

ORDINANCE #3, 2009

AN ORDINANCE AMENDING CHAPTER 300 ENTITLED “ZONING” OF THE CODE OF THE CITY OF ONEONTA REGARDING THE DEFINITION OF “FAMILY”

BE IT ORDAINED by the Common Council of the City of Oneonta as follows:

Section 1. Chapter 300 Entitled “Zoning” of The Municipal Code of The City of Oneonta is hereby amended by the adoption of a new definition of “Family” and by the amendment of §300-49 Entitled “Functional family units.” for the purposes of this Chapter.

Section 2. The definition of “Family” as currently set forth in §300-4 is repealed.

Section 3. The following new definition of “Family” to be set forth in § 300-4 is hereby adopted:

FAMILY—One of the following:

- A.** A single person.
- B.** Two (2) or more people related by blood, marriage, or legal adoption, occupying a single dwelling unit.
- C.** Two (2) or (3) people, not necessarily related by blood, marriage or legal adoption, occupying a single dwelling unit.
- D.** Four (4) or more people occupying a single dwelling unit and living together as a functional family unit (see §300-49).

Section 4. §300-49 Entitled “Functional family units.” is hereby amended to read:

Functional family units .

- A.** It shall be presumptive evidence that four (4) 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. Such presumption can be rebutted by a determination by the Zoning Board of Appeals that said persons constitute a functional family.
- B.** Before making a determination whether a group of more than three unrelated persons constitutes a family for the purpose of occupying a dwelling unit, the Zoning Board of Appeals shall hold a public hearing, after public notice, as is normally required for the obtaining of a variance. The fee for such an application shall be the same as is required for an application for a variance. Said application shall be on a form provided by the Zoning Board of Appeals or the Code Enforcement Office.
- C.** In determining whether or not a group of unrelated individuals is a functional family unit, as defined in this chapter, the following criteria must be present:
 - (1) The occupants must share the entire dwelling unit. A unit in which the various occupants act as separate roomers cannot be deemed to be occupied by a functional family unit.
 - (2) The household must have stability with respect to the purpose of this chapter. Evidence of such stability may include the following:

- (a) The presence of minor, dependent children regularly residing in the household.
 - (b) Proof of the sharing of expenses for food, rent or ownership costs, utilities and other household expenses and sharing in the preparation, storage and consumption of food.
 - (c) Whether, by the providing of documents and testimony, the different members of the household have the same address for the purposes of:
 - 1. Voter registration.
 - 2. Driver's license.
 - 3. Motor vehicle registration.
 - 4. Summer or other residences.
 - 5. Filing of taxes.
 - (d) Common ownership of furniture and appliances among the members of the household.
 - (e) Enrollment of dependent children in local schools.
 - (f) Employment of householders in the local area.
 - (g) A showing that the household has been living together as a unit for a year or more, whether in the current dwelling unit or other dwelling units.
 - (h) Any other factor reasonably related to whether or not the group of persons is the functional equivalent of a family.
- D. The following presumptions, individually or together may also be sufficient to find that tenants within a rental dwelling unit are renting as individuals and not as a functional family;
- a) If the lease or rental agreement to the premises makes each occupant jointly and severally liable for the performance of said lease;
 - b) If the lease or rental agreement to the premises holds any parent or relative of the occupant as a guarantor of the lease;
 - c) If the lease or rental agreement to the premises makes the rent payable in advance for a period of time consistent with the semester schedule of the local colleges or commencing in January or August of the year and terminating in May or December of the year.
- E. The presumptions set forth above may be rebutted by sufficient evidence of the characteristics of the occupants as a traditional family.

SECTION 5. This ordinance shall take effect immediately.