

## **Post-pandemic Housing Ordinance for Non-Family Members**

Narrative Lead: Austin Grace and Ordinance Lead: Chris Williams

### **I. Introduction**

As the COVID-19 pandemic continues, more office buildings remain empty as people transition to teleworking, along with college students switching from residing on campus to relocating elsewhere. One of the current problems is a growing number of unrelated people that need to find new housing as a result of job loss with the closure of offices, along with the loss of income resulting from these job losses that make it challenge to afford housing. This has resulted in massive displacements due to the lack of affordability. A sufficient number of co-workers, college students, and family friends are unable to move in together to combat this problem brought on by the pandemic because of current zoning ordinances in Pennsylvania. These ordinances in their goal of defining family aim to keep a sense of community; however, that value of keeping those communities together is at risk with their provisions.

Because of the current zoning ordinances that direct how many people can live in a household at a time, a majority of the boroughs in Pennsylvania do not have adequate ordinances to address people on how to adapt during the pandemic. They only allow for a limited number of non-family members to reside in a dwelling unit at a time which range from three to four unrelated people. In other states, boroughs and municipalities either already have or are currently working to adopt new ordinances to increase the limitations of non-family members in a household. This was to further the goal of changing the concept of family from traditional to functional.

Ordinances that redefine what it means to be a family are necessary to protect these households during the pandemic. By increasing the number of non-family members and treating them as a functional equivalent to a family will allow these groups of people to stay where they initially were without having to relocate. People living together in the same dwelling will remedy the burdens that lower- and middle-class families are facing financially as a result of the pandemic. Ordinances are necessary to address social concerns regarding homelessness and will help remedy this inequality. Furthermore, these ordinances may be an important step in reducing waste and overconsumption of energy and resources.

This narrative will address the current zoning issues and its solutions of adopting new ordinances of increasing the number of non-family members in a household. We will address why our current issues are deficient in addressing the current problem and explain why new ordinances are needed. In adopting new ordinances, municipalities and boroughs look at what other municipalities and boroughs have done to address the current issue. First, we will look at what several municipalities have done in our state with the definition of family. Then we will review more progressive ordinances that those municipalities either have are looking to adopt in to address the housing issues for non-family members that are more analogous to the model ordinance. The social, economic, and environmental benefits and opportunities created by preventing further displacement through revising the definition of family will also be discussed. Finally, we will discuss policy issues that a post-pandemic housing ordinance for non-family members creates and look at areas where decisions must be addressed in proposing, adopting, and implementing during and after the pandemic.

## **II. The current problem with the concept of family and non-family members**

Ordinances need to switch from the nuclear to functional family's as shown through current issues. The ongoing COVID-19 pandemic has caused multiple complications that have affected the lives of lower- and middle-class families. Roughly 22 percent of adults as a result of the pandemic either changed their residence or at least knew someone who did.<sup>1</sup> This includes multiple layoffs from different businesses that have caused economic hardships on middle class families.<sup>2</sup> This is happening across the country, not just Pennsylvania.<sup>3</sup> Because of these economic hardships, families in these boroughs are interested in having people move in with them that range anywhere from coworkers to college students to prevent bankruptcy. Not only are our communities interested in staying together to prevent from being displaced, but so is the Pennsylvania States Association of Boroughs. However, the problem lies in our current municipalities zoning laws that makes it difficult for others to live together.

The purpose of municipalities zoning laws, as outlined in the Municipalities Planning Code, is to regulate the density of residents in our communities.<sup>4</sup> To properly measure density in our communities, they define the term "family," in two ways.<sup>5</sup> The first way that family is used

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<sup>1</sup> D'Vera Cohn, About a Fifth of U.S. Adults Moved Due to COVID-19 or Know Someone Who Did, Pew Research Center (July 6, 2020) <https://www.pewresearch.org/fact-tank/2020/07/06/about-a-fifth-of-u-s-adults-moved-due-to-covid-19-or-know-someone-who-did/>

<sup>2</sup> Aaron Moselle, Philly Housing Costs Rising Faster For Poor and Middle Class Faster Than the Wealthy, WHYY (April 29, 2019) <https://whyy.org/articles/philly-housing-costs-rising-faster-for-poor-and-middle-class-than-for-the-wealthy/>

<sup>3</sup> AnnaMaria Andriotis, No Job, Loads of Debt: Covid Upends Middle-Class Family Finances, The Wall Street Journal (Sept. 20, 2020) <https://www.wsj.com/articles/covid-unemployment-debt-middle-class-family-finances-11600122791>

<sup>4</sup> ROBERT S. RYAN, PENNSYLVANIA ZONING LAW AND PRACTICE, § 3.4.5 at 152 (2018).

