



TOLEDO - LUCAS COUNTY PLAN COMMISSIONS

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DATE: May 13, 2022

REF: M-5-21

TO: President Matt Cherry and Members of Council, City of Toledo

FROM: Toledo City Plan Commission, Thomas C. Gibbons, Secretary

SUBJECT: Text Amendment Regarding Group Living

The Toledo City Plan Commission considered the above-referenced request at its meeting on Thursday, April 14, 2022 at 2:00 P.M.

GENERAL INFORMATION

Subject

Request	-	Text Amendment Regarding Group Living
Applicant	-	Toledo-Lucas County Plan Commissions

Applicable Plans and Regulations

- Toledo Municipal Code, Part Eleven: Planning and Zoning Code

STAFF ANALYSIS

The proposed text amendment is designed to simplify the review and approval process for Group Living facilities and to expand the locations in which they are permitted. This language is the result of approximately one year of cooperative work between Plan Commission staff, the Fair Housing Center, the Mental Health and Recovery Services Board, the Ability Center of Greater Toledo, Advocates for Basic Legal Equity (ABLE), and the City of Toledo Law Department.

Current Code; Need for Amendment

The current regulations for group living are unnecessarily complicated to follow, restrictive to prospective residents and operators, and use language which is need-specific and sometimes ambiguous. The existing language can be seen in "Exhibit A."

STAFF ANALYSIS (Cont'd)

Currently, the code classifies the “Group Living” use category into the following eleven specific subcategories: Adult Family Home, Residential Facility Small, Residential Facility Large, Drug and Alcohol Residential Facility, Halfway House, Nursing Home, Rest Home, Home for the Aging, Group Rental, Homeless Shelter, and Other Group Living. Some of these subcategories, such as Nursing Home, Rest Home, and Home for the Aging are alike and do not require separate categories. Other different subcategories are subject to different approval processes and regulations, and the high number of different categories makes it difficult for applicants and staff to discern which category a potential facility will fall into. The number of subcategories should be reduced to only the amount necessary in order to simplify the review and approval process.

The current requirements are also restrictive to prospective residents and operators. Group living facilities with a small number of people living as a family unit would be classified as a “Residential Facility, Small” are not permitted in some areas that would otherwise permit a single-family dwelling or duplex, such as the Multi-Family Residential (RM) and Neighborhood Commercial (CN) zoning districts. Group living facilities with more occupants living independently are typically classified as a “Residential Facility, Large” and are limited to only Multi-Family Residential (RM) zoning districts and require a Special Use Permit, whereas other apartment buildings are permitted by-right in the Multi-Family Residential (RM) district and every commercial district. Facilities providing residential rehabilitation from drug and/or alcohol dependency are strictly limited to the Regional Commercial (CR) zoning category or the Multi-Family Residential (RM) zoning category with a Special Use Permit. The requirement of a Special Use Permit for some uses leads to additional expense on the applicant’s behalf and additional public review by the Toledo City Plan Commission and Toledo City Council.

Lastly, the current code uses language which is need-specific, outdated, and sometimes ambiguous. The existing language classifies facilities, and where they may be located, based on the personal needs of the people living there. A Residential Facility (small and large) is classified as a state-licensed or state regulated home or facility that provides room and board for persons who require such care because of: “mental retardation or a developmental disability; physical disability; age; long-term illness, including HIV; domestic violence; or being a runaway minor.” Group Living language is the only example in our zoning code where personal needs of residents are codified and extensively regulated; this language is outdated, unnecessary, and restrictive to the people it governs. Other language in the zoning code is based on number of occupants, density, and other geographic and objective variables; language for group living should follow suit.

Staff understands that although there is a need for group living facilities within the City, there are also concerns regarding the location of group living facilities within neighborhoods. Safeguards have been put in place to regulate the saturation and specific location allowances for group living facilities in the proposed language.

STAFF ANALYSIS (Cont'd)
Proposed Text Amendment

The proposed text amendment reduces the eleven above-mentioned subcategories to six, simplifies the review and approval process by permitting more facilities by-right, and updates the language to be more inclusive and objective. The proposed language can be found in "Exhibit B."

