor area for each occupant thereof.

New Orleans Code of Ordinances, Chapter 26. Buildings, Building Regulations and Housing Standards. Article IV. Minimum Property Maintenance Code, Division 5. Light, Ventilation and Occupancy Limitations--Occupies Premises, Section 26.197. Bedroom and Living Room Requirements

Other:

Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements established in the table below:

Living room: 120 sq. ft. for 1—2 occupants; 120 sq. ft. for 3—5 occupants; 150 sq. ft. for 6 or more occupants

Dining room: No requirement for 1—2 occupants; 80 sq. ft. for 3—5 occupants; 100 sq. ft. for 6 or more occupants

Bedrooms Comply with section 26-197

(b) The minimum occupancy area required by the table in subpart (a) of this section shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with section 26-197.

(c) Combined living room and dining room spaces shall comply with the requirements of the table in subpart (a) of this section if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

New Orleans Code of Ordinances, Chapter 26. Buildings, Building Regulations and Housing Standards. Article IV. Minimum Property Maintenance Code, Division 5. Light, Ventilation and Occupancy Limitations--Occupies Premises, Section 26.199. Overcrowding.

Sources:

https://www.municode.com/library/la/new_orleans/codes/code_of_ordinances?nodeId=PTIICO_CH26BUBUREHOST_ARTIVMIPRMACO_DIV5LIVEOCLICCPR

<http://czo.nola.gov/article-26/>

<http://www.nola.gov/city-planning/czo/former-comprehensive-zoning-ordinance/former-new-orleans,-la-zoning-thru-june-20,-2014/>

New York City, New York

Estimated Population (2015): 8,550,405

Family/Household Definition:

A family is:

(a) A single person occupying a dwelling unit and maintaining a common household with not more than two boarders, roomers or lodgers; or

(b) Two or more persons related by blood, adoption, legal guardianship, marriage or domestic partnership; occupying a dwelling unit and maintaining a common household with not more than two boarders, roomers or lodgers; or

(c) Not more than three unrelated persons occupying a dwelling unit and maintaining a common household; or

(d) Not more than three unrelated persons occupying a dwelling unit in a congregate housing or shared living arrangement and maintaining a common household; or

(e) Members of a group home; or

(f) Foster children placed in accordance with provisions of the New York state social services law, their foster parents, and other persons related to the foster parents by blood, marriage or domestic partnership; where all residents occupy and maintain a common household with not more than two boarders, roomers or lodgers; or

(g) Up to seven unrelated students enrolled at a single accredited college or university occupying a student apartment, as such term is defined in the New York city building code, and

maintaining a common household pursuant to a lease, sublease, or occupancy agreement directly with such college or university, provided that:

- (i) The entire structure in which the dwelling unit is located is fully sprinklered in accordance with chapter 9 of the New York city building code; and
- (ii) Such occupancy does not exceed the maximums contained in subdivision a of section 27-2075; and
- (iii) Prior to commencement of such occupancy, and on an annual basis thereafter such college or university has submitted a fire safety plan containing fire safety and evacuation procedures for such dwelling unit that is acceptable to the fire commissioner and in compliance with any rules promulgated by the fire commissioner; and
- (iv) The dwelling unit complies with additional occupancy and construction requirements as may be established by rule by the department of housing preservation and development or its successor

NYC Housing Maintenance Code, Ch. 2, Subchapter 1, Article 1, §27–2004 Definitions

Minimum Space per Occupant: 80 sq. ft/person

NYC Housing Maintenance Code, Chapter 2, Subchapter 3, Article 4, Sec. 27-2075 Maximum permitted occupancy

Sources: "<https://www1.nyc.gov/assets/buildings/pdf/HousingMaintenanceCode.pdf>

http://tenant.net/Other_Laws/HMC/sub3/art4.html#27-2075"

<https://www1.nyc.gov/assets/buildings/pdf/MultipleDwellingLaw.pdf>

Philadelphia, Pennsylvania

Estimated Population (2015): 1,567,442

Family/Household Definition:

FAMILY. An individual or two or more persons related by blood, marriage, Life Partnership or adoption; or a group of three or less unrelated persons, living together as a single housekeeping unit.