<sup>5</sup> *Id.*

is used to limit the number of persons living in their type of housing.<sup>6</sup> The second way families are used is creating distinction in the classifications of how people are related to one another.<sup>7</sup> Family is typically defined as a group of individuals that live and eat together as a single housekeeping unit, and then limits the number of such persons only if they are unrelated by blood, adoption, or marriage.<sup>8</sup>

The cases that have further defined the constitutional rules and policies behind the concept of family. However, the Municipalities Planning Code is a stronger authority over these cases. *The Village of Belle Terre*, a United States Supreme Court case, held in rejecting that if you permit eight related people to live together, then you must give the same right to eight unrelated people.<sup>9</sup> This is because these two groups not being their own class should not be treated the same under equal protection.<sup>10</sup> Next, the policy of the nuclear, traditional, family was defined in *Lentos v. Zoning Hearing Board of Haverford Township*, holding that college housing was too close to single family housing. that they needed to preserve single family homes in order to continue supporting the policy of the nuclear family.<sup>11</sup> The court ruled that there needed to be a requirement that student homes be separated a certain distance from homes with family members, satisfying a rational basis to preserve the character of these traditional homes.<sup>12</sup>

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Belle Terre v. Boraas*, 416 U.S. 1, 94 S. Ct. 1536 (1974).

<sup>10</sup> *Id.*

<sup>11</sup> *Lentos v. Zoning Hearing Board of Haverford Township*, 55 Pa. Cmwlth 365, 423 A.2d 1082 (1980).

<sup>12</sup> *Id.*

However, these policies and values have been heavily criticized due to their lack of care for health and sustainability policies.<sup>13</sup> This has been further exacerbated due to COVID-19.

Before COVID-19, the discussion of changing from traditional to functional families was already taking place. In 2012, a family in Harford Connecticut had a chosen family of eight adults and three children, which violated the definition of family in the Harford zoning code.<sup>14</sup> They faced years of litigation from Hartford, until they city dropped the suit in 2016 and revised the zoning ordinance to increase the number of legal unrelated cohabitants.<sup>15</sup> Resulting from this, more cities and states are looking to revising their definitions of family and break away from this because it was shown that formal family zoning discriminates against non-normative families along with reinforcing racial and economic segregation effects of low-density zoning in general.<sup>16</sup>

Currently, many of the boroughs in the state of Pennsylvania do not have the proper ordinances or proper codes to address the amount of non-family members that live in a household at time to address the ongoing coronavirus. This will lead to not just financial constraints on homeowners in these boroughs, but it also limits them from finding solutions to prevent their homes from being foreclosed and then eventually needing to relocate somewhere else during the pandemic. Ordinances are needed to protect these individuals in communities from having to relocate elsewhere as a result of not being able to afford housing from a losing their jobs.

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<sup>13</sup> ROBERT S. RYAN, PENNSYLVANIA ZONING LAW AND PRACTICE, § 3.4.5 at 152 (2018).

<sup>14</sup> Kate Redburn, Why are Zoning Laws Defining What Constitutes a Family? (June 17, 2019) <https://www.bloomberg.com/news/articles/2019-06-17/zoning-law-shouldn-t-define-what-makes-a-family>

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

### **III. How existing local communities cannot address the problem**

#### **A. Family Members**

In many of the boroughs across Pennsylvania, the zoning codes in these boroughs place too small of a limit on how many non-family members that can live in a household at a time. The Borough of Flemington gives their definition of family as, “An individual person, two (2) or more person related by blood, marriage, or adoption.”<sup>17</sup> Zoning ordinance from Luzerne County provides similar language defining family as, “Two or more persons related by blood or marriage, occupying a dwelling unit, living together and maintaining a common household including not more than one boarder, roomer, or lodger.”<sup>18</sup> In the Borough of Stroudsburg, they define family as “any individual, or two (2) or more person related by blood, marriage, legal adoption, foster placement.”<sup>19</sup> The Borough of Somerset states that a family as “An individual or two or more person who are related by blood or marriage living together and occupying a single housekeeping unit with single culinary facilities.”<sup>20</sup>

#### **B. Non-Family Members.**

Here are some of the definitions and limits that these boroughs have imposed on non-family members that do not adequately solve the current problem. The Borough of Flemington

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<sup>17</sup> BOROUGH OF FLEMINGTON, Pa. ZONING ORDINANCE pt. 2 pg. 2-1 (2011).

<sup>18</sup> BOROUGH OF LUZERNE, Pa. ZONING ORDINANCE art. 11 pg. 84 (2012).

<sup>19</sup> BOROUGH OF STROUDSBURG, Pa. MUNICIPAL CODE ch. 27 pt. 2 §27-202. (2020).