The updated language classifies Group Living into six subcategories: Group Home, Small; Group Home, Large; Halfway House; Nursing Home; Group Rental; and Homeless Shelter. Primary changes include the consolidation of four previous categories (Adult Family Home; Drug and Alcohol Residential Facility; Residential Facility, Small; and Residential Facility, Large) into two updated categories (Group Home, Small and Group Home, Large). "Nursing Home, Rest Home, and Home for the Aging" were also consolidated into one category, "Nursing Home." This removes unnecessary differentiation to simplify the review and approval process.

The proposed text amendment also allows group living facilities to be located in areas where similarly-sized residential uses would also be permitted. Small group homes with up to 5 persons are permitted by-right in every district that would allow a single-family house. Small group homes are also permitted in some commercial districts to provide additional locations for facilities, allowing adaptive reuse of commercial buildings and of residential structures which may fall under commercial zoning classifications. Large group homes with up to 16 persons are permitted by-right in most zoning districts that permit apartments, including the Multi-Family Residential district and several commercial districts. Understanding neighborhood concerns regarding oversaturation of facilities the proposed language still requires that Group Homes follow the current spacing standards, requiring that they be at least 500 feet from one another and not on the same block. A Special Use Permit may be pursued as an option if the use is permitted in the subject zoning classification, but the site does not meet the spacing or major street requirements. Facilities licensed under the Ohio Department of Mental Health and Addiction Services under ORC. 5119, including residential drug and alcohol rehabilitation facilities, are also required to be located on a major street as defined on the Toledo-Lucas County Major Street and Highway Plan.

The proposed code removes requirements which are based on the personal needs of our residents and creates new standards based solely on objective variables such as number of occupants and state licensure. The code allows facilities by-right in a greater variety of locations, simplifying the approval process.

Group Living Requirements in Comparable Cities

In drafting the proposed legislation, staff also reviewed best practices from other major cities in Ohio. Cincinnati allows up to 4 persons in a single-family residential district in a facility licensed under the Ohio Department of Developmental Disabilities. Drug and Alcohol Facilities are not permitted in residential zoning districts, and may require a Special Permit in commercial districts. The City of Dayton allows up to 8 persons in single-family and mixed-use districts, and up to 16 persons in multi-family districts. The City of Columbus allows shared living facilities, also classified as residential care facilities, in multi-family residential districts. The proposed language is at least as permissive to group living facilities as other major Ohio cities.

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STAFF ANALYSIS (Cont'd)
Conclusion and Recommendation

The proposed text amendment represents a comprehensive update to the zoning code's requirements for group living facilities. The new language is simpler to follow and grants group living facilities similar rights as traditional housing units of the same intensity. Staff recommends approval.

PLAN COMMISSION RECOMMENDATION

The Toledo City Plan Commission recommends approval of M-5-21, a Text Amendment regarding Group Living, to the Toledo City Council for the following one reason.

1. The proposed text amendment corrects an inconsistency in the Zoning Code where the zoning code provides inconsistent requirements for residential uses. (TMC§1111.0506)