The Philadelphia Code, Title 4. The Philadelphia Building Construction and Occupancy Code. Subcode PM. The Philadelphia Property Maintenance Code. Chapter 2. Definitions

Minimum Space:

PM-404.4.1 Room area. Every living room shall contain at least 120 square feet (11.2 m²) and every bedroom shall contain at least 70 square feet (6.5 m²).

Bookmark

PM-404.4.1.1 365 Minimum dimensions: A habitable room, other than a kitchen, shall not be less than seven feet (2133 mm) in any plan dimension. Kitchens shall have a clear passageway of not less than three feet (914 mm) between counterfronts and appliances or counterfronts and walls

The Philadelphia Code, Title 4. The Philadelphia Building Construction and Occupancy Code. Subcode PM. The Philadelphia Property Maintenance Code. Chapter 4. Light, Ventilation, and Occupancy Limitations

Other:

The number of persons occupying a dwelling unit shall not create conditions that, in the opinion of the code official, endanger the life, health, safety or welfare of the occupants.

Note: "Code official" means The Commissioner of Licenses and Inspection, or any duly authorized representative.

The Philadelphia Code, Title 4. The Philadelphia Building Construction and Occupancy Code. Subcode PM. The Philadelphia Property Maintenance Code. Chapter 4. Light, Ventilation, and Occupancy Limitations

Sources:

[http://library.amlegal.com/nxt/gateway.dll/Pennsylvania/philadelphia_pa/title4thephiladelphiabuildingconstruction/subcodepmthephiladelphiapropertymaintena?f=templates\\$fn=altmain-nf.htm\\$q=\[field%20folio-destination-name:%27PM-4%27\]\\$x=Advanced#JD_PM-4](http://library.amlegal.com/nxt/gateway.dll/Pennsylvania/philadelphia_pa/title4thephiladelphiabuildingconstruction/subcodepmthephiladelphiapropertymaintena?f=templates$fn=altmain-nf.htm$q=[field%20folio-destination-name:%27PM-4%27]$x=Advanced#JD_PM-4)

<http://codes.iccsafe.org/app/book/content/PDF/2009%20International%20Codes/IPMC/Chapter%204-Light%20Ventilation%20and%20Occupancy.pdf>

http://www.amlegal.com/codes/client/philadelphia-historic-property-maintenance-code_pa/

Phoenix, Arizona

Estimated Population (2015): 1,563,025

Family/Household Definition:

Family: A family is:

1. An individual or two (2) or more persons related by blood, marriage, or adoption, and usual servants, living together as a single housekeeping unit in a dwelling units, or
2. A group of not more than five (5) persons, who need not be related, living together as a single housekeeping unit in a dwelling unit.

Zoning Ordinance, Chapter 2. Rules of Construction and Definition. Sec. 202. Definitions

Minimum Space per Occupant:

The maximum occupancy of any dwelling unit shall not exceed the following requirement: For the first two occupants, there shall be at least two hundred fifty square feet of floorspace and there shall be at least one hundred fifty square feet of floorspace for every additional occupant thereafter,

the floorspace to be calculated on the basis of gross dwelling unit area. Children under the age of thirteen years shall not be counted for the purpose of determining compliance with this provision.

City Code. Chapter 39. Neighborhood Preservation Ordinance. Section 39-5. Electrical, plumbing, and mechanical systems; health and safety conditions.

Minimum Space:

Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.5.

Living room: 120 sq. ft. for 1-2 occupants; 120 sq. ft. for 3-5 occupants; 150 sq. ft. for 6+ occupants;

Dining room: No minimum for 1-2 occupants, 80 sq. ft. for 3-5 occupants; 100 sq. ft. for 6+ occupants;

Bedrooms must follow sec. 404.4.1

Every living room shall contain at least 120 sq. ft. and every bedroom shall contain a minimum of 70 sq. ft. and every bedroom occupied by more than 1 person shall contain a minimum of 50 sq. ft. of floor area for each occupant thereof.

2012 IPMC. Chapter 4. Light, Ventilation and Occupancy Limitations. Section 404.4.1

Sources:

https://www.phoenix.gov/pddsite/Documents/dsd_trt_pdf_00550.pdf

<http://codes.iccsafe.org/app/book/content/PDF/2012%20International%20Codes/IPMC/Chapter%204-Light%20Ventilation%20and%20Occupancy.pdf>

https://www.phoenix.gov/pddsite/Documents/ibc_admin.pdf

Portland, Oregon

Estimated Population (2015): 632,309

Family/Household Definition:

Household. One or more persons related by blood, marriage, domestic partnership, legal adoption or guardianship, plus not more than 5 additional persons, who live together in one dwelling unit; or one or more handicapped persons as defined in the Fair Housing Amendments Act of 1988, plus not more than 5 additional persons, who live together in one dwelling unit.

