



CITY OF
TALLAHASSEE



Zoning Spotlight

Community Housing

Growth Management Department
April 2024



Introduction

It's common for a city to have some residential homes that are not occupied by persons from the same family. For example, such homes may provide housing for students, for unrelated senior citizens in need of care, for individuals with learning disabilities, or for persons recovering from substance abuse. This issue of Zoning Spotlight collectively refers to such homes as community housing. The Tallahassee Land Development Code (TLDC) identifies five types of community housing, including community residential homes, transitional residential facilities, residential care facilities, rooming houses, and group homes. The following discussion of the five types of community housing defines each category, identifies pertinent State Statutes and City Codes, summarizes the requirements, and identifies whether the City is preempted from regulating the use by State law.

Community residential homes are one of the most common types of community housing. As explained below, State law generally prohibits a city or a county from regulating community residential homes. If certain basic criteria are met, community residential homes are allowed by right under State Law.



A. Community Residential Homes

1. Definition – The term “community residential home” means a dwelling unit licensed to serve clients of the state department of health and rehabilitative services, providing a living environment for 7 to 14 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 that otherwise meet the definition of a community residential home are regarded as single-family units and non-commercial residences for the purpose of this Code. Source: Sec. 1-2, TLDC.

Community residential homes are the only type of community housing that is regulated by the State. The Florida Agency for Health Care Administration (AHCA) is responsible for State oversight. AHCA uses the terms Assisted Living Facility (ALF)

and Adult Family Care Home (AFCH), and the differences are described below. At an AFCH, the owner must live on site. At an ALF, the owner does not need to live on site. Typically, an AFCH is going to be a private homeowner who opens their home to provide care, which is always limited to 5 or less adults. An ALF, on the other hand, would permit (but does not mandate) the owner to live on site. Also, an ALF would be required if more than 5 persons live on site. From the City's perspective, both an AFCH or an ALF (with 14 or fewer persons) would be classified as a community residential home. Table 1 summarizes how community residential homes are regulated by State Statutes, by the Agency for Health Care Administration, and by the City's Zoning Code.

Attachment 1 provides a screen capture from the AHCA website. AHCA's database includes 16 licensed ALFs and 2 licensed AFCH in the Tallahassee area, as follows:

- a. ALFs – All but 2 of the ALFs from Attachment 1 have more than 14 residents. Therefore, the Zoning Code classifies them as nursing homes, not as community residential homes.
 - b. AFCH – AHCA's records indicate that there are two licensed AFCHs in the Tallahassee area.
2. Legal – Sec. 10-419, TLDC, and Ch. 419, F.S.
 3. Summary of Requirements per Ch. 419, F.S.
 - a. A distinction is made in the review process between homes with 1 to 6 residents, versus 7 to 14 residents.
 - b. Process for 1 to 6 residents:

Allowed in a single family or multifamily zoning district without City approval, but only if they are separated from a community residential home with 1-6 persons by at least 1,000 feet or from a community residential home with 7-14 persons by at least 1,200 feet. The distance is calculated using a [website from the AHCA](#). A user of that site enters in their proposed address, and it provides a list of other community residential homes in the vicinity.

Table 1 - Standards for Community Residential Homes		
State Statute	State Agency	City Code
<ul style="list-style-type: none"> ▪ Homes with ≤ 6 persons are single family homes, are allowed in all residential zones without local approval, must provide notice to the local government, and must meet separation standards. ▪ Homes with 7-14 residents must notice city or county. To deny it, local government must show it doesn't meet zoning, state licensing criteria, or concentration criteria. 	<ul style="list-style-type: none"> ▪ The Agency for Health Care Administration (AHCA) is the lead state agency. ▪ At an Adult Family Care Home (AFCH), owner must live on site and the occupancy is ≤ 5 adults. ▪ At an Assisted Living Facility (ALF), owner may live on site and the occupancy is > 5 adults. ▪ Note that an ALF could exceed the 14-resident limit for a community residential home. 	<ul style="list-style-type: none"> ▪ The City's Zoning Code is fully consistent with the State Statutes concerning community residential homes. ▪ Under the City's Zoning Code, all licensed AFCHs and all ALFs with ≤ 14 residents would be a community residential home.



c. Process for 7 to 14 residents:

- 1) Sponsoring agency chooses a site zoned for multifamily;
- 2) Sponsoring agency notifies City Manager and provides summary of other community residential homes in the vicinity;

3) City may deny the request provided it finds the following: (a) Does not meet zoning standards; (b) Does not meet State licensing criteria; or (c) Results in over concentration of community residential homes. Over concentration is defined as a community residential home with 7-14 persons located either within 1,200 feet of another community residential home with 7-14 persons, or within 500 feet of an area of single family zoning.

