

## Sec. 409 RESIDENTIAL GROUP RENTALS

### 409.1 Residential Group Rentals.

The following standards apply to group rentals of residential properties.

### 409.2 Intent.

This section is intended to reasonably regulate detached Single Family and Two Family dwellings in group rental housing situations. The City finds that occupancy limits are needed to control negative impact such as traffic congestion, off and on street parking congestion, noise and litter, which are inimical to the health and safety of residents, particularly children. Such regulation is also needed to preserve property values and the characteristics of family values, quiet seclusion, and clean air of such neighborhoods.

### 409.3 Maximum Number of Occupants.

No Single Family Dwelling, or dwelling unit in a Two Family Dwelling, may be rented to, or occupied by, more than two individuals who do not constitute a Family. See Section 300, *Terms Defined*, and Section 409.4, *Determination of Status as Family*.

### 409.4 Determination of Status as Family.

#### A. Determination.

Upon investigation, complaint, or application of a person aggrieved, the Building Commissioner shall make a written determination of whether a specified group of persons constitutes a Family.

#### B. Transferability.

The determination of the Building Commissioner, subject to any modification on appeal, shall be transferable with the entire group of persons constituting the household or with a majority of the persons constituting such household. It shall not run with the premises when occupied by a different household or other group of persons.

#### C. Appeal.

The Building Commissioner's determination under this Section may be appealed to the Board of Zoning Appeals in accordance with Section 1007. In acting on such appeals, the Board of Zoning Appeals shall apply the factors set forth in Section 409.4(D) and shall be authorized to overrule the determination only where there is evidence in the record that the Building Commissioner erred. The following individuals have the right to appeal the Building Commissioner's determination:

1. Any member of the group proposed as a Family;
2. The owner of the premises occupied by such group; or
3. Any other person aggrieved by the Building Commissioner's determination.

D. Factors.

The determination of whether a group of unrelated persons living together are a Family shall be based on such of the following factors as may be known to the Building Commissioner, upon information and belief or otherwise. 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 Family:
  - a. The same group of persons, or a majority of them, has resided together at a different location for a period of at least 6 months or at the present location for at least 12 months.
  - 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 written arrangements to prorate 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 Family:
  - a. The group includes more than two unrelated individuals.
  - b. 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.
  - c. The premises are equipped with combination or key-operated locks on individual rooms or with other means by which one member of the group may prevent other members of the group from entering her or his room or portion of the premises when she or he is not physically present. (Deadbolts, chains or other locking devices operated only from inside 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 Family:
  - a. Voter registration. 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 Family. 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 Family.
  - b. Driver's licenses. 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 Family. Drivers' 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 Family.

- c. Motor vehicle registration. 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 Family. 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 Family.
  - d. Tax filings. 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 Family. 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 Family. 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 Family.
  - e. Minor children. 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 Family.
  - f. Summer living arrangements. 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 Family.
  - g. Household furniture and appliances. Evidence of common acquisition and ownership of furniture and appliances shall be considered evidence in support of the proposition that the group is a Family.
  - h. Employment. 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 Family.
  - i. Groceries and meal preparation. 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 Family. 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."
- E. The Building Commissioner shall make the determination of whether the group constitutes a Family based on a preponderance of the evidence. Where there is prima facie evidence supporting only one side of the proposition, the Building Commissioner shall make a determination that is supported by that prima facie evidence unless the Building Commissioner finds compelling evidence for the other side of the proposition, a finding which should normally be supported by at least four of the factors listed above.
- F. Supported living facilities or similar facilities that provide non-institutional residential accommodations for unrelated adults, a majority of which require personal care services by reason of having a "handicap" or

“disability” as those terms are defined by the Fair Housing Amendments Act of 1988 (42 U.S.C. Sec. 3601 et seq.) and the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), will be presumed to be a household that is the functional equivalent of a traditional family.

#### 409.5 Enforcement.

- A. In addition to other legal remedies for violations of the Zoning Ordinance, a violation of Section 409.3 shall constitute a minor misdemeanor on the first offense, and a misdemeanor of the fourth degree on each subsequent offense, and shall be chargeable against both the owner(s) and tenant(s) of the premises at issue.
- B. Notwithstanding the notice procedures set forth in Section 1010, notice of violations under this Section shall be made by regular US mail, email, hand-delivery, posting upon the premises, or in any other manner reasonably calculated to reach the violator, and shall request abatement of the violation within ten (10) days. If the violation is not abated within ten (10) days, a citation and/or summons may be issued without delay.
- C. Premises that have been rented or occupied in violation of Section 409 on two (2) or more occasions within a three (3) year period, while under common ownership, where each predicate violation has resulted in the conviction of an owner or tenant thereof, are hereby declared to be a public nuisance, and the City Attorney may initiate civil proceedings to abate the nuisance.