



## Community Development Services

December 2016

### FAQ's for Zoning Ordinance Definitions and Short-Term Rentals

This FAQ page is divided into two sections. The first section is for changes to the zoning ordinance related to the definitions of “family,” “household,” and “lodging/rooming/boarding house” as they pertain to single-family housing. The second section is for short-term rentals which include companies such as Airbnb and VRBO.

Please note that there has been information distributed by sources other than the City's Community Development Service office that state that the Planning and Zoning Commission will be discussing an ordinance for short-term rentals on December 6, 2016. This is not the case. On December 6<sup>th</sup>, the Planning and Zoning Commission will be discussing the zoning ordinance definitions described in Section 1 below. **There will be NO discussion on any code about short-term rentals on December 6<sup>th</sup>.** Click [HERE](#) to review the agenda for the meeting on December 6<sup>th</sup>.

### Section 1 – Zoning Ordinance Definitions

Q: What definitions are being changed?

A: The Planning Division is proposing to change a few definitions in the zoning ordinance. First is to remove the definition of “family” as it is currently used in relation to single-family housing and changing it to “household” and defining what the characteristics of a household are. Second is to combine the definitions of lodging house, boarding house, and rooming house into a single definition since the uses are so similar. You can click [HERE](#) to see all of the changes being proposed.

Q: Why are people concerned about changing definitions?

A: Most people we have spoken with are concerned about sections “b” and “c” of the definition of household. Section “b” says that when a household is made up of people who are related to each other, up to 2 *unrelated* individuals can also live with them. Section “c” says that up to 4 adults who are not related to each other can live together as a single housekeeping unit.

Q: That sounds like you are allowing houses to turn into apartments. Is that true?

A: No. While it is true people may rent the house, there are three important parts of the ordinance that protect against creating apartments or boarding houses in single-family zones. Section “e.2” of the definition of household specifies that individuals must live as a single housekeeping unit by having common access to all facilities in the house, sharing in expenses and maintenance, etc. – just like a more traditional family would. One of the key phrases in this section is “regardless of non-contractual arrangements among occupants...” This recognizes that occupants might informally divide off sections of the house such as claiming a bedroom, but specifies that these arrangements cannot be contractual.

For example, just as a family with children might say something like, “this bedroom is for the boys” or “this bedroom for the parents” without making the boys and parents sign contracts to define those spaces, unrelated individuals living together may also take claim to a bedroom but not through contract.

Relatedly, section “e.3” of the code specifies that a household “shall not mean...where the occupant’s relationship is created through contract with each other.” A traditional family unit is not created through a contract with all the occupants. They live together because they are related or they have some other social relationship that makes living together as a housekeeping unit natural or convenient.

Finally, the definitions of “dwelling, single-family” and “dwelling unit” prevent the creation of multiple units such as a basement apartment in single-family zones. A structure in a single-family zone such as RP, RP-A, and R-1 may only have one dwelling unit which is defined as only having one set of kitchen or cooking facilities.

Q: Why is the City looking at making these changes.

A: There have been many times over the years when the City has received complaints about basement apartments or using a home as a boarding house by renting out rooms in single-family zones. The current definition of family is too vague to allow code enforcement personnel to effectively prosecute violations of the ordinance. The current definition defines a family as, “One (1) or more individuals occupying a dwelling unit and living as a single-household unit.” What does living as a single-household unit mean? There is no guidance to determine what a household is and what it isn’t. The proposed ordinance adds specific criteria that can be used in enforcing the codes.

Q: Why did you choose four (4) as the number of unrelated individuals that can live together? That seems like a lot. Won’t it generate a lot of traffic and noise?

A: Staff tried to look at the normal impacts of a family using some basic statistics and ordinance requirements. Based on the 2010 census we know the average household size in Idaho Falls is 2.63 and the average family size is 3.2, or about 3 individuals. The zoning ordinance currently requires that any new dwelling unit provide at least 2 parking spaces in a garage or in a place where a garage could be built. This typically means that a new house will have at least a 2-car garage and a driveway that can accommodate 2 more cars, for a total of 4 spaces. After these more definable data points, figuring out the exact impacts of a family is difficult because families and their dynamics are so different. A family in a home may be one person with one car, it may be two parents and a couple of teenagers each with their own car, or it may include “empty nesters” who have two cars. Driving patterns are also very different. Families with kids in sports and other activities may create more traffic due to more frequent drives to school activities, practices, games, recitals, etc. while a single, elderly individual may not drive as many places. Will unrelated individuals generate more traffic than a traditional family? That depends on what you are comparing them to. But on average, we believe a maximum of 4 unrelated adults will not generate more traffic than the average household.

