BOD 20-01: Congregate Living Facility or Dwelling Unit?

2019 OSSC 202.1, 310, Table 1004.5, 2017 ORSC R101.2

QUESTION: When grouped together in a building, congregate living facilities can look like dwelling units. What is the difference between a dwelling unit and a congregate living facility in the building code?

> 2019 OSSC DEFINITIONS:
> **DWELLING UNIT.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
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> **CONGREGATE LIVING FACILITIES.** A building or part thereof that contains *sleeping units* where residents share bathroom or kitchen facilities, or both.
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> **SLEEPING UNIT.** A single unit that provides rooms or spaces for one or more persons, includes permanent provisions for sleeping and can include provisions for living, eating and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a *dwelling unit* are not *sleeping units*.

RESPONSE: The places in which we reside are a higher fire safety risk than most other occupancies for many reasons. For example, the occupants are asleep approximately one third of every 24 hour period and unaware of developing fires. Also, within their own homes occupants often let fire hazards go unabated, so the hazards can accrue and go unnoticed. As a result, the building code requires fire and sound separations to compartmentalize the hazards and insulate occupants from each other.

2019 OSSC sections 420.2 and 1206 require fire and sound separation between dwelling units. Separations are also required between sleeping units when they are not part of a dwelling unit. Therefore, a congregate living facility would need to have fire and sound separations between the sleeping rooms, but bedrooms in a dwelling unit would not need to be separated from each other.

To capture the protections put in place for occupants, the City of Portland has determined that congregate living facilities are a collection of independently leased sleeping rooms for persons not of the same family group with shared cooking and/or bathroom facilities. By contrast, a dwelling unit is leased as a whole to one or more persons.

The building code does not provide a prescriptive definition (area limitation or maximum number of bedrooms) to distinguish a dwelling unit from congregate living. The building code requirements are based on how the unit will be used. Therefore, when a dwelling unit has more than 6 bedrooms, the City of Portland will review them as sleeping units.

The City of Portland may consider an administrative appeal that includes a memo from the owner or property management company that states the leasing arrangement. The memo must identify whether the individual bedrooms are being leased separately and independent of each other (congregate living facility), or if the entire space including all bedrooms are being leased under a single rental agreement (dwelling unit).

The occupant load of the dwelling unit or congregate living facility will be determined in accordance with OSSC Section 1004.5 using the occupant load factor of one occupant per 200 square feet of floor area. However, the occupant load is permitted to be designed for an increased number of occupants, provided that all other requirements of the code are met based on the modified number (1004.5.1).

Effective Date	Significant Changes	Employee Name
1/9/2020	Implementation	T. Whitehill