|  |  |  |
| --- | --- | --- |
| **COMMUNITY** | **PERSON** | **ORDINANCE** |
| City of Piqua, Ohio | Chris SchmiesingCity Planner | FAMILY. An individual or group of two or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated person who are domiciled together as a single domestic housekeeping unit in a dwelling unit; or a collective number of individuals domiciled together in one dwelling unit, whose relationship is of a continuing non-transient domestic character, and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature, or for an anticipated limited duration of a school term or terms, or other similar determinable period. |
| City of Brookville, Ohio  | Jim SnedekerZoning/Property Maintenance Officer | I have never read our definition until your e-mail and find it interesting. Family: One or more persons occupying a single dwelling unit, provided that unless all members are related by blood, adoption or marriage, no such family shall contain over three (3) persons. |
| City of Oberlin, Ohio  | Eric NorenbergCity Manager | It was revised after our lawsuits over rooming houses when City Council updated the Zoning Code to prohibit new rooming houses and to require that that 1 family conversions to 2 family dwellings, etc. obtain a Conditional Use Permit. Since this change happened in 1996, I am not sure this helps. 1321.34 FAMILY.  "Family" means:  (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 persons, who need not be related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit. |
| City of Troy, Ohio  | Ken SilerHobart Arena Manager | Patrick Titterington, City of Troy Public Service and Safety Director, asked that I send you our definition of what qualifies for a family for our aquatic park season passes.Our definition is as follows:Family pass may include custodial mother and/or father or legal guardian, who are legally married and/or their children 3-18 who reside in the same household. Fraudulent information listed on the membership application will be cause to revoke the membership without reimbursement. |
| City of Wapakoneta, Ohio  | Bill RainsSafety Service Director | Below is the definition of family that we have in our Zoning Code."Family." One or more persons occupying a dwelling and living as a single housekeeping unit under a common housekeeping plan based on an intentionally structured relationship providing organization and stability, as distinguished from a group occupying a boarding house, or hotels, as herein defined. |
| Borough of Elizabethtown, PA through the Knowledge Network | Rodney L. Horton, MPAPlanning & Zoning Director | The definition of family for Elizabethtown Borough (Chapter 27, Part 2, §201, “Definitions.”) is as follows:FAMILY — a single person occupying a dwelling unit and maintaining a household or two or more persons related by blood, marriage, adoption or foster relationship occupying a dwelling unit, living together and maintaining a common household, including not more than one boarder, roomer or lodger; or not more than five unrelated persons occupying a dwelling unit, living together and maintaining a common household; provided, further, that a family shall also include any number of unrelated persons who reside within a licensed group home as defined herein. It is the express intention of this definition to comply with the Fair Housing Amendments Act of 1988, P.L. 100-430, 102 Stat 1619. |
| City of Delaware, Ohio | David M. Efland, AICPDirector of Planning & Community DevelopmentDarren ShulmanCity AttorneyAllen RothermalAssistant City Manager | Here is Delaware’s two part answer for your inquiry on the definition of family. The first response is from our City Attorney (Darren Shulman) and the second is from our Planning and Community Development Director (Dave Efland). Here is our definition. I don’t know when it was adopted, but it looks to be different from Painesville’s in a few respects.FAMILY. "Family" means a person living alone, any number of individuals related by blood, adoption, foster or marriage plus no more than two persons related by blood, marriage or adoption, or not more than five (5) unrelated persons living together occupying a dwelling unit but not including groups occupying motel or hotel, dormitory or fraternity and sorority. From City Attorney Darren Shulman. In my experience courts have generally held that you can have a definition of what constitutes a single family dwelling (otherwise what’s the point really of having single family districts, two family districts?), but definitions that are at 2 persons (oxford’s was like this for years) are too few basically and therefore unreasonable. There does not seem to be consensus beyond – i.e. what might be a minimum number. The portion of any of these definitions that indicates a limits on the number of people related by birth, marriage or adoption is unenforceable for obvious reasons – some people have large families and there is no judge that would say that family members do not count as family. Anyway, what happens in the real world is cities with smarts just don’t enforce that section if they have it. Unrelated people living in the home 2, again seems to be too little but no consensus on what the number should be. I think we would be fine at 5. However, whatever the definition, it is always notoriously difficult to enforce – the burden is on the City to prove. This has become more of an issue particularly in the north lately with the influx of large families/groups of immigrants. Generally speaking I think City’s have to give this fairly wide birth and liberal interpretation. Ohio Planning & Zoning Law is a great resource. |
