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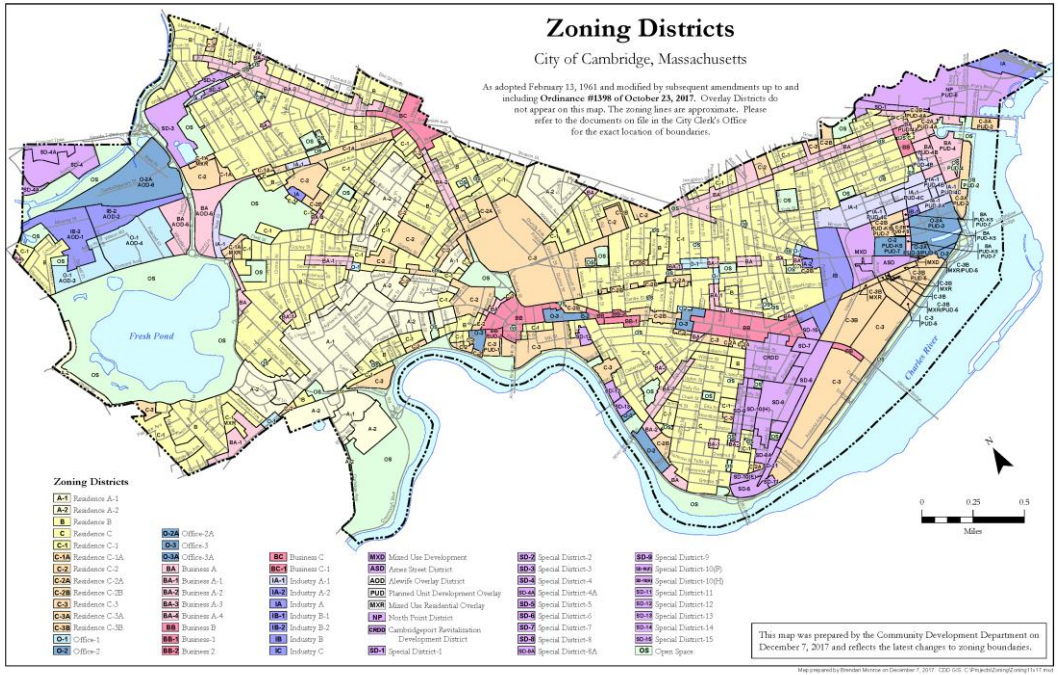
Family Definition Zoning Petition

Planning Board
May 7, 2024

Why are definitions important?



- Zoning says what uses are allowed where
- Vague or difficult to enforce definitions lead to uncertainty, permitting delays, conflict
- Definitions should make it clear and easy to tell what category something falls into
- Definitions are to categorize, not to regulate!

