If roaming houses are permitted to spread to the city's one- and two-family neighborhoods, there is not much use in talking brave words about fighting blight. Rooming houses are not compatible with one- and two-family districts. When the roaming houses come in, the families move out -- and the whole area starts down hill. If St. Louis is to retain its many fine family neighborhoods, the roaming houses will have to be kept where they belong.

--St. Louis Post-Dispatch, October 18, 1957

Rooming houses have become notorious as both symptoms and causes of neighborhood decay in many cities. In smaller communities they remain one of the most difficult residential uses to classify and regulate.

What requirements should zoning ordinances impose to make roaming houses more compatible with their neighbors? In what zones must they be prohibited altogether? Should other types of dwellings in which "groups," rather than "families," live -- such as boarding and fraternity houses -- receive identical treatment?

Zoning is not the only tool available to control the blighting effects of roaming houses. Housing codes in an increasing number of cities require that decent -- though often minimal -- standards be maintained in them. Besides protecting the roamers, enforcement of these codes can do a great deal to assure that roaming houses do not harm districts in which they are properly located. But even under the strictest codes, roaming houses are out of place in some neighborhoods.

It is impossible to generalize about the characteristics of roaming houses and roamers. Undeniably, many roamers are real down-and-outers, and the atmosphere of a roaming house in which they predominate is likely to be bleak. But sociological surveys (such as the one reported by Lillian Cohen

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in "Los Angeles Rooming-House Kaleidoscope," published in the American Sociological Review for June 1951) reveal that some rooming house populations are characterized by higher levels of education, income, and aspiration than others. Some roomers are not part of the permanent rooming house population. Students may find rooming houses the cheapest available living quarters. And a newcomer may live in a rooming house before he becomes established in a new city.

Whatever type of roomer might be expected to live in a particular location, new rooming house conversions are not often welcomed by neighboring families. Greater density of population usually means increased coming and going. More noise may be expected. In some cases, automobile traffic and parking become serious problems. In too many cases, little attention is paid to the appearance of the building and needed maintenance is postponed. And neighborhood characteristics may change if resident families are replaced by roomers who never quite "belong."

Fraternity and sorority houses present related problems but with different emphases. Noise and automobile traffic may be even substantially worse in such areas than in the usual rooming house districts. Some of the other effects, however, may be less important. In any case, demand for these and other student accommodations may be expected to increase with the rapid growth of college enrollments.

The demand for all types of living space for groups is in many places more than matched by an enormous potential supply. Large old homes -- often uneconomic for a single family -- can easily be converted. In some places, for example around universities, demand may justify conversions. In other areas, authorizing conversion of buildings to two-family or even multiple-family use may prove a desirable way to reduce pressure for rooming house conversions. (In this connection, see Conversion of Large Single-Family Dwellings to Multiple-Family Dwellings, PLANNING ADVISORY SERVICE Information Report No. 5, issued in August 1949.) In other locations, it may be sufficient to allow a few residents to rent rooms in one-family houses as an accessory use.

A PROBLEM OF DEFINITION

Hundreds of zoning ordinances have loopholes that permit group living arrangements. In most of these cases, potential difficulties are caused by unsatisfactory definitions. It is always nice, of course, to have at least a general idea what an ordinance is talking about when it uses a particular term. But technicalities are particularly important in this field. Sloppy definitions enable the promoters of unwanted group living arrangements to claim that it is some other use that is on the permitted list. Unhappy neighbors have occasionally unexpectedly been forced to adjust to 40 or 50 fraternity brothers living together in a one-family zone.
Three important distinguishing characteristics of group living quarters are laid down in the zoning ordinance of Bismarck, North Dakota (1953):

a. The occupants are for at least may be unrelated;

b. Separate cooking facilities are not provided for individuals or groups of individuals;

c. Persons residing in the building are domiciled more or less permanently, in contrast to the transient residents characteristic of hotels ... 

In practice, nearly all definition problems fall into two classes. The first, discussed here, includes cases in which a group seeks to live where only "family" living is permitted. The second class, discussed later, includes attempts of owners of hotels, tourist homes, and convalescent homes to do business where "rooming houses" are on the permitted list.

An effective zoning ordinance must make it clear that occupants of rooming and fraternity houses are not families. The dictionary, unfortunately, takes the opposite position. Here is the second definition of "family" from Webster's New International Dictionary:

the body of persons who live in one house, and under one head or manager; a household, including parents, children and servants, and, as the case may be lodgers or boarders; specif. for census purposes, any group of persons sharing a common dwelling and table, between and including the extremes of a single person living alone, and the inmates of a hotel or prison, poorhouse, asylum or other institution. /underscoring supplied/

Writers of the ordinance should make sure that the definition of "family" is not nearly this broad. A few ordinances either do not include a definition or include one, such as the following, which imposes no restrictions at all:

A family is a person, or a group of persons living together.