| Village of Indian Hills, Ohio | Dave CouchVillage Manager | Our definition of "Family" per the Indian Hill Zoning Ordinance is as follows: Family - One or more persons, including domestic servants occupying a premise and living as a single, non-profit housekeeping unit, as distinguished from two or more such families served by separate kitchen facilities.  Basically, what this is saying is that if there are more than one kitchen facility or separate kitchen facilities within a household it would be considered multiple family and not single family residential.  |
| Warren County, Ohio | Jerry SpurlingChief Building Official | Asked me to send our definition of “Family”Family: A person or group of persons occupying a single dwelling unit and living as a single housekeeping unit, as distinguished from a group occupying a hotel or motel as herein defined. |
| Washington Township, Ohio  | Ryan LeeZoning Manager | I am responding to the inquiry to the OCMA members regarding how ‘family’ is defined within current zoning regulations. Washington Township currently defines family within our Zoning Resolution as the following:FAMILY One or two persons or parents, with their direct lineal descendants and adopted children together with not more than two persons not so related, or a group of not more than four (4) persons who need not be related, living together as a single housekeeping unit in a dwelling unit. |
| Village of Cadiz, Ohio  | Charley BowmanConsultant and Interim Village/City Manager | I recently used the HUD definition.... The intro is similar to Painesville's. For purposes of the Village of Cadiz Zoning Code, the definition of Household shall serve as the definition of a Family, in particular as it relates to the occupancy of single family, two-family, and multi-family dwelling units. A Household is where one or more persons occupy a dwelling as a functional unit. A functional unit is either a family where one or more persons is related to each other by blood, adoption or marriage; or where two or more persons, one or more persons whose relationship is functionally equivalent to a family but who are not related by blood, adoption or marriage. The standards for determining whether a group of unrelated persons living together constitutes a household are set forth in Section 1105 of this Chapter.DETERMINATION OF HOUSEHOLD STATUS.The determination by the Village that a group of specified persons living together as the functional equivalent of a family may be transferrable with the same exact group of individuals to another dwelling unit. Any such designation, does not however run with the property when the property is occupied by a different household or group of individuals.a. Responsibilities - It shall be the responsibility of the property owner to provide information/evidence as may be required by the Village as defined herein to document that a household meets the functional equivalency test as a family. The Village through its enforcement of the zoning code, shall have the final determination in deciding whether the functional equivalency test is met.b. Appeals - Whenever the Village makes a determination or decision regarding the functional equivalency of a family as part of the enforcement of the Zoning Code or any other portion of the Codified Ordinances of the City, the decision may be appealed to the Board of Zoning Appeals. The Board of Zoning Appeals shall treat such an appeal in accordance with the process specified for appeals as defined in Chapter 1123. The Board may overrule, modify or uphold the decision regarding functional equivalency only where there is evidence in the record that there was an error or omission in the original decision. The following parties have the right to appeal a decision regarding functional equivalency:1. Any member of the group proposed as a household;2. The Owner of the premises occupied by such group; or1. Any other person that can demonstrate that they have been aggrieved by the initial decision.i. Factors - The determination of whether a group of unrelated persons living together are the functional equivalent of a family shall be based on such of the following factors as may be presented during the enforcement investigation by the City. The presence or absence of any single factor is not necessarily determinative of whether the unit constitutes a family.1. The following factors shall be prima facie evidence that the group of persons living together constitutes a household:A. The same group of persons, or a majority of them, has resided together at a different location for a period of no less than six (6) months, or resided together at the present location for at least twelve (12) months: ANDA. One or two members of the group have executed the lease for the entire premises, including the entire rental obligation, and there are no sub-lease, hold harmless or other arrangements to pro-rate the rent or recover the rent from other members of the group.1. The following factors shall be prima facie evidence that the group of persons does not constitute a household:A. Individual members of the group have entered into separate leases for the same premises or parts thereof, with the obligation under each lease constituting only a portion of the total periodic rent payment due to the landlord for occupancy of the premises; ANDB. The premises are furnished with key-operated locks on individual rooms or with other means through which one member of the group may prevent other members of the group from entering his/her room or portion of the premises when he/she is not physically present (deadbolts, chains or other locking devices operated only from the inside of the room shall not be considered as evidence of the status of the group.1. The following additional