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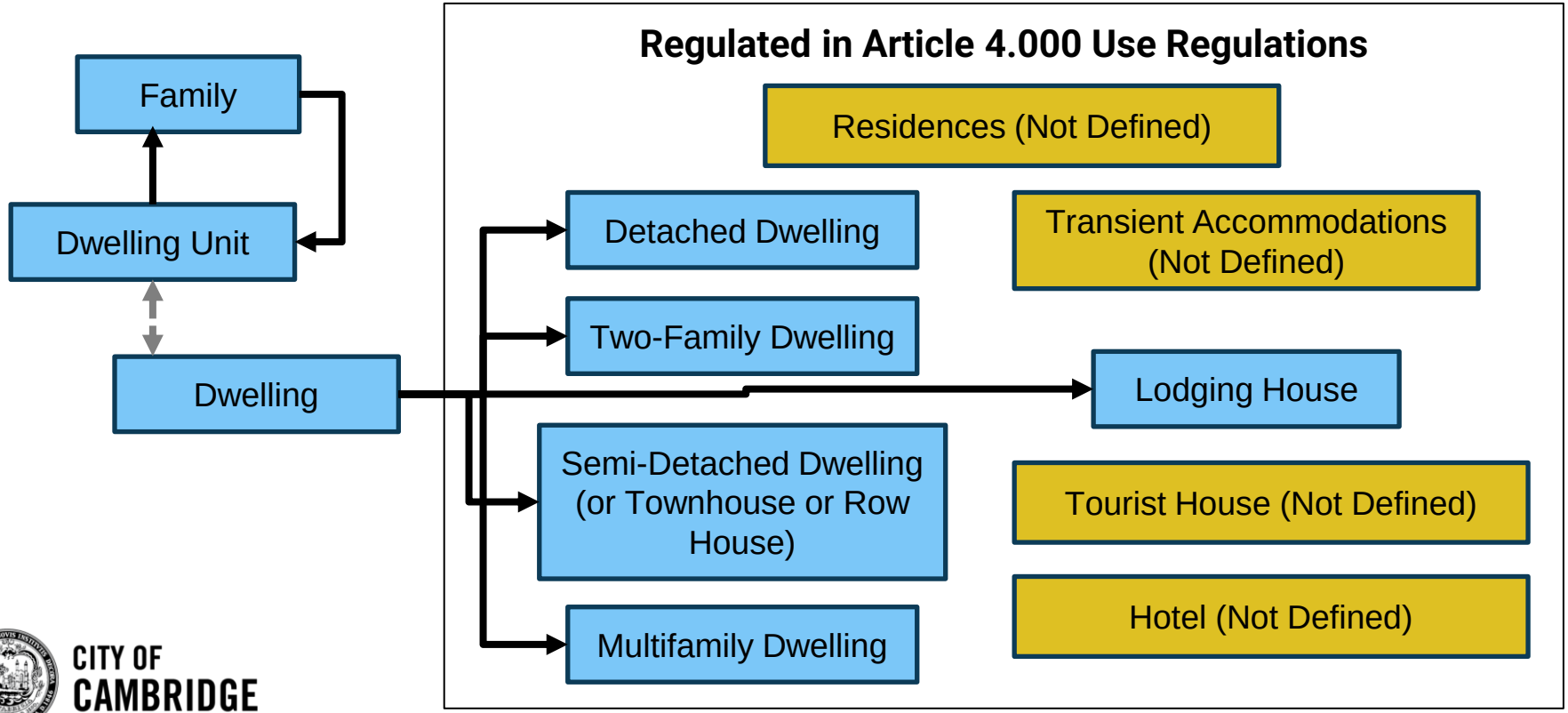
What terms do we use to define and regulate housing?



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What does “degree of kinship” have to do with this?

Term	Current Definition (partial)	Effect on Regulations
Family	One or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit; provided that a group of **four or more persons who are not within the second degree of kinship** shall not be deemed to constitute a family. *[Exceptions for more than four unrelated people who are handicapped and protected by Fair Housing]*	A “family” occupies a “dwelling unit.” Dwelling units are permitted in all zoning districts except Open Space.
Lodging House	A dwelling where lodgings are let to **four or more persons not within the second degree of kinship** to the person conducting it …	Lodging houses are permitted in all zoning districts except Residence A-1, A-2, B, and Open Space.
Group Quarters	A living arrangement for groups containing **four or more persons not related** to the person in charge.	“Group Quarters” not mentioned elsewhere in the Zoning Ordinance.

How does zoning get enforced?

- Zoning regulates the use of land, not personal relationships or family composition
- Property owner is responsible for compliance
- Most zoning enforcement happens when a building permit or certificate of occupancy is being sought – based on plan review and inspection
- Zoning enforcement can be requested if someone thinks there is a violation (e.g., residents, neighbors, abutters)

Why is this an issue?

- Not inclusive of different household types
- Uncertainty for landlords in renting to tenants
- Impossible to regulate through building permit / certificate of occupancy review
- Enforcement could be intrusive

What other issues are relevant?