Respectfully Submitted,



Thomas C. Gibbons
Secretary

Two (2) exhibits follow

Cc: Lisa Cottrell, Administrator
Matt Lascheid, Associate Planner

Exhibit "A"
Existing Code Language

Chapter 1104 | Use Regulations

1104.0100 | Use Table

Use Category	RS 12	RS 9	RS 6	RD 6	RM (all)	R MH	CN	CO	CM	CS	CR	CD	IL	IG	IP	POS	IC
Residential																	
Group Living																	
Adult Family Home	P [8]	P [8]	P [8]	P [8]	S [8]	S [8]	S	-	S	-	-	-	-	-	-	-	-
Residential Facility, Small	P [8]	P [8]	P [8]	P [8]	S [8]	P [8]	-	-	-	-	-	-	-	-	-	-	-
Residential Facility, Large	-	-	-	-	S [8]	-	-	-	-	-	-	-	-	-	-	-	-
Drug and Alcohol Residential Facility	-	-	-	-	S [8]	-	-	-	-	-	P [8]	-	-	-	-	-	-
Halfway House	-	-	-	-	-	-	-	-	S [8, 27]	-	S [8, 27]	S [8, 27]	-	-	-	-	-
Nursing Home	-	S [9]	S [9]	S [9]	S [9]	-	P [9]	-	P [9]	P [9]	P [9]	P [9]	-	-	-	-	-
Rest Home	-	S [9]	S [9]	S [9]	S [9]	-	P [9]	-	P [9]	P [9]	P [9]	P [9]	-	-	-	-	-
Home for the Aging	-	S [9]	S [9]	S [9]	S [9]	-	P [9]	-	P [9]	P [9]	P [9]	P [9]	-	-	-	-	-
Group Rental	P [9, 10]	P [9, 10]	P [9, 10]	P [9, 10]	P [9, 10]	-	P [10]	P [10]	P [10]	P [10]	P [10]	P [10]	-	-	-	-	-
Homeless Shelter	-	-	-	-	-	-	-	-	S [8]	S [8]	S [8]	S [8]	-	-	-	-	-
Other Group Living	-	-	-	-	S	-	-	-	-	-	S	S	-	-	-	-	P
Commercial Use Types																	
Medical Services																	
Drug and Alcohol Treatment Center, Nonresidential	-	-	-	-	-	-	-	P [8]	P [8]	P [8]	P [8]	-	-	-	-	-	P
All other Medical Services	-	-	-	-	-	-	P [13]	P	P	P	P	P	-	-	-	-	P

[8] Subject to spacing standards of Sec.0 1104.1000 | Group Living and Day Care – Spacing

[9] Uses must have frontage on one or more major streets.

[10] Subject to standards of Sec. 1104.1100 | Group Rental

[13] Subject to standards of Sec. 1106.0500 | Neighborhood Commercial District Maximum Floor Area

[27] Subject to standards of Sec. 1104.2000 | Halfway Houses

1104.1000 | Group Living and Day Care – Spacing

1104.1001 Group Living facilities, Type A Family Day Care Home and Nonresidential Drug and Alcohol Centers that are subject to this spacing requirement Section in the Use Table of Sec. 1104.0100, must be at least 500 feet from a site with any other Group Living facility, Type A Family Day Care Home, and Nonresidential Drug and Alcohol Center that is also subject to this spacing requirement.

1104.1002 In no case may more than one facility subject to this Section be located on the same block.

1104.1003 Halfway houses must be at least 2,000 feet away from other halfway houses.
(Ord. 552-11. Passed 11-29-11.)

1104.1004 Drug and Alcohol Residential Facilities and Drug and Alcohol Treatment Centers, Nonresidential must be at least 1,000 feet away from other Drug and Alcohol Treatment Centers.

- A.** Facilities permitted by right shall request a letter from the Plan Commission indicating the location is properly zoned and not in violation of spacing requirements. If a spacing violation exists, a facility may request approval through the Special Use Permit process.
- B.** Facilities requiring a Special Use Permit shall be forwarded to the Mental Health and Recovery Service Board of Lucas County for an opportunity to provide input as part of the review process.

(Ord. 38-21. Passed 01-27-21.)

Chapter 1116 | Terminology

1116.0200 | Use Categories

1116.0221 Group Living

Residential occupancy of a structure by other than a Household, where units or quarters do not each have its own kitchen facilities. Does not include Transient Habitation uses.

A. Adult Family Home

A state-licensed home or facility that provides accommodations to three to five unrelated adults and supervision and personal care services to at least three of those adults. Revised Code Sec. 3722.01(A)(7).

B. Residential Facility, Small

A state-licensed or state-regulated home or facility that provides room and board, personal care, habilitation services, and supervision in a family setting for as many as 6 (or, if allowed by state law, 8) persons who require such care because of any of the following: mental retardation or a developmental disability; physical disability; age; long-term illness, including HIV; domestic violence; or being a runaway minor. Includes the following types of facilities identified under state law: residential facility, Revised Code Sec. 5123.19(L); community alternative home, Revised Code Sec. 3724.01(B); shelter for victims of domestic violence, Revised Code Sec. 3113.33(C); shelter for runaways, Revised Code Sec. 5119.64(B); and other similar uses of the same size licensed by the state but not requiring skilled nursing care.