<sup>20</sup> BOROUGH OF SOMERSET, Pa. ZONING ORDINANCE art XII §2-35 (1979).

provides non-family as, “a group of not more than three (3) persons who are not related by blood, marriage, or adoption living together in an individual dwelling unit as a single housekeeping unit.”<sup>21</sup> Luzerne County provides non-family as, “Not more than three (3) unrelated persons occupying a dwelling unit. Living together and maintaining a common household.”<sup>22</sup> Also, the Borough of Oakdale provides that “a group of no more than three unrelated persons living together in a dwelling unit.”<sup>23</sup>

In these areas, the amount of non-family members is extremely limited in size, however, other counties slightly increase the amount of non-family members that can live in a household at a time. In the Borough of Stroudsburg, they define non-family as “a group of not more than four (4) person who need not be related by blood, marriage, living in a dwelling unit as a single-family housekeeping unit.”<sup>24</sup> Borough of Somerset defines non-family as “a group of not more than four (4) persons living together by a joint agreement and occupying a single housekeeping unit with single culinary facilities on a non-profit cost-sharing basis.”<sup>25</sup> Norwood defines non-family as “not more than four (4) unrelated individuals living together as a single housekeeping unit with single kitchen facilities.”<sup>26</sup>

Throughout the state of Pennsylvania, there are not many boroughs that have ordinances or codes that extend past four non-family members that can live in a single-family home. The problem here is that these numbers the ordinances provide are considered to be arbitrary as a baseline number. This arbitrary number makes it a challenge for families, co-workers, and/or

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<sup>21</sup> BOROUGH OF FLEMINGTON, Pa. ZONING ORDINANCE pt. 2 pg. 2-1 (2011).

<sup>22</sup> BOROUGH OF LUZERNE, Pa. ZONING ORDINANCE art. 11 pg. 84 (2012).

<sup>23</sup> BOROUGH OF OAKDALE, Pa. ZONING ORDINANCE ch. 258 §258-3 (2012).

<sup>24</sup> BOROUGH OF STROUDSBURG, Pa. MUNICIPAL CODE ch. 27 pt. 2 §27-202. (2020).

<sup>25</sup> BOROUGH OF SOMERSET, Pa. ZONING ORDINANCE art. XII §2-35 (1979).

<sup>26</sup> BOROUGH OF NORWOOD, Pa. CODE art. VII § 105-62 (2012).

college roommates to be able to live together in the same household in order to support themselves economically and socially during the pandemic.

#### **IV. How other jurisdictions have addressed this problem**

##### **A. Jurisdictions that have helpful ordinances**

As addressed above, there are barely any ordinances that can adequately solve this issue of non-family members living in a home together; however, we provide some ordinances in Pennsylvania and in other states as a guideline.

##### **1. Non-transitory/ permanent**

These ordinances all require that the intent of the persons that live together as non-family members have a permanent relationship together in order to have a stable and functioning family. Furthermore, the purpose of these ordinances is in keeping our communities to prevent further displacement, along with promoting stability in these households. The Borough of California, Pennsylvania provides a definition states that, “One individual person or more than one individual living together on a non-transitory basis, said individuals may be related by blood, marriage, adoption, or have a living arrangement, which is non-transitory of a permanent nature and of a distinct and demonstrable and recognizable bond, indicative of a cohesive living arrangement within the Borough.”<sup>27</sup> This definition was revised in their 2019 version of ordinances, whereas in the 2006 version the definition of family contains terms that state that, “...

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<sup>27</sup> BOROUGH OF CALIFORNIA, Pa. ZONING ORDINANCE art. 2 §203.1 (2019).



not more than three individuals living together as a single housekeeping unit and doing their cooking in one kitchen on the premises.”<sup>28</sup>

## **2. Limits on the amount of non-family members**

These ordinances mostly require that there be reasonable limits on the amount of non-family members that can live in a household to serve the purpose of preserving the definition of family. These numbers can range anywhere from five to ten non-family members depending on the size and structure of the household. Currently, the city of Denver, Colorado, is now working to amend their zoning code in response to the current pandemic that would increase the size of how many non-family members can live in a household.<sup>29</sup> The suggested change would lead to the city increasing its capacity of non-family members from four to at least five residents.<sup>30</sup> The amount of people that can live together in a household will be determined by the amount of square footage of the home. For instance, homes that are less than 1,800 square feet of finished floor area can have a maximum of five (5) unrelated adults, while homes with at least 2,600 or more square feet can have a maximum of ten (10) unrelated adults.<sup>31</sup>

Another analogous situation is that in Evanston, Illinois, the Evanston City Council is currently in discussion about abolishing the definition of family as they found it to be

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<sup>28</sup> *Id.*

<sup>29</sup> Connor McCormick-Cavanagh, How Many Unrelated Adults Should Be Able to Live Together in Denver, WestWord (April 3, 2020) <https://www.westword.com/news/denver-considering-how-many-unrelated-adults-can-live-together-11680128>).