Three general types of definition attempt some form of restriction. The first type may be illustrated by the following:

A family is one or more individuals living, sleeping, cooking or eating on premises as a single housekeeping unit.

This is not satisfactory if the ordinance is intended to exclude group living arrangements from zones in which families are permitted. Perhaps other provisions in such an ordinance will make the legislative intent clear. But even so, a definition of this type gives a group an excellent legal argument - one that has sometimes succeeded. An example is Missionaries of Our Lady of La Salette v. Village of Whitefish Bay, 66 N.W.2d 627, 7 ZONING DIGEST 17 (Wis. 1954). In that case, the questioned use was taking place in the lake shore residence zone, most restricted in the village.
Village officials objected to use of a house in the zone as a residence for several members of a religious order. The court held against the village, using language that is important:

Had it been the pleasure of the legislative body when defining the word "family," to have excluded in the district any dwelling use of premises there situated, by a group of individuals not related to one another by blood or marriage, it might have done so. Since there is complete absence of any such limitation, it seems clear that it was not the legislative intent to restrict the use and occupancy to members of a single family related within degrees of consanguinity or affinity.

It is to be noted that aside from the definition of the term "family" in the ordinance, the ordinary concept of that term does not necessarily imply only a group bound by ties of relationship.

A similar definition led to trouble in Application of La Porte, 152 N.Y.S. 2d 916, 8 ZD 223 (N.Y. Sup. Ct., App. Div. 1956). The zoning ordinance in question requires a side yard of 12 or 15 feet and a rear yard of 30 feet for one-family houses in the most restricted district. For all other buildings, yards of 60 feet are required. The definition of "family" is "one or more persons occupying a dwelling unit as a single, non-profit housekeeping unit." The court held that 50 students constitute a single family and that a dormitory to house them is thus subject only to the single-family yard requirements. The court stated:

The city's legislative body has the right to define the term "family." It has done so, placing no limitation on the number of persons constituting a family, nor does it require that the members thereof be related by blood or marriage. We may not impose any restrictions not contained in the ordinance.

A second type of definition follows the pattern of the first but with an important addition. For example:

One or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, or hotel, as herein defined. /underscoring supplied/

Sometimes this definition does hold up under fire. For example, it was held to exclude a sorority from a two-family district in Cassidy v. Triebel, 85 N.E.2d 461, 1 ZD 52 (Ill. App. 1949). The court found that a sorority house for "approximately ten young lady students" was not permitted. It concluded that the group was not a family "in the sense that term is used in the ordinance under consideration." It distinguished an earlier New York case holding a fraternity to be a family; the definition applied in the New York case was similar to the looser definitions previously discussed.
Nevertheless, this definition is not completely satisfactory. A court may, for example, construe the ordinance to exclude only those groups specifically mentioned in the "as distinguished from" clause. In Robertson v. Western Baptist Hospital, 267 S.W.2d 395, 6 ZD 161 (Ky. 1954), 20 nurses wanted to live together in the R-1 single-family zone. They were to have regular meals at the hospital, but kitchen facilities would be available in the house. The ordinance defined family as "one or more persons living in a single housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity, or sorority house. . . ." The court decided that the 20 nurses constituted a "family," which it found "an elastic term . . . applied in many ways."

Zoning practice has demonstrated the undesirability of permitting every use except those that the city fathers remember to put on the prohibited list. In effect, an "as distinguished from" definition can be interpreted as doing exactly that.

A third type of definition retains the "housekeeping unit" limitation common to the last two types, but it adds others. For example, the Chicago ordinance (1957) contains this definition:

A "family" consists of one or more persons each related to the other by blood (or adoption), together with such blood relatives' respective spouses, who are living together in a single dwelling and maintaining a common household. A "family" includes any domestic servants and not more than one gratuitous guest residing with said "family."

A variant of this third type, perhaps the most satisfactory of all, may be illustrated by the definition in the proposed zoning ordinance for Minneapolis (1956):

A family is

a. An individual, or two or more persons related by blood, marriage or adoption living together as a single housekeeping unit in a dwelling unit; or

b. A group of not more than five (5) persons, who need not be related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit; in either case exclusive of usual servants.

