

ORDINANCE 2014- 07

**AN ORDINANCE AMENDING CHAPTER 134,
“ZONING,” ARTICLE V “SUPPLEMENTARY
DISTRICT REGULATIONS,” DIVISION 4 “USES,”
SUBDIVISION VII “GROUP HOMES AND FOSTER
CARE FACILITIES”; PROVIDING DEFINITIONS;
PROVIDING FOR LICENSED COMMUNAL HOMES,
GROUP HOMES, COMMUNITY RESIDENTIAL HOMES,
AND PLANNED RESIDENTIAL COMMUNITIES;
PROVIDING CRITERIA FOR THEIR SITING;
PROVIDING FOR DEFINITIONS; PROVIDING THAT
GROUP HOMES AND COMMUNITY RESIDENTIAL
HOMES ARE RESIDENTIAL USES; AND PROVIDING
FOR AN EFFECTIVE DATE.**

WHEREAS, the City Commission of the City of Belleview has previously enacted Chapter 134, Article V. Supplementary District Regulations, Division 4. – Uses, Subdivision VII. Group Homes and Foster Care Facilities of the City Code of Ordinances; and

WHEREAS, the City Commission has determined that it is in the best interest of the Citizens of the City of Belleview to amend Chapter 134, Subdivision VII to comply with current state law; and

WHEREAS, the City Commission has determined that it is in the best interest of the public welfare to amend Chapter 134, Subdivision VII of the City Code of Ordinances regarding Group Homes, Community Residential Homes and Planned Residential Communities, as set forth hereinafter.

NOW THEREFORE, BE IT ORDAINED by the City Commission of the City of Belleview, Florida, Chapter 134, Subdivision VII of the City Code of Ordinances regarding Group Homes, Community Residential Homes and Planned Residential Communities, is hereby amended to read as follows, to wit:

“Chapter 134. Zoning

Article V. Supplementary District Regulations

Division 4. – Uses

Subdivision VII. Group Homes, Community Residential Homes and Planned Residential Communities.

Sec. 134-651. Intent of subdivision.

Sec. 134-552. General Requirements

Sec. 134-653. Definitions.

Sec. 134-654. Communal Residential Homes

Sec. 134-655. Group Homes

Sec. 134-656. Community Residential Homes

Sec. 134-657. Planned Residential Community.

Secs. 134-658—134-669. Reserved.

Sec. 134-651. Intent of subdivision.

It is the intent of this subdivision to establish reasonable and uniform regulations regarding Group Homes, Community Residential Homes, Communal Living Facilities and Planned Residential Communities that will protect the health, safety and general welfare of the people of the city. It is further the intent of this subdivision to conform to Florida Law regarding the siting of community-based residential facilities, and deinstitutionalized home-like care for 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 licensed by the Agency for Health Care Administration, while protecting the character and integrity of established neighborhoods to the extent allowed by state law.

Section 134-652 General requirements.

Each licensed communal facility shall, regardless of whether it is licensed, observe the following general requirements:

- (a) Conform to all applicable building statutes, codes, ordinances and regulations, whether federal, state or local.**
- (b) Conform to all applicable fire statutes, codes, ordinances and regulations, whether federal, state or local.**
- (c) Conform to all applicable health statutes, codes, ordinances and regulations, whether federal, state or local.**
- (d) Conform to all applicable zoning regulations and land use laws, whether state or local.**

Sec. 134-653. Definitions.

The following words, terms and phrases, when used in this subdivision, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agency means the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, the Department of Children and Family Services, or the Agency for Health Care Administration.

Communal Living Facility means a licensed living facility which provides a living environment for two (2) or more unrelated residents, who are clients of private or public entities (Excluding community-based residential facilities, and deinstitutionalized home-like care for 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 licensed by the Agency for Health Care Administration). Examples of such facilities might include half-way houses and community re-entry programs. The determination of who many residents are living in such facilities shall include staff residing in such facilities to provide such supervision and care as may be necessary to meet the physical, emotional, and social needs of the residents.

Community residential home means a dwelling unit licensed to serve 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 licensed by the Agency for Health Care Administration which provides a living environment for 7 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.

Group home is a dwelling unit licensed to serve 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 licensed by the Agency for Health Care Administration which provides a living environment for 6 or fewer 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.

Licensing entity or “licensing entities” means the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, the Department of Children and Family Services, or the Agency for Health Care Administration, all of which are authorized to license a community residential home to serve residents.

Planned residential community means a City of Belleview approved, planned unit development that is under unified control, is planned and developed as a whole, has a minimum gross lot area of 8 acres, and has amenities that are designed to serve residents with a developmental disability as defined in F.S. 393.063 but that shall also provide housing options for other individuals.

Resident means any of the following: a frail elder as defined in F.S. 429.65; a person who has a handicap as defined in F.S. 760.22(7)(a); a person who has a developmental disability as defined in F.S. 393.063; a non-dangerous person who has a mental illness as defined in s. 394.455; or a child who is found to be dependent as defined in s. 39.01 or s. 984.03, or a child in need of services as defined in s. 984.03 or s. 985.03.