factors shall be considered, to the extent known or applicable, in determining whether the group of persons constitutes a household:A. Voter registration by a majority of the eligible members of the group listing the address of the group's dwelling shall be considered evidence in support of the proposition that the group is a household. Voter registration listing other addresses by a majority of the adult members of the group, or by a majority of those actually registered to vote shall be considered evidence negating the proposition that the group is a household.B. Drivers licenses held by a majority of the adult members of the group listing the address of the group's dwelling shall be considered evidence in support of the proposition that the group is a household. Driver's licenses listing other addresses by a majority of the adult members of the group, or by a majority of those actually holding such licenses shall be considered evidence negating the proposition that the group is a household.C. The registration of motor vehicles regularly found at the dwelling listing the address of the group's dwelling shall be considered evidence in support of the proposition that the group is a household. The regular presence at the dwelling of one or more motor vehicles belonging to members of the group and registered at one or more other addresses shall be considered evidence negating the proposition that the group is a household.D. The filing of tax returns by a majority of the members of the group listing the address of the group's dwelling shall be considered evidence in support of the proposition that the group is a household. The filing of tax returns listing other addresses by members of the group shall be considered evidence negating the proposition that the group is a household. Evidence that one or more individuals are claimed as dependents on the income tax return of individuals not resident in the household shall be considered evidence that the group is not a household.E. The presence of minor dependent children regularly residing in the dwelling unit and enrolled in local schools with one or more members of the group acting in the role of parents (and primary care-givers) shall be considered a factor tending to support the proposition that the group is a household.F. Evidence that groceries are purchased and meals regularly prepared for the group as a whole shall be considered evidence in support of the proposition that the group is a household. For purposes of this factor, weekly joint purchases of groceries and the preparation and sharing of at least seven meals per week shall be considered "regularly prepared." i. Evidence - In making the determination of whether the group constitutes a household, the decision shall be made based on the preponderance of the evidence available. Where there is prima facie evidence supporting only one side of the proposition, the Village shall make a determination that is supported by the prima facie evidence, unless compelling evidence is presented supporting the other side of the proposition. In the case of the latter, the compelling evidence should be supported by at least three of the factors listed in XXXXXX above.E) Handicap/Disability - Living arrangements for persons with an "Handicap" or "Disability" as those terms are defined by local, State or Federal law, will be presumed to be a household. |
| City of Chagrin Falls, Ohio | Benjamin HimesChief Admin Officer | The Chagrin Falls zoning code definition was updated in 1998 and is as follows;1107.08 FAMILY. “Family” means either an individual, two or more persons who live together in one dwelling unit and maintain a common household, related by blood, marriage or adoption; or not more than three persons not related by blood, marriage or adoption. (Ord. 1963-586. Passed 12-9-63; Ord. 1998-62. Passed 9-14-98.)The most recent edition of “Ohio Planning and Zoning Law” refers to the US Supreme Court case of Village of Belle Terre v. Boraas that upheld an ordinance that defined family as any number of related individuals **or not more than two unrelated individuals.**Your definition looks OK to me but definitely something you want to run by your law department. And of course enforcement is always the bigger problem. Hope that helps.  |
| City of Centerville, Ohio | Steve FeverstonCity Planner | The City of Centerville defines “Family” as follows:Family - One (1) or more persons living together as a single housekeeping unit.I hope this is helpful. Please contact me if you have any questions. |
| City of Sidney, Ohio | Mark CundiffCity Manager | This is Sidney’s definition: "Family" means: (a) One or more persons related by blood, marriage, adoption, or legal guardianship, including foster children, living together as a single housekeeping unit in a dwelling unit; or (b) A group of not more than four persons not related by blood, marriage, adoption, or legal guardianship living together as a single housekeeping unit in a dwelling unit; or (c) Two unrelated persons and their children living together as a single housekeeping unit in a dwelling unit.It was adopted in 2001 and I’m not aware if it has ever been challenged or not.  |