The ordinance for Princeton Township, New Jersey (1955) limits the number of unrelated persons to four.

Parenthetically, it should be pointed out that while the third type of definition is superior to those found in most ordinances, it is not perfect. This type of definition seems satisfactory for the control of rooming and other group living arrangements, but crowding can still take place. See, for example, Neptune Park Ass'n v. Steinberg, 84 A.2d 687, 4 ZD 58 (Conn. 1951), in which four sisters, their husbands, and eight children were found
to be a single family because they lived as one housekeeping unit in a summer home. Since all were related, this situation could arise under even the most restrictive definition quoted.

Where the ordinance permits multiple-family dwellings, the definitions should in some way make clear that this authorization does not include rooming houses. The absence of kitchen facilities for each rooming house resident is really the distinguishing factor. Thus, the Los Angeles zoning ordinance (1955), which includes "living . . . in a dwelling unit" in its definition of "family," requires that each dwelling unit include a kitchen. As an additional safeguard, it specifies that "dwelling" does not include hotels and lodging houses. The provisions follow:

Dwelling Unit -- One or more rooms and a single kitchen, in a dwelling or apartment hotel, designed as a unit for occupancy by one family for living and sleeping purposes.

Dwelling -- A building or portion thereof designed exclusively for residential occupancy, including one-family, two-family and multiple dwellings, but not including hotels, boarding and lodging houses.

KEEPING OF ROOMERS AND BOARDERS AS AN ACCESSORY USE

Zoning ordinances do not, as a general rule, allow rooming or boarding houses in single- and two-family zones. Very commonly, however, they allow a limited number of home owners to "take in" roomers or boarders, even in the most restricted single-family district. Many ordinances do so explicitly. For example, the zoning regulations of the Town of Darien, Connecticut (1957) list among permitted accessory uses:

Keeping of not more than three non-transient roomers or boarders in any dwelling, providing no sign is displayed and no separate cooking facilities shall be maintained in connection with such accessory use.

There is no consensus as to the number of persons that should be permitted as roomers in one- and two-family zones, though only a handful of ordinances permit more than five. Freeport, New York (1945) allows only one. Among the many permitting two are Tucson (1956) and Seattle (1957). Kansas City, Missouri (1954) and Fullerton, California (1957) allow four, while Azusa, California (1949) allows eight.

Occasionally, an ordinance limits the number of rooms as well as the number of people. For example, the Azusa ordinance requires that the eight permitted roomers or boarders be lodged in not more than four rooms.

It is fairly obvious that where roomers or boarders are permitted, failure to limit their number can lead to trouble. An example is provided by Von Housen v. Zoning Board of Review of East Providence, 124 A.2d 550,
8 ZD 235 (R. I. 1956). Among permitted accessory uses, the ordinance included this provision: "... in a dwelling or apartment occupied as a private residence, one or more rooms may be rented or table board furnished." Petitioners sought permission to furnish board and room to aged persons in an eight-room dwelling. The board of appeals found the use not really accessory, but the court found the use authorized by the broad language of the ordinance.

Many ordinances contain no explicit provision for roomers. In such cases it becomes necessary to examine and compare various definitions. In the majority of cases, the result is to permit the keeping of a few roomers as an accessory use. For example, the Clayton, Missouri ordinance (1952) defines "family" as:

A group of one or more persons occupying a premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house or hotel, as herein defined.

How many boarders, then, distinguish a family from a boarding house? The relevant part of the definition of "boarding house" follows:

A building other than a hotel, where, for compensation and by prearrangement for definite periods, meals, or lodging and meals are provided for three or more persons...

The intended inference, then, seems to be that fewer than three boarders (or roomers, when the definition of "lodging house" is used) are part of the family.

Roomers Prohibited. A few ordinances seem to prohibit roomers altogether, though it is often difficult to draw this conclusion with certainty. The many ordinances like the Clayton one just quoted demonstrate that failure to list roomers as a permitted use is often not intended to exclude them. Moreover, even if roomers do not seem to be part of the "family" as defined, there is always the possibility that they are permitted (intentionally or otherwise) by broad or vague definitions of "accessory use" or "home occupation."

One carefully drawn ordinance that excludes roomers from one- and two-family zones is that of Chicago. The very tight definition of "family" (quoted on page 5) leaves no room for the contention that roomers are included. Moreover, "lodging house" is defined to include any number of rented rooms that "accommodate persons who are not members of the keeper's family." Apparently, then, the keeping of any roomers at all makes a residence into a "lodging house," which is permitted only in less restricted zones. The definitions of "accessory use" and "home occupation" are also quite clearly not intended to allow roomers.