<sup>30</sup> DENVER, Co, ZONING CODE, Text Amendment #7, GROUP LIVING TEXT AMENDMENT (8/12/20).

<sup>31</sup> *Id.* at 164.

constricting.<sup>32</sup> There ordinance allows for no more than three (3) unrelated persons living together in a dwelling unit.<sup>33</sup> The Councils goal in this case is that through abolishing the concept of family, they would instead base how many people could live in a household together depending on the size and shape of the structure of the dwelling unit, similar to the city of Denver, Colorado in amending their zoning code.<sup>34</sup>

### **3. Having a traditional family or functional family equivalent.**

These ordinances require that these groups of non-family members be the functional equivalent to that of a family. In general, these homes must have a structural housekeeping plan. Furthermore, they reference that they must share some kind of a bond with one another, which could be broadly interpreted based on the provided language. The state of New Jersey's boroughs is discussed here. The Glen Ridge Borough provides that persons that are living together must have a nonprofit housekeeping unit that is of a permanent and domestic character being either a traditional family or the functional equivalent of a family.<sup>35</sup> Next, the Borough of Madison shows that those individuals that are living together are under a common housekeeping management plan that shows a structured relationship that provides organization and stability.<sup>36</sup>

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<sup>32</sup> City of Evanston, IL., Evanston City Council Meeting 9-29-2020, YouTube (Sept. 30, 2020) <https://www.youtube.com/watch?v=Ohh6ZhtZI7Y>.

<sup>33</sup> EVANSTON, IL., CODE OF ORDINANCES Title 6 ch. 18 §6-18-3.

<sup>34</sup> City of Evanston, IL., Evanston City Council Meeting 9-29-2020, YouTube (Sept. 30, 2020) <https://www.youtube.com/watch?v=Ohh6ZhtZI7Y>

<sup>35</sup> BOROUGH OF GLENN RIDGE, NJ, MUNICIPAL CODE, 17 ch. 17.04.030 (2020).

<sup>36</sup> BOROUGH OF MADISON, NJ, CODE pt. 2 art. 1 § 195-7 (2020).

The Borough of Keyport provides an amended ordinance that allows for a group of not more than any five persons living together as a single non-profit until and has the qualities of a permanent functioning family unit.<sup>37</sup> In reviewing the Borough of Northampton in Pennsylvania, not only does it provides that there can be more than six non-family members, in a household, it also further defines what non-family does not include such as, “occupants of a hotel, motel, boarding house, rooming or lodging house, club, fraternity/sorority, or dormitory or patents at a temporary crisis or care center.”<sup>38</sup>

## **B. How this solves the problem**

With the implementation of an ordinance that amends the defining features of what it means to be a “family” in the state of Pennsylvania, the problems of displacement due to the coronavirus, along with the affordability of current housing needs can be resolved. It is expected that it would lessen the burden on lower to middle class families and in turn allow housing to be more affordable to prevent dislocation, while granting more homeowners and other renters to stay within their communities.<sup>39</sup> While there are concerns about the downsides of having an increasing the amount of people that can live together, such as college students causing constant disruptions and removing the value of communities or turning these into “slums,” these ordinances that were proposed would provide certain limitations on the amount of people that

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<sup>37</sup> BOROUGH OF KEYPORT, NJ, ch. XXV art. 1 § 25:1-3 (2018).

<sup>38</sup> BOROUGH OF NORTHAMPTON, Pa. ZONING ORDINANCE art 2. §250-7 (2012).

<sup>39</sup> Conor McCormick-Cavanagh, How Many Unrelated Adults Should Be Able to Live Together in Denver, Westworld, (April 3, 2020) <https://www.westword.com/news/denver-considering-how-many-unrelated-adults-can-live-together-11680128>

can live together based on the structure of the household to encourage safer living conditions.<sup>40</sup> As a result of more of these non-family members staying within the area where they were working, the Boroughs would prevent losing their residents, provide stability, and keep a sense of community. Additionally, another expected effect is that with the proper number of residents living together in a household, the displacements will decrease along with a decrease in the amount of coronavirus cases due to traveling and preventing other communities from receiving a huge influx of residents that could promote the spread of coronavirus. An issue that may result from this is transience of people living in these houses and then moving out after a year similar to a renter; however, the purpose of these ordinances is to provide an option for a functional family and that they would set their homes up in a way to where they are more likely to stay in place than have it as a temporary home and that there is a penalty in the model ordinance to discourage them from leaving in less than a year. Past this, if this type of ordinance would be followed and adopted, it can have a positive sustainable impact.

