



Legislation Text

File #: O-062-21, Version: 1

Council Members Gadus, Komives and Melden

Eliminating the certain special use permit processes that make housing and other services unavailable for persons with disabilities.

SUMMARY & BACKGROUND:

Toledo City Council has become aware of certain language in the zoning code that is outdated and potentially creates a barrier to the availability of housing and other services for persons with disabilities. It is the desire of Council that the following language be reviewed by the Plan Commission in order to update the Toledo Municipal Code and remove impediments to housing and services that may exist as a result of this language.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. Current Toledo Municipal Code Section 1116.0221 which reads as follows is hereby repealed:

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 Section 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 six (or, if allowed by State law, eight) 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 Section 5123.19(L); community alternative home, Revised Code Section 3724.01(B); shelter for victims of domestic violence, Revised Code Section 3113.33(C); shelter for runaways, Revised Code Section 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 nine 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 Section 5123.19(L); shelter for victims of domestic violence, Revised Code Section 3113.33(C); shelter for runaways, Revised Code Section 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 Section 1116.0229A.

E. **Halfway House.** A facility, typically state licensed, for the care and treatment of adult offenders. See

Revised Code Sec. 2961.14(C).
(Ord. 552-11. Passed 11-29-11.)

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 Section 3721.01(A)(6). Also includes Residential Care Facility, Revised Code Section 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 Section 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.

SECTION 2. The following Toledo Municipal Code Section 1116.0221 which reads as follows is hereby enacted:

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. **Definition of personal care services.** For purposes of subsection 1116.0221, "personal care services" means services including, but not limited to, the following:

1. Assisting residents with activities of daily living;
2. Assisting residents with self-administration of medication;
3. Administration of medication, such as hypodermically or orally, and observation of the resident after receipt of the medication;
4. Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under section 3721.04 of the Revised Code.

"Personal care services" does not include skilled nursing care, meaning procedures that require technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise incapacitated, including but not limited to, the following:

1. Irrigations, catheterizations, application of dressings, and supervision of special diets;
2. Objective observation of changes in the patient's condition as a means of analyzing and

- determining the nursing care required and the need for further medical diagnosis and treatment;
3. Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.

- B. Residential Facility, Small.** A home or facility where units or quarters do not each have their own kitchen facilities and that provides room and board for up to six persons, with personal care services provided to benefit the residents living in the building.
- C. Residential Facility, Moderate.** A home or facility where units or quarters do not each have their own kitchen facilities and that provides room and board for up to twenty persons, with personal care services provided to benefit the residents living in the building such that there will be more significant vehicle traffic, parking, and pedestrian traffic.
- D. Residential Facility, Large.** A home or facility where units or quarters do not each have their own kitchen facilities and that provides room and board for more than twenty persons, with personal care services provided to benefit all residents living in the building such that there will be more significant vehicle traffic, parking, and pedestrian traffic.
- E. 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 Section 3721.01(A)(6). Also includes Residential Care Facility, Revised Code Section 3721.01(A)(7).
- F. 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 Section 3721.01(A)(7). A facility that conforms with the definition for Adult Foster Home, Adult Family Home, Residential Facility, Small, Residential Facility, Moderate, or Residential Facility, Large shall be treated as such, regardless of the fact that it may also meet this definition.
- G. 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, Residential Facility, Moderate, or Residential Facility, Large shall be treated as such a Residential Facility, regardless of the fact that it may also meet this definition.
- H. 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.
- I. 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.
- J. Other Group Living.** Includes fraternity and sorority houses and other community-based housing not provided for elsewhere in this code.

SECTION 3. Current Toledo Municipal Code Section 1116.0231 which reads as follows is hereby repealed:

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.

SECTION 4. Toledo Municipal Code Section 1116.0231 is hereby enacted to read as follows:

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, and may include facilities where a person stays for an extended period of time receiving such services. Typical uses include medical offices, dental laboratories, and health maintenance organizations.

A. **Exceptions.** Use types more specifically classified, such as Hospitals.

SECTION 5. Toledo Municipal Code Section 1104.0107 is hereby amended as follows.

The rows of the Use Categories table titled “Adult Family Home,” “Drug and Alcohol Residential Facility,” “Residential Facility, Small,” “Residential Facility, Large” are removed.

Under Group Living, the Use Categories table is amended to add use designations for Residential Facilities as follows:

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 Facility, Small	P [8]	P [8]	P [8]	-	P [8]	-	-	P [8]	-	-	-	-	-				
Residential Facility, Moderate	-	S [8]	S [8]	S [8]	P [8, 9]	-	P [8]	-	P [8]	P [8]	P [8]	P [8]	-	-	-	-	-
Residential Facility, Large	-	S [8]	S [8]	S [8]	P [8, 9]	-	P [8]	-	P [8]	P [8]	P [8]	P [8]	-	-	-	-	-

The row of the Use Categories table titled “All other Medical Services” is removed entirely.
The row of the Use Categories table titled “Medical Services” is amended to read as follows:

Medical Services	-	-	-	-	-	-	P [13]	P	P	P	P	P	-	-	-	-	P
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SECTION 6. Current Toledo Municipal Code Sections 1104.1000 through 1104.1002 which reads as follows is hereby repealed:

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 Section 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.
(Ord. 170-04. Passed 3-23-04.)

