



Residential Occupancy Standard

Online Services



[More Online Services](#)

Report Errors

Please help us improve this web site by sending suggestions and reporting broken links or other problems to the [webmaster](#).

Status of Proposed Amendments to Zoning Ordinance Definitions Related to Residential Occupancy (Updated October 2, 2003)

UPDATE AUGUST 19, 2003: During the August 19, 2003, business meeting, the Municipal Council approved an amendment to the ordinance defining "baching singles" for 13 additional neighborhoods, bringing the total to 14 neighborhoods. Mayor Billings signed the ordinance on August 20, 2003.

This change has the effect of limiting "family" occupancy to no more than two (2) unrelated individuals, rather than three (3) unrelated individuals, within the R1 Single Family Residential Zones within these included neighborhoods. Established nonconforming rights to an occupancy by three (3) unrelated individuals may continue under this ordinance. An exception is provided for a single owner occupant (head of household), allowing two additional unrelated individuals to reside in the home.

Edgemont neighborhood was approved for this change previously. The neighborhoods now included in the ordinance are as follows (listed in alphabetical order):

- Dixon
- Edgemont
- Foothills
- Fort Utah
- Franklin
- Indian Hills
- Joaquin
- Lakewood
- North Park
- Pleasant View

Quick Links:

- [Home](#)
- [Employment Opportunities](#)
- [Contacts](#)

- Provost
- Rivergrove
- Sherwood Hills
- Wasatch

The Council elected to exclude the Maeser neighborhood from this amendment at this time and approved a motion to review any changes reported by the Maeser neighborhood chair in six months at a Council study meeting.

No additional public comment was accepted for this ordinance amendment, as several public hearings have been conducted on previous occasions. The Council's legal counsel noted this process had met and exceeded public hearing requirements. This was considered to be a continuation of a motion at a previous hearing, rather than a new amendment, as these had been recommended previously and had been excluded from the most recent motion for approval pending completion of an acceptable process to determine the level of support among neighborhood residents.

It was noted that any neighborhood determining, after a period of time, that this change is not producing the expected benefit for a neighborhood, may request that the ordinance be amended to restore the original definition of batching singles to that neighborhood (i.e., to return to a "family" definition of three, rather than two, unrelated individuals).

UPDATE MAY 29, 2003: Mayor Billings vetoed Ordinance 2003-20 amending Title 14, Zoning, 14.06.020 Definitions. The issue will undergo further study.

UPDATE MAY 6, 2003 - COUNCIL ACTION TAKEN

On May 6, 2003, the Municipal Council approved a new version of the pending legislation to amend the definition of "family" and other occupancy related definitions. Following the veto of a previous version of the ordinance, the Council did not overturn Mayor Billings's veto by a vote of the Council, but directed legal counsel to prepare an ordinance that would give R1 neighborhoods the opportunity to "opt in," or choose to have the new definitions of "family" and "batching singles" applied to their neighborhoods. Other definitions that would be beneficial overall were to be applied city-wide. This ordinance is pending signature of Mayor Billings by May 28, 2003 (vetoed as of May 29, 2003).

EFFECT OF MAY 6, 2003, ORDINANCE:

The recent amendment to Title 14 Zoning, 14.06.020 Definitions, as approved by the Municipal Council on May 6, 2003, incorporates a new term, "Owner Occupant," that applies to all zones within the city. An expansion of the term "Head of Household" also applies to all zones within the City and was amended to include a single individual who owns and occupies a home. Several other terms were amended for ease of understanding, but otherwise with no substantial effect. Clarifications to the definition of "batching singles," would apply within all zones, with the exception

of the change in number of individuals, which applies only in specified R1 zones.

The most controversial change was to the definition of "Family" and the resulting change to the definition of "Baching Singles." These changes were applied only to neighborhoods that elected to "opt in," meaning the neighborhood chair voiced a desire to the Municipal Council to have the neighborhood included in the change of definitions. In these twelve neighborhoods, the definition of "family" is amended to allow no more than two unrelated individuals to reside together as a single housekeeping unit within a single family home in an R1 zone (such as R1.6, R1.8, R1.10), except where one person is a "head of household" (defined as an owner occupant). A head of household may have two additional unrelated people (including, but not limited to care or service providers) sharing the home as a single housekeeping unit. The current ordinance allows up to three unrelated individuals to reside together as a "family," without regard to owner occupancy, except where modified by an Accessory Apartment (A-overlay) or Supplementary Apartment (S-overlay) zone. This resulted in a corresponding change in number of individuals within a "baching singles" occupancy from four individuals to three individuals, only within the affected R1 zones.

Any home that currently has a right to a "family" definition of three individuals would retain that right as nonconforming and would lose that right only by discontinued use for a period of time as prescribed in the nonconforming use provisions of the Zoning Ordinance. Homes with accessory apartments, located within the A-overlay and S-overlay zones, continue to be governed by the definitions specific to those overlay zones. Single family homes in the RC - Residential Conservation Zone are not affected by this amendment. The neighborhoods affected by the definition changes for R1 homes are as follows:

- Dixon
- Edgemont
- Foothills
- Franklin
- Indian Hills
- Joaquin
- Lakewood
- Maeser
- North Park
- Pleasant View
- Timp
- Wasatch.

