
ORDINANCE AMENDING ZONING DEFINITIONS RELATING TO FAMILY DWELLINGS AND COMMON HOUSEHOLDS

WHEREAS, the CITY OF BERLIN Plan Commission has held a public hearing regarding the Ordinance as set forth herein, on August 27, 2024; and

WHEREAS, the CITY OF BERLIN Plan Commission has recommended to the CITY OF BERLIN Common Council to approve the Ordinance as set forth herein.

NOW THEREFORE, the CITY OF BERLIN Common Council do ordain as follows:

Sec 82-4 of the CITY OF BERLIN Code of Ordinances is hereby amended as follows:

Sec. 82-4. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not permissive.

...

~~*Common household* means one person or two or more persons using a dwelling as a home, residence or sleeping place, to the exclusion of all others.~~

Common household means a human being living as an individual or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking and eating facilities:

- (1) Any number of human beings related by blood, marriage, domestic partnership, legal adoption, guardianship, or other duly authorized custodial relationship.
- (2) Up to five unrelated adult human beings.
- (3) A group consisting of both of the following:
 - (a) Up to five unrelated persons who have disabilities/are disabled or handicapped under the Fair Housing Amendment Act (FHAA) or the Americans with Disabilities Act (ADA), are living as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking and eating facilities because of their disability, and require assistance from a caregiver (except that this definition excludes persons currently illegally using or addicted to a "controlled substance" as defined in the Controlled Substances Act, 21 U.S.C. Section 802 (6)).

- (b) Up to two personal attendants who provide caregiver services, such as personal care, housekeeping, meal preparation, laundry, or companionship, for, and live together with, persons identified in Sec. 82-4(3)(a).
- (4) Any number of human beings, whether related or not, if determined to be a functional family, except that societies, clubs, fraternities, sororities, associations, lodges, combines, communes, federations, or similar organizations are expressly excluded from being considered a functional family. Groups of six or more unrelated adult human beings shall be rebuttably presumed not to be a functional family. Subject to the exception that societies, clubs, fraternities, sororities, associations, lodges, combines, communes, federations, or similar organizations are expressly excluded from being considered a functional family under this definition, compliance with the following criteria may collectively be used as favorable evidence to rebut the presumption that a group of six or more unrelated human beings is not a functional family:
- (a) Members of the group engage in group living activities such as shopping, cooking, eating and socializing.
- (b) Members of the group consistently share household expenses or a budget including expenses for food, rent or ownership costs, utilities and other common household expenses.
- (c) Members of the group have established a joint bank account or other similar means to consistently provide for the payment of common expenses.
- (d) Members of the group share common ownership of vehicles, furniture, major appliances, and other significant household resources.
- (e) Minor dependent children, if any, share the living facility as their principal residence and are enrolled in local schools.
- (f) Members of the group share the address for voter registration, drivers licensing, vehicle registration, tax filing or other similar purposes.
- (g) Members of the group are employed in non-seasonal and nontransient jobs in the local area.
- (h) Members of the group have been living together under similar arrangements for a period of one year or more, whether at the current address or other addresses.
- (i) A lease, sublease or other agreement does not limit access to portions of the shared living facility to less than all the members of the group living in that facility.
- (j) A lease, sublease or other agreement does not make each occupant jointly or severally liable for the performance of the lease, sublease, or agreement.
- (k) A lease, sublease or other agreement does not hold a relative or any other person who is not an occupant of the household to be a guarantor of the lease, sublease, or agreement.

- (l) Any other factors reasonably determined by the zoning administrator, or the board of appeals as applicable.

~~Community living arrangement~~ means, the following facilities which are licensed, operated or permitted under the authority of statutes:

- ~~(1) Child welfare agencies under Wis. Stats. § 48.60;~~
- ~~(2) Group foster homes for children under Wis. Stats. § 48.02(7m); and~~
- ~~(3) Community based residential facilities under Wis. Stats. § 50.01, but not including day care centers, nursing homes, general hospitals, special hospitals, prisons and jails.~~

~~The establishment of a community living arrangement shall be in conformance with applicable sections of statutes, including Wis. Stats. §§ 46.03(22), 62.23(7)(i) and 62.23(7a), as amended, and the Wisconsin Administrative Code.~~

...

~~Dwelling, single-family~~, means a detached building which contains one dwelling unit and is designed for or occupied by not more than one common household.

~~Dwelling, two-family~~, means a detached building which contains two separate dwelling units; and is designed for or occupied ~~occupancy~~ by not more than two common households.

...

~~Foster family home~~ means the primary domicile of a foster parent who has four or fewer foster children, and who is licensed under Wis. Stats. § 48.62, as amended.

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~~Group foster home~~ means a facility operated by a person required to be licensed by the state under Wis. Stats. § 48.62 for the care and maintenance of five ~~eight~~ foster children.

...

This Ordinance shall take effect the day after publication.

The numeric section numbers and headings of any portions of the CITY OF BERLIN Code of Ordinances affected by this Ordinance shall be subject to modification in the discretion of the codifier, and the approval of the CITY OF BERLIN Attorney, during codification into the CITY OF BERLIN'S current Code of Ordinances.

This Ordinance Amending Zoning Definitions Relating to Family Dwellings and Common Households passed, approved, and adopted on September 10, 2024.

ROLL CALL VOTE:

AYES

NAYS

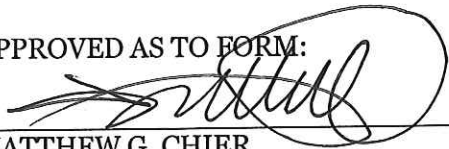
ABSENT

CITY OF BERLIN

BY: VETOED – No Signature
JOEL E. BRUESSEL
Mayor

ATTEST: 
SARA L. RUTKOWSKI
City Administrator/City Clerk

APPROVED AS TO FORM:


MATTHEW G. CHIER
City Attorney

The Mayoral objection/veto was overridden by Common Council on September 10, 2024.


ROLL CALL VOTE:

AYES

NAYS

ABSENT

CITY OF BERLIN

ATTEST: 
SARA L. RUTKOWSKI
City Administrator/City Clerk