| City of Upper Arlington, Ohio – Formerly of East Lansing, MI | Ted StantonCity Manager | Check out East Lansing's definition on their website. It has been challenged and successfully defended.Family. (1) Family means one person, two unrelated persons; or where there are more than two persons residing in a dwelling unit, persons classified constituting a family shall be limited to husband, wife, son, daughter, father, mother, brother, sister, grandfather, grandmother, grandson, granddaughter, aunt, uncle, stepchildren, and legally adopted children, or any combination of the above persons living together in a single dwelling unit. (2) Anyone seeking the rights and privileges afforded a member of a family by this Code shall have the burden of proof by clear and convincing evidence of their family relationship. (3) Domestic unit: As herein defined, a domestic unit shall be given the same rights and privileges and shall have the same duties and responsibilities as a family, as defined herein for purposes of construing and interpreting this chapter. Domestic unit shall mean a collective number of individuals living together in one dwelling unit whose relationship is of a regular and permanent nature and having a distinct domestic character or a demonstrable and recognizable bond where each party is responsible for the basic material needs of the other and all are living and cooking as a single housekeeping unit. (4) This definition shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, or organization, nor include a group of individuals whose association is temporary or seasonal in character or nature or for the limited duration of their education, nor a group whose sharing of a house is not to function as a family, but merely for convenience and economics. (5) Any person seeking the rights and privileges afforded a member of a domestic unit by this chapter shall have the burden of proof by clear and convincing evidence of each of the elements of a domestic unit. (6) Nothing in this section shall be deemed to confer any legal rights upon any person on the basis of conduct otherwise unlawful under any existing law.  |
| Municipality of West Milton, Ohio | Matthew D. KlineMunicipal Manager  | I’m sorry I can’t help you with this as our code pretty much reads as yours. I’m curious as to how the definition is indefensible? Who sued the City of Painesville on this language or what court ruled this? I’m assuming there must be some political motivation?And because our code definition pretty much mirrors yours I would like to know and understand the eventual outcome. |
| City of Springfield, Ohio | Bryan L. HeckPlanning and Zoning Administrator | "Family" definition for Springfield is as follows: An individual or married couple and the children thereof with not more than two other persons related directly to the individual or married couple by blood, marriage, adoption, or placement by a governmental or social service agency. A family may also be a of not more than five (5) person not related by blood, marriage, or adoption occupying a dwelling unit as a single housekeeping organization. I know ours is based off of the Fair Housing Act according to our Fair Housing Coordinator. |
| Amberley Village, Ohio | Scot LahrmerVillage Manager |  FAMILY. One or more persons occupying a single dwelling unit, provided that all members are related by blood, adoption or marriage, and further provided that domestic servants employed on the premises may be housed on the premises.I’d be interested in an updated definition if you get any. Good luck. |
| City of Goodyear, AZthrough Knowledge Network | Katie WilkenPlanner III | Katie Wilken answered the question: 'Definition of "Family"'The American Planning Association has a great resource for definitions of zoning terms: the Planner's Dictionary. And, it is on sale right now! <http://www.planning.org/store/product/?ProductCode=BOOK_P521> But, here is ours. The residential facility refers to a type of group home protected by Arizona State Statute: Family. a. Individual; or b. Two or more persons, including children, related by blood, marriage, or adoption and usual servants, living together as single housekeeping unit in dwelling unit; or c. No more than six persons not related, living together as a single housekeeping unit within a dwelling unit; or d. Persons with development disabilities and operators of a residential facility as defined in this section. |
| City of Cathedral Citythrough Knowledge Network | Roderick WoodInterim City Manager | Also be aware that there are a number of Federal Court Cases that also define "family" for purpose of dwelling. The APA definition appears to be up to date, but it does change periodically by Court actions and federal and state laws. |
| City of Brentwood, TN through Knowledge Network | Kirk BednarCity Manager | We had an issue several years ago which forced us to define what constitutes a "single family residence" under our zoning ordinance. The language can be found at <http://library.municode.com/HTML/12774/level3/PTIICOOR_CH78ZO_ARTIINGE.html#PTIICOOR_CH78ZO_ARTIINGE_S78-19SIMIRE>  Sec. 78-19. - Single-family residences.(a) For purposes of this chapter, a dwelling unit will be considered a single-family residence only if its permanent occupants are limited to one of the following categories: (1) One individual.(2) Any number of persons related by blood, marriage, adoption or foster care.