#### **D. Sustainability impacts on changing the definition of family**

##### **1. Economic**

Due to more people living together as a result of this type of ordinance, not only will housing become more affordable, this can open up a new opportunity for jobs as well. A

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<sup>40</sup> Sarah Rothermel, Municipal Limits of Property Rentals: Who Can Live With Whom, Nauman Smith, Shissler & Hall (Sept. 29, 2019) <https://www.nssh.com/2019/09/municipal-limits-on-property-rentals-who-can-live-with-whom/#:~:text=Middletown%27s%20zoning%20ordinance%20prohibits%20more,in%20college%20towns%20across%20Pennsylvania>

common way to alleviate the costs of home affordability is doubling up with another cohabitant. In study by Zillow, it is suggested that by teaming up with another individual helps with rental affordability because in metro areas, rent drains a major share of household income.<sup>41</sup> The COVID-19 pandemic has created a situation which the result in job loss and income for individuals makes it burdensome to afford housing, so doubling up with more people would be necessary. Furthermore, people who chose to live together can also work with their landlords and other residents.<sup>42</sup> This is a solution for some individuals who were placed out of work due to COVID-19, which is what happened to a musician/babysitter named Kurt Juregens in New York who was unable to find babysitting gigs since March of 2020.<sup>43</sup> As a result, he offered to work for his landlord to be able to work again and pay rent.<sup>44</sup> While this is an anecdotal story, this could suggest a step in the right direction in allowing more people to work again and can keep generating revenue into these communities.

## **2. Environmental**

With more non-family members having a shared living space, this can allow for a sustainable lifestyle and a reduction in the carbon footprint. A study that has taken place in Britain in has shown that people living alone in smaller homes consume more resources than two

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<sup>41</sup> Lauren Bretz, As Rents Rise, More Renters Turn to Doubling Up (December 14, 2017)

<https://www.zillow.com/research/rising-rents-more-roommates-17618/>

<sup>42</sup> Kim Velsey, Will Work For Room, The New York Times (June 8, 2020)

<https://www.nytimes.com/2020/06/08/realestate/will-work-for-room.html?referringSource=articleShare>).

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

or more people who live together.<sup>45</sup> The primary factors that play into this is the housing design along with socioeconomic factors.<sup>46</sup> For instance, those in smaller households and living on their own consume more gas and electricity than those who live in groups.<sup>47</sup> Four-person households consume annually 5400 KWh of electricity per person and 7000 KWh of gas per person less than one person household, allowing them to have great electricity and gas savings.<sup>48</sup> Additionally the household size influences the individual household expenditure on goods because people in larger households can share goods in a larger group, thus decreasing individual expenditure on goods.<sup>49</sup> This can lead to the expectation that there will be a reduction in the use of domestic appliances that will also save energy.<sup>50</sup> Furthermore, because people in larger groups can share goods between one another, they can also purchase food in a sustainable manner. If a large household buys food in bulk, this can further cut down on packing and allow for more leeway in purchasing organic and ethical food in an affordable manner.<sup>51</sup>

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<sup>45</sup> Jo Williams, Shared Living: Reducing the Ecological Footprint of Individuals in Britain Built Environment (1978-), vol. 28, no. 1, 2002, pp. 57–72. JSTOR, [www.jstor.org/stable/23288551](http://www.jstor.org/stable/23288551). Accessed 3 Oct. 2020

<sup>46</sup> *Id.* at 2

<sup>47</sup> *Id.* at 3

<sup>48</sup> *Id.* at 4-8

<sup>49</sup> *Id.* at 5

<sup>50</sup> Mim Davies, Living Together: The Environmental Benefits of Co-Housing and Communal Living, Centre for Alternative Technology (Sept. 8, 2017) <https://www.cat.org.uk/living-together-environmental-benefits-co-housing-communal-living/>

<sup>51</sup> *Id.*

### 3. Social

Finally, changing the definition of family can provide a viable solution towards homelessness and providing improved mental health for all. Due to the decrease in the affordability of sharing these homes, shared housing through the new definition of family can effectively meet the needs of populations that are or are at risk of homelessness.<sup>52</sup> Not only does shared housing reduce payments, but this can benefit the social wellbeing of these people along with increasing housing stability.<sup>53</sup> Because of the decrease in isolation for these homeless people as a result of this shared housing, it can reduce psychotic symptomatology, (a.k.a. psychosis) and allow for a focus on an interpersonal socialized world, further improving mental health.<sup>54</sup>

### V. Recommendations

The construction of the model ordinance was made mostly from scratch, along with suggestions from the Pennsylvania State Association of Boroughs.<sup>55</sup> Some aspects were taken

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<sup>52</sup> Jamie Taylor, Shared Housing: A Practical Solution for Ending Homelessness, Lesar Development Consultants (July 2, 2019) <https://lesardevelopment.com/shared-housing-a-practical-solution-for-ending-homelessness/#:~:text=Shared%20housing%20is%20an%20expanding,risk%20of%20and%20experiencing%20homelessness.&text=For%20individuals%20moving%20out%20of,isolation%2C%20and%20increases%20housing%20stability>.