An additional change to the family definition allows no more than two additional related or unrelated persons, including but not limited to personal care or personal service providers, to reside with a "head of household." Previously, the ordinance implied no limit to the number of personal care or personal service providers that could reside with a family and distinguished between these and other "unrelated persons" residing with a head of household. The ordinance also clarifies exclusions from the definition of "family."

The ordinance further states that the existence of more than one kitchen in a dwelling unit creates

the presumption that two housekeeping units exist in the dwelling, which is not an allowed use within the R1 zone except where approved for an accessory apartment in an owner-occupied dwelling. Additional changes to the "second kitchen" ordinance are pending approval of the Municipal Council. This ordinance currently allows an owner occupant to have a second-kitchen letter recorded with the deed, stating that no second unit is created.

Background

On **November 13, 2002**, a public hearing before the Planning Commission was scheduled, at the request of the Municipal Council, to consider amendments to Title 14 Zoning, of the Provo Municipal Code. Agreement of at least four members of the Municipal Council during a public meeting is required to forward proposed legislation to the Planning Commission as a city-initiated amendment originating in the Council; this action may occur during a business meeting or study session. Proposed changes to 14.06.020 Definitions would amend a number of definitions related to residential occupancy and would include the terms outlined in the matrix that follows this text. The Council's motion is included in the January 8, 2003, staff report.

Just prior to the November 13 public hearing, staff received a new version of the ordinance with modifications suggested by the Land Use Committee of the Municipal Council. The Land Use Committee includes three members of the seven-member Council and is responsible for reviewing ordinances and project proposals related to land use within the jurisdiction of Provo City. Land Use Committee meetings are open meetings, but are traditionally attended by the Council's committee members and various City staff.

As the Planning Commission members, staff and public had not had an opportunity to review the suggested modifications prior to the hearing, the Planning Commission elected to accept limited public comment on November 13th and then continue its decision on the proposed amendment to the January 8, 2003, Planning Commission meeting.

As a recommending body to the Municipal Council, the Planning Commission may elect to:

1. Forward a recommendation of **approval** for a proposed ordinance **as introduced** and noticed, or
2. Forward a recommendation of **approval with changes** incorporated by the Planning Commission following consideration of staff analysis and public comment, or
3. Forward a recommendation of **denial** (which, in this case, would preserve the existing ordinance).

On **January 8, 2003**, the Planning Commission accepted additional public comment and approved a motion to forward the proposed ordinance amendment to the Municipal Council with a recommendation for approval, with some changes and clarifications. Staff subsequently requested

that the Planning Commission review the recommendation document, which led to a review of the motion at the **February 12, 2003**, Planning Commission meeting. Some modifications were made for the purpose of clarification and correction. The Report of Action for the February 12, 2003, meeting includes the recommendation as prepared by staff for transmitting the final recommendation of the Planning Commission to the Municipal Council.

In summary, the language proposed by the Land Use Committee on November 13th was recommended for adoption, with some changes

- That no recommendation is made at this time as to application of the definition changes in the RC Residential Conservation zone;
- That the presence of a second kitchen in a one-family (or "single family") dwelling would create the presumption that there are two house-keeping units;
- Clarifications that "ownership" relates to the owner shown on a recorded deed and that the occupancy by an owner must reflect a bona fide intent to make that dwelling his or her primary residence;
- Direction that the definitions would have a prospective application and that nonconforming regulations would apply (i.e., a dwelling with established rights to a "family" definition of "three unrelated individuals" would retain that right, subject to regulations pertaining to nonconforming use); and
- Modifications to the Findings of Fact reflected in the January 8, 2003, Staff Report to the Planning Commission.

Following a public hearing on **March 4, 2003**, the Municipal Council approved a motion to move forward the ordinance to amend residential occupancy related definitions of Title 14. The Council directed legal staff to incorporate modifications to the ordinance forwarded by the Planning Commission and to draft ordinance language for specified alternatives. These were scheduled for final consideration at the March 18, 2003, Council meeting.

On **March 18th**, the Council approved a motion to adopt the ordinance forwarded by the Planning Commission, with some changes. Under Utah Code, the Mayor has 15 days to take action on this amendment.

On **March 27th, 2003**, Mayor Billings vetoed ordinance 2003-08 regarding the definition of family, batching singles, head of household, owner occupancy, and other residential occupancy related definitions passed by the Municipal Council on March 18, 2003.

Questions may be submitted to:

Provo City Community Development Department
Attn: Gary McGinn, Director
351 W. Center St, Second Floor
P.O. box 1849

Provo, UT 84603

[Email](#)

Telephone inquiries: 801-852-6400

Powered by Stargov