

## New Functional Family Definition: Attempt to assemble the outcomes of the discussion of December 1, 2016

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We expended considerable time on the clarification of the Functional Family definition, simplifying its language and reflecting on its support of seniors and young professionals. Here is my synthesis, which I hope gets us at least a substantial step closer. Perhaps we are there.

My sense is that young professionals can meet 3, 4, 5, and 1 or 8. My sense is that senior citizens should be able to meet 1, 3, 4, and 6, 7, or 8. A non-traditional family can meet 1, possibly 2, 3, 4, 5, 6, possibly 7, and 8. A student cohort will be discouraged from meeting the definition by B and should be able to meet only 3 and 4 in E.

Below I first include the suggested revised text and then on page 2 I attach a Worksheet showing the adjusted sections of the document we looked at on December 1.. Finally, I attach (page 3) the definition as it currently exists.

### PROPOSED DEFINITION OF FUNCTIONAL FAMILY

#### FUNCTIONAL FAMILY UNIT

A group of two or more persons not necessarily related by blood, marriage or adoption, living, sleeping, cooking and eating in and otherwise occupying one dwelling unit as a single unit and who function as a family with respect to those characteristics that are consistent with the purposes of zoning and use restrictions in residential neighborhoods.

A. A Functional Family Unit is distinguished from two or more persons occupying a boardinghouse, rooming house, dormitory, residence hall, fraternity or sorority.

B. For a group of two or more unrelated persons to operate as a functional family they must regularly share the common dwelling areas, including dining areas, cooking areas, and social spaces.

C. For a group of two or more unrelated persons to operate as a functional family they must do so with a measure of stability characteristic of the family residential district.

D. Such stability is present if at least **four** of the following conditions are met.

(1) The presence of one or two adults residing in the unit and acting as a head of household.

(a) In the circumstance that all members of the household are senior citizens the responsibilities of head of household may be shared.

(2) The presence of one or more minor children regularly residing in the household as dependent(s) of one or more adult occupant(s) of the household.

(3) Sharing of expenses for food, rent or ownership costs, utilities and other household expenses.

(4) Common use or ownership of furniture, appliances and other household furnishings and supplies among the members of the household.

5) Employment of members of the household in the region, or active pursuit of such employment.

6) Utilization of the address of the dwelling by adult members of the functional family for purposes of voter registration, or driver's license, or motor vehicle registration, or state or federal income tax filings.

7) A showing that all members of the household have been living together as a single housekeeping unit for a year or more, whether in the current dwelling unit or in one or more other dwelling units other than a dormitory, residence hall, fraternity, or sorority.

8) Any other factor that, in the judgment of Codes Enforcement Officer, reasonably demonstrates that the group of persons are occupying the dwelling unit as a single unit in a manner consistent with the purposes of zoning and use restrictions in the family residential district.

E. A group of individuals living in the same dwelling unit shall be presumed not to be a functional family unit, as defined in this section, if such dwelling unit contains no head of household while also including two or more unrelated college students, which shall be defined as individuals over the age of 16 years enrolled in a public or private college, university or other institution of post-secondary education authorized to confer degrees by the State of New York. For the purpose of this

presumption, dependent children of any other adult member of the household shall be excluded in calculating the number of college students in the household.

- 1) Part-time employment by full-time students at a NY State Certified degree-granting institution shall not constitute employment within criteria E. 5) above.

## WORKSHEET (Modified sections in red with replaced sections cross-out and bracketed)

**FUNCTIONAL FAMILY UNIT**

A group of two or more persons not necessarily related by blood, marriage or adoption, living, sleeping, cooking and eating in and otherwise occupying one dwelling unit as a single unit and who function as a family with respect to those characteristics that are consistent with the purposes of zoning and use restrictions in residential neighborhoods.

- A. A Functional Family Unit is distinguished from two or more persons occupying a boardinghouse, rooming house, dormitory, residence hall, fraternity or sorority.
- B. For a group of two or more unrelated persons to operate as a functional family they must regularly share the common dwelling areas, including dining areas, cooking areas, and social spaces. ~~[For a group of two or more unrelated persons to operate as a functional family they must regularly share the entire dwelling area, including dining areas, cooking areas, and social spaces.]~~
- C. For a group of two or more unrelated persons to operate as a functional family they must do so with a measure of stability characteristic of the family residential district.
- D. Such stability is present if at least four of the following conditions are met.  
~~[Evidence of such stability may include]~~

