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TO: Planning Commission Ordinance Committee
FROM: Scott Gustin, Principal Planner & Zoning Division Manager
DATE: August 6, 2020
RE: CDO Amendment ZA-20-10: Dwelling Unit Definition

Overview & Background

This amendment is proposed to clarify the term "dwelling unit" as presently defined in the *Comprehensive Development Ordinance (CDO)*. Dwelling units are used for residential purposes and should be defined as such. The term "family" is separately defined and relates to the occupancy limitations in the city's residential zoning districts. Presently the term "dwelling unit" includes reference to family; however, dwelling units are allowed in most of the city's zoning districts, but family occupancy limitations pertain only to the residential zones. By removing the reference to "family" in the definition of "dwelling unit," we clearly define its residential purpose, and the occupancy limitations for the residential zones remain intact.

At their October 4, 2018 meeting, the Ordinance Committee discussed this amendment to the definition of "dwelling unit." The amendment replaces reference to "family" with "residential." The amendment clarifies the definitions associated with various dwelling units while leaving intact the term "family" and the associated occupancy limits of unrelated adults in the residential zones. The Ordinance Committee forwarded the amendment to the Planning Commission with a recommendation for adoption.

The Planning Commission initially considered this amendment January 9, 2019 and continued discussion to its March 12, 2019 meeting. At this subsequent meeting, the Planning Commission discussed the possibility of leaving the dwelling unit definition unchanged and applying the 4 unrelated adult occupancy limitation citywide. The Commission requested additional information as to the extent of impacts related to this policy change.

Staff has since reviewed rental data citywide and by zone. Current data shows:

- 10,373 total rental units citywide;
- 8,144 are in the residential zones; and,
- 2,229 are within the mixed use and other zones.
 - 11 units in Enterprise – Light Manufacturing
 - 397 units in FD5
 - 221 units in FD6
 - 500 units in Institutional
 - 173 units in Neighborhood Activity Center
 - 175 units in NAC-Cambrian Rise (incl. 35 expected July 1)
 - 214 units in NAC-Riverside
 - 525 units in Neighborhood Mixed Use
 - 12 units in RCO-Conservation
 - 1 unit in RCO-Recreation/Greenspace

Available bedroom data is by property, not by dwelling unit and is not particularly useful for anything other than single detached dwelling units. Outside of the residential zones, only 6 detached single dwelling units have more than 4 bedrooms.

Applying the 4-unrelated adult standard citywide would mean a 21.5% increase in rental units affected by the standard. This increase is significant. A review of zoning violation complaints as to

occupancy by more than 4 unrelated adults shows that all properties are within the city's residential zones. If the decision is made to apply the 4-unrelated standard citywide, Sec. 4.4.5 (d) 5 C, *Occupancy Limits*, in the residential district standards of Article 4 would need to be revised to apply citywide as well. Consideration should be given to exempting on-campus apartments within the Institutional zones as well.

The Planning Commission again considered this amendment June 23, 2020. Discussion centered on citywide implementation of family occupancy (including up to 4 unrelated adults) of dwelling units. The Commission again referred the amendment to Ordinance Committee to hash out the policy direction to pursue. The amendment details below remain unchanged from June 23, 2020.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
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Purpose Statement

The purpose of this amendment is to replace the reference to "family" within the definitions of various types of dwelling units with "residential," and to update the corresponding uses of various 'single-family' and 'multi-family' terms throughout the entire *Burlington Comprehensive Development Ordinance (CDO)*. This includes updating residential terms that are used throughout the *CDO*, but which aren't defined in *Article 13*.

This amendment has no impact on the occupancy limits of unrelated adults in residential zones per *Sec 4.4.5 (d) 5. C*, nor does it affect the definition of "Family" as it is presently articulated in *Article 13, Definitions*. This amendment only seeks to clarify that dwelling units are defined by their use for residential habitation, and relies on other sections of the ordinance to determine limits on occupation or type of residence.

