

ORDINANCE NO.: 2007-15

AN ORDINANCE AMENDING APPENDIX A (ZONING), ARTICLE I (SHORT TITLE; DEFINITIONS) SECTION 3 (DEFINITIONS), ARTICLE III (SPECIFIC REGULATIONS) SECTION 3 (SPECIFIC USE REGULATIONS) AND ARTICLE IV (ZONING DISTRICT REGULATIONS) OF THE HERNANDO COUNTY CODE OF ORDINANCES RELATING TO COMMUNITY RESIDENTIAL HOMES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2006, the Florida Legislature amended the statutory definition of 'Community residential homes' as defined in s. 419.001, Florida Statutes; and,

WHEREAS, the County is required to update its Zoning Ordinance for purposes of consistency with State law; and,

WHEREAS, the County desires to amend the Zoning Ordinance as provided for herein.

NOW THEREFORE:

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:

SECTION 1. Amending Appendix A (Zoning), Article I (Short Title; Definitions), Section 3 (Definitions), ¶ 29 (Community Residential Home). Appendix A (Zoning), Article I (Short Title; Definitions), Section 3 (Definitions), ¶ 29 (Community Residential Home) is amended to read as follows, with underlined matter added and struck-through matter deleted:

29. *Community residential home*: A dwelling unit licensed to serve ~~clients of the Department of Health and Rehabilitative Services~~ 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 a dwelling unit licensed by the Agency for Health Care Administration which provides a living environment for up 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 as defined in s. 419.001, Florida Statutes, as such section may be amended or renumbered from time to time. *For purposes of this definition, the term 'residents' means any of the following: a frail elder as defined in s. 429.65; a physically disabled or handicapped person as defined in s. 760.22(7)(a); a developmentally disabled person as defined in s. 393.063; a nondangerous mentally ill person as defined in s. 394.455(18); or a child as defined in s. 39.01(14), s. 984.03(9) or (12), or s. 985.03, Florida Statutes, as such sections may be amended or renumbered from time to time. To be recognized by the County as a Community residential home eligible as a permitted use within

1 certain residential zoning districts, the home must have 6 or fewer residents and the criteria
2 in Article III of this zoning code must be satisfied.

3
4 **SECTION 2. Amending Appendix A (Zoning), Article I (Short Title; Definitions), Section 3**
5 **(Definitions), ¶ 31 (Congregate Care Homes and Facilities).** Appendix A (Zoning), Article I
6 (Short Title; Definitions), Section 3 (Definitions), ¶ 31 (Congregate Care Homes and Facilities) is
7 amended to read as follows, with underlined matter added and struck-through matter deleted:
8

9 31. *Congregate Care Homes and Facilities:* A facility, single family, multifamily residence or
10 other dwelling unit utilized for profit or not which provides 24-hour congregate care but
11 which does not fall within the definition of a Community residential home or a Nursing care
12 home. Congregate care includes but is not limited to, the provision of housing, food,
13 personal services, limited nursing or mental health services. The congregate care home or
14 facility is intended to convey a "family-type" living environment. The occupants of a
15 congregate care home or facility are not related to the owner or manager by blood or marriage
16 and are typically ambulatory. Examples of a congregate home or facility include adult family
17 care homes, homes for special services, transitional living facilities, adult day care homes,
18 and assisted living facilities.
19

20 **SECTION 3. Amending Appendix A (Zoning), Article III (Specific Regulations), Section 3**
21 **(Specific Use Regulations).** Appendix A (Zoning), Article III (Specific Regulations), Section 3
22 (Specific Use Regulations) is amended to read as follows, with underlined matter added and struck-
23 through matter deleted:
24

25 [Subsections A. to L. remain unchanged]

26
27 M. Standards for allowing Community residential homes with 6 or fewer residents in certain
28 residential zoning districts: A Community residential home with 6 or fewer residents is allowable
29 in certain residential zoning districts subject to the following:
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31 (1) Review by County administrative official:
32