4. Can City Regulate This Use? The City is generally preempted from regulating this land use by State law. If a community residential home has 6 or fewer persons, it is allowed by right in any residential zoning district if the noted separation distances are met. If a community residential home has 7 to 14 persons, the City may deny it only if it finds that the local zoning standards, the State licensing criteria, or the distance separation standards are not met.

B. Transitional Residential Facilities

1. Definition – The term “transitional residential facilities” means facilities or structures, operated, or maintained by a public or not-for-profit corporation or association, religious institution, or government-funded organization to provide shelter for homeless individuals and families on a temporary or transitional basis, with the duration of stay limited to a period not exceeding one year. Normal and customary use of a dwelling unit by a single family is specifically excluded from the requirements of chapter 10. Transitional residential facilities may also provide services to residents accessory to the provision of shelter, including but not limited to, dining facilities and meal preparation, and referral, counseling and educational programs. Source: Sec. 1-2, TLDC.
2. Legal – Sec. 10-417, TLDC. There are no known State laws pertaining to this land use.
3. Summary of Requirements
 - a. Focus is on needs of the homeless, including emergency, short term, and transitional shelter.
 - b. Allowed in any zoning district except industrial.
 - c. Requires a Type B site plan approval through the Development Review Committee and provides notice of the application to property owners and renters within 1,000 feet of the premises and notice of the application in a newspaper of general circulation. The Type B site plan application includes a required security plan.
4. Can City Regulate This Use? Yes. As noted above, the Tallahassee Land Development Code allows transitional residential facilities in all zoning districts except industrial, but a Type B site plan review is required to ensure that the facility is compatible with the surrounding community.

The Kearney Center is a transitional residential facility. Each day, it serves at least 600 meals, shelters at least 350 persons, and provides medical care to at least 150 individuals.

Kearney Center FY 2021-22 Annual Report



C. Residential Care Facilities

1. Definition – The term “residential care” means establishments primarily engaged in the provision of residential social and personal care for children, the aged, and special categories of persons with some limits on ability for self-care, but where medical care is not a major element. Included are establishments providing 24-hour year-round care for children, as well as, alcoholism rehabilitation centers, boys towns; children’s homes; drug rehabilitation centers, residential with health care incidental; halfway group homes for persons with social or personal problems; and, halfway homes for delinquents and offenders. Residential care does not include boarding schools providing elementary and secondary education or establishments primarily engaged in providing nursing and health-related personal care. Source: Sec. 1-2, TLDC.
2. Legal – The zoning code does not establish specific procedures related to the implementation of this use. Instead, it identifies the zoning districts which allow it. There are no known State laws pertaining to this land use.
3. Summary of Requirements – See “2” above.
4. Can City Regulate This Use? Yes, the City regulates this land use by identifying those zoning districts in which it is permitted. The Zoning Code allows residential care facilities in the following districts: All Saints Neighborhood (A, B, C and D), Medical Arts Commercial, Central Core, Commercial Parkway, Central Urban (12, 18, 26 and 45), Mahan Corridor Node, Medium Density Residential (MR and MR-1), Office Residential (1, 2 and 3), Urban Residential (R-4), and Special Character. Residential care facilities are generally prohibited in low density residential areas and are guided towards zoning districts that allow more intense development.



D. Rooming Houses

1. Definition – The term “rooming house” means a single-family dwelling or duplex which is rented by four or more persons unrelated by blood, marriage or legal adoption to the owner of the house or unrelated by blood, marriage or legal adoption to each other. Foster children placed in a lawful foster family home, a community residential home with six or fewer residents, a nursing home, or a residential care facility are not considered a rooming house. Source: Sec. 1-2, TLDC.
2. Legal – Sec. 10-83, TLDC. There are no known State laws pertaining to this land use.
3. Summary of Requirements - Rooming houses are allowed in specified zoning districts but are prohibited in the RP-1, RP-2, R-1, and R-2 zoning districts. Rooming houses existing between June 14, 1998 and June 14, 2000 in the RP-1, RP-2, R-1, and R-2 zoning districts must register as a nonconforming use. Non-conforming rooming houses must do the following:
 - a.) Appoint an agent who resides in the County for the purpose of receiving notices from the City; and b.) Renew their registration annually. Nonconforming rooming houses may lose their non-conforming status per specified criteria.
4. Can City Regulate This Use? Yes, the City regulates this land use both through the non-conformity standards discussed above and also by identifying those zoning districts in which it is permitted. The Zoning Code allows rooming houses in the following districts: All Saints Neighborhood (B, C, and D), Medical Arts Commercial, Central Core, Interchange Commercial, Medium Density Residential (MR and MR-1), Office Residential (2 and 3), Urban Residential (R-4), Special Character, and University Village. Rooming houses are generally prohibited in low density residential areas and are guided towards zoning districts that allow more intense development.