Sponsoring agency means an agency or unit of government, a profit or nonprofit agency, or any other person or organization which intends to establish or operate a community residential home.

Sec. 134-654. Licensed Communal Living Facilities (*Except those provided for in Chapter 419, Florida Statutes*).

- (a)** Licensed Communal Living Facilities, which meet the definition set forth herein-above, shall be deemed a nonresidential use for the purpose of City of Belleview ordinances.
- (b)** Licensed communal living facilities shall be located as provided in Section 134-245, Appendix A - Schedules of District Regulations, Schedule 3 - Schedule of Regulations; Nonresidential.
- (c)** When a site for a communal living facility has been selected by a sponsoring agency in an area zoned for commercial use, the agency shall notify the Mayor and the Development Services Director of the City in writing. Such Notice shall include the following:
 - The specific address of the site;**
 - The residential licensing category;**
 - The number of residents;**
 - The community support requirements of the program**
 - A statement from the licensing entity indicating the licensing status of the proposed community residential home and specifying how the home meets applicable licensing criteria for the safe care and supervision of the clients in the home.**
- (d)** Known locations of any church/place of worship, private or public school, or day care facility within 1,000 feet of the proposed licensed communal facility.
- (e)** The sponsoring agency shall also provide to the City the most recently published data compiled from the licensing entities that identifies all similar facilities within the jurisdictional limits of the City of Belleview.
- (f)** The City's Development Services Director will review the notification of the sponsoring agency in accordance with the City's zoning ordinance. Pursuant to such review, the City may:

(1) Determine that the siting of the communal living facility is in accordance with City zoning and approve the siting. If the siting is approved, the sponsoring agency may establish the home at the site selected.

(2) Deny the siting of the home. In determining whether to approve the site selected, the City shall consider the following:

a) Does the site conform to existing zoning regulations applicable to the proposed use.

b) Does the facility meet applicable licensing criteria established and determined by the licensing entity, including requirements that the facility be located to assure the safe care and supervision of all clients in the communal living facility.

c) Would approving the site result in in a combination of such homes or facilities, such that the nature and character of the area would be substantially altered. The determination of whether the nature and character of the area would be substantially altered shall conform with the following, to wit:

1. A communal living facility that is located within a radius of 1000 feet of church/place of worship, private or public school, day care facility shall be deemed an overconcentration of such homes that substantially alters the nature and character of the area.

2. A communal living facility that is located within a radius of 1000 feet of an area zoned for residential use substantially alters the nature and character of the area.

3. A communal living facility that is located within a radius of 500 feet of another existing communal living facility shall be deemed an overconcentration of such homes that substantially alters the nature and character of the area.

(e) If agreed to by both the City and the sponsoring agency, a conflict may be resolved through informal mediation. The resolution of any issue through the mediation process shall not alter any person's right to a judicial determination of any issue if that person is entitled to such a determination under statutory or common law.

(f) All distance requirements in this section shall be measured from the nearest point of the existing home or area of single-family zoning to the nearest point of the proposed home.

Sec. 134-655. Group Homes (Having six or fewer residents).

(a) Group Homes, which otherwise meet the definition of a community residential home, shall be deemed a single-family unit and a noncommercial, residential use for the purpose of City of Bellevue ordinances.

(b) Group Homes shall be allowed in single-family or multifamily zoning without approval from the City for their location, provided that such homes shall not be located within a radius of 1,000 feet of another existing such home with six or fewer residents.

(c) Group Homes shall not be required to comply with the notification provisions of F.S.419.001, provided that, prior to licensure, the sponsoring agency provides the City with the most recently published data compiled from the licensing entities that identifies all community residential homes within the jurisdictional limits of the local government in which the proposed site is to be located in order to show that no other community residential home is within a radius of 1,000 feet of the proposed home with six or fewer residents.

(d) All distance requirements in this section shall be measured from the nearest point of the existing home or area of single-family zoning to the nearest point of the proposed home.

(e) At the time of home occupancy, the sponsoring agency must notify the City that the home is licensed by the licensing entity.

Sec. 134.656. Community Residential Home (Having seven to fourteen residents).

(g) Community Residential Homes, which meet the definition set forth herein-above, shall be deemed a multifamily unit and a noncommercial, residential use for the purpose of City of Bellevue ordinances.

(h) When a site for a community residential home has been selected by a sponsoring agency in an area zoned for multifamily use, the agency shall notify the Mayor and the Development Services Director of the City in writing. Such Notice shall include the following:

The specific address of the site;

The residential licensing category;

The number of residents;

The community support requirements of the program

A statement from the licensing entity indicating the licensing status of the proposed community residential home and specifying how the home meets applicable licensing criteria for the safe care and supervision of the clients in the home.