C. Residential Facility, Large

A state-licensed or state-regulated home or facility that provides room and board, personal care, habilitation services, and supervision in a family setting for more than 9 but not more than 16 persons who require such care because of any of the following: mental retardation or a developmental disability; physical disability; age; long-term illness, including HIV; domestic violence; or being a runaway minor. Includes the following types of facilities identified under state law: residential facility, Revised Code Sec. 5123.19(L); shelter for victims of domestic violence, Revised Code Sec. 3113.33(C); shelter for runaways, Revised Code Sec. 5119.64(B); and other similar uses of the same size licensed by the state but not requiring skilled nursing care.

D. Drug and Alcohol Residential Facility

A home or facility that provides habilitation services for persons with drug and alcohol addictions but not including methadone treatment. See also Sec. 1101.0101A

E. Halfway House

A facility, typically state-licensed, for the care and treatment of adult offenders. Revised Code Sec. 2967.14(C).

F. Nursing Home

A state-licensed home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services. Revised Code Sec. 3721.01(A)(6). Also includes Residential Care Facility, Revised Code Sec. 3721.01(A)(7).

G. Rest Home

A home or facility that provides personal care services but not skilled nursing services to adults who reside at the facility. Includes Residential Care Facility Revised Code Sec. 3721.01(A)(7). A facility that conforms with the definition for Adult Foster Home, Adult

Family Home, Residential Facility (Small) or Residential Facility (Large) shall be treated as such, regardless of the fact that it may also meet this definition.

H. Home for the Aging

A state-licensed home that provides services as a Residential Care Facility and a Nursing Home, except that the home provides its services only to individuals who are dependent on the services of others by reason of both age and physical or mental impairment.” Revised Code Sec. 3721.01(A)(8). A facility that conforms with the definition for Residential Facility (Small) or Residential Facility (Large) shall be treated as such a Residential Facility, regardless of the fact that it may also meet this definition.

I. Group Rental

Unrelated persons who do not constitute a family or a functional family as defined in this Zoning Code, living as a single housekeeping unit in which individual sleeping quarters may be occupied by the residents of the dwelling thereof, and in which the relationship among the members of the group rests primarily upon a cost-sharing arrangement.

J. Homeless Shelter

A home or facility that provides temporary housing, with or without meals, to indigent, homeless, or transient persons. Such home or facility shall not provide lodging on a regular basis.

K. Other Group Living

Includes fraternity and sorority houses and other community-based housing not provided for elsewhere in this code.

(Ord. 552-11. Passed 11-29-11.)

1116.0231 Medical Service

Personal health services including prevention, diagnosis and treatment, rehabilitation services provided by physicians, dentists, nurses, and other health personnel and medical testing and analysis services. Typical uses include medical offices, dental laboratories, and health maintenance organizations.

A. Drug and Alcohol Treatment Center, Non-residential

A facility providing alcohol and drug addiction services, including but not limited to methadone treatment, to one or more persons who do not reside at the center.

B. Exceptions

Use types more specifically classified, such as Hospitals.

Exhibit "B"
Proposed Code Language

Chapter 1104 | Use Regulations

1104.0100 | Use Table

Use Category	RS 12	RS 9	RS 6	RD 6	RM (all)	R MH	CN	CO	CM	CS	CR	CD	IL	IG	IP	POS	IC
Residential																	
Group Living																	
Group Home, Small	P [8]	P [8]	P [8]	P [8]	P [8]	-	P [6,8]	-	P [8]	-	P [6,8]	-	-	-	-	-	-
Group Home, Large	-	-	-	-	P [8]	-	P [6,8]	-	P [8]	-	P [6,8]	P [6,8]	-	-	-	-	-
Halfway House	-	-	-	-	-	-	-	-	S [8, 27]	-	S [8, 27]	S [8, 27]	-	-	-	-	-
Nursing Home	-	S [9]	S [9]	S [9]	S [9]	-	P [9]	-	P [9]	P [9]	P [9]	P [9]	-	-	-	-	-
Group Rental	P [9,10]	P [9,10]	P [9,10]	P [9,10]	P [9,10]	-	P [10]	-	P [10]	P [10]	P [10]	P [10]	-	-	-	-	-
Homeless Shelter	-	-	-	-	-	-	-	-	S [8]	S [8]	S [8]	S [8]	-	-	-	-	-
Commercial Use Types																	
Medical Services	-	-	-	-	-	-	P [13]	P	P	P	P	P	-	-	-	-	P