33 The agency, person or organization which intends to establish or operate a Community
34 residential home in any single-family or multifamily zoning district bears the burden of
35 adequately demonstrating to the County administrative official that it is entitled to
36 recognition as a Community residential home with 6 or fewer residents (thereby not requiring
37 the special exception use and/or rezoning approval processes that are normally associated
38 with other similar uses that fall outside of the State definition for a Community residential
39 home) by providing the County with all of the following documentation:
40

41 (a) Street address of the proposed home.
42

43 (b) Number of proposed residents (not to exceed 6) and the applicable residential
44 licensing category or categories.
45

1 (c) The most recently published data compiled from the licensing entities that identifies
2 all Community residential homes within Hernando County and the location of the
3 proposed site in relation to existing Community residential homes in order to show
4 that there is no other Community residential home within a radius of 1,000 feet of
5 the proposed home.

6
7 (d) Copy of the application for licensure and notification from either the Department of
8 Elder Affairs, the Agency for Persons with Disabilities, the Department of Juvenile
9 Justice, the Department of Children and Family Services, or the Agency for Health
10 Care Administration, all of which are authorized to license a Community residential
11 home to serve residents, as to the licensing status of the proposed Community
12 residential home and specify how the home meets applicable licensing criteria for the
13 safe care and supervision of the residents of the proposed home.

14
15 (e) Upon request by County, the applicant shall provide the County a sworn affidavit (on
16 such form as prescribed by the County) stating that the person or persons to occupy
17 the proposed Community residential home will not constitute a direct threat to the
18 health and safety of other persons or whose residency would result in substantial
19 physical damage to the property of others.

20
21 (f) If the anticipated residents of the proposed Community residential home are
22 “disabled adults” or “frail elders” as defined in s. 429.65, Florida Statutes, as such
23 section may be amended or renumbered from time to time, then the applicant shall
24 provide the County a sworn affidavit (on such form as prescribed by the County)
25 stating that the person who owns or rents said home will be residing therein pursuant
26 to chapter 429, part II, Florida Statutes.

27
28 (g) Proof that the property has been inspected by the Fire Marshall in connection with
29 the subject application and that the property satisfactorily passed inspection.

30
31 (2) Siting of Community residential homes within Residential Zoning Districts

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33 (a) Within the R-1A, R-1B, R-1C, R-2.5, RM, and R-2 Residential Districts:

34
35 Homes of six or fewer residents, which meet the definition of a Community
36 residential home as defined by State law and which otherwise satisfies the
37 requirements of this subsection, shall be deemed a single-family unit for purposes of
38 being a permitted use within these districts, provided that such homes shall not be
39 located within a radius of 1,000 feet of another existing such home with six or fewer
40 residents, and further provided that no later than the time of home occupancy, the
41 applicant must notify the County administrative official that the home has been duly
42 licensed by the licensing entity.

1 (b) Within the R-3, R-4 and R-R Residential Districts:

2
3 When a site for a Community residential home has been selected by an applicant in
4 any multifamily zoning district, the applicant shall notify the County administrative
5 official in writing and include in such notice the specific address of the site, the
6 residential licensing category, the number of residents, and the community support
7 requirements of the program. Such notice shall also contain a statement from the
8 applicant indicating the licensing status of the proposed Community residential home
9 and specifying how the home meets applicable licensing criteria for the safe care and
10 supervision of the clients in the home. The applicant shall also provide to the County
11 all of the documentation described in paragraph (1) above to the extent not provided
12 as part of the initial notice.

13
14 The County shall review the notification and other required documentation of the
15 applicant. Pursuant to such review, the County administrative official may:

16
17 (i) Determine that the siting of the Community residential home is in accordance
18 with local zoning and approve the siting. If the siting is approved, the
19 applicant may establish the home at the site selected.

20
21 (ii) Fail to respond within 60 days. If the County fails to respond within such
22 time, the applicant may establish the home at the site selected.