<sup>53</sup> *Id.*

<sup>54</sup> Yinghua He, Brendan O'Flaherty, and Robert A. Rosenheck, Is Shared Housing a Way to Reduce Homelessness? The Effect of Household Arrangements on Formerly Homeless People, *Journal of Housing Economics* (2010).

<sup>55</sup> Communication with Ed Knittle.

from Colorado's zoning code; however, instead of focusing on the size and structure of the house to preserve the traditional home, living space requirements were set that at least 45% of the square footage of the dwelling be a "living space." Additionally, should be at least one bedroom for every two people living at the dwelling. Next, the broad definitions of family in other ordinances such as the Borough of California in Pennsylvania and the Glen Ridge Borough in New Jersey were further broadened to include up to seven non-family members in a household. Furthermore, funding is not required for this model ordinance because it focuses on a permit by right, which is a use permitted by a zoning ordinance that does not require consideration of discretionary approval criteria from a planning authority. The only work that would be required is that the Zoning Officer enforces these provisions whenever it is reasonable to do so. The only costs involved with this model ordinance is that when any person violated or permitted the violation of these provisions to occur must pay a judgment of not more than \$2,000 plus other court costs and attorney fees.

## **VI. Conclusion**

As more people become displaced as a result of COVID-19, boroughs in Pennsylvania must look to change the definition of family from a traditional, to a functional definition in order to preserve the values of keeping their communities together during this time. This can be accomplished through amending certain aspects such as the amount of non-family members that can live together in a dwelling unit to allow for more affordable living and at the same time achieving long term social, economic, and environmental benefits to these boroughs.



Number of Non-Family Members Allowed in a Single-Family Zone

Ordinance Lead: Chris Williams and Narrative Lead: Austin Grace

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE \_\_\_\_ [TOWNSHIP/BOROUGH] OF \_\_\_\_ COUNTY,  
PENNSYLVANIA, TO ESTABLISH REGULATIONS RELATED TO THE AMOUNT  
OF NON-FAMILY MEMBERS RESIDING IN A HOUSEHOLD IN A SINGLE-FAMILY  
RESIDENTIAL ZONING DISTRICT<sup>56</sup>**

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the authority of the  
[Council/Board] of the \_\_\_\_\_ [Township/Borough] of \_\_\_\_\_ County,  
Pennsylvania:<sup>57</sup>

## **Chapter 1**

### **Preliminary Provisions**

#### **Section 101. Short title.**

This ordinance shall be known as the Non-Family Member Housing Ordinance of the  
[Township/Borough] of \_\_\_\_\_

#### **Section 102. Legal Authority.**

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<sup>56</sup> Electric Vehicle Charging Infrastructure and Parking Model Ordinance, Jacqueline Lynette Carter and Samantha Craley, <https://widenerenvironment.wordpress.com/students/ordinances/>.

<sup>57</sup> *Id.*

This ordinance is authorized under 8 Pa.C.S. §§ 3301 and 53 Pa. Stat. Ann. § 10601

Section 103. **Purpose.**

As a result of current economic conditions, and the Covid-19 pandemic, finding sustainable housing is a major issue for the public. To address this problem, among others, this ordinance allows for up to seven non-family members to reside in single-family zoning areas.

The purposes of this ordinance are as follows:

- (1) To provide greater flexibility for residents when deciding how they wish to secure housing.
- (2) To reduce the environmental footprint of communities through the consolidation of housing units.<sup>58</sup>
- (3) To reduce the potential for homelessness by easing the economic burden of rents or mortgages.<sup>59</sup>

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<sup>58</sup> [1] Studies have shown that through increasing the amount of people living in a household, in this case non-family members living together, energy costs can be reduced. Additionally, with more people consolidated within one house, there is an increased likelihood to share goods between the co-habitants. This in turn reduces other resource use when producing goods. (Jo Williams, *Shared Living: Reducing the Ecological Footprint of Individuals in Britain*, (3 Oct. 2020) <https://www.jstor.org/stable/23288551>. )

<sup>59</sup> By allowing multiple non-family members to live in a house together, those cohabitants will be able to split the costs of rent or mortgage payments between however many people are living within the home. This is an advantage over traditional families where you typically only have one or two working members.