City of Portland City Code, Title 33. Planning and Zoning, Chapter 33.910. Definitions

Minimum Space:

Room area. Every dwelling unit shall have at least one room that shall have not less than 120 sq. ft. (13.9 m²) of net floor area. Other habitable rooms shall have a net floor area of not less than 70 sq. ft. (6.5 m²).

Exception: Every kitchen in a one- and two-family dwelling shall have not less than 50 sq. ft. (4.64 m²) of gross floor area.

2014 Oregon Structural Specialty Code. Ch. 12. Interior Environment. Section 1208. Interior Space Dimensions. 1208.3 Room area.

29.30.210 Sleeping Room Requirements.

Every room used for sleeping purposes:

- A. Shall be a habitable room as defined in this title;
- B. Shall not be a kitchen;
- C. Shall have natural light, ventilation, and windows or other means for escape purposes as required by this Title; and
- D. Shall comply with the following minimum requirements for floor area:

- 1. Shall have a minimum area of at least 70 square feet of floor area, except that where more than two persons occupy a room used for sleeping purposes, the required floor area shall be increased at the rate of 50 square feet for each person in excess of two. No portion of a room measuring less than 5 feet from the finished floor to the finished ceiling shall be included in any computation of the room's minimum area.

City of Portland City Code, Title 29. Property Maintenance Regulations, Chapter 29.30. Housing Maintenance Requirements, Section 29.30.210, Sleeping Room Requirements.

The specific minimum maintenance standards set forth in Sections 29.30.010 through 29.30.240 shall only apply to residential property that was constructed, altered or repaired before July 1, 1974. (Section 29.30.005. General)

Other:

No dwelling unit shall be permitted to be overcrowded. A dwelling unit shall be considered overcrowded if there are more residents than one plus one additional resident for every 100 square feet of floor area of the habitable rooms in the dwelling unit.

City of Portland City Code, Title 29. Property Maintenance Regulations, Chapter 29.30. Housing Maintenance Requirements, Section 29.30.220, Overcrowding.

Sources:

<https://www.portlandoregon.gov/citycode/article/513268>

<https://www.portlandoregon.gov/bps/?c=34567&a=53500>

http://codes.iccsafe.org/app/book/content/PDF/2014/2014_Oregon/14_Residential/PDFs/Chapter%203%20-%20Building%20Planning.pdf

https://www.portlandoregon.gov/citycode/28732#cid_194699

San Antonio, Texas

Estimated Population (2015): 1,469,845

Family/Household Definition:

Family. One (1) or more persons occupying a dwelling living together as a separate housekeeping unit in one (1) or more rooms with complete living facilities, including kitchen facilities or equipment for cooking or provisions for the same, and including room or rooms for living, sleeping, bathing and eating. The term family expressly excludes residents of an assisted living facility, boarding home, community home, college fraternity or sorority, transitional home, or nursing facility as defined.

San Antonio Unified Development Code. Appendix A. Section 35-A101 Definitions and Rules of Interpretation.

Minimum Space:

Every living room shall contain at least 120 square feet (11.2m²) and every bedroom shall contain at least 70 square feet (6.5m²). Exception: Unless constructed lawfully.

San Antonio Property Maintenance Code, Ch. 4. Light, Ventilation and Occupancy Limits, Section 404.4.1

Other:

The number of persons occupying a dwelling unit shall not create conditions that, in the opinion of the code official, endanger the life, health, safety or welfare of the occupants. The code official is authorized to utilize nationally recognized standards and applicable federal, state and local laws to determine overcrowding conditions.

San Antonio Property Maintenance Code, Ch. 4. Light, Ventilation and Occupancy Limits, Section 404.5 Overcrowding

Sources:

<http://docsonline.sanantonio.gov/FileUploads/DSD/SAPMCOOrdinance2015final.pdf>

https://www.municode.com/library/tx/san_antonio/codes/unified_development_code?nodeId=APXADERUIN

San Diego, California

Estimated Population (2015): 1,394,928

Family/Household Definition:

An individual or two or more persons who are related by blood or marriage; or otherwise live together in a dwelling unit.

