

CITY OF MADISON, WISCONSIN

AN ORDINANCE _____

amending certain Subsections of 28.03, 28.07 and 28.08 and creating various Paragraphs in 28.08(2), (7), (9), (11), and (12) of the Madison General Ordinances to change some siting requirement for Community Living Arrangements and to create a definition and siting regulations for Adult Family Homes.

Drafted by: Katherine C. Noonan
Assistant City Attorney

Date: October 12, 2004

Fiscal Note: No expenditure required.

SPONSORS: Aids. King and Verveer
(At the Request of the Housing Committee)

PRESENTED _____ October 19, 2004
REFERRED _____ Plan Commission
REREFERRED _____

REPORTED BACK _____

ADOPTED _____ POF _____
RULES SUSP. _____ Tabled _____
PUBLIC HEARING P.C. 11/15/04
C.C. 12/14/04

MAYOR SIGNED _____
PUBLISHED _____

APPROVAL OF FISCAL NOTE IS NEEDED
BY THE COMPTROLLER'S OFFICE
Approved By _____
Comptroller's Office

ORDINANCE NUMBER _____
ID NUMBER _____

The Common Council of the City of Madison do ordain as follows:

1. Subsection (2) entitled "Definitions" of Section 28.03 entitled "Rules and Definitions" of the Madison General Ordinances is amended by adding or amending therein the following:

"Adult Family Home. An adult family home is a private residence, licensed, operated, certified or permitted under the authority of the Department of Health and Family Services of the State of Wisconsin, where care and maintenance above the level of room and board but not including nursing care, are provided for three (3) or four (4) developmentally disabled adults (or more if all adults are siblings) by a care provider whose primary domicile is the residence; or a place where three (3) or four (4) adults who are not related to the operator reside and receive care, treatment or service that is above the level of room and board and may include up to seven (7) hours per week of nursing care per resident. For the purpose of this definition, an adult family home may contain a second kitchen for privacy of staff, but such kitchen facilities shall be dismantled and removed when the arrangement is discontinued.

Community Living Arrangements. A community living arrangement is any facility, licensed or operated or permitted under the authority of the Department of Health and Family Services of the State of Wisconsin, where three (3) or more unrelated persons reside in which care, treatment or services above the level of room and board but less than skilled nursing care is provided to persons residing in the facility. Such care, treatment or services are provided as a primary function of such facility. For the purpose of this definition, a Community Living Arrangement

Approved as to form:

may contain a second kitchen for the privacy of the staff, but such kitchen facilities shall be dismantled and removed when the arrangement is discontinued. Adult family homes, Day care homes, nursing homes, general hospitals, special hospitals, prisons, jails and foster family homes which are the primary domiciles of a foster parent and for four (4) or fewer children are not community living arrangements for purposes of this ordinance.

2. Subdivision (b) entitled "Permitted Uses" of Subsection (4) entitled "Planned Community Development District (PCD)" of Section 28.07 entitled "Special Districts" of the Madison General Ordinances is amended to read as follows:

- "(b) Permitted Uses. The following uses are permitted in the planned community development district. Provided, however, that no use shall be permitted except in conformity with a specific and precise development plan pursuant to the procedural and regulatory provisions as hereinafter set forth. Any use permitted by right or as a conditional grant in any of the other districts of this ordinance may be permitted subject to the criteria as established in 28.07(4)(f) following, but such requirements as are made a part of an approved recorded precise development plan shall be, along with the recorded plan itself, construed to be enforced as a part of this ordinance. Any planned community development district with a residential component shall allow adult family homes and community living arrangements as a permitted or a conditional use as specified in any one of the existing zoning districts."

3. Subdivision (b) entitled "Permitted Uses" of Subsection (5) entitled "Planned Community Mobile Home Park District" of Section 28.07 entitled "Special Districts" of the Madison General Ordinances is amended to read as follows:

- "(b) Permitted Uses. The following uses are permitted in the planned community mobile home park district, provided that no use shall be permitted except in conformity with a specific and precise development plan subject to the procedural and regulatory provisions as hereinafter set forth. Any planned community mobile home park shall allow adult family homes and community living arrangements as a permitted or a conditional use as specified in any one of the existing zoning districts."

4. Subdivision (b) entitled "Permitted Uses" of Subsection (6) entitled "Planned Unit Development District (PUD)" of Section 28.07 entitled "Special Districts" of the Madison General Ordinances is amended to read as follows:

- "(b) Permitted Uses. Any use permitted by right or as a conditional use in any of the other districts of this ordinance may be permitted subject to the criteria specified in this section. Any planned unit development with a residential component shall allow adult family homes and community living arrangements as a permitted or a conditional use as specified in any one of the existing zoning districts."