Relationship to other codes and regulations

- Building code (regulates construction, fire safety)
- State sanitary code (regulates number of people who can occupy a unit based on size)
- State licensing law (regulates lodging houses, hotels)
- Occupancy tax (hotels and guest accommodations)

Exploiting vagueness or loopholes

- E.g., “residences” operated illegally as short-term rentals

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Objectives

- **Delete references to “degree of kinship”** in favor of more inclusive standards to determine how a residential use is characterized.
- **Update definitions to be more consistent** with state sanitary code, building code, and other state law.
- **Clarify distinctions** between different types of “residences” and differentiate them from “transient accommodations” such as hotels.

Proposed Definitions

Term	Proposed Definition (DRAFT)
Residential Household or Family	One person or a group of two or more persons occupying **a single dwelling unit or rooming unit** within a residence and living together as a **single housekeeping unit**, including but not limited to occupants who are handicapped persons as defined in Title VIII of the Civil Rights Act of 1968, as amended by the "Fair Housing Amendments Act of 1988," but **not including persons who occupy separate rooming units** within a lodging house.
Dwelling Unit	A room or group of rooms within a building that are used as a **residence** for a **single residential household** with self-contained facilities for living, sleeping, cooking and eating, and other areas of which the residential household has exclusive use.
Rooming Unit	A room or group of rooms used for sleeping and living in a **lodging house** that are rented to be used as a **residence** for a **single residential household**.
Guest Unit	A room or group of rooms made available as a **transient accommodation** to a group of one or more persons who reside elsewhere.

Proposed Definitions

Term	Proposed Definition (DRAFT)
Residence	A building, or portion thereof, used as a **place of habitation and home address** for one or more **residential households** who intend to remain there for **some indefinite time period, generally more than 30 consecutive days**.
Transient Accommodation	A building, or portion thereof, used as sleeping and/or living space for **stays of a limited duration, generally not more than 30 consecutive days**, by one or more persons **who are not owners or tenants and whose home address is elsewhere**.

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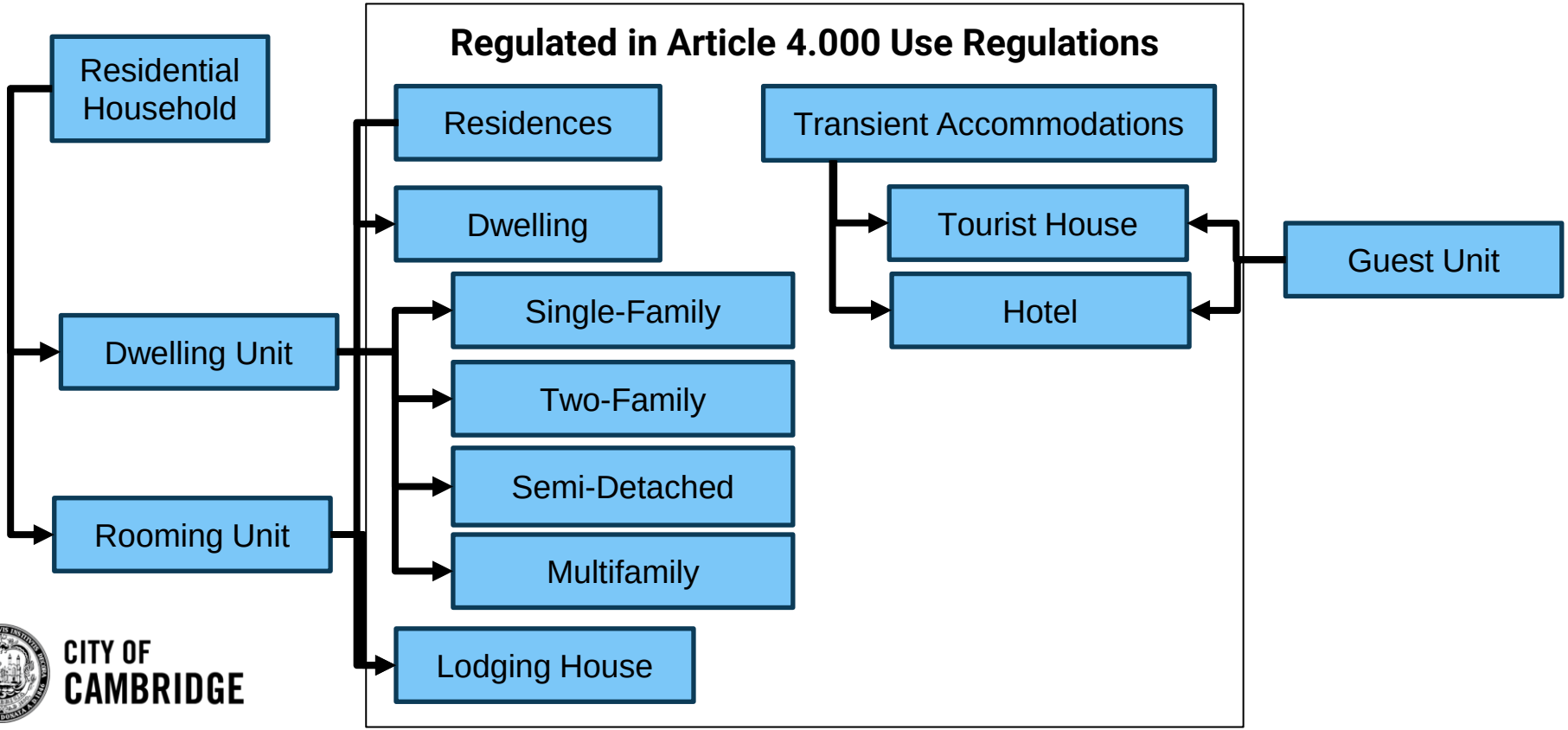
Proposed Definitions

