

**Report Regarding Occupancy Issues
in
Single-Family Zoned Areas**

**Submitted by
the Single Family Regulations Task Force**

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I. Introduction

In February 2006, the Austin City Council created the Single Family Regulations Task Force, with direction to address the issue of mass and scale of development in single family areas, as well as problems related to high occupancy residences in single family zoning districts. During the first half of 2006, the Task Force had the opportunity for initial discussions and input from citizens and staff on the occupancy issue. It became apparent that the occupancy limit issue encompassed complex facets and considerations. Due to the intensity of the Task Force focus on generating recommendations for development regulations controlling mass and scale at that time, the Task Force did not have final recommendations on occupancy by June 2006, and City Council directed continued efforts by the Task Force.

Since June 2006, the Task Force has had the opportunity to hear additional comments from citizens, and to gather information from staff on occupancy regarding challenges in enforcement, legal considerations, health and safety concerns, and nuisance abatement. These issues introduce a high level of complexity in the discussion. In addition, some citizens expressed concern that a lower occupancy limit could have negative, unintended consequences of economic hardship for segments of our community. Therefore, the Task Force has not come to a specific recommendation on modification of the residential occupancy limit in Austin. Rather, we have developed a set of recommendations, included at the end of this Report, to assist the City in moving forward with this concern.

II. Background

In the University of Texas area, occupancy limits issues have been a long term problem, and the area could be called “Ground Zero” for all the problems related to use and occupancy: noise, drunkenness, disorderly behavior (e.g., urinating

on neighbors' yards), trash, excessive vehicles parked all over yards and not in designated parking areas, and instances of exceeding the current occupancy limits either through claims of "grandfathering" or by blatant disregard for the current City of Austin regulations of six unrelated adults living in a single-family dwelling.

Over the past few years, this phenomenon has spread beyond the UT area neighborhoods into many other areas, such as: North Loop, Rosedale, Brykerwoods, Highland Hills, Highland Park, Allandale, Chestnut, Blackland, and the St. Edwards neighborhood. The UT area neighborhoods include: Hancock, Eastwoods, North University, Hyde Park, Heritage, Shoal Crest, and Caswell Heights. There may be other affected neighborhoods as well.

The "Stealth dorm" or "McDorm" phenomenon began with super-duplexes, two very large buildings (up to 6 bedrooms per unit) on single-family zoned lots. In 2002, the City passed an ordinance sponsored by Councilmember Dunkerley that began to regulate super-duplexes including occupancy limits. Because there were many of these kinds of structures already in existence at the time of the ordinance, most of them were grandfathered. This did not help the occupancy excesses that existed at that time because, prior to the ordinance, the City staff had interpreted that 6 unrelated adults could live in each unit of a duplex, resulting in 12 unrelated adults on a single-family zoned (SF3) lot.

After the ordinance regulating super duplexes was passed, super two-family dwellings, and then super single-family dwellings began to appear in our neighborhoods. **These are all supposedly single-family uses, but they are often actually operating as multi-family dwellings, and in many cases, they are rented by the bedroom.** There are a number of problems here, but **health and safety issues arising from overcrowding of dwellings not built to the multi-family code are among the worst problems.** This is a problem in all areas of town where this type of dwelling has been located, and it needs to be

addressed on a citywide basis. An attempt to address the “Super-two family” dwellings was made when, again, Councilmember Dunkerley worked to pass an ordinance which regulated these types of dwellings. The same occupancy rules apply to these buildings that apply to the “super-duplex” type buildings.

Efforts are being made by citizens to address the issues related to excessive numbers of people living in supposed single-family dwellings. The Central Austin Neighborhoods group called CANPAC has met with the City Manager and her staff on all the issues considered to be “quality of life” issues in the University of Texas area, and the group is also working on a plan for partnering with UT to get more information out to students about being good neighbors while living in the UT area. APD has spearheaded a program in the UT area called “PACE” (Public Assembly Code Enforcement) that is using a coordinated approach to enforcement of fire, safety, and alcohol regulations for large gatherings in the University and Downtown area. These are only preliminary steps in a process that should be guided and led by the City of Austin. Many of the problems being experienced in the central city neighborhoods are directly related to overcrowding of single family dwellings by “unrelated adults.”