Proposed Amendments

To achieve the goals identified above, the proposed amendment affects the following sections of the *Burlington Comprehensive Development Ordinance*:

Deleted language is ~~crossed out~~, and new language is underlined in red.

- **Amend Article 13 Definitions**

Dwelling Unit (or Housing Unit): A room or set of rooms fitted with a private bath, kitchen, and living facilities comprising an independent, self-contained dwelling space for residential use ~~occupied by a family~~ and where rooms are not let to individuals. Kitchen, living and shared bathroom facilities must be separate and distinct from bedroom facilities. Each bedroom must contain a minimum square footage consistent with the current minimum housing standards. Separate bathroom facilities will be deemed to exist only when it is possible to access such bathroom facilities without passing through a room which is designated as a bedroom. If there is more than one meter for any utility, address to the property, or kitchen; or if there are separate entrances to rooms which could be used as separate dwelling units; or if there is a lockable, physical separation between rooms in the dwelling unit such that a room or rooms on each side of the separation could be used as a dwelling unit, multiple dwelling units are presumed to exist; but this presumption may be rebutted by evidence that the residents of the dwelling share utilities and keys to all entrances to the property and that they (A) share a single common bathroom as the primary

bathroom or (B) share a single common kitchen as the primary kitchen. (See also definition of Family and Rooming Unit)

Dwelling Unit, Single Detached: Free standing residential structure containing a single dwelling unit ~~for residential use~~ occupied by a "family," and where rooms are not let to individuals. ~~Also known as a single family residence (SFR). (See definition of Family)~~

Multi-Unit family, Attached Dwelling: Any building or part thereof containing three (3) or more dwelling units.

Accessory Dwelling Unit or Apartment (ADU): An efficiency or one-bedroom apartment that is clearly subordinate to a single-family detached dwelling unit and has facilities for independent living, including sleeping, food preparation, and sanitation.

Duplex: A single structure containing two (2) separate dwelling units, regardless of the type of construction. For purposes of this ordinance, a single-family detached dwelling unit structure with an accessory apartment shall not be considered a duplex.

- **Update terminology throughout the Comprehensive Development Ordinance to be consistent with changes to Article 13 definitions and purpose of amendment:**

<u>Existing Term</u>	<u>Replacement Term</u>
Dwelling Unit	<i>No change to term, only definition per above</i>
Dwelling Unit, single detached	<i>No change to term, only definition per above</i>
Multi-family, attached dwelling	Multi-Unit, Attached Dwelling (<i>see above</i>)
Single family detached structure (<i>not defined in Article 13</i>)	Dwelling Unit, Single Detached
Single family dwelling (<i>not defined in Article 13</i>)	Dwelling Unit, Single Detached
Single family residence (<i>not defined in Article 13</i>)	Dwelling Unit, Single Detached
Single family home (<i>not defined in Article 13</i>)	Dwelling Unit, Single Detached

Relationship to planBTV

This following discussion of conformance with the goals and policies of planBTV is prepared in accordance with the provisions of 24 V.S.A. §4441(c).

Compatibility with Proposed Future Land Use & Density

This amendment is a technical correction, and has no impact on the proposed future land use and densities proposed in the *Municipal Development Plan (planBTV)*.

Impact on Safe & Affordable Housing

This amendment is a technical correction, and has no impact on the provision of safe and affordable housing, or any policies regarding housing in the *Municipal Development Plan (planBTV)*.

Planned Community Facilities

This amendment is a technical correction, and has no impact on any planned community facilities.

Process Overview

The following chart summarizes the current stage in the zoning amendment process, and identifies any recommended actions:

Planning Commission Process				
Draft Amendment prepared by: [Staff, with PC OC]	Presentation to & discussion by Commission 1/9/2019, 3/12/19, & 6/23/20	Approve for Public Hearing	Public Hearing	Approve & forward to Council
				Continue discussion
City Council Process				
First Read & Referral to Ordinance Cmte	Ordinance Committee discussion	Ordinance Cmte recommends to Council [as is / with changes]	Second Read & Public Hearing	Approval & Adoption
				Rejected