The intention to exclude roomers from a particular zone may also be made clear by listing rooming houses as a permitted use in a lower zone. For
example, the Santa Monica, California ordinance (1950) does not mention roomers in its provisions for the R1 district, but it permits the keeping of four of them in the R2 district.

If the intent of an ordinance is to prohibit roomers, it seems easier and surer to say so, even within the framework of permissive ordinances. Some ordinances do. For example, the Denver zoning ordinance (1955), in describing the R-O (most restricted) single-family district, states that "no home occupations (including room renting) are permitted." In addition, it provides that accessory uses must "not include residential occupancy except by domestic employees employed on the premises and the immediate families of such employees." Primary reliance is, as usual, placed on the omission of room renting from the list of permitted uses. But these added provisions show that the legislators did not just assume that the keeping of a couple of roomers was permitted by some other provision.

Different Provisions in Different Zones. A few ordinances provide different rules for accessory room renting in different zones. The Santa Monica ordinance already mentioned is an example. Others include the Denver ordinance, quoted above, which does permit the keeping of two roomers as a home occupation in the R-1 (second single-family) district. The Seattle ordinance permits the keeping of two roomers as an accessory use in single-family districts. But in the two-family district it permits four roomers in single-family houses, and two in each dwelling unit of a duplex. New Rochelle, New York (1955) makes a similar distinction between one- and two-family zones. It allows one room to be rented in one-family zones; in the two-family zone it allows renting two rooms in a one-family dwelling and one room in each dwelling in two-family dwellings. In the "Residence Conversion" zone, in which dwellings for as many as six families are permitted, it authorizes renting three rooms in one-family dwellings, one room each in two- to six-family dwellings.

Overcrowding. The question remains whether there is any way to prevent abuses such as overcrowding, even when a limited number of boarders is allowed. The type of problem that may arise is illustrated by City of Gulfport v. Daniels, 97 So.2d 218 (Miss. 1957). A couple with eight children of their own accepted six more children (some of them infants) as boarders. The court held that this was permitted by the ordinance, which specifically authorized keeping six boarders or roomers.

Of course, one way to handle this is to permit fewer roomers in the first place. A more flexible solution may be to allow a limited number of roomers as a use by right and to allow an additional number only after a special use permit is obtained. The Darien, Connecticut ordinance, which allows three roomers as a use by right, permits as many as six with a special permit. A 1950 ordinance of Cleveland Heights, Ohio requires a special permit to keep more than two roomers. As with any special permit provision, it is desirable to limit the discretion of the administrative board by including standards in the ordinance.

Another alternative is suggested by the proposed Minneapolis zoning ordinance.
As an accessory use in one- and two-family zones, it permits "guest rooms, provided total occupancy does not exceed limitations of family." Since the ordinance uses the restrictive definition of "family" (not more than five persons unless related), the effect seems to be to allow roomers but only until the total number of occupants reaches five. Other ordinances (such as that of Los Angeles) that use a similar definition of "family" without any explicit provision for roomers presumably have the same effect. Nevertheless, an explicit provision seems a desirable way to make clear that no greater number is permitted.

Signs and Parking. Wherever the keeping of roomers is allowed as an accessory use, there is ample precedent for prohibiting signs that advertise the fact. One example is the Darien, Connecticut ordinance quoted on page 6. Another is the similar provision in the Kansas City, Missouri ordinance. Cleveland Heights, Ohio (1948) requires off-street parking space for roomers' cars.

Foster Children. The keeping of foster children is sometimes independently regulated. In such cases, the number of foster children permitted may exceed the number of boarders permitted in the same zone. Examples include Denver, which permits two roomers in the R-1 district, but also permits "foster family care," defined as "care and education of not more than four children unrelated to the residents by blood or adoption." Vancouver, British Columbia (1956), which permits keeping two boarders or lodgers, allows (as an alternative) keeping not more than four foster children.

In other cases, however, the permitted number of boarders, roomers, and foster children is the same. Santa Monica permits "roomers, boarders, or child care, not exceeding 4 persons in addition to the related resident family." And the proposed Minneapolis ordinance provides, just as it does for roomers, that the total number of foster children may not exceed the limits of a "family" as defined. The Modesto, California ordinance (1957) contains an interesting provision designed to prevent overcrowding. It defines "foster home" as follows:

The residence of a private family in which one or more children under sixteen (16) years of age are cared for as foster children under a license of the Stanislaus County Welfare Department, and a certificate of approval of the Modesto City Health Department. Where all children under sixteen (16) years of age in a home, including foster children, number more than six (6), a Conditional Use Permit shall be secured from the Board of Zoning Adjustment.