1104.1002 In no case may more than one facility subject to this section be located on the same block.
(Ord. 170-04. Passed 3-23-04.)

SECTION 7. The following Toledo Municipal Code Sections 1104.1000 through 1104.1002 is hereby enacted as follows:

1104.1000 Group living and day care - spacing.

1104.1001 Group Living facilities and Type A Family Day Care Homes that are subject to this spacing requirement section in the Use Table of Section 1104.0100, must be at least 500 feet from a site with any other Group Living facility or 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, except that more than one Residential Facility, Small, Residential Facility, Moderate, or Group Rental may be located on the same block provided that they meet all other spacing and use restrictions.

SECTION 8. Toledo Municipal Code Section 1111.0700 is hereby amended to add Sec. 1111.0711 as follows:

1111.0711 Reasonable Accommodations, relation to Special Use Permit.

The City of Toledo does not discriminate on the basis of disability pursuant to its obligations under 42 U.S.C. 12101, *et seq.* and 42 U.S.C. 3604, *et seq.* Any applicant required to obtain a Special Use Permit, after submitting the application and site plan, may request a Reasonable Accommodation Exception pursuant to Sec. 1111.1809 (D) to avoid the Special Use Permit requirements, and if the request for a Reasonable Accommodation Exception is approved pursuant to 1111.1809(D), the applicant shall not be required to obtain a Special Use Permit. All requests for a Reasonable Accommodation Exception should be reviewed through

the procedures of Sec. 1111.1809.

SECTION 9. Toledo Municipal Code Section 1107.0304 Schedule A is hereby repealed.

Use Category	Minimum Number of Off-Street Parking Spaces Required	Minimum Number of Bicycle Parking Slots Required (See Section 1107.0900 below)
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Residential Household Living Detached House per dwelling unit None Detached House (Zero Lot Line) per dwelling unit None Attached House per dwelling unit None Duplex per dwelling unit None Cluster Housing per dwelling unit None Manufactured Home within an RMH District per dwelling unit None Multi-Dwelling Structure [1] 5 per dwelling unit plus 1 space per 10 units for visitor parking per 10 parking spaces Adult Foster Home per dwelling unit None Certified Foster Home per dwelling unit None Elderly and Disabled See Section 1107.0700 per 10 parking spaces Group Living Adult Family Home per 2 employees per 10 parking spaces Residential Facility, Small per 2 employees per 10 parking spaces Residential Facility, Large per 2 employees per 10 parking spaces Drug/Alcohol Residential Facility per 2 employees per 10 parking spaces Halfway House per 8 residents plus 1 per 2 employees None Nursing Home per 4 residents/beds per 10 parking spaces Rest Home per 4 residents/beds per 10 parking spaces Home for the Aging per 3 residents/beds per 10 parking spaces Group Rental per sleeping quarter per 10 parking spaces Homeless Shelter per 4 residents/beds per 10 parking spaces Other Group Living per Schedule D (Section 1107.0600) per 10 parking spaces

SECTION 10. A new Toledo Municipal Code Section 1107.0304 Schedule A is hereby adopted as follows.

Use Category	Minimum Number of Off-Street Parking Spaces Required	Minimum Number of Bicycle Parking Slots Required (See Section 1107.0900 below)
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Residential Household Living Detached House per dwelling unit None Detached House (Zero Lot Line) per dwelling unit None Attached House per dwelling unit None Duplex per dwelling unit None Cluster Housing per dwelling unit None Manufactured Home within an RMH District per dwelling unit None Multi-Dwelling Structure [1] 5 per dwelling unit plus 1 space per 10 units for visitor parking per 10 parking spaces Adult Foster Home per dwelling unit None Certified Foster Home per dwelling unit None Elderly and Disabled See Section 1107.0700 per 10 parking spaces Group Living Residential Facility, Small per 2 employees per 10 parking spaces Residential Facility, Moderate per 2 employees per 10 parking spaces Residential Facility, Large per 2 employees per 10 parking spaces Nursing Home per 4 residents/beds per 10 parking spaces Rest Home per 4 residents/beds per 10 parking spaces Home for the Aging per 3 residents/beds per 10 parking spaces Group Rental per sleeping quarter per 10 parking spaces Homeless Shelter per 4 residents/beds per 10 parking spaces Other Group Living per Schedule D (Section 1107.0600) per 10 parking spaces

SECTION 11. It is found and determined that all formal actions of this Council concerning and relating