2013 California Residential Code, California Code of Regulations Title 24, Part 2.5 (Adopted by reference, San Diego Municipal Code, Ch. 14 General Regulations, Article 9. Residential Building Regulations, Division 1. Adoption and Applicability of the Residential Building Regulations, Section 140.0103)

Minimum Space per Occupant/Minimum Space:

Every residential rental unit must have at least one room that is at least 120 square feet; other rooms used for living must be at least 70 square feet; and any room used for sleeping must increase the minimum floor area by 50 square feet for each occupant in excess of two). Different rules apply in the case of “efficiency units.”

1997 Uniform Housing Code Section 503(b), Health and Safety Code Section 17958.1. Adopted by reference, San Diego Municipal Code, Ch. 9. Building Housing and Sign Regulations. Article 8. Housing. Division 1. Housing Code. Sections 98.0101 and 98.0103

Sources:

http://codes.iccsafe.org/app/book/content/2015_CALIFORNIA/2013%20CALIFORNIA%20BUILDING%20CODE%20VOL%201,%20SUPPLEMENT%20JULY%202015/Chapter%202%20-%20Definitions.pdf

<http://docs.sandiego.gov/municode/MuniCodeChapter09/Ch09Art08Division01.pdf>

<http://docs.sandiego.gov/municode/MuniCodeChapter14/Ch14Art09Division01.pdf>

San Francisco, California

Estimated Population (2015): 864,816

Family/Household Definition:

Family. One or more persons related or unrelated, living together as a single integrated household in a dwelling unit.

San Francisco Building Inspection Commission Codes, Housing Code 2016 Edition, Ch. 4 Definitions, Section 401

Minimum Space:

b) Superficial Floor Area. Every dwelling unit and congregate residence shall have at least one room which shall have not less than 120 square feet of superficial floor area. Every room which is used for both cooking and living or both living and sleeping purposes shall have not less than 144 square feet of superficial floor area. Every room used for sleeping purposes shall have not less than 70 square feet of superficial floor area. When more than two persons occupy a room used for sleeping purposes the required superficial floor area shall be increased at the rate of 50 square feet for each occupant in excess of two. Guest rooms with cooking shall contain the combined required superficial areas of a sleeping and a kitchen, but not less than 144 square feet. Other habitable rooms shall be not less than 70 square feet.

San Francisco Building Inspection Commission Codes, Housing Code 2016 Edition, Ch. 5 Space and Occupancy Standards, Sec. 503. Room Dimensions

Other:

(d) Housing Access. To promote access to housing by families, it shall be unlawful for the owner, lessor, lessee, sublessee, real estate broker, assignee, or other person having the rights of ownership, the right of possession, or other right to rent or lease any dwelling unit or any agent or employee of such person to refuse to rent or lease, or otherwise deny, a dwelling unit to a family, as defined in Section 401 of this Code, on the basis of the actual or potential number of occupants if the total number of persons occupying a room for sleeping purposes does not violate the minimum superficial floor area standards prescribed in Subsection (b) of this Section.

San Francisco Building Inspection Commission Codes, Housing Code 2016 Edition, Ch. 5 Space and Occupancy Standards, Sec. 503. Room Dimensions

Source:

[http://library.amlegal.com/nxt/gateway.dll/California/sfbuilding/housingcode2016edition/chapter2enforcement?f=templates\\$fn=default.htm\\$3.0](http://library.amlegal.com/nxt/gateway.dll/California/sfbuilding/housingcode2016edition/chapter2enforcement?f=templates$fn=default.htm$3.0)

San Jose, California

Estimated Population (2015): 1,026,908

Family/Household Definition:

"Family" is one or more persons occupying a premises and living as a single housekeeping unit. (Ord. 26248.)

San Jose CA Code of Ordinances. Title 20. Zoning. Ch. 20-200. Definitions. 20.200.370

Minimum Space:

B. Floor Area.

1. Every dwelling unit shall have at least one room which shall have not less than one hundred fifty square feet of floor area. Other habitable rooms, except kitchens, shall have an area of not less than seventy square feet. Where more than two persons occupy a room used for sleeping purposes, the required floor area shall be increased at the rate of fifty square feet for each occupant in excess of two.