ZONING FOR ROOMING AND BOARDING HOUSES

The zoning classification "rooming house" (or "lodging house") refers to the keeping of roomers in sufficient numbers to constitute an independent
land use. Boarding houses may for all practical purposes be considered together with rooming houses. Many ordinances do define the two uses separately and a few contain slightly different provisions for them. Nearly always, however, the two are permitted in the same zones, and the differences in definition are unimportant. Many ordinances use a combined definition.

As a rule of thumb, one may say that rooming houses are not permitted in one- and two-family zones and are permitted in most or all multiple-family zones. Differences in size and character of communities, however, cause some important exceptions to this rule in specific cases.

In a few communities, rooming houses are allowed in more restricted zones than is usual. For example, Champaign, Illinois (1950) and Easton, Pennsylvania (1949) permit them in two-family districts. Evansville, Indiana (1951) also allows them in its two-family district but only as a special exception after the proposed location has been approved by the board of zoning appeals. The zoning and development bylaw of Vancouver, British Columbia makes provision for rooming house conversions in one of its three single-family residence zones.

...development permits may be issued for development comprising the following uses subject to such uses first of all being approved by the Technical Planning Board. If a development permit is granted it shall be subject to such conditions and regulations or relaxations as the Technical Planning Board may decide:

(3) The conversion of an existing building into a boarding or lodging house in any case where such existing building, by reason of its age and size is deemed to be unsuitable for its present use; before granting a development permit for such conversion the Technical Planning Board shall have regard to the regulations of /the first multiple-family district/ and also to the amenity of the neighbourhood, and shall notify such adjoining property owners as the said Board deem necessary.

At the opposite extreme, there are some smaller communities in which rooming houses are excluded from all residence districts. The Town of Darien, Connecticut and the Borough of Madison (1949) and Princeton Township, New Jersey are among jurisdictions that authorize these only in commercial zones.

Cities with more than one multiple-family zone must decide whether to permit rooming houses in all of them. Of course this decision should be made only after careful consideration of the character of each of the zones established by a particular ordinance. There does not appear to be any basis for asserting categorically that rooming houses must be allowed wherever multiple-family dwellings are. The first multiple-family zones
in a number of ordinances have low density requirements. In other situations, allowing rooming house conversions may be inconsistent with conservation programs. As an alternative to prohibiting rooming houses in one or two zones, however, the ordinance might allow them, provided they meet proportionate density requirements.

There is no standard practice in existing ordinances. For example, Seattle allows them in its first multiple-family district, and St. Louis (1950) allows them in the "C" district, which is otherwise limited to four-family dwellings unless 40 per cent of the block is already developed for more intensive multiple-family use.

On the other hand, some ordinances ban them outright in the first one or two multiple-family districts. Chicago has six "general residence" districts in which multiple-family dwellings are permitted, but rooming houses are allowed in only the last five. The first zone, from which rooming houses are excluded, is a low-density district in which 2,500 square feet of lot area for each dwelling unit is required. The Columbus, Ohio ordinance (1955) excludes rooming houses from two of its four apartment districts. The two zones from which rooming houses are excluded, require 1,200 and 800 square feet of lot area for each dwelling, respectively. The second of these zones allows apartment hotels, convents, monasteries, fraternities, and sororities.

Many ordinances take in-between positions. Kansas City, Missouri allows rooming and boarding houses in its three- and four-family district, but it provides that the maximum number of roomers is 12. In remaining districts, this maximum is not imposed. Milwaukee (1956) permits rooming houses in all four of the zones in which multiple-family dwellings are permitted, but in the first of these the number of roomers may not exceed four and in the second may not exceed ten. The Los Angeles and Albuquerque (1953) ordinances, which permit rooming houses in the first multiple-family district, are really fairly restrictive because rooming houses are defined to include not more than five guest rooms. (Larger rooming houses are considered hotels, which are permitted in the remaining districts.)

A sliding scale of density requirements may also be imposed in order to make rooming houses more compatible with surrounding uses. It is important to note that since a rooming house is at most one dwelling unit, lot area requirements "per dwelling unit" are not sufficiently effective. An additional provision must be included specifically for roomers. Los Angeles requires "500 square feet of lot area for each guest room in a boarding or rooming house" in the first multiple-family zone, 200 square feet in the next zone. The Chicago ordinance requires approximately half the lot area for each lodging room that it requires for a dwelling unit. The specific requirements range from 450 square feet (900 per family) in the R4 district to 60 (115 per family) in R8.