- (1) The presence of one or two adults residing in the unit and acting as a head of household.
  - (a) In the circumstance that all members of the household are senior citizens the responsibilities of head of household may be shared.
- (2) The presence of one or more minor children regularly residing in the household as dependent(s) of one or more adult occupant(s) of the household. ~~[and the enrollment of such dependent minor children in local primary and/or secondary schools.]~~
- (3) Sharing of expenses for food, rent or ownership costs, utilities and other household expenses. ~~[Payment of expenses for food, rent or ownership costs, utilities and other household expenses from a common fund, such as a checking account in the name of a head of the household.]~~
- (4) Common use or ownership of furniture, appliances and other household furnishings and supplies among the members of the household. ~~[Common ownership of furniture, appliances and other household furnishings and supplies among the members of the household.]~~
- 5) Employment of members of the household in the region, or active pursuit of such employment.  
~~[Employment of members of the household in the local area.]~~
- 6) Utilization of the address of the dwelling by adult members of the functional family for purposes of voter registration, or driver's license, or motor vehicle registration, or state or federal income tax filings. ~~[Utilization of the address of the dwelling by adult members of the functional family for purposes of voter registration, driver's license, motor vehicle registration, state or federal income tax filings.]~~
- 7) A showing that all members of the household have been living together as a single housekeeping unit for a year or more, whether in the current dwelling unit or in one or more other dwelling units other than a dormitory, residence hall, fraternity, or sorority. ~~[A showing that all members of the household have been living together as a single housekeeping unit for a year or more, whether in the current dwelling unit or in one or more other dwelling units.]~~
- 8) Any other factor that, in the judgment of Codes Enforcement Officer, reasonably demonstrates that the group of persons are occupying the dwelling unit as a single unit in a manner consistent with the purposes of zoning and use restrictions in the family residential district. ~~[Any other factor reasonably demonstrating that the group of persons are occupying the dwelling unit as a single unit in a manner consistent with the purposes of zoning and use restrictions in the family residential district.]~~

~~[F. A group of two or more unrelated persons may be considered a functional family if four of the eight criteria above can be demonstrated.~~

- ~~1) At least one of the four demonstrated criteria must be criteria 2, 5, or 6.]~~

E. A group of individuals living in the same dwelling unit shall be presumed not to be a functional family unit, as defined in this section, if such dwelling unit contains no head of household while also including two or more unrelated college students, which shall be defined as individuals over the age of 16 years enrolled in a public or private college, university or other institution of post-secondary education authorized to confer degrees by the State of New York. For the purpose of this presumption, dependent children of any other adult member of the household shall be excluded in calculating the number of college students in the household.

- 1) Part-time employment by full-time students at a NY State Certified degree-granting institution shall not constitute employment within criteria E. 5) above.

**DEFINITION IN EXISTING ZONING LAW****FUNCTIONAL FAMILY UNIT**

[Amended 2-14-2012 by L.L. No. 1-2012]

**A.** A group of three or more persons not necessarily related by blood, marriage or adoption, living, sleeping, cooking and eating in and otherwise occupying one dwelling unit as a single housekeeping unit and who function as a family with respect to those characteristics that are consistent with the purposes of zoning and use restrictions in residential neighborhoods, as distinguished from three or more persons occupying a boardinghouse, rooming house, or a dormitory. In determining whether or not a group of unrelated individuals living together is a functional family unit under this definition, Subsection **A(1)** below must be satisfied and the criteria specified in Subsection **A(2)(d)** must be satisfied, and a total of at least four of the eight criteria set forth in Subsection **A(2)** below, which may include Subsection **A(2)(d)**, must be satisfied:

(1) The occupants must share the entire dwelling unit. A unit in which the various occupants act as separate roomers, or individually occupy separate rooms within the unit, shall not be deemed to be occupied by a functional family unit.

(2) The household must have stability with respect to the purposes of this chapter. Evidence of such stability shall include the existence of a majority of the following criteria:

(a) The presence of one or two adults residing in the unit and acting as a head of household.

(b) The presence of one or more minor children regularly residing in the household as dependent(s) of one or more adult occupant(s) of the household, and the enrollment of such dependent minor children in local primary and/or secondary schools.

(c) Proof of the payment of expenses for food, rent or ownership costs, utilities and other household expenses from a common fund, such as a checking account in the name of a head of the household.

(d) The different members of the household all utilize the address of the dwelling unit for their permanent residence address, and all use the same address of the dwelling unit for the purposes of:

[1] Voter registration; and

[2] Drivers' licenses; and

[3] Motor vehicle registration; and

[4] The filing of state and federal tax returns.

(e) Common ownership of furniture, appliances and other household furnishings and supplies among the members of the household.

(f) Employment of members of the household in the local area on more than just a temporary or seasonal basis.

(g) A showing that all members of the household have been living together as a single housekeeping unit for a year or more, whether in the current dwelling unit or in one or more other dwelling units.

(h) Any other factor reasonable demonstrating that the group of persons occupying the dwelling unit as a single housekeeping unit consistent with the purposes of zoning and use restrictions in residential neighborhoods.

**B.** A group of individuals living in the same dwelling unit shall be presumed not to be a functional family unit, as defined in this section, if such dwelling unit contains three or more unrelated college students, which shall be defined as individuals over the age of 16 years enrolled in an on-campus program at a public or private college, university or other institution of post-secondary education authorized to confer degrees by the State of New York. For the purpose of this presumption, dependent children of any other adult member of the household shall be excluded in calculating the number of college students in the household.

**C.** A group of individuals living together in the same dwelling unit shall be presumed not to be a functional family unit, as herein defined, if the dwelling unit is occupied by three or more unrelated adults over the age of 18 years and is not also occupied by minor dependent children of any of the resident adults.

**D.** The presumptions set forth in Subsections **B** and **C** of this definition may be rebutted by sufficient evidence of the characteristics set forth in Subsection **A** of this definition presented to and as determined by the Code Enforcement Officer.