E. Group Home

1. Definition – The term “group home” means a facility which provides a living environment for unrelated residents who operate as the functional equivalent of a family, including such supervision and care as may be necessary to meet the physical, emotional and social needs of the residents. Adult congregate living facilities comparable in size to group homes are included in this definition. It doesn't include rooming or boarding homes, clubs, fraternities, sororities, monasteries or convents, hotels, residential treatment facilities, nursing homes, or emergency shelters. Source: Sec. 1-2, TLDC.
2. Legal – The Zoning Code provides the above definition, but the term is not utilized elsewhere in the Tallahassee Land Development Code. There are no known State laws pertaining to this land use.
3. Summary of Requirements – Not applicable.
4. Can City Regulate This Use? The term “group home” is essentially the same as “residential care facility”. The Tallahassee Land Development Code does not list it as an allowable use in any of the zoning districts.

Conclusion

Please keep in mind that if a conflict is ever identified between the TLDC and an issue of Zoning Spotlight, the Code takes precedence. The Zoning Spotlight reports don't replace the TLDC. Thanks for reading this issue of Zoning Spotlight! If you have questions, please let us know. You can reach us at (850) 891-7001, extension 4, or by email at zoning@talgov.com. We're located on the third floor of the Renaissance Building at 435 North Macomb Street in downtown Tallahassee.



Attachment 1

Source: Florida Agency for Healthcare Administration (AHCA)

Adult Family Care Homes in Tallahassee

Name	Street Address	City	Zip	Phone Number	Distance in Miles	Licensed Beds
BYRD, DEAUDREY	6201 BOMBADIL DR	TALLAHASSEE	32303	(850) 345-3311	0	5
JACKSON, LATOYA MARTIN	2211 YAUPON DR	TALLAHASSEE	32303	(850) 895-3891	0	5

Assisted Living Facilities in Tallahassee

Name	Street Address	City	Zip	Phone Number	Distance in Miles	Licensed Beds
ALLEGRO	4501 SHANNON LAKES DRIVE WEST	TALLAHASSEE	32309	(850) 668-4004	0	90
AZALEA GARDENS ALZHEIMER'S SPECIAL CARE CENTER	2724 OX BOTTOM RD	TALLAHASSEE	32312	(850) 668-0509	0	66
BROOKDALE CENTRE POINTE BOULEVARD	1980 CENTRE POINTE BLVD.	TALLAHASSEE	32308	(850) 309-7500	0	38
CANTERFIELD OF TALLAHASSEE, LLC	208 E THARPE ST	TALLAHASSEE	32303	(850) 900-5500	0	100
CAPITAL SQUARE AT TALLAHASSEE ASSISTED LIVING AND MEMORY CARE	1060 CLARITY POINTE	TALLAHASSEE	32308	(850) 219-2900	0	100
ETERNALLY RICH ASSISTED LIVING FACILITY	218 DAFFODIL CIR	TALLAHASSEE	32305	(850) 322-9900	0	4
HARBORCHASE OF TALLAHASSEE	100 JOHN KNOX ROAD	TALLAHASSEE	32303	(850) 531-0579	0	98
NEW JOURNEYS RESIDENTIAL HOME CARE	6205 VELDA DAIRY RD	TALLAHASSEE	32309	(850) 765-0873	0	6
SODALIS TALLAHASSEE ASSISTED LIVING	2110 FLEISCHMANN ROAD	TALLAHASSEE	32308	(850) 533-9120	0	120
ST AUGUSTINE PLANTATION	2507 OLD ST. AUGUSTINE ROAD	TALLAHASSEE	32301	(850) 257-7169	0	115
TAPESTRY SENIOR LIVING OF TALLAHASSEE	2516 W LAKESHORE DR	TALLAHASSEE	32303	(850) 536-8600	0	160
THE GROVE AT CANOPY	2601 CRESTLINE RD	TALLAHASSEE	32308	(850) 219-2196	0	96
THE OPAL ON HERMITAGE	1780 HERMITAGE BOULEVARD	TALLAHASSEE	32308	(850) 422-3397	0	60
VILLAS AT KILLEARN LAKES	8213 KILLEARN LAKES TERRACE	TALLAHASSEE	32312	(850) 391-1754	0	84
WESTMINSTER OAKS	4449 MEANDERING WAY	TALLAHASSEE	32308	(850) 878-1136	0	120
WOODMONT SENIOR LIVING	3207 NORTH MONROE STREET	TALLAHASSEE	32303	(850) 562-4123	0	99