



128 Dorrance Street, Suite 400
Providence, RI 02903
Phone: (401) 831-7171
Fax: (401) 831-7175
www.riaclu.org
info@riaclu.org

July 16, 2024

Narragansett Town Council
25 Fifth Avenue
Narragansett, RI 02882

BY EMAIL

Dear Town Council Members:

As you are almost certainly aware, the General Assembly last month approved amendments to the state's zoning laws in numerous respects, and in particular by addressing a municipality's ability to limit the maximum number of unrelated persons who can live together in a dwelling. Previously, the law allowed municipalities to set such a limit, but of no less than three people. The [new law](#) requires any limit imposed by a city or town to not be less than one person per bedroom and up to five unrelated people in a dwelling.

In light of that amendment to state law, I am writing to request that the Council take action to repeal ordinances currently on the books that are now inconsistent with that revision.

To our knowledge, the Town has at least two such ordinances, both approved in just the past year: one barring more than three unrelated people from living in the same household ([Chapter 1119, adopted 1/2/2024](#)), and one barring more than three college students from residing in a non-owner-occupied dwelling ([Chapter 1109, adopted 8/7/2023](#)).

As Council members know, arbitrary restrictions on the number of unrelated household members who can live in a house, and the Town's long-term efforts to impose such restrictions, have been of concern to the ACLU for literally a few decades. But regardless of one's views on the issue, we hope you agree that these ordinances should either be repealed or amended to directly conform to the new state law's numerical revision.

Doing so will help dispel any confusion or misunderstanding among town officials and avert any effort by those officials to enforce moribund ordinances. It will also ensure that both landlords and tenants are not unintentionally misled about the actual housing rental standards in place as protected by state law. I trust you concur that there is no reason to keep on the books ordinances that are in direct conflict with state law.

I also would like to offer brief comments on two newly proposed ordinances that were presented at the Council's July 1st meeting, since they tie into this general issue.

One of the proposed ordinances seeks to amend the Town's zoning code to add a definition of "boarding home." We are concerned that, however unintentionally, this proposal may conflict with the new state law cited above. Specifically, a "boarding home" is defined as a "building used,

in whole or in part, as a place for the boarding and care of *five* or more persons, excluding the following: a family group of a dwelling or home...” (emphasis added) If the Town is going to create a new class of building that does not exist in the state’s zoning laws and that it may subject to different or more stringent conditions than other dwelling units, we believe it is essential that – to avoid any possible conflict with the new state law – the definition be amended to refer to *six* or more persons, not five. That is especially necessary since the Town’s current ordinances do not recognize five unrelated people as a “family group” as the state law now does.

Finally, we wish to raise concerns about a separate proposal to amend the Town’s “unruly gatherings” ordinance. The ACLU has long opposed this ordinance for a variety of reasons, but leaving its substance to the side, we object to the proposed amendment’s authorization for the Municipal Court to impose a \$1,000 fine for second violations. We understand that this penalty mirrors a similar fine recently adopted for violations of the Town’s short-term rental ordinance. However, we believe both of these penalties are illegal. That is because the state law authorizing the establishment of the Narragansett Municipal Court allows the court to impose fines of up to \$500 for ordinance violations. R.I.G.L. § 45-2-30. In light of the clear command of that statute, we do not believe the Town has the power to impose \$1,000 fines.¹

We thank you in advance for your consideration of these comments, and we hope that you will revise or repeal the relevant housing ordinances in accordance with the new state law at the earliest possible opportunity.

Sincerely,



Steven Brown
Executive Director

cc: James Tierney, Town Manager
Janet Tarro, Town Clerk
Mark Davis, Town Solicitor
Wayne Pimental, Building Official

¹ The \$500 limit is not an arbitrary one. Under state law, making the fine any higher turns offenses that are currently “violations” or “petty misdemeanors” into “misdemeanors,” and that recategorization can lead to enhanced penalties and collateral consequences that are not present with the other categories.