

4-UNRELATED ORDINANCE **FREQUENTLY ASKED QUESTIONS**

1. What is the 4-unrelated ordinance?

The so-called “4-unrelated ordinance” changed the Burlington zoning ordinance by adding a numerical restriction for residential occupancy. In the residential districts, “the occupancy of any dwelling unit is limited to members of a family as defined” in the ordinance. Included in the definition of “family” are “no more than four unrelated adults and their minor children.”

2. What is the purpose of the ordinance?

The ordinance is intended to regulate occupancy of dwelling units in the residential districts of the City.

3. Where does the “4-unrelated” ordinance apply?

The “4-unrelated” ordinance has applied in the Residential Low Density (RL), Waterfront Residential Low Density (WRL), the Residential Medium Density (RM) and Waterfront Residential Medium Density (WRM) zoning districts since November 22, 2000 and in the Residential High Density (RH) zoning district since December 26, 2012.

4. What is “grandfathering,” and who is “grandfathered”?

A “grandfathered” use is a use that was legal at the time an ordinance prohibiting that use was passed; it is formally called a “pre-existing, nonconforming use.” “Grandfathered” uses are protected by law unless they are discontinued for one year—if discontinued, a use then loses its grandfathered status and must meet any now-existing standards. In addition, if a pre-existing nonconforming use becomes a conforming use, it cannot become non-conforming again.

5. What types of situations violate the ordinance?

Because the ordinance prohibits more than 4-unrelated persons from “occupying” a residence, the main focus of a 4-unrelated complaint is usually whether the fifth (or more) person found at a property is a guest or a tenant. The City’s Code Enforcement Department considers that guests generally are individuals who are not residing at (or occupying) the property, but merely visiting for a relatively short time. Each situation must be determined on a case by case basis, however.

6. How does Code Enforcement respond when it receives a complaint of more than 4 unrelated?

Code Enforcement initiates an investigation which may include some or all of the following components: complaint evaluation, contacting the property owners and notifying them of the complaint, speaking with the tenants, site visit/evaluation including both the interior and

exterior of the premises. The following is a list of some of the considerations Code Enforcement uses:

Complaint evaluation:

- What is the source of complaint?
- Do we have a signed zoning complaint?
- Is the information credible or supported by facts or evidence?
- Is there more information needed from the complainant to properly evaluate the complaint?

Contact the property owner- notify them of the complaint.

- Identify the property manager.
- Confirm if the property is owner occupied or rental –if it is a rental, are they in “rental compliance”?
- Get a copy of the lease – compare names of people staying there to names on the lease.
- Does the lease prohibit over occupancy?
- Provide opportunity for property owner to respond to the complaint, verbally and/or in writing with any supporting documents they may have.

Talk to tenants for:

- Identification
- Who pays for what utility?
- How many people stay there on a regular basis?
- How many guests do they normally have?
- Are there sub-letters?

Site inspection -is there any physical evidence of overcrowding or living separately?

- How many names on the mail box?
- Is there an abundance of trash? Other disorder proportionate to overcrowding?
- Number of bedrooms?
- Individual refrigerators in the bedrooms?
- Locks on bedroom doors?
- Are there closets/bureaus in the living room?
- Occupancy in the attic or basement.
- Occupancy in storage rooms or other non-habitable space?
- Names labeled on food, or similar separation behavior?

Check the parking

- Is there parking outside the recognized parking area?

- Number of cars/number of parking passes match # on lease?
- Previous 12 months parking violations – (Burlington Police reports and Code Enforcement reports).

If there are more than 4 occupants, the question turns to whether the property is legally pre-existing or grandfathered. For example, when the ordinance was changed (see the effective dates for each district in question 3 above), did the property have at least the same number of occupants that it now has? If so, has at least the current number of occupants remained as a continuous use without cessation for greater than a year or conversion to a conforming use? To evaluate the use of the property from prior to the ordinance change to present, Code Enforcement reviews City records, including but not limited to rental registration, building and zoning. Code will also request the property owner/manager to submit leases and affidavits as available to determine the prior use and occupancy. If the property legally had more than 4 tenants before the ordinance change, and still has that same number of (or fewer) occupants, it will be considered grandfathered and will not be in violation of the 4-unrelated ordinance.

7. What should you do if you have a concern that a property is occupied by more than 4 unrelated residents?

File a complaint form with Burlington Code Enforcement, 645A Pine Street, PO Box 849, Burlington, VT 05402-0849 or identify the property on SeeClick Fix. Complaints forms may be filled out at the office or downloaded from the Burlington Code Enforcement website and then submitted.

8. What happens if the unit ceases to be used by more than 4 unrelated residents?

If a pre-existing nonconforming use is changed into a conforming use after the adoption of a zoning amendment, then the use cannot thereafter be changed back to a non-conforming use. Therefore, for example, if a unit that was occupied by 6 unrelated individuals is subsequently occupied by a family of 4 after the law was changed, it cannot then be legally reoccupied by a non-family because it has converted to a single family residence.

9. What can a property owner do if it believes its property should be considered for “grandfathering”?

A property owner who wishes to be considered for “grandfathering” should pull together all documentation available to demonstrate that the property was legally existing prior to the ordinance change and that the property has consistently maintained the pre-existing use. That information may be submitted to Code Enforcement, who will then make an initial determination of grandfathering. That determination is not binding on the City or any other party, but generally Code Enforcement will not pursue a violation of 4-unrelated against a property it considers grandfathered.