5. Paragraph 11. of Subdivision (b) entitled "Permitted Uses" of Subsection (2) entitled "R1 Single-Family Residence District" of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is created to amended to read as follows:

- "11. Community living arrangements for not more than eight (8) persons being served by the program provided:
- a. That the loss of any state license or permit by a community living arrangement be an automatic revocation of that facility's use permit.
 - b. That the applicant disclose in writing the capacity of the community living arrangement.
 - c. That no other community living arrangement is within two thousand five hundred (2,500) feet of the site of the proposed facility-, except that if the persons served are disabled or handicapped under the Fair Housing Amendment Act (FHAA) or the Americans with Disabilities Act (ADA) and are living in the adult family home because of their disability or handicap, the distance requirement is zero (0).

- d. That the total capacity of all community living arrangements in an aldermanic district has not and will not by the inclusion of a new community living arrangement exceed twenty-five (25) persons or one percent (1%) of the population, whichever is greater, of such district-, except that if the persons served are disabled or handicapped under the Fair Housing Amendment Act (FHAA) or the Americans with Disabilities Act (ADA) and are living in the adult family home because of their disability or handicap, there is no district percentage (%) limitation.

6. Paragraph 18. of Subdivision (b) entitled "Permitted Uses" of Subsection (2) entitled "R1 Single-Family Residence District" of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is created to read as follows:

- "18. Adult Family Homes, provided:
 - a. That the use is no longer permitted upon the loss of any state license or permit by the adult family home.
 - b. That the applicant disclose in writing the capacity of the adult family home.
 - c. That no other licensed adult family home or community living arrangement is within twenty-five hundred (2500) feet of the site of any proposed adult family home, except that if the persons served are disabled or handicapped under the Fair Housing Amendment Act (FHAA) or the American with Disabilities Act (ADA) and are living in the adult family home because of their disability or handicap, the distance requirement is zero (0)."

7. Paragraph 27. of Subdivision (c) entitled "Conditional Uses" of Subsection (2) entitled "R1 Single-Family Residence District" of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is created to read as follows:

- "27. Adult Family Homes, except those that are permitted under Sec. 28.08(2)(b)18., provided:
 - a. That the loss of any state license or permit by an adult family home be an automatic revocation of any use permit issued pursuant to this paragraph.
 - b. That any use permit issued pursuant to this paragraph shall not be transferable to another location or another holder.
 - c. That the applicant disclose in writing the capacity of the adult family home."

8. Paragraph 3. of Subdivision (b) entitled "Permitted Uses" of Subsection (4) entitled "R3 Single-Family and Two-Family Residence District" of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is amended to read as follows:

- "3. Community living arrangements for ~~not more than~~ nine (9) to fifteen (15) persons being served by the program provided:
 - a. That the loss of any state license or permit by a community living arrangement be an automatic revocation of that facility's use permit.
 - b. That the applicant disclose in writing the capacity of the community living arrangement.
 - c. That no other community living arrangement is within two thousand five hundred (2,500) feet of the site of the proposed facility.
 - d. That the total capacity of all community living arrangements in an aldermanic district has not and will not by the inclusion of a new community living arrangement exceed twenty-five (25) persons or one percent (1%) of the population, whichever is greater, of such district."

9. Paragraph 2. of Subdivision (c) entitled "Conditional Uses" of Subsection (4) entitled "R3 Single-Family and Two-Family Residence District" of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is amended to read as follows:

- "2. Community living arrangements, except those which are permitted under Section 28.08(2)(b)11. or 28.08(4)(b)3, provided:

- a. That the loss of any state license or permit by a community living arrangement be an automatic revocation of that facility's use permit.
- b. That any use permit issued pursuant to this paragraph shall not be transferable to another location or another holder.
- c. That the applicant disclose in writing the capacity of the community living arrangement."

10. Paragraph 3. of Subdivision (b) entitled "Permitted Uses" of Subsection (7) entitled "R6 General Residence District" of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is amended to read as follows:

- "3. Community living arrangements provided such facilities meet the conditions of Section 28.08(2)(b)11. or 28.08(4)(b)3."

11. Paragraph 9. of Subdivision (b) entitled "Permitted Uses" of Subsection (7) entitled "R6 General Residence District" of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is created to read as follows:

- "9. Adult Family Homes, provided:
- a. That the use is no longer permitted upon the loss of any state license or permit by the adult family home.
 - b. That the applicant disclose in writing the capacity of the adult family home.
 - c. That no other licensed adult family home or community living arrangement is within twenty-five hundred (2500) feet of the site of any proposed adult family home, except that if the persons served are disabled or handicapped under the Fair Housing Amendment Act (FHAA) or the American with Disabilities Act (ADA) and are living in the adult family home because of their disability or handicap, the distance requirement is zero (0)."

12. Paragraph 10. of Subdivision (b) entitled "Permitted Uses" of Subsection (9) entitled "R4L Limited General Residence District" of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is created to read as follows:

- "10. Adult Family Homes, provided:
- a. That the use is no longer permitted upon the loss of any state license or permit by the adult family home.
 - b. That the applicant disclose in writing the capacity of the adult family home.
 - c. That no other licensed adult family home or community living arrangement is within twenty-five hundred (2500) feet of the site of any proposed adult family home, except that if the persons served are disabled or handicapped under the Fair Housing Amendment Act (FHAA) or the American with Disabilities Act (ADA) and are living in the adult family home because of their disability or handicap, the distance requirement is zero (0)."

