

Legistar File No. 74885 Body-Amended

DRAFTER’S ANALYSIS: This proposed ordinance amends several sections of MGO Chapter 28 in order to change the current definition of “family” in the zoning code. The family definition restricts the number of people who can live in an apartment or house together based on the zoning district, their ownership status or their relational status. The original intent of the family definition was to protect single family neighborhoods from college student renter households and was added to Madison’s zoning code in 1966. Today, the restrictive family definition negatively impacts Madison’s goals of increasing housing supply and equity. This proposed ordinance change expands the definition of family in order to expand housing options and equity.

Currently, over one third of land area in Madison is zoned to prohibit more than two unrelated renters from living together. In these same areas, owner-occupied housing units can house up to five unrelated individuals. These zoning districts are primarily lower density districts with single family houses. Other zoning districts allow a maximum of five unrelated individuals. A family could also be related individuals with up to four unrelated roommates. People of color and lower income residents are disproportionately affected by the current zoning definition of “family” because they are more likely to be renters and more likely to need to share a housing unit to afford rent.

This proposed ordinance change removes the distinction between owner-occupied households and renter-occupied households; allows two related families with children/dependents to live together as one household; removes the distinction between some zoning districts and others by creating the same occupancy standard for all zoning districts which allow housing; and updates the family language discussing people with disabilities. Finally, references to “Dependency Living Arrangement” are removed throughout Chapter 28 since they are no longer needed with the change to the family definition. Dependency Living Arrangement allowed for two kitchens in a dwelling unit if not owner-occupied, but that carve-out is no longer needed as it will now be allowed.

The Amendment adds a definition of “Family” which applies to a specific area of the City of Madison and which will be in effect until January 1, 2026. Within that timeframe and area the definition of “family” retains all the changes in the original ordinance proposal but also establishes a distinction between owner and renter occupancy and limits the number of individuals in a dwelling that is not owner-occupied to three unrelated persons.

The Common Council of the City of Madison do hereby ordain as follows:

1. Table 28C-1 entitled “Residential Districts” within Subsection (1) of Section 28.032 entitled “Residential District Uses” of the Madison General Ordinances is amended as follows:

“Table 28C-1

Residential Districts																
	SR-C1	SR-C2	SR-C3	SR-V1	SR-V2	TR-C1	TR-C2	TR-C3	TR-C4	TR-V1	TR-V2	TR-U1	TR-U2	TR-R	TR-P	Supplemental Regulations Section 28.151
Accessory Uses and Structures																

Dependency living arrangement	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Y
Emergency electric generator	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Y"

2. Table 28D-2 entitled "Mixed-Use and Commercial Districts" within Subsection (1) of Section 28.061 entitled "Mixed-Use and Commercial District Uses" of the Madison General Ordinances is amended as follows:

"Table 28D-1

Mixed-Use and Commercial Districts										
	LMX	NMX	TSS	MXC	CC-T	CC	RMX	THV	Supplemental Regulations Section 28.151	
Accessory Uses and Structures										
Dependency living arrangements	P	P	P	P	P	P	P			Y
Emergency electric generator	P	P	P	P	P	P	P			Y"

3. Supplemental Regulation of "Accessory Dwelling Unit in Districts Other than the TR-P District" within Section 28.151 entitled "Supplemental Regulations" of the Madison General Ordinances is amended as follows:

"Accessory Dwelling Unit in Districts Other than the TR-P District"

- (a) Required Standards
 1. The principal dwelling or the accessory dwelling unit must be owner-occupied except that a temporary absence of up to six (6) months is allowed.
 2. The principal dwelling must be a single-family detached dwelling.
 3. No more than one (1) accessory dwelling unit may be located on a lot.
 4. The number of occupants of the accessory dwelling unit shall not exceed one (1) family or two (2) unrelated individuals.
 5. The accessory dwelling unit shall not be sold separately from the principal dwelling.
 6. The maximum height of a detached building containing an accessory dwelling unit, including one built above a garage or similar space, shall be twenty-five (25) feet. Height shall be measured as a principal building pursuant to Sec. 28.134(1)(b).
 7. The maximum size of an accessory dwelling unit shall be nine hundred (900) square feet.
 8. An accessory dwelling unit shall contain no more than two (2) bedrooms.
 9. The minimum setback requirements shall be those for accessory building or structures of the underlying zoning district.
 10. Accessory dwelling unit entry ways within a rear or side yard shall be connected to a street frontage by a paved walkway or driveway.

11. For accessory dwelling units constructed within the principal building, the appearance or character of the principal building shall not be significantly altered so that its appearance is no longer that of a single-family dwelling.”