(4) To promote a sense of togetherness for those who do not wish to be a part of a traditional family.

(5) To expand the definition of a “family” from a traditional marriage or blood relation to include a “functional family” of up to seven (7) non-family members living within one dwelling.<sup>60</sup>

(6) To protect communities and prevent further displacement as a result of financial hardships.

#### Section 104. **Definitions.**

The following words and phrases when used in this ordinance shall have the meaning given to them in this section unless the context clearly indicates otherwise:

**“Bedroom.”** A room furnished with a bed and intended primarily for sleeping.<sup>61</sup>

**“Board.”** Refers to the Zoning Hearing Board

**“Dwelling.”** A building or structure designed for living quarters for one or more families, including homes which are supported either by a foundation, by blocks, jacks or are otherwise

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<sup>60</sup> Seven was the chosen number due to concerns seen from Denver, Colorado when the city increased to eight unrelated people.

<sup>61</sup> *Bedroom - Definition of Bedroom by Merriam-Webster*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/bedroom>

permanently attached to the land, but not including hotels, rooming houses or other accommodations used for transient occupancy.<sup>62</sup>

**“Family.”** (1) An individual; or

(2) an individual with children; or

(3) a couple and their children; or

(4) a group of no more than seven unrelated persons living together in a dwelling unit.

**“Living space.”** The place in which a person lives, in particular the part of a house or flat excluding the kitchen, bathroom, or bedroom.<sup>63</sup>

**“Non-related family unit.”** A group of up to seven non-related individuals living within a dwelling. This shall also include a family unit of related members and non-related members so long as there are less than seven individuals residing within the dwelling.

**“Occupant.”** A person, family, group, or organization that lives in, occupies, or has quarters or space in or on something.

**“Owner.”** A person who has the legal or rightful title to the property.

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<sup>62</sup> Southampton Township, Franklin County, Pennsylvania Code of Ordinances Sec. 39-1400

<sup>63</sup> *Living Space*, Lexico, [https://www.lexico.com/definition/living\\_space](https://www.lexico.com/definition/living_space)

**“Permit by right.”** A use permitted by a zoning ordinance that does not require consideration of discretionary approval criteria from a planning authority.

**“Person.”** Includes a corporation, partnership, limited liability company, business trust, other association, government entity (other than the Commonwealth), estate, trust, foundation or natural person.<sup>64</sup>

**“Public utility system.”** Any agency which, under public franchise or ownership, or under certificate of convenience and necessity, provides the public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar service.<sup>65</sup>

**“Residential single-family district.”** A zoning district composed primarily of single-family residences built at relatively lower densities.

**“Zoning Hearing Board.”** A board of appointed residents of the [Township/Borough] created for the purpose of conducting hearings and making decisions based on the zoning ordinances of the [Township/Borough].

**“Zoning Officer.”** An unelected officer appointed for the administration and enforcement of zoning ordinances.<sup>66</sup>

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<sup>64</sup> 1 Pa.C.S. § 1991

<sup>65</sup> Township of Susquehanna, PA, Municipal Code, §22-301.

<sup>66</sup> Language taken from Township of Susquehanna, PA, Municipal Code, §27-2601

## **Chapter 2**

### **Establishment of non-related family unit**

#### **Section 201. Establishment.**

Non-related family units are permitted by right in residential single-family districts and are not subject to consideration by the Zoning Hearing Board or the Zoning Officer. To establish a non-related family unit, written notice shall be provided to the Zoning Hearing Board within 30 days of the establishment of residency by at least one of the members of the unit.

#### **Section 202. Notice Requirements.**

A written notice to the board must include:

1. Address of the dwelling.
2. Names of every individual residing at the dwelling.
3. Occupation of every individual in the dwelling.
4. Age of every individual in the dwelling.
5. Name and current mailing address for the owner of the dwelling.<sup>67</sup>
6. Expected Move-in date for each individual of the non-related family unit.
7. Statement agreeing to reside at the address for at least one year, signed by every individual living at the dwelling.
8. Certification of the following:

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<sup>67</sup> Language taken from Township of Susquehanna, PA, Municipal Code, §27-2601

- (a) At least 45% of the square footage of the dwelling is living space as defined by this ordinance.
- (b) There shall be at least one bedroom for every two individuals residing in the dwelling.
- (c) Every individual residing at the dwelling is registered with the [Township/Borough] Manager for tax purposes.
- (d) The dwelling is connected to the [Township/Borough] public utility system.

## **Chapter 3**

### **Requirements**

#### **Section 301. Applicability of this chapter.**

This chapter establishes requirements which must be met by the dwelling in which a non-related family unit resides.