23
24 (iii) Deny the siting of the home only if the County establishes that the siting of
25 the home at the site selected:

26
27 1. Does not otherwise conform to existing zoning regulations
28 applicable to other multifamily uses in the area;

29
30 2. Does not meet applicable licensing criteria established and
31 determined by the applicable licensing agency, including
32 requirements that the home be located to assure the safe care and
33 supervision of all clients in the home; or,

34
35 3. Would result in such a concentration of Community residential
36 homes in the area in proximity to the site selected, or would result
37 in a combination of such homes with other residences in the
38 community, such that the nature and character of the area would be
39 substantially altered. A home that is located within a radius of
40 1,200 feet of another existing Community residential home in a
41 multifamily zone shall be an over concentration of such homes that
42 substantially alters the nature and character of the area. A home
43 that is located within a radius of 500 feet of an area of single-
44 family zoning substantially alters the nature and character of the
45 area.

1 (3) Additional Provisions; Termination; Revocation

- 2
- 3 (a) A home operating as a Community residential home pursuant to this
4 subsection shall be subject to all other local laws, regulations, ordinances,
5 and building codes.
- 6
- 7 (b) Failure of the applicant to provide the County with a copy of its State
8 license prior to, but no later than, the time of occupancy, shall immediately
9 terminate the County's recognition of that home as a Community
10 residential home for purposes of zoning compliance, thereby subjecting
11 the property to zoning compliance enforcement.
- 12
- 13 (c) Any person operating a Community residential home as defined herein
14 pursuant to a State license, upon the licensing agency suspending or
15 revoking such license shall be grounds for the County administrative
16 official to revoke the County's recognition of that home as a Community
17 residential home for purposes of zoning compliance, thereby subjecting
18 the property to zoning compliance enforcement.
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20 **SECTION 4. Amending Appendix A (Zoning), Article IV (Zoning District), Section 2**
21 **(Residential districts), Subsections A(1)(c), (B)(1)(b), (C)(1)(b), D(1)(b), E(1)(b), F(1)(c),**
22 **G(1)(d), H(1)(d), I(1)(f).** Appendix A (Zoning), Article IV (Zoning District Regulations),
23 Section 2 (Residential districts), Subsections A(1)(c), (B)(1)(b), (C)(1)(b), D(1)(b), E(1)(b),
24 F(1)(c), G(1)(d), H(1)(d), I(1)(f) are amended to read as follows, with underlined matter added
25 and struck-through matter deleted:

26 ~~Community residential homes with six or fewer residents:~~
27 Homes of six or fewer residents which meet the definition of a Community
28 residential home as defined by State law and which otherwise satisfies the
29 requirements of this zoning code.

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31

32 **SECTION 5. Amending Appendix A (Zoning), Article II (General Regulations), Section 4**
33 **(General regulations for vehicles), Subsection A (Off-street parking and access), subsection**
34 **6(x).** Appendix A (Zoning), Article II (General Regulations), Section 4 (General regulations for
35 vehicles), Subsection A (Off-street parking and access), subsection 6(x) is amended to read as
36 follows, with underlined matter added and struck-through matter deleted:

- 37
- 38 (x) ~~Adult congregate living facilities (ACLF)~~ Congregate care homes and
39 facilities and Community residential homes:
- 40 1. 0.5 spaces per bed based on maximum capacity.
- 41 2. ~~A single-family residential structure that has been modified to~~
42 operate as an adult congregate living facility (ACLF) and is
43 operating under a special exception to the zoning code shall
44 provide both the required off-street single-family and ACLF
45 parking. The ACLF parking for Congregate care homes facilities

and Community residential homes may be surfaced with grass or lawn; however, if parking demand is such that said grass or lawn is caused to be damaged or destroyed to the extent that said grass or lawn ceases to grow, then paving of such an area in accordance with this section may be required by the county administrative official.

SECTION 6. Severability. It is declared to be the intent of the Board of County Commissioners that if any section, subsection, clause, sentence, phrase, or provision of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining portions of this ordinance.

SECTION 7. Inclusion in the Code. It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, any section or subsection of this Ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate designation.

SECTION 8. Effective date. This ordinance shall take effect immediately upon filing with the Department of State.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY in Regular Session this 21st day of August, 2007.

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

By: 
JEFF STABINS
CHAIRMAN

Attest: 
KAREN NICOLAI
CLERK



**Approved as to Form and
Legal Sufficiency**

By:  8/21/07
Assistant County Attorney