4. Supplemental Regulation of “Dependency Living Arrangement” within Section 28.151 entitled “Supplemental Regulations” of the Madison General Ordinances is repealed:

5. Definition of “Dependency Living Arrangement” within Section 28.211 entitled “Definitions” of the Madison General Ordinances is repealed:

6. Definition of “Dwelling Unit” within Section 28.211 entitled “Definitions” of the Madison General Ordinances is amended as follows:

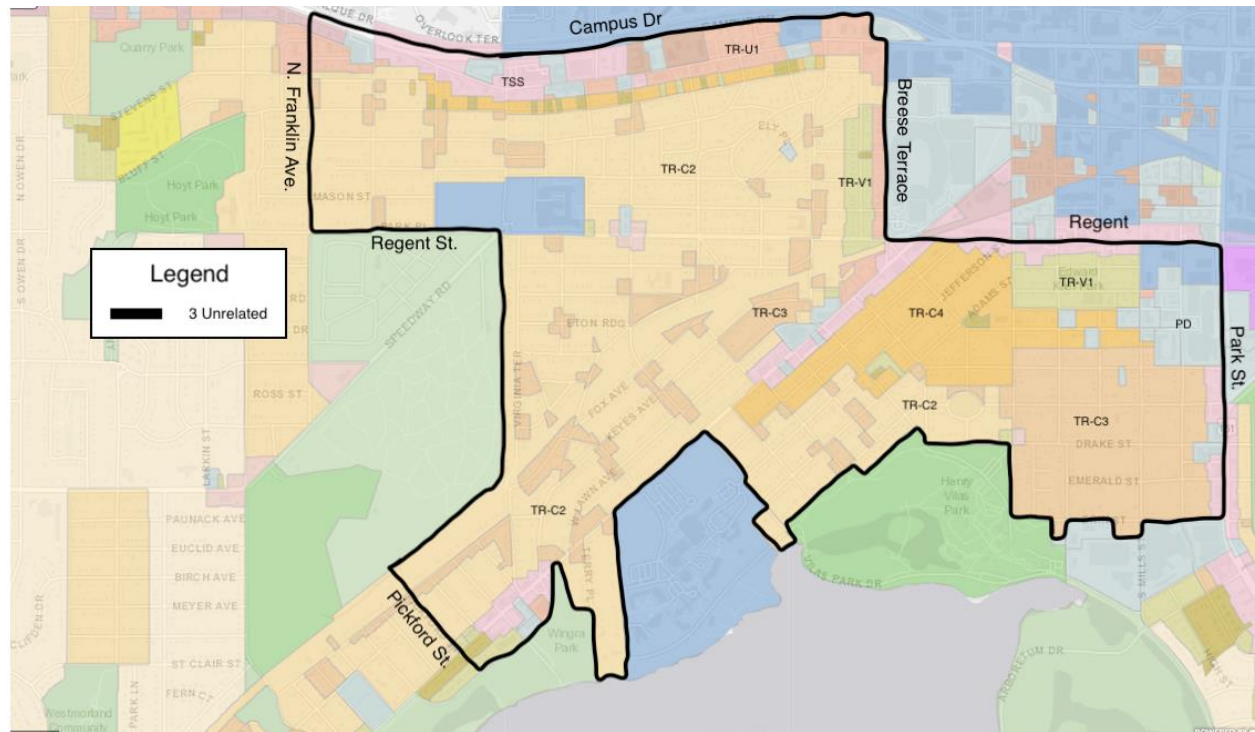
Dwelling Unit. One or more rooms which are arranged, designed or used as living quarters for one family only. Individual bathrooms and a complete kitchen facility, permanently installed, shall always be included with each dwelling unit. ~~No dwelling unit~~ Dwelling units may have more than one kitchen facility ~~except that a single family detached dwelling may have more than one kitchen facility~~ provided the dwelling is designed, arranged or used as living quarters for one family only. ~~For purposes of this exception, the family shall not include roomers.~~

7. Definition of “Family” within Section 28.211 entitled “Definitions” of the Madison General Ordinances is repealed and recreated as follows:

“Family.

- (a) A family is one of the following:
 - (1) An individual; or
 - (2) Two (2) or more people related by blood, marriage, domestic partnership, or legal adoption, living together as a single household in a dwelling unit, including foster children; up to four (4) roomers, and their dependents; or
 - (3) Up to five (5) unrelated adults and the dependents of each, living together as a single household in a dwelling unit; or
 - (4) Up to six (6) unrelated people who have disabilities under the Fair Housing Amendment Act (FHAA) or the Americans with Disabilities Act (ADA), who are living as a single household because of their disability and requiring assistance from a caregiver
- (b) Within the area as shown on Fig. 1, a family is one of the following:

Fig. 1



- (1) An individual or two (2) or more people related by blood, marriage, domestic partnership, or legal adoption, living together as a single household in a dwelling unit, including foster children; up to four (4) roomers, and their dependents; with the following exceptions:
 - i. Within the TR-C2, TR-C3, and TR-C4 districts within the map shown on Fig. 1, dwellings that are not owner-occupied are limited to two (2) roomers and their dependents.
 - ii. Up to six (6) unrelated people who have disabilities under the Fair Housing Amendment Act (FHAA) or the Americans with Disabilities Act (ADA), who are living as a single household because of their disability and requiring assistance from a caregiver.
- (2) Owner occupancy.
For the purpose of this definition and within subsection (b), an owner-occupied dwelling unit shall mean any dwelling unit where an individual or two or more persons who reside in such unit constitute one hundred percent (100%) of the owners of either the entire fee simple interest or the entire land contract vendee's interest in said dwelling unit. Provided, however, dwelling units occupied by owner-occupants holding less than one hundred percent (100%) interest in the fee simple shall nonetheless be considered owner-occupied for the purposes of this definition where the remainder of said interest is held by an investor pursuant to a shared equity purchase arrangement and the owner-occupant has continuously resided in said dwelling unit for at least four (4) years;