#### **Section 302. Living space requirement.**

Dwellings inhabited by a non-related family unit shall maintain at least 45% of the square footage of the dwelling as “living space” as defined by this ordinance.<sup>68</sup>

#### **Section 303. Bedroom requirements.**

Dwellings inhabited by a non-related family unit shall contain at least one bedroom for every two people living at the dwelling.

#### **Section 304. Tax registration.**

Every individual over the age of 18 shall register with the [Borough/Township] Manager in order to be counted for tax purposes.

#### **Section 305. Public utilities.<sup>69</sup>**

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<sup>68</sup> The purpose of this provision is to ensure dwellings stay as traditional homes.

<sup>69</sup> The purpose of this section is to ensure that there is existing infrastructure to support the additional residents in the dwelling. Traditional single-home septic systems may not be sufficient for the additional residents, so access to the existing public utilities will eliminate potential concerns.



Every dwelling which is being occupied by a non-related family unit shall be connected to the [Borough/Township] public utility system.

## **Chapter 4**

### **Enforcement**

#### **Section 401. Enforcement officer.**

It shall be the duty of the Zoning Officer to enforce the provisions of this Ordinance. The Zoning Officer shall have the power to examine all dwellings that have provided written notice of non-related family unit status. Any dwellings found to be non-conforming to this Ordinance shall be reported to the Board.<sup>70</sup>

#### **Section 402. Entry and inspection of dwellings.**

Subject to the limitations of the Constitution of the United States and of the Commonwealth of Pennsylvania, and in order to carry out the purpose and provisions of this Ordinance, the Zoning Officer, upon showing proper identification of office, may enter and inspect any dwelling at all reasonable times and in an emergency at any time. The owner or occupant of any dwelling shall give the Zoning Officer free access for the purpose of such inspection.<sup>71</sup>

#### **Section 403. Enforcement notice.<sup>72</sup>**

##### **(a) Commencement.**

If it appears to the [Township/Borough] that a violation of this Ordinance has occurred, the [Township/Borough] shall initiate enforcement proceedings by sending an

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<sup>70</sup> Language taken from TOWNSHIP OF SUSQUEHANNA, PA, Municipal Code, §27-2601

<sup>71</sup> Language taken from TOWNSHIP OF SUSQUEHANNA, PA, Municipal Code, §5-212

<sup>72</sup> TOWNSHIP OF SUSQUEHANNA, PA, Municipal Code, §27-2621

enforcement notice as provided in this section. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.

(b) **Notice requirements.**

(1) The name of the owner of record and any other person against whom the [Township/Borough] intends to take action.

(2) The location of the property in violation.

(3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Chapter.

(4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

(5) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of days.

(6) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

**Section 404. Jurisdiction of appeals.**

The Zoning Hearing Board shall have jurisdiction to hold hearings and make decisions regarding any determination made by the Zoning Officer.

Section 405. **Enforcement remedies.**<sup>73</sup>

(a) District justices shall have initiation jurisdiction over proceedings brought under this section.

(b) Any person who has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Zoning Officer of the [Township/Borough], pay a judgment of not more than \$2,000 plus all court costs, including reasonable attorney fees incurred by the [Township/Borough] as a result thereof.

(c) No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice.

(d) If the defendant neither pays nor timely appeals the judgment, the [Township/Borough] may enforce the under the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person violating this Ordinance to have believed that there was no such violation. In which event, there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and each day that a violation continues shall constitute a separate violation.

(e) The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.

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<sup>73</sup> TOWNSHIP OF SUSQUEHANNA, PA, Municipal Code, §27-2622

(f) Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the [Township/Borough] the right to commence any action for enforcement pursuant to this Section.

## Chapter 5

### Severability, Repeals, and Effective Date

#### Section 501. **Severability.**

All provisions of this ordinance are severable. If any provision of this ordinance or its application is held invalid, such invalidity shall not affect any other provision of application of this act which can be given effect without the invalid provision or application<sup>74</sup>

#### Section 502. **Repeals.**

No other sections of the ordinances of the [Township/Borough] shall be repealed. All parts of the ordinance of the [Township/Borough] are to be read together. To the extent that there are inconsistencies that cannot be read together, this ordinance shall be construed as to supersede other ordinances for purposes relevant to the provisions and purpose of this ordinance.<sup>75</sup>

#### Section 503. **Effective date.**

This ordinance shall be effective in 90 days after enactment and approval.<sup>76</sup>

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<sup>74</sup> Electric Vehicle Charging Infrastructure and Parking Model Ordinance, Jacqueline Lynette Carter and Samantha Craley, <https://widenerenvironment.wordpress.com/students/ordinances/>.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*