(c) The sponsoring agency shall also provide to the City the most recently published data compiled from the licensing entities that identifies all community residential homes within the jurisdictional limits of the City of Bellevue

(c) The City's Development Services Director will review the notification of the sponsoring agency in accordance with the City's zoning ordinance. Pursuant to such review, the City may:

(3) Determine that the siting of the community residential home is in accordance with City zoning and approve the siting. If the siting is approved, the sponsoring agency may establish the home at the site selected.

(4) Deny the siting of the home. The City shall not deny the siting of a community residential home unless the siting of the home at the site selected:

a) Does not otherwise conform to existing zoning regulations applicable to other multifamily uses in the area.

b) Does not meet applicable licensing criteria established and determined by the licensing entity, including requirements that the home be located to assure the safe care and supervision of all clients in the home.

c) Would result in such a concentration of community residential homes in the area in proximity to the site selected, or would result in a combination of such homes with other residences in the community, such that the nature and character of the area would be substantially altered. The determination of whether the nature and character of the area would be substantially altered shall conform with the following, to wit:

1. A home that is located within a radius of 1,200 feet of another existing community residential home in a multifamily zone shall be an overconcentration of such homes that substantially alters the nature and character of the area.

2. A home that is located within a radius of 500 feet of an area of single-family zoning substantially alters the nature and character of the area.

(e) If agreed to by both the City and the sponsoring agency, a conflict may be resolved through informal mediation. The resolution of any issue through the mediation process shall not alter any person's right to a judicial determination of any issue if that person is entitled to such a determination under statutory or common law.

(f) The City shall not issue a license to a sponsoring agency for operation of a community residential home if the sponsoring agency does not notify the City of its intention to establish a program, as required by subsection F.S. 419.001 (3). A license

issued without compliance with the provisions of this section shall be considered null and void, and the City may seek to have continued operation of the home enjoined.

(g) Nothing in this section shall be deemed to affect the authority of any community residential home lawfully established prior to October 1, 1989, to continue to operate.

(h) Nothing in this section shall permit persons to occupy a community residential home who would constitute a direct threat to the health and safety of other persons or whose residency would result in substantial physical damage to the property of others.

(i) All distance requirements in this section shall be measured from the nearest point of the existing home or area of single-family zoning to the nearest point of the proposed home.

Sec. 134-657. Planned Residential Community.

(a) A planned residential community may contain two or more community residential homes that are contiguous to one another.

(b) A planned residential community may not be located within a 10-mile radius of any other planned residential community.

(c) Community residential homes, including group homes of six or fewer residents which would otherwise meet the definition of a community residential home, which are located within a planned residential community are not subject to the proximity requirements of this section and may be contiguous to each other.

(d) The residents' freedom of movement within and outside the community may not be restricted.

Sec. 134-658. —134-669. Reserved.”

BE IT FURTHER ORDAINED by the City Commission of the City of Belleview, Florida that Sections of this ordinance may be renumbered or re-lettered to accomplish such intention; and that the word “ordinance” may be changed to “section”, “article” or other appropriate designation.

This Ordinance shall become effective immediately upon adoption.

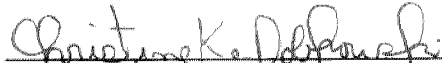
CERTIFICATE OF ADOPTION AND APPROVAL

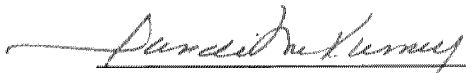
The above and foregoing ordinance was duly read and approved upon **First Reading** by a 5-0 vote of the City Commission of the City of Belleview, Florida, at a Regular Meeting held on the 6th day of May, 2014. Said ordinance was duly read, passed, and adopted upon **Final Reading**

by a 5-0 vote of the City Commission of the City of Belleview, Florida at a Public Hearing held on the 3rd day of June, 2014.

For the City:

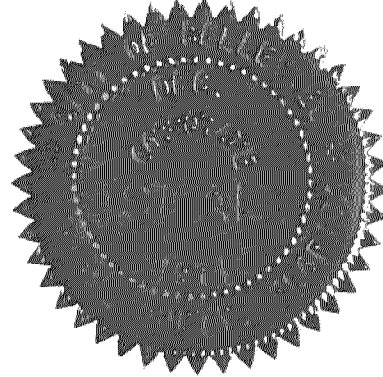
Attest:


CHRISTINE K. DOBKOWSKI
Mayor/Commissioner


SANDI McKAMEY, MMC, CPM
City Clerk/Administrator


Approved as to Form and Legality for the
Use and Benefit of the City of Belleview only:


FREDERICK E. LANDT, III
City Attorney



CERTIFICATE OF ADVERTISING

I HEREBY CERTIFY that foregoing Ordinance was advertised for a Public Hearing in the – May 22, 2014 edition of the *Voice of South Marion* newspaper in accordance with Florida Statutes.


Margaret DeGennaro, MMC, CPS
Deputy City Clerk