The Chicago ordinance also applies its minimum floor area requirement to lodging rooms:

In all Residence Districts, the gross residential floor area in square feet developed on a lot divided by the
The total number of dwelling units on such lot shall not be less than 500 square feet. No existing residential use shall be so converted as to conflict with, or further conflict with, such figure. For the purpose of this determination, a lodging room shall count as 0.75 dwelling units.

The zoning ordinances of Clayton, Missouri and Columbus, Ohio go even further. What are virtually housing codes are applied to rooming houses. The Columbus provisions apply as well to fraternities, sororities, dormitories, and clubs.

Off-street parking can be important in reducing blighting effects of permitted rooming houses. Unfortunately, the wide variations among residents of different rooming houses make it extremely difficult to generalize about the amount of space needed. Bulletin No. 24 of the Highway Research Board, Zoning for Parking Facilities, issued in 1950, suggests a requirement of one space for each five guests plus one space for the owner or manager if resident on the premises. However, the same organization's Bulletin No. 99, Parking Requirements in Zoning Ordinances, issued in 1955, shows that there is no uniformity among existing requirements. They range from one space for each room to one space for ten rooms.

Some examples include Chicago, which requires one space for each four lodging rooms plus one space for the owner or manager; Modesto, California, which requires one space for each two sleeping rooms; Denver, which requires parking area equal to half the gross floor area occupied by a structure; and Milwaukee, which requires one space for every 200 square feet of gross floor area of sleeping rooms (unless the rooming or boarding house is operated as a function of a "philanthropic and eleemosynary institution").

Since conversions are the usual source of additional rooming houses, it is particularly important that off-street parking requirements not be limited to new construction. The Milwaukee ordinance provides:

If the use or occupancy of a principal building or a portion thereof is changed to a use having a greater requirement for parking spaces than the original use, additional parking spaces shall be provided as specified for the new use . . . provided that, if the principal building was erected before the effective date of this section, the number of parking spaces added shall be the difference between the number specified for the old use and the number specified for the new use.

It should again be emphasized that parking requirements "per dwelling unit" will not satisfactorily regulate parking for rooming houses.

It is commonly found desirable to add special sign regulations for rooming houses. The Kansas City, Missouri ordinance provides that in zones in which rooming and boarding houses are permitted:
Window or other displays or signs shall comply with the regulations for such accessory uses in District R-1, except that in this district an unilluminated sign, advertising lodging and/or board, shall be allowed, which sign shall not exceed eighty square inches in size.

More definition problems. Just as it was necessary to prevent the occupants of a rooming house from being considered a family, so it is important to exclude undesired uses when "rooming house" is defined. Ordinarily, the undesired uses are hotels and tourist homes. It is therefore common to include a provision that rooming houses are not for transient occupancy. The Kansas City, Missouri ordinance defines "lodging house" as follows:

A dwelling where lodging is provided for five or more persons for compensation, pursuant to previous arrangements, but not available to the public or transients.

Other ordinances are specific about the period of occupancy. Chicago provides that "lodging or meals or both are provided for compensation on a weekly or monthly basis." (It should be noted that this provision also prevents a restaurant from being operated in the guise of a boarding house.)

A number of ordinances, however, do not limit rooming houses to permanent guests. Los Angeles uses these definitions:

Boarding or Rooming House -- A building containing a single dwelling unit and not more than five guest rooms, where lodging is provided with or without meals for compensation.

Hotel -- A building designed for occupancy as the more or less temporary abiding place of individuals who are lodged with or without meals, in which there are six or more guest rooms, and in which no provision is made for cooking in any individual room or suite. . . .

Considering the residential nature of the districts in which rooming houses are permitted, it seems desirable in many cases both to limit the number of roomers and to require that the roomers not be transients. The Cleveland Heights, Ohio ordinance contains this definition:

Lodging House: A building occupied for, or arranged, intended or designed to be occupied for, rooming or rooming and boarding for compensation by five or more, but not to exceed fifteen, persons by prearrangement for definite periods of not less than one week in contradistinction to hotels open for transients.

