



LDC AMENDMENT— COMMUNITY RESIDENTIAL HOMES

<p>Applicant</p> <p>City Staff</p> <p>Project Planner</p> <p>Karl Wielecki, AICP City Planning Division</p>	<p>Description of the Request</p> <p>City Staff proposes an amendment to the Land Development Code regarding Residential Care Facilities (RCFs) and Community Residential Homes (CRHs). This amendment is necessary to align City Code with state statutes on CRHs, which supersede city code. It will not change the City’s current policy and practice in reviewing these uses.</p> <p>Background</p> <p>City Code Ch. 58, Fig. 2, Table of Allowable Uses, lists Residential Care Facilities (RCFs) as either permitted or conditional uses within certain residential and office zoning districts. Specifically, city code requires a Conditional Use Permit (CUP) for RCFs of up to six clients in all R-1 zoning districts and the R-2 district.</p> <p>The city code definition of Residential Care Facilities includes the term “Community Residential Homes” as a sub-type of RCFs. That is, all CRHs are RCFs and, currently, subject to the allowances of Fig. 2 and other restrictions in code.</p> <p>Issue</p> <p>City code requires “approval by the local government” through the CUP process for RCFs in one- and two-family districts. It is necessary to amend city code to align it with state statutes, which state that CRHs of up to six residents (excluding the caretaker) “shall be allowed in single-family or multi-family zoning without approval by the local government” as long as they are at least 1,000 ft. from another CRH.</p>	<p>Solution</p> <p>Staff proposes a code amendment to clarify that any Residential Care Facility (in the Residential and MXD districts) which meets the state definition of a Community Residential Home shall be a permitted use, subject to the requirements of state law. The amendment consists of adding a footnote to the Allowed Uses table and revising the definition of CRH.</p> <p>The relevant definitions, state statutes, and existing and proposed code are provided on the following pages.</p> <p>Staff’s Recommendation:</p> <p>Approval of the proposed Ordinance.</p> <p>Public Comments</p> <p>Since this proposed code change is not property-specific, the City did not mail public notices. Staff did post this item on the City’s Bulletin Board, the City’s web site, and placed a classified ad in the Orlando Sentinel. As of the date of this staff report, staff has received no public comments.</p>
<p>Updated: July 8, 2014</p>		

PROPOSED CODE AMENDMENTS

The Assistant City Attorney has suggested the following code changes:

1. Add footnote 36 to the list of residential use table inside and outside of the Traditional City (Ch. 58, Fig. 2, Tables 2A and 2C). The footnote would be tagged to “Residential Care Facility” “1-6 Clients” in the R-1S, R-2A, R-2B, R-3A, R-3B, R-3C, R-3D, MXD-1, and MXD-2 zoning districts.
2. The new footnote would read: 36. Notwithstanding anything in this code to the contrary, a residential care facility use with six or fewer residents which otherwise meets the definition of a community residential home use is hereby made a permitted use in the zoning districts indicated by this footnote, but are subject to the applicable regulations of Chapter 419, Florida Statutes.
3. Delete the following existing definitions of Community Residential Home and Community Residential Home Resident:

Community Residential Home (CRH): A dwelling unit in conformance with State Regulations which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by support staff as may be necessary to meet the physical, emotional, and social needs of the residents.

Homes of 6 or fewer residents which otherwise meet the definition of a Community Residential Home shall be deemed a single-family unit and non-commercial, residential use. This term shall include Residential Care Facilities and ALFs with 14 or fewer residential clients.

Community Residential Home Resident: An aged person, a physically disabled or handicapped person, a developmentally disabled person, a non-dangerous mentally ill person or child as defined by Florida Statutes. Nothing in this Section shall permit persons to occupy a community residential home who would constitute a direct threat to the health and safety of other persons or whose residency would result in substantial physical damage to the property of others.

4. Replace the above with the following definition of Community Residential Home (mimicking the State’s definition):

“Community residential home” means a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Family Services or licensed by the Agency for Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

The definition of Residential Care Facility in city code (below) will remain unchanged.

Residential Care Facility (RCF): A governmental, non-governmental, non-profit or proprietary facility providing an alternative to institutional placement, in which a caretaker provides 24 hour care to dependent clients away from their own parents, relatives or guardians, and assists them to the extent necessary to participate in normal activities and to meet the demands of daily living.

This term includes Adult Family Care Homes and Community Residential Homes, but does not include Families, Group Housing, Nursing Homes, Hospitals, Adult Day Care Centers, Child Day Care Centers, Family Day Care Homes, Emergency Shelters, or Treatment and Recovery Facilities, as defined in Chapter 58.

CH. 419, FLORIDA STATE STATUTES

419.001 Site selection of community residential homes.—

(1) For the purposes of this section, the term:

(a) “Community residential home” means a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Family Services or licensed by the Agency for Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

(b) “Licensing entity” or “licensing entities” means the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, the Department of Children and Family Services, or the Agency for Health Care Administration, all of which are authorized to license a community residential home to serve residents.

(c) “Local government” means a county as set forth in chapter 7 or a municipality incorporated under the provisions of chapter 165.

(d) “Planned residential community” means a local government-approved, planned unit development that is under unified control, is planned and developed as a whole, has a minimum gross lot area of 8 acres, and has amenities that are designed to serve residents with a developmental disability as defined in s. [393.063](#) but that shall also provide housing options for other individuals. The community shall provide choices with regard to housing arrangements, support providers, and activities. The residents’ freedom of movement within and outside the community may not be restricted. For the purposes of this paragraph, local government approval must be based on criteria that include, but are not limited to, compliance with appropriate land use, zoning, and building codes. A planned residential community may contain two or more community residential homes that are contiguous to one another. A planned residential community may not be located within a 10-mile radius of any other planned residential community.