13. Paragraph 10. of Subdivision (c) entitled "Conditional Uses" of Subsection (9) entitled "R4L Limited General Residence District" of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is created to read as follows:

- "10. Adult Family Homes, provided:
- a. That the use is no longer permitted upon the loss of any state license or permit by the adult family home.
 - b. That the applicant disclose in writing the capacity of the adult family home.
 - c. That no other licensed adult family home or community living arrangement is within twenty-five hundred (2500) feet of the site of any proposed adult family home, except that if the persons served are disabled or handicapped under the Fair Housing Amendment Act (FHAA) or the American with Disabilities Act (ADA) and are living in the adult family home because of their disability or handicap, the distance requirement is zero (0)."

14. Paragraph 12. of Subdivision (b) entitled "Permitted Uses" of Subsection (11) entitled "R4A Limited General Residence District" of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is created to read as follows:

- "12. Adult Family Homes, provided:
- a. That the use is no longer permitted upon the loss of any state license or permit by the adult family home.
 - b. That the applicant disclose in writing the capacity of the adult family home.
 - c. That no other licensed adult family home or community living arrangement is within twenty-five hundred (2500) feet of the site of any proposed adult family home, except that if the persons served are disabled or handicapped under the Fair Housing Amendment Act (FHAA) or the American with Disabilities Act (ADA) and are living in the adult family home because of their disability or handicap, the distance requirement is zero (0)."

15. Paragraph 14. of Subdivision (c) entitled "Conditional Uses" of Subsection (11) entitled "R4A Limited General Residence District" of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is created to read as follows:

- "14. Adult Family Homes, except those that are permitted under Sec. 28.08(2)(b)18., provided:
- a. That the loss of any state license or permit by an adult family home be an automatic revocation of any use permit issued pursuant to this paragraph.
 - b. That any use permit issued pursuant to this paragraph shall not be transferable to another location or another holder.
 - c. That the applicant disclose in writing the capacity of the adult family home."

16. Paragraph 3. of Subdivision (b) entitled "Permitted Uses" of Subsection (12) entitled "R1-R Rustic Residence District" of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is created to read as follows:

- "3. Adult Family Homes, provided:
- a. That the use is no longer permitted upon the loss of any state license or permit by the adult family home.
 - b. That the applicant disclose in writing the capacity of the adult family home.
 - c. That no other licensed adult family home or community living arrangement is within twenty-five hundred (2500) feet of the site of any proposed adult family home, except that if the persons served are disabled or handicapped under the Fair Housing Amendment Act (FHAA) or the American with Disabilities Act (ADA) and are living in the adult family home because of their disability or handicap, the distance requirement is zero (0)."

17. Paragraph 7. of Subdivision (c) entitled "Conditional Uses" of Subsection (12) entitled "R1- R Rustic Residence District" of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is created to read as follows:

- "7. Adult Family Homes, except those that are permitted under Sec. 28.08(2)(b)18., provided:
- a. That the loss of any state license or permit by an adult family home be an automatic revocation of any use permit issued pursuant to this paragraph.
 - b. That any use permit issued pursuant to this paragraph shall not be transferable to another location or another holder.
 - c. That the applicant disclose in writing the capacity of the adult family home."

18. Paragraph 3. of Subdivision (b) entitled "Permitted Uses" of Subsection (12) entitled "R1- R Rustic Residence District" of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is created to read as follows:

- "3. Community living arrangements for not more than eight (8) persons being served by the program provided:
- a. That the loss of any state license or permit by a community living arrangement be an automatic revocation of that facility's use permit.
 - b. That the applicant disclose in writing the capacity of the community living arrangement.
 - c. That no other community living arrangement is within two thousand five hundred (2,500) feet of the site of the proposed facility, except that if the persons served are disabled or handicapped under the Fair Housing Amendment Act (FHAA) or the Americans with Disabilities Act (ADA) and are living in the adult family home because of their disability or handicap, the distance requirement is zero (0).
 - d. That the total capacity of all community living arrangements in an aldermanic district has not and will not by the inclusion of a new community living arrangement exceed twenty-five (25) persons or one percent (1%) of the population, whichever is greater, of such district, except that if the persons served are disabled or handicapped under the Fair Housing Amendment Act (FHAA) or the Americans with Disabilities Act (ADA) and are living in the adult family home because of their disability or handicap, there is no district percentage (%) limitation."

19. Paragraph 8. of Subdivision (c) entitled "Conditional Uses" of Subsection (12) entitled "R1- R Rustic Residence District" of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is created to read as follows:

- "8. Community living arrangements provided such facilities meet the requirements of Sec. 28.08(2)(c)14."