Term	Proposed Definition (DRAFT)
Lodging House	A **residence** in which **rooming units** are **separately rented** to residential households and in which occupants of different rooming units may share bathroom, kitchen, eating, or living facilities **but do not live together as a single housekeeping unit**. The term Lodging House shall include fraternity housing but shall not include 1) dormitories of charitable, educational, or philanthropic institutions, 2) convalescent or nursing homes licensed under section seventy-one of chapter one hundred and eleven or rest homes so licensed, or 3) group residences licensed or regulated by agencies of the commonwealth.
Tourist House	A **transient accommodation** in which the owner or manager of the guest units resides on the premises.
Hotel or Motel	A **transient accommodation** in which the owner or manager of the guest units does not reside on the premises, and which may include amenities such as dining, recreation, and entertainment.

Proposed system



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What is currently allowed?

Principal Uses

- Single-family dwellings: All districts except Open Space (OS)
- Two-family and semi-detached dwellings: All districts except OS, Res. A-1, A-2
- Multifamily dwellings and lodging houses: All districts except OS, Res. A-1, A-2, B
- Tourist houses: All districts except OS, Res. A-1, A-2, B, some commercial districts
- Hotels/motels: All districts except OS, Res. A-1, A-2, B, C, C-1, some other residential and commercial districts (some by SP)

What is currently allowed?

Accessory uses

- Up to two “nontransient lodgers or boarders” permitted in a single-family, two-family, or semi-detached dwelling where the owner lives on-site
- Short-term rental of up to 3 bedrooms in a dwelling unit or of an “operator-occupied” or “owner-adjacent” unit permitted, with limitations and procedures
- Home occupations (e.g., offices, studios) permitted for people who live in the residence

How would this be enforced?

Example characteristics that can be reviewed:

- Are the rooms arranged into units with internal living/cooking/bathroom facilities that are accessible to everyone within the unit, but not to people outside the unit?
- Do the sleeping rooms have keyed entry locks?
- Are the units being offered based on a rental agreement (e.g., a monthly lease) or by a nightly fee?
- Do the units have individual mailing addresses and mailboxes?

Process

- CDD staff discussed with members of LGBTQ+ Commission in 2023
- Council Order on January 29, 2024, based on letter received from LGBTQ+ Commission
- Proposed text discussed at Housing Committee on March 6, 2024
- Petition referred March 25, 2024
- Ordinance Committee hearing will be May 22, 2024

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Thank you!