(e) “Resident” means any of the following: a frail elder as defined in s. [429.65](#); a person who has a handicap as defined in s. [760.22\(7\)\(a\)](#); a person who has a developmental disability as defined in s. [393.063](#); a nondangerous person who has a mental illness as defined in s. [394.455](#); or a child who is found to be dependent as defined in s. [39.01](#) or s. [984.03](#), or a child in need of services as defined in s. [984.03](#) or s. [985.03](#).

(f) “Sponsoring agency” means an agency or unit of government, a profit or nonprofit agency, or any other person or organization which intends to establish or operate a community residential home.

(2) Homes of six or fewer residents which otherwise meet the definition of a community residential home shall be deemed a single-family unit and a noncommercial, residential use for the purpose of local laws and ordinances. Homes of six or fewer residents which otherwise meet the definition of a community residential home shall be allowed in single-family or multifamily zoning without approval by the local government, provided that such homes shall not be located within a radius of 1,000 feet of another existing such home with six or fewer residents. Such homes with six or fewer residents shall not be required to comply with the notification provisions of this section; provided that, prior to licensure, the sponsoring agency provides the local government with the most recently published data compiled from the licensing entities that identifies all community residential homes within the jurisdictional limits of the local government in which

CH. 419, CONT'D

the proposed site is to be located in order to show that no other community residential home is within a radius of 1,000 feet of the proposed home with six or fewer residents. At the time of home occupancy, the sponsoring agency must notify the local government that the home is licensed by the licensing entity.

(3)(a) When a site for a community residential home has been selected by a sponsoring agency in an area zoned for multifamily, the agency shall notify the chief executive officer of the local government in writing and include in such notice the specific address of the site, the residential licensing category, the number of residents, and the community support requirements of the program. Such notice shall also contain a statement from the licensing entity indicating the licensing status of the proposed community residential home and specifying how the home meets applicable licensing criteria for the safe care and supervision of the clients in the home. The sponsoring agency shall also provide to the local government the most recently published data compiled from the licensing entities that identifies all community residential homes within the jurisdictional limits of the local government in which the proposed site is to be located. The local government shall review the notification of the sponsoring agency in accordance with the zoning ordinance of the jurisdiction.

(b) Pursuant to such review, the local government may:

1. Determine that the siting of the community residential home is in accordance with local zoning and approve the siting. If the siting is approved, the sponsoring agency may establish the home at the site selected.
2. Fail to respond within 60 days. If the local government fails to respond within such time, the sponsoring agency may establish the home at the site selected.
3. Deny the siting of the home.

(c) The local government shall not deny the siting of a community residential home unless the local government establishes that the siting of the home at the site selected:

1. Does not otherwise conform to existing zoning regulations applicable to other multifamily uses in the area.
2. Does not meet applicable licensing criteria established and determined by the licensing entity, including requirements that the home be located to assure the safe care and supervision of all clients in the home.
3. Would result in such a concentration of community residential homes in the area in proximity to the site selected, or would result in a combination of such homes with other residences in the community, such that the nature and character of the area would be substantially altered. A home that is located within a radius of 1,200 feet of another existing community residential home in a multifamily zone shall be an overconcentration of such homes that substantially alters the nature and character of the area. A home that is located within a radius of 500 feet of an area of single-family zoning substantially alters the nature and character of the area.

(4) Community residential homes, including homes of six or fewer residents which would otherwise meet the definition of a community residential home, which are located within a planned residential community are not subject to the proximity requirements of this section and may be contiguous to each other. A planned residential community must comply with the applicable local government's land development code and other local ordinances. A local government may

CH. 419, CONT'D

not impose proximity limitations between homes within a planned residential community if such limitations are based solely on the types of residents anticipated to be living in the community.

(5) All distance requirements in this section shall be measured from the nearest point of the existing home or area of single-family zoning to the nearest point of the proposed home.

(6) If agreed to by both the local government and the sponsoring agency, a conflict may be resolved through informal mediation. The local government shall arrange for the services of an independent mediator or may utilize the dispute resolution process established by a regional planning council pursuant to s. 186.509. Mediation shall be concluded within 45 days of a request therefor. The resolution of any issue through the mediation process shall not alter any person's right to a judicial determination of any issue if that person is entitled to such a determination under statutory or common law.

(7) The licensing entity shall not issue a license to a sponsoring agency for operation of a community residential home if the sponsoring agency does not notify the local government of its intention to establish a program, as required by subsection (3). A license issued without compliance with the provisions of this section shall be considered null and void, and continued operation of the home may be enjoined.

(8) A dwelling unit housing a community residential home established pursuant to this section shall be subject to the same local laws and ordinances applicable to other noncommercial, residential family units in the area in which it is established.

(9) Nothing in this section shall be deemed to affect the authority of any community residential home lawfully established prior to October 1, 1989, to continue to operate.

(10) Nothing in this section shall permit persons to occupy a community residential home who would constitute a direct threat to the health and safety of other persons or whose residency would result in substantial physical damage to the property of others.

(11) The siting of community residential homes in areas zoned for single family shall be governed by local zoning ordinances. Nothing in this section prohibits a local government from authorizing the development of community residential homes in areas zoned for single family.

(12) Nothing in this section requires any local government to adopt a new ordinance if it has in place an ordinance governing the placement of community residential homes that meet the criteria of this section. State law on community residential homes controls over local ordinances, but nothing in this section prohibits a local government from adopting more liberal standards for siting such homes.