Such a provision would presumably have required a different holding in Simmons v. Pinsky, 58 N.Y.S.2d 573 (N.Y. Sup. Ct. 1945). In his 45-room building, the defendant provided room and board for as many as 100 guests. He did not accept transients. Applying the usual type of definition, which contains no maximum limitation, the court found that the defendant was maintaining a legal boarding house.
Owners of rest homes, convalescent homes, and old people's homes may also contend that they run boarding homes. Several ordinances define these terms and specify in the definitions section that "boarding house" does not include them. After carefully defining "group dwelling," the Bismarck, North Dakota ordinance adds that the definition "shall not be deemed to include a hotel, motel, tourist home, trailer camp, or any use included in the health-medical group." Included in the health-medical group are nursing and convalescent homes, old people's homes, and orphans' homes.

Such a provision plus a maximum limit on the number of boarders would provide clear answers to questions such as the one raised in People v. Gold, 6 W.Y.S.2d 264 (N.Y. Sup. Ct. 1938). The defendant used a large old residence for 50 to 60 guests who ate and slept there. The guests were entitled to receive health and reducing treatments. Special diets were also available. The court disagreed with the defendant's contention that this was a boarding house.

Still another type of boarding house that may merit separate classification or regulation is considered in City of Yonkers v. Horowitz, 226 N.Y.S.2d 252 (N.Y. Sup. Ct., App. Div. 1962), in which neighbors protested the boarding of between 20 and 25 children. Once more, fixing a maximum number of boarders might help. But, because of the noise, it seems reasonable to require larger yards for children's boarding houses. (In this connection, see PLANNING ADVISORY SERVICE Information Report No. 55, Nurseries and Day Care Centers, issued in October 1953.)

But what about other activities of adult boarders? In City of St. Louis v. Art Publications Soc'y, 203 S.W.2d 902 (Mo. App. 1947), a music society maintained a 12-room dormitory in which 29 students lived, ate two meals a day, and practiced on 13 pianos. The court did point out that this was undoubtedly not within the popular concept of a boarding house. But the ordinance provided that a boarding house was "any dwelling other than a hotel, where meals, or lodging and meals, for compensation were provided for five or more persons." This is a common type of definition, and the court found that it does not exclude practicing musicians. What could the definition have done? The court suggests that the city might have included a provision that the house be occupied as a residence by a private family which took in boarders or lodgers as a business undertaking; or it might have excluded a house where boarding or lodging accommodations were furnished to a selected group of persons as an incident to some more immediate purpose of the one supplying the accommodations.

FRATERNITY AND SORORITY HOUSES

As in the case of rooming houses, it is almost impossible to generalize about the characteristics of fraternity and sorority houses. In many cases,
youthful high spirits and frequent social activities generate a great
deal of noise and traffic. A higher income level than that of many
rooming house residents sometimes means more cars and proportionately
greater parking problems. The type of student attracted to a particular
college or university and controls imposed by the institution on fraternity
activities and automobile ownership greatly affect these characteristics.
But many fraternity neighbors would agree with the opinion of the Supreme
Court of Utah, delivered in Phi Kappa Iota Fraternity v. Salt Lake City,
212 P.2d 177, 2 ZD 23 (1949):

The college social and fraternal life about the fraternity
or sorority is well known to all; and has, to say the least,
much more adverse effect upon the neighboring residences
than a mere rooming or boarding house. The collegiate
spirit contemplates frequent gatherings with their attendant
boisterous conduct. The initiations, the dances, the rallies,
and such other evidences of college spirit are absent from
the rooming or boarding house. . . .

Fraternity brothers frequently do not object to a certain amount of crowding.
And once a chapter has established itself in a particular house, municipal
officials may find it difficult to oust them when the membership doubles.
Cities that allow only small rooming houses in the first multiple-family
zone are not discriminating unfairly when they first permit fraternities
in a higher-density zone. Thus, Pomona, California (1957) limits rooming
houses to five guest rooms and allows them in the R-3 zone. Fraternity
houses, on the other hand, are permitted in R-4. Los Angeles (which includes
fraternity and sorority houses in its definition of "hotel") makes the
same distinction.

Other ordinances, however, treat fraternities as genuinely "higher" uses
than rooming houses. Ann Arbor, Michigan (1955) permits fraternity houses
in its two-family zone, although rooming houses are excluded. Columbus,
Ohio, which allows boarding houses only in the third of its four multiple-
family districts, allows fraternities in the second. Sacramento, California
(1956) allows rooming houses in two of its three multiple-family zones
and allows fraternities in all three. Easton, Pennsylvania permits
fraternities in its single-family district but only "if located on the
same unit of property upon which the school or college buildings are
situated." Los Angeles and Sacramento and Tacoma, Washington (1953) also
authorize special use permits for fraternity houses in residential districts
in which they are otherwise prohibited.