(3) A group of persons consisting of an individual or any number of persons related by blood, marriage, adoption or foster care, such occupant(s) being referred to as the "primary occupant(s)" for the purposes of this section; plus no more than one person who is not related to a primary occupant, and the biological or adoptive children of that person; all of whom occupy the dwelling unit and function as a single housekeeping unit with common kitchen facilities. Providing unrestricted access to the entire dwelling to all occupants; sharing food and other necessities; and sharing household expenses and responsibilities are indications that a group of persons is living as a single housekeeping unit. For purposes of this section, at least one of the "primary occupants" of a residence must have evidence of a legal right to occupy the property, such as being named on a deed or lease to the property. (4) Not more than eight unrelated mentally retarded, mentally handicapped or physically handicapped persons (as determined by any duly authorized entity, including governmental agencies or licensed medical practitioners) pursuant to the requirements of T.C.A. § 13-24-102. Such a residence may also be occupied by three additional persons acting as houseparents or guardians, who need not be related to each other or to any of the other persons residing in the home. Notwithstanding the foregoing, a group home operated as a for-profit commercial enterprise shall not be a permitted use within a residential zoning district. As used in this section, "mentally handicapped" does not include: 1. Persons who are mentally ill and, because of such mental illness, pose a likelihood of serious harm as defined in T.C.A. § 33-6-501, or who have been convicted of serious criminal conduct related to such mental illness. 2. The current, illegal use of a controlled substance.(b) For purposes of this section, a person will be considered "not related" to a primary occupant if the relationship between such person and such primary occupant is more distant in degree than that of first cousins. (c) If a person:(1) Occupies a dwelling for more than 21 days within any 12-month period;(2) Registers to vote using the address of a dwelling;(3) Receives mail at a dwelling;(4) Registers a vehicle or applies for a driver's license using the address of the dwelling; or(5) Is registered to attend school, using the address of the dwelling, or is registered as a home school student at such address; then such person is considered to be a permanent occupant of a dwelling for purposes of this section, and shall be subject to the limitations on the number of permanent occupants established herein. (d) For purposes of this chapter, the following are not considered to be single-family residences:(1) Boarding houses.(2) Apartment houses.(3) Dwelling units in which one or more rooms are rented to unrelated tenants.(4) Dwelling units in which separate portions are designated for or used as separate housekeeping units.(5) Structures or portions of structures which are designed or constructed for any of the above purposes; and such structures and uses of structures are explicitly prohibited in each residential zoning district unless otherwise specifically permitted. Notwithstanding the foregoing, "single-family residence" may include a dwelling unit which includes separate quarters for persons who are related by blood, marriage or adoption to the primary occupants, provided such quarters are connected by interior passageways to the other portions of the dwelling unit, and are not rented to any unrelated tenants or otherwise used in violation of this chapter. If more than one meter is installed for the same type of household utility service, it will be presumed that a structure is not being used as a single-family residence. (e) With the exception of bed and breakfast lodges permitted under the provisions of this chapter, no single-family residence or portion thereof may be rented out to any tenant(s) for a period of less than three months. As used in this subsection, "tenant(s)" shall refer to one or more persons actually occupying a residence or portion thereof. Notwithstanding the foregoing, if a tenant has occupied a residence for a period of three months or more, the same tenant's occupancy may subsequently be extended for periods of less than three months. (f) Notwithstanding any other provisions to the contrary, subject to the city manager's approval, and for such periods of time as the city manager deems reasonable and necessary, a single-family residence may include, on a temporary basis, one or more persons, not related to the primary occupants, who have been dislocated from their permanent residence due to an officially recognized local, regional or national emergency. A report shall be provided to advise the board of commissioners and the planning and codes department of any such situations approved by the city manage |
| City of South Euclid, Ohio  | Jim LyonsAsst. Law Dir. | "Family" means an individual or two or more persons related by blood, marriage, guardianship or legal adoption, living together as a single housekeeping unit within a dwelling unit. A family may also consist of not more than three unrelated persons. Members of a licensed charitable organization, persons conforming to Section 710.02(g) of these Codified Ordinances and members of a protected class of handicapped persons under the applicable Federal Fair Housing Amendments Act of 1988 (42 USC 3601 et seq.) are excepted. When three unrelated persons live together in a single housekeeping unit, one shall be designated as the head of household. |
| City of Lakewood, Ohio  | Jim LyonsAsst. Law Dir. | FAMILY means an individual or two (2) or more persons living together as a single housekeeping group in a dwelling unit. A “single housekeeping group” exists where the group of individuals share expenses and labor related to the maintenance of the dwelling unit and are living and eating together as a household. “Family” shall not include an individual occupying a rooming unit nor a group of unrelated individuals occupying a rooming house. |
| City of Broadview Heights, Ohio  | Jim LyonsAsst. Law Dir. |  “Family" means any number of individuals living, sleeping, cooking and eating together on premises as a single housekeeping unit, provided that such term shall not include any group of individuals in excess of four in number, the majority of whom are not related to one another, either by consanguinity or propinquity. |