When it comes to noise and upkeep on the house, there are already codes to deal with these issues. The codes are already there because the problems already exist whether the City changes the zoning ordinance or not. Homeowners and renters both do things that may disturb their neighbors. There are already codes that regulate weeds, junk, unlicensed vehicles, and loud noises.

Q: I still don't understand why you want to allow 2 unrelated people to live with a family.

A: This is a part of the ordinance that we have taken out and added back in more than once as we've gone through various drafts. The reason it is in the code now is to try to cover more scenarios of living arrangements. If a married couple wants to share part of their home with a friend, exchange student, intern, or college student, they could not legally do it without this section of the ordinance because a household would be an all or nothing situation. Either all of the occupants would have to be related or none of them could be related.

Q: If these changes are made will my property be rezoned?

A: No. The proposed changes affect the entire zoning ordinance, not just specific zones.

Q: How and when can I voice my opinion?

A: The next [public hearing](#) will be held December 6<sup>th</sup> at 7:00 p.m. in the City Council Chambers at 680 Park Avenue. You can come to the meeting and testify, submit a letter to the Planning and Zoning Commission by mailing to Community Development Services, PO Box 50220, Idaho Falls, ID 83402, or you can send an email to [kbeutler@idahofallsidaho.gov](mailto:kbeutler@idahofallsidaho.gov). We will accept written comments at any time. We recommend comments be submitted at least a week prior to the meeting so we can make sure that copies are sent to the Planning and Zoning Commission with our staff report packets. However, if we receive comments after the staff reports have been sent, we will still do our best to send them on, give commissioners time to read them prior to the hearing, or read them into the record ourselves. There will also be at least one public hearing with the City Council where citizens can testify or submit written comments again. The date for that hearing has not been determined at this time.

## **Section 2 – Short-Term Rentals**

Q: What is a short-term rental?

A: A short-term rental is where a property owner rents out their property or a part of their property such as a bedroom to a guest for a short (less than 30 days) period. Usually this done through an on-line company such as AirBnB or VRBO.

Q: I've heard the City is going to allow short-term rentals in my neighborhood, is that true?

A: At this point nothing has been determined. There has been information passed around by organizations other than the City informing people that they need to submit comments immediately because the City is ready to make a decision. This is not true. Right now we are on phase 1 of a 3 phase approach. Phase 1 is research by staff. Phase 2, which will not start until sometime in January, will be public outreach and gathering of opinions from citizens. This process will be advertised so people know how and when to submit their comments. Phase 3 will be drafting and potentially adopting new code language. This will likely take place sometime in the early spring.

At a recent work session with the Mayor and City Council, Community Development Services staff did present some concepts for the Council to consider, but these are meant to be a starting point for talking about short-term rentals. They are not a final code. The concept that staff presented was to allow

short-term rentals only when located in the host's primary residence and not when multiple rooms are offered for rent at the same time. Again, this is only a draft concept and will change as the process progresses.

Q: My neighbor is already using their house for a short-term rental. If it's not allowed, then why isn't the City telling them to stop?

A: Currently the zoning ordinance would classify a short-term rental as a hotel, so your neighbor is technically not allowed to rent out their home for less than 30 days. The reason the City is not aggressively enforcing this code is because we are actively looking at changing the code. The enforcement process is not always quick. Violations of the zoning ordinance are a misdemeanor which means if the person in violation does not comply, the City will issue a citation and have to go through a court process. This process can take months. Which means that by the time the violation made it through the courts the code could be different, and there may or may not be a violation. For now, when we receive a complaint about a short-term rental, we contact the owner and let them know that it's currently not allowed but that we are working on the ordinance. However, we are not giving them a timeline to stop renting their property. Once a different code, if any, is in place we will enforce it through our normal process.

Q: What if my neighborhood's protective covenants don't allow businesses?

A: The City does not enforce protective covenants. We will only enforce what is in the zoning ordinance. Keep in mind, however, that the Idaho legislature passed a bill last year which prohibits HOA's from amending their protective covenants to prohibit short-term rentals without the express written consent of the owner of the property. This code is found in Section 55-115(3), which you can read by clicking [HERE](#). We are also reviewing a court case considered in 2000 (Pinehaven Planning Board vs. Brooks) to determine the implications on short-term rentals. In this case, the Idaho Courts reviewed a short-term rental situation and determined renting a residential building for residential purposes is not a commercial activity.