Sources:

https://www.municode.com/library/ca/san_jose/codes/code_of_ordinances?nodeId=TIT17BUCO_CH17.20HOCO_PT3SPOCST

<http://codes.iccsafe.org/app/book/content/2016%20California%20Codes/Residential/Chapter%2003%20Building%20Planning.pdf>

<http://codes.iccsafe.org/app/book/content/2016%20California%20Codes/Residential/Chapter%202%20Definitions.pdf>

Seattle, Washington

Estimated Population (2015): 684,451

Family/Household Definition:

A. "Family" means any number of related persons or eight (8) or fewer unrelated persons.

Seattle, WA Municipal Code, Title 22. Building and Construction Codes, Subtitle II. Housing Code, Ch. 22.204. Definitions. Sec. 22.204.070 "F".

Minimum Space:

22.206.020 - Floor area.

A. Every dwelling unit shall have at least one (1) habitable room which shall have not less than one hundred twenty (120) square feet of floor area.

B. No habitable room except a kitchen may be less than seven feet (7') in any floor dimension.

C. Every room used for sleeping purposes, including an SRO unit, shall have not less than seventy (70) square feet of floor area. Every room, except an SRO unit, which is used for both cooking and living or both living and sleeping quarters shall have a floor area of not less than one hundred thirty (130) square feet if used or intended to be used by only one (1) occupant, or of not less than one hundred fifty (150) square feet if used or intended to be used by two (2) occupants. Where more than two (2) persons occupy a room used for sleeping purposes, the required floor area shall be increased at the rate of fifty (50) square feet for each occupant in excess of two (2).

(Ord. 115671 § 9, 1991; Ord. 113545 § 5(part), 1987.)

Sources:

https://www.municode.com/library/wa/seattle/codes/municipal_code?nodeId=TIT22BUCOCO_SUBTITLE_IIHOCO_CH22.204DE_22.204.070F

<http://codes.iccsafe.org/app/book/content/2015-I-Codes/2015%20IBC%20HTML/Chapter%2012.html>

<http://codes.iccsafe.org/app/book/content/2015-I-Codes/2015%20IRC%20HTML/Chapter%203.html>

https://www.seattle.gov/Documents/Departments/CivilRights/FH-FAQ-Property_Owners_Managers.pdf

http://clerk.seattle.gov/~le gislativeItems/Ordinances/Ord_113545.pdf

St. Louis, Missouri

Estimated Population (2015): 315,685

Family/Household Definition:

A person, or group of persons immediately related by blood, marriage or adoption, living as a single housekeeping unit; also a group of not more than three (3) persons not necessarily related by blood, marriage or adoption, living as a single housekeeping unit. (Ord. 62588 § 2 (part), 1992.)

St. Louis MO Code of Ordinances, Title 26. Zoning, Ch. 26.08. Zoning Definitions, Section 26.08.160. Family

Minimum Space:

Room area. Every dwelling unit shall have at least one room that shall have not less than 120 sq. ft. (13.9 m²) of net floor area. Other habitable rooms shall have a net floor area of not less than 70 sq. ft. (6.5 m²).

Exception: Every kitchen in a one- and two-family dwelling shall have not less than 50 sq. ft. (4.64 m²) of gross floor area.

2009 IBC. Ch. 12. Interior Environment. Section 1208. Interior Space Dimensions. 1208.3 Room area.

Other:

The number of persons occupying a dwelling unit shall not create conditions that, in the opinion of the code official, endanger the life, health, safety or welfare of the occupants.

2009 IPMC. Ch. 4. Light, Ventilation and Occupancy Limitations. Section 404. Occupancy Limitations.

Sources:

<http://codes.iccsafe.org/app/book/content/PDF/2009%20International%20Codes/IBC/Chapter%2012-Interior%20Environment.pdf>

<http://codes.iccsafe.org/app/book/content/PDF/2009%20International%20Codes/IRC/Chapter%2003-Building%20Planning.pdf>

<http://codes.iccsafe.org/app/book/content/PDF/2009%20International%20Codes/IPMC/Chapter%2004-Light%20Ventilation%20and%20Occupancy.pdf>

https://www.municode.com/library/mo/st._louis/codes/code_of_ordinances?nodeId=TIT25BUCO_CH25.32INPRMA

Salt Lake City, Utah

Estimated Population (2015): 192,672

Family/Household Definition:

FAMILY: A. One or more persons related by blood, marriage, adoption, or legal guardianship, including foster children, living together as a single housekeeping unit in a dwelling unit; or

B. A group of not more than three (3) persons not related by blood, marriage, adoption, or legal guardianship living together as a single housekeeping unit in a dwelling unit; or

C. Two (2) unrelated persons and their children living together as a single housekeeping unit in a dwelling unit.

The term "family" shall not be construed to mean a club, group home, residential support dwelling, a lodge or a fraternity/sorority house.