On the opposite side is Champaign, Illinois. Despite its unusual pro-
vision permitting boarding houses in two-family districts, it authorizes
fraternities only in the multiple-family zones.

Several ordinances impose special yard requirements for fraternities.
Tacoma requires a 20-foot side yard for fraternities "hereafter built" in
single- and two-family districts (in which they are permitted only
as special uses). In the first multiple-family district, where fraternities
are a use by right, the required side yard is 25 feet. Winnipeg, Canada
(1950) provides:
In the 'R' Districts, no buildings shall be erected, enlarged or converted for use as fraternity or sorority house, unless the side yards of such buildings are equivalent to three (3) times the width of the required side yards for the district in which such buildings are located. Provided that where a lot has a width of less than ninety (90) feet, the above yard requirements on each side of such buildings, if they do not exceed three (3) storeys in height, may be reduced to twenty (20) per cent of the width of the lot, but in no case less than ten (10) feet. No front yard as required in the district, nor any side yard as required above, shall be used for parking of automobiles.

Special side yard requirements may also be a condition when fraternities are allowed outside multiple-family districts. Seattle allows them in the two-family zone if the principal building is at least 20 feet from a lot line. This requirement does not apply whenever the adjoining use is also a fraternity house.

Even with side yards, fraternities are just not compatible with some two-family districts. Rather than open up all such districts to them, the Salt Lake City ordinance (1953) permits them only within a certain distance of the university:

Dormitories, fraternity or sorority houses or boarding houses occupied only by the faculty or students of a public educational institution and supervised by the authorities thereof are permitted in two-family zones, subject, however, to the express condition that such houses shall not be located or established more than 600 feet distant from the lands and premises occupied by the institution to which they are incident.

Fraternity houses are also permitted throughout the multiple-family zones in that city. The 600-foot limitation in duplex districts was upheld in Phi Kappa Iota Fraternity v. Salt Lake City, 212 P.2d 177, 2 ZD 23 (Utah 1949). PLANNING ADVISORY SERVICE Information Report No. 34, The Special District -- A New Zoning Development, discusses special educational districts established in a few ordinances, some of which permit fraternity houses.

On the question of required off-street parking, Bulletin No. 24 of the Highway Research Board, Zoning for Parking Facilities, states:

With respect to fraternities, sororities and dormitories generally, the active campus membership is probably the most rational unit of measurement of parking facilities required. It is suggested that one parking space for each five active members (attending school) be required, plus one additional space for each two employees thereof. These standards are perhaps conservative when viewed in light of the increased ownership and use of motor vehicles by college and university students in general, and particularly by those affiliated with fraternities, sororities.
and dormitories, who frequently possess greater economic means than the average college student.

The Chicago ordinance has followed the suggested requirement. Columbus, Ohio requires one space for each three of the first six beds, then one space for each six beds. The proposed ordinance for the District of Columbia (1956) requires one space for every three beds.

Such requirements, of course, must not be applied blindly. The Princeton Township, New Jersey ordinance may present a useful analogy. It requires one parking space for every four persons resident in a dormitory "unless in institutions prohibiting ownership or operation of automobiles by occupants of such dormitories." A foresighted evaluation of this particular type of local condition might require assurances that the university is remaining firm in the face of student demands for mechanization.

Only a few ordinances bother to define "fraternity or sorority." If the ordinance permits fraternity houses in zones from which clubs and meeting places for adult fraternal organizations are excluded, a definition is needed. In Brotherhood of R. R. Signalsmen v. Zoning Board of Appeals of Chicago, 108 N.E.2d 43 (Ill. App. 1952), a union recreation hall was held to be a "fraternity house."

The Ann Arbor, Michigan ordinance contains the following definition:

A building, rented, occupied or owned by a general or local chapter of some regularly organized college fraternity or sorority, or by or on its behalf by a building corporation or association composed of members or alumni thereof, and occupied by members of the local chapter of such fraternity or sorority, as a place of residence.

Seattle defines it as follows:

A building occupied by and maintained exclusively for students affiliated with an academic or professional college or university or other recognized institution of higher learning, and when regulated by such institution.

CONCLUSION

Many communities have never had trouble regulating rooming and boarding houses, fraternities and sororities, and the like. The drafters of zoning ordinances often pay little attention to the problem. For years, nothing dispels the illusion that one- and two-family zones are completely protected. But the loopholes are still there. A few simple amendments can, by eliminating the loopholes, insure effective zoning.