| City of Mayfield Heights, Ohio  | Jim LyonsAsst. Law Dir.  | "Family" means any number of individuals living and cooking together on the premises as a single housekeeping unit. |
| City of Oxford, Ohio  | Russ SchaedlichCity Planner | (1) FAMILY - In all districts (zones), a family shall be a person living alone, or two or more persons related by blood, marriage or adoption, including minor children in the lawful custody of an adult member of members of the family, living together as a single housekeeping unit and occupying a single dwelling unit, or a group of not more than four unrelated persons living together as a single housekeeping unit occupying a single dwelling unit and using only common entrances and exits. |
| City of Poughkeepsie, NY | Katie Jenkins | I just by chance happened to find some of my original notes from looking into "Family" definitions tonight when I got home. A definition that I found that I felt was impressive, and had several aspects that were useful in addressing the maintenance of character in a R1 district was from the City of Poughkeepsie, NY (see Section 19.2-2 of their City code - verbiage pasted below). Please review and provide feedback.FAMILY(a) One of the following:(1) One, two or three persons occupying a dwelling unit; or(2) Four or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.(b) It shall be presumptive evidence that four or more persons living in a single dwelling unit who are not related by blood, marriage or legal adoption do not constitute the functional equivalent of a traditional family. (c) In determining whether individuals are living together as the functional equivalent of a traditional family, the following criteria must be present:(1) The group is one which in theory, size, appearance, structure and function resembles a traditional family unit;(2) The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers ~~may~~ shall not be deemed to be occupied by the functional equivalent of a traditional family;(3) The group shares expenses for food, rent or ownership costs, utilities and other household expenses;(4) The group is permanent and stable. Evidence of such permanency and stability may include:a. The presence of minor dependent children regularly residing in the household who are enrolled in local schools; b. Members of the household have the same address for purposes of voter's registration, driver's license, motor vehicle registration and filing of taxes; c. Members of the household are employed in the area; d. The household has been living together as a unit for a year or more whether in the current dwelling unit or other dwelling units; e. There is common ownership of furniture and appliances among the members of the household; and f. The group is not transient or temporary in nature;(5) Any other factor reasonably related to whether or not the group is the functional equivalent of a family. |
| City of Kent, Ohio |  | 1122.03 DEFINITION OF HOUSEHOLD.   A Household is where one or more persons occupy a dwelling as a functional unit. A functional unit is either a family where one or more persons is related to each other by blood, adoption or marriage; or where two or more persons one or more persons whose relationship is functionally equivalent to a family but who are not related by blood, adoption or marriage. Persons occupying a rooming and boarding house, hotel, group dwelling, fraternity or sorority house do not constitute a household. The standards for determining whether a group of unrelated persons living together constitutes a household are set forth in Section 1122.04 of this Chapter. (Ord. 2011-15. Passed 03-16-11)  1122.04 DETERMINATION OF HOUSEHOLD STATUS.  For the purposes of enforcement of the zoning code, as well as any other references within the Kent Codified Ordinances, the following standards shall be used in order to make a determination of whether a specified group of persons constitutes a household by virtue of being the functional equivalent of a family.   The determination by the City that a group of specified persons living together as the functional equivalent of a family may be transferrable with the same exact group of individuals to another dwelling unit. Any such designation, does not however run with the property when the property is occupied by a different household or group of individuals. a) Responsibilities - It shall be the responsibility of the property owner to provide information / evidence as may be required by the City as defined herein to document that a household meets the functional equivalency test as a family. The City through its enforcement of the zoning code, shall have the final determination in deciding whether the functional equivalency test is met. b) Appeals - Whenever the City makes a determination or decision regarding the functional equivalency of a family as part of the enforcement of the Zoning Code or any other portion of the Codified Ordinances of the City, the decision may be appealed to the Board of Zoning Appeals. The Board of Zoning Appeals shall treat such an appeal in accordance with the process specified for appeals as defined in Chapter 1109. The Board may overrule, modify or uphold the decision regarding functional equivalency only where there is evidence in the record that there was an error or omission in the original decision. The following parties have the right to appeal a decision regarding functional equivalency:  1) Any member of the group proposed as a household; 2) The Owner of the premises occupied by such group; or 3) Any other person that can demonstrate that they have been aggrieved by the initial decision. c) Factors - The determination of whether a group of unrelated persons living together are the functional equivalent of a family shall be based on such of the following factors as may be presented during the enforcement investigation by the City. The presence or absence of any single factor is not necessarily determinative of whether the unit constitutes a family. 