Salt Lake City, UT City Code, Title 21A. Zoning, Chapter 21A.62. Definitions, Section 21A.62.040. Definitions of Terms.

Minimum Space per Occupant/Minimum Space:

1. Floor Area And Room Dimensions: Dwelling units shall have at least one habitable room with not less than one hundred twenty (120) square feet of floor area. Habitable rooms other than a kitchen shall have an area not less than seventy (70) square feet and shall not be less than seven feet (7') in length or width.

2. Sleeping Room Dimensions: Every room used for sleeping shall have at least seventy (70) square feet of floor area. Where more than two (2) persons occupy a room used for sleeping, the required floor area shall be increased at the rate of fifty (50) square feet for each occupant in excess of two (2).

Salt Lake City UT City Code, Title 18. Buildings and Construction, Chapter 18.50. Existing Residential Housing, Section 18.50.180. Space and Occupancy Standards. Part B. Room and Corridor Size.

Sources:

http://www.sterlingcodifiers.com/codebook/index.php?book_id=672

<http://www.slc.gov/building/building-code>

http://www.slcdocs.com/building/HB0316_Web.pdf

Washington, D.C.

Estimated Population (2015): 672,228

Family/Household Definition:

Family - as used in this subtitle, the term "family" includes, but is not limited to, a single person living alone.

DC Housing Code, Title 14. Housing, Ch. 1. Administration and Enforcement, Sec. 199.1

Household: Shall be defined as one (1) of the following:

- (a) One (1) family related by blood, marriage, adoption, or foster agreement;
- (b) Not more than six (6) persons who are not so related, living together as a single house-keeping unit;
- (c) A religious community having not more than fifteen (15) members; or
- (d) A residential facility providing housing for up to six (6) persons with disabilities and two (2) caregivers. For purposes of this subsection, a "disability" means, with respect to a person, a physical or mental impairment which substantially limits one (1) or more of such person's major life activities, or a record of having, or being regarded as having, such an impairment, but such item does not include current, illegal use of a controlled substance.

DC Municipal Regulation. Title 11. Zoning Regulations of 2016. Ch. 11-B1, Section 100.1

Minimum Space per Occupant:

Each dwelling unit shall contain the following minimum amount of floor area in order to comply with the occupancy requirements of this subtitle:

- (a) At least one hundred thirty square feet (130 ft.²) of floor area in habitable rooms for the first occupant of the dwelling unit;
- (b) At least ninety square feet (90 ft.²) of additional floor area in habitable rooms for each additional occupant of the dwelling unit up to a total of seven (7) occupants; and
- (c) At least seventy-five square feet (75 ft.²) of additional floor area in habitable rooms for each additional occupant of the dwelling unit if the dwelling unit is to be occupied by more than seven (7) persons.

402.2 Each room used for sleeping purposes by not more than one (1) occupant shall be a habitable room containing at least seventy square feet (70 ft.²) of habitable room area.

402.3 Each room used for sleeping by two (2) or more occupants shall be a habitable room containing at least fifty square feet (50 ft.²) of habitable room area for each occupant.

D.C. Code, Title 14. Housing, Ch. 4. General Requirements, Section 402. See also SOURCE: The Housing Regulations of the District of Columbia, 5G DCRR §§ 2305, 2306, Commissioners' Order 55-1503 (August 11, 1955).

Sources:

<http://www.dcregs.dc.gov/Gateway/ChapterHome.aspx?ChapterNumber=14-4>

<http://www.dcregs.dc.gov/Gateway/ChapterHome.aspx?ChapterNumber=14-1>

<http://www.dcregs.dc.gov/Gateway/TitleHome.aspx?TitleNumber=11-B>