[6] All dwelling units must be located above the ground floor of the building.

[8] Subject to spacing standards of Sec.0 1104.1000 | Group Living and Day Care – Spacing

[9] Uses must have frontage on one or more major streets.

[10] Subject to standards of Sec. 1104.1100 | Group Rental

[13] Subject to standards of Sec. 1106.0500 | Neighborhood Commercial District Maximum Floor Area

[27] Subject to standards of Sec. 1104.2000 | Halfway Houses

1104.1000 | Group Living and Day Care – Spacing

1104.1001 Group living facilities and Type A Family Day Care Home that are subject to this spacing requirement Section in the Use Table of Sec. 1104.0100, must be at least 500 feet from a site with any other Group Living facility and Type A Family Day Care Home, that is also subject to this spacing requirement.

1104.1002 In no case may more than one facility subject to this Section be located on the same block.

1104.1003 Halfway houses must be at least 2,000 feet away from other halfway houses.

1104.1004 Group Living facilities permitted by right shall request a Certificate of Zoning Compliance from the Division of Building Inspections indicating the location is properly zoned and not in violation of spacing requirements. If a spacing violation exists, or if the proposed facility is not located on a major street as required, a facility may request approval through the Special Use Permit process.

Chapter 1116 | Terminology

1116.0200 | Use Categories

1116.0221 Group Living

Residential occupancy of a structure by other than a Household, where units or quarters do not each have its own kitchen facilities. Does not include Transient Habitation uses.

A. Group Home, Large

A state-licensed or state-regulated residential facility providing accommodations for at least six but not more than sixteen persons. A residential facility licensed under the Ohio Department of Mental Health and Addiction Services under ORC. 5119 must be located on a major street as defined on the Toledo-Lucas County Major Street and Highway Plan.

B. Group Home, Small

A state licensed or state-regulated residential facility providing accommodations for one to five persons. Group Home, Small may accommodate up to eight persons only if the facility is licensed as an Intermediate Care Facility through the Ohio Department of Developmental Disabilities under ORC. 5123. A residential facility licensed under the Ohio Department of Mental Health and Addiction Services under ORC. 5119 must be located on a major street as defined on the Toledo-Lucas County Major Street and Highway Plan.

C. Group Rental

Unrelated persons who do not constitute a family or a functional family as defined in this Zoning Code, living as a single housekeeping unit in which individual sleeping quarters may be occupied by the residents of the dwelling thereof, and in which the relationship among the members of the group rests primarily upon a cost-sharing arrangement. This includes shared housing, fraternities, sororities, and other group living facilities which are not state licensed or state regulated.

D. Halfway House

A facility, typically state-licensed, for the care and treatment of adults returning from incarceration, on parole, or with a criminal history. Revised Code Sec. 2967.14(C)

E. Homeless Shelter

A home or facility that provides temporary housing, with or without meals, to indigent, homeless, or transient persons. Such home or facility shall not provide long-term lodging on a regular basis.

F. Nursing Home

A state-licensed home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services. Revised Code Sec. 3721.01(A)(6). Also includes Residential Care Facility, Revised Code Sec. 3721.01(A)(7)

1116.0231 Medical Service

Personal health services including prevention, diagnosis and treatment, rehabilitation services provided by physicians, dentists, nurses, and other health personnel and medical testing and analysis services. Typical uses include medical offices, dental laboratories, and health maintenance organizations.

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A. Exceptions

Use types more specifically classified, such as Hospitals.