1) The following factors shall be prima facie evidence that the group of persons living together constitutes a household: A. The same group of persons, or a majority of them, has resided together at a different location for a period of no less than six (6) months, or resided together at the present location for at least twelve (12) months: AND B. One or two members of the group have executed the lease for the entire premises, including the entire rental obligation, and there are no sub-lease, hold harmless or other arrangements to pro-rate the rent or recover the rent from other members of the group. 2) The following factors shall be prima facie evidence that the group of persons does not constitute a household: A. Individual members of the group have entered into separate leases for the same premises or parts thereof, with the obligation under each lease constituting only a portion of the total periodic rent payment due to the landlord for occupancy of the premises; AND B. The premises are furnished with key-operated locks on individual rooms or with other means through which one member of the group may prevent other members of the group from entering his/her room or portion of the premises when he/she is not physically present (deadbolts, chains or other locking devices operated only from the inside of the room shall not be considered as evidence of the status of the group. 3) The following additional factors shall be considered, to the extent known or applicable, in determining whether the group of persons constitutes a household: A. Voter registration by a majority of the eligible members of the group listing the address of the group's dwelling shall be considered evidence in support of the proposition that the group is a household. Voter registration listing other addresses by a majority of the adult members of the group, or by a majority of those actually registered to vote shall be considered evidence negating the proposition that the group is a household. B. Drivers licenses held by a majority of the adult members of the group listing the address of the group's dwelling shall be considered evidence in support of the proposition that the group is a household. Driver's licenses listing other addresses by a majority of the adult members of the group, or by a majority of those actually holding such licenses shall be considered evidence negating the proposition that the group is a household. C. The registration of motor vehicles regularly found at the dwelling listing the address of the group's dwelling shall be considered evidence in support of the proposition that the group is a household. The regular presence at the dwelling of one or more motor vehicles belonging to members of the group and registered at one or more other addresses shall be considered evidence negating the proposition that the group is a household. D. The filing of tax returns by a majority of the members of the group listing the address of the group's dwelling shall be considered evidence in support of the proposition that the group is a household. The filing of tax returns listing other addresses by members of the group shall be considered evidence negating the proposition that the group is a household. Evidence that one or more individuals are claimed as dependents on the income tax return of individuals not resident in the household shall be considered evidence that the group is not a household. E. The presence of minor dependent children regularly residing in the dwelling unit and enrolled in local schools with one or more members of the group acting in the role of parents (and primary care-givers) shall be considered a factor tending to support the proposition that the group is a household. F. Evidence that different residents of the dwelling unit are away during the summer and that they have several as opposed to a single summer address shall be considered evidence negating the proposition that the group is a household. G. Evidence of common acquisition and ownership of furniture and appliances shall be considered evidence in support of the proposition that the group is a household. H. Full-time employment of some members of the group in the general community shall be considered evidence in support of the proposition that the group is a household. I. Evidence that groceries are purchased and meals regularly prepared for the group as a whole shall be considered evidence in support of the proposition that the group is a household. For purposes of this factor, weekly joint purchases of groceries and the preparation and sharing of at least seven meals per week shall be considered "regularly prepared." d) Evidence - In making the determination of whether the group constitutes a household, the decision shall be made based on the preponderance of the evidence available. Where there is prima facie evidence supporting only one side of the proposition, the City shall make a determination that is supported by the prima facie evidence, unless compelling evidence is presented supporting the other side of the proposition. In the case of the latter, the compelling evidence should be supported by at least four of the factors listed in 1122.04(c)(3) above. e) Handicap / Disability - Living arrangements for persons with an "Handicap" or "Disability" as those terms are defined by local, State or Federal law, will be presumed to be a household. (Ord. 2011-15. Passed 03-16-11) |