Absence of any owner from the dwelling unit for health reasons or by virtue of a marital separation or divorce or any temporary absences of any owner from the dwelling unit shall not constitute a reduction in the number of owners who reside in such unit for the purpose of determining whether such unit continues to be owner-occupied.

- (3) Sunset Clause. Subsection (b) shall be ineffective as of January 1, 2026
(b) Up to two (2) personal attendants who provide assistance or support to people with disabilities under the FHAA or ADA shall be considered part of a family. Such services may include support and assistance with activities, daily living or independence, including but not limited to, personal care, housekeeping, meal preparation, laundry and companionship.”

8. Definition of “Roomer” within Section 28.211 entitled “Definitions” of the Madison General Ordinances is amended as follows:

“Roomer. A roomer is a person living in a dwelling unit who is ~~other than~~ part of the family household but not related by ~~because of~~ blood, marriage, domestic partnership or legal adoption, and is other than a foster child.”

EDITOR'S NOTES:

Supplemental Regulation of “Dependency Living Arrangement” within Section 28.151 entitled “Supplemental Regulations” currently reads as follows:

“Dependency Living Arrangement .

- (a) The owner of the dwelling must continue to reside in the building. The use permit issued under this paragraph is not transferable to another owner or occupant.
- (b) The exterior appearance of the building shall remain generally the same. Any new entrance shall be placed on the side or rear facade of the building. Additions shall not increase square footage by more than ten percent (10%).
- (c) Upon termination of the specific occupancy, all second kitchen facilities installed for this use shall be dismantled and removed from the premises within six (6) months unless an extension is granted because of potential re-occupancy.
- (d) A letter of approval issued by the Zoning Administrator shall be recorded at the Dane County Register of Deeds Office.”

Definition of “Dependency Living Arrangement” within Section 28.211 entitled “Definitions” currently reads as follows:

“Dependency Living Arrangement . A living arrangement which permits a person with a physical or mental disability to live in a temporary separate living area within a single-family dwelling unit or permits a relative or paid attendant of a person with such a disability to live in a temporary separate living area within a single-family dwelling unit. Such living area may include a separate bath and separate kitchen facilities which permit a degree of independence. Ingress and egress for such a living area is from within the principal dwelling unit.”

Definition of “Family” within Section 28.211 entitled “Definitions” currently reads as follows:

“Family .

- (a) A family is an individual, or two (2) or more persons related by blood, marriage, domestic partnership, or legal adoption, living together as a single housekeeping

unit in a dwelling unit, including foster children, and up to four (4) roomers, with the following exceptions:

1. Within the SR-C1, SR-C2, SR-C3, TR-C1, TR-C2, TR-C3, TR-C4, TR-R and TR-P residential districts, dwellings that are not owner-occupied are limited to one (1) roomer.
 2. In any residence district, a family may consist of two (2) unrelated adults and the minor children of each. Such a family may not include any roomers except where the dwelling unit is owner-occupied. For the purpose of this section, "children" means natural children, grandchildren, legally adopted children, stepchildren, foster children, or a ward as determined in a legal guardianship proceeding.
 3. In any district, a family also may consist of up to four (4) unrelated persons who have disabilities/are disabled or handicapped under the Fair Housing Amendment Act (FHAA) or the Americans with Disabilities Act (ADA), are living as a single household because of their disability and require assistance from a caregiver.
 4. In any district, up to two (2) personal attendants who provide services for family members or roomers who are disabled or handicapped under the FHAA or ADA and need assistance with the activities of daily living shall be considered part of a family. Such services may include personal care, house-keeping, meal preparation, laundry or companionship.
- (b) For the purpose of this definition, an owner-occupied dwelling unit shall mean any dwelling unit where an individual or two or more persons who reside in such unit constitute one hundred percent (100%) of the owners of either the entire fee simple interest or the entire land contract vendee's interest in said dwelling unit. Provided, however, dwelling units occupied by owner-occupants holding less than one hundred percent (100%) interest in the fee simple shall nonetheless be considered owner-occupied for the purposes of this definition where the remainder of said interest is held by an investor pursuant to a shared equity purchase arrangement and the owner-occupant has continuously resided in said dwelling unit for at least four (4) years;
- (c) Absence of any owner from the dwelling unit for health reasons or by virtue of a marital separation or divorce or any temporary absences of any owner from the dwelling unit shall not constitute a reduction in the number of owners who reside in such unit for the purpose of determining whether such unit continues to be owner-occupied."