III. Current Status of the Occupancy Issue in Austin

Many of the aspects of the occupancy issue have been addressed in previous ordinances, specifically the “Super-duplex ordinance.” It is a well-known fact that the City has not been actively enforcing its occupancy limits. Penalties are minimal or non-existent. Appropriate enforcement mechanisms and penalties must be established. This appears to be a difficult problem to solve, and the Legal Dept. and the City Staff must be involved in the work on this issue, or we will again emerge without a clear solution to the problem.

Occupancy is quite complex and has different implications for different parts of the city. It is not the intent to prohibit home sharing for economic purposes.

- It is understandable that concerns would be raised regarding occupancy if the approach to it is viewed as insensitive to the needs of minority and/or low-income citizens.
- It should also be understandable that family oriented single-family neighborhoods may not be served if some of the single-family dwellings are operating as multifamily dwellings for unrelated adults.

It is apparent that we must meet the challenge of managing occupancy for different communities within our City. This needs to be considered carefully and with the help of the Legal Department.

IV. Recommendations to Austin City Council from the Single Family Regulations Task Force Regarding Occupancy

- 1) Recommend that a Task Force be named that specifically addresses occupancy issues. Select representatives from affected neighborhoods to be on the Task Force in order to get input from neighborhoods who are experiencing negative impacts from the occupancy limits currently in force and who support a decrease in the occupancy limit. Also select representatives from stakeholders that are familiar with economic and cultural segments of our community dependent upon higher-occupancy single-family uses, and who oppose lowering occupancy limits. (See Attachment A for a list of individuals who have expressed an interest in the issue to the Single-Family Regulations Task Force.)**
- 2) Recommend that the Task Force work with the Legal Department as well as Solid Waste Services Code Enforcement to explore realistic solutions to this problem.**
- 3) Research and review other communities having “occupancy limit” regulations for single-family dwellings for applicability in Austin.**

- 4) Consider exploring the problem of overcrowding in single-family residences from the perspective of health and safety regulations, rather than the number of persons living in a dwelling.**
- 5) Consider the impact that high occupancy homes have on market conditions for home ownership of surrounding properties.**

V. Additional Ideas and Suggestions

- 1) Develop new or increase enforcement of existing safety and health regulations governing single-family buildings where more than 6 unrelated adults reside in legally grandfathered dwellings.
- 2) Establish a plan for terminating grandfathered status for greater than 6 unrelated adults on a site. Consider requiring owners to register their status to maintain it and cease by a certain time. (Staff looked at other cities' experiences previously when considering this issue.)
- 3) Establish the requirement that every single family property which houses 6 or more unrelated adults be required to get a license to technically qualify as "group housing" and require the use to locate in an appropriate zoning district.
- 4) Investigate the construction of additional bedrooms in advertised group dwellings in order to ensure compliance with health and safety regulations such as: egress, fire prevention, and parking regulations.
- 5) Ensure compliance with adopted neighborhood plans.
- 6) Provide adequate City Staff and equip them with the regulations, mechanisms, and penalties to be able to enforce occupancy limits for single-family zoning.
- 7) Consider a lower occupancy limit for dwellings on substandard lots.
- 8) Establish steps that an affected citizen can take so that an inspector will be able to enforce the code.
- 9) Consider a comprehensive approach to enforcement of occupancy limits, health and safety regulations, and nuisance abatement similar to the

coordinated PACE effort for large gatherings.

**Attachment A: Individuals with Expressed Interest in Occupancy
Limits Issue**

Marian Barber (Chestnut Addition Neighborhood Association)
Jennifer Berbas (Hyde Park Neighborhood Association)
Barbara Bridges (Caswell Heights Neighborhood Association)
John Damron (Caswell Heights Neighborhood Association)
Tressie Damron (Caswell Heights Neighborhood Association)
Frank Fernandez (Community Partnership for the Homeless)
John Foxworth (Shoalcrest Neighborhood Association)
Sean Garretson (Chestnut Addition Neighborhood Association)
Mary Ingle (North University Neighborhood Association)
Elloa Matthews (South River City Citizens, St. Edward's Planning Area)
Lori Renteria (East Cesar Chavez Neighborhood Planning Team)
Tonianne Soster (Highland Park West Balcones Area Neighborhood Association)
Lin Team (Eastwoods Neighborhood Association)
Susan Wallace (Chestnut Addition Neighborhood Association)
Ellen Ward (South River City Citizens, St. Edward's Planning Area)
Sebastian Wren (North Loop Neighborhood Association)