

ORDINANCE NO. 58-6

Section 58-6 Adult and Juvenile Community Living Arrangement Facilities

- (a) LEGISLATIVE INTENT**
- (b) DEFINITIONS**
- (c) REGULATIONS**
- (d) REVIEW**
- (e) PENALTY**

(a) LEGISLATIVE INTENT

The City Council finds that there exists various forms of Community Living Arrangement facilities addressing the needs of citizens within the City of Fort Atkinson. Community Living Facilities, while providing a lesser level of care than is generally provided in acute care hospitals, or state licensed nursing home facilities, are generally regulated by the State of Wisconsin, and further governed by Federal Housing Laws and Federal Court Rulings. The Council finds that it is in the interest of the residents of such facilities to adopt provisions intended to enhance the level of care and safely attending the operation of such facilities, but only to the extent of such regulations do not contravene federal or state regulation. It is the intent of the Council that the following regulations be enacted in supplementation of federal, state and local licensing, housing, and zoning laws, and in the interest of the health, welfare and safety of the City's citizens.

(b) DEFINITIONS

The terms foster home, group home, residential care facility for children and youth, treatment foster home, adult family home, boarding house, residential care apartment complex, assisted living facility, and community based residential facility, shall have the meanings as set forth below. Collectively, and for purposes of the following regulations, the foregoing facilities, and all like and similar facilities, shall be referred to as Community Living Arrangement facilities. The provisions of this Ordinance shall not apply to daycare centers, nursing homes or hospitals.

Assisted Living Facility: A community living arrangement in which one or more unrelated persons by blood or marriage live together, other than as a family, and in which meal, laundry, cleaning, transportation, care, treatment, support or similar services or assistance are provided to the residents in conjunction with their occupancy of the facility by the community of residents or a caregiver.

Boarding House: A building other than a hotel, restaurant, bed and breakfast or Airbnb, where meals or lodging are regularly furnished by pre-arrangement for compensation for three (3) or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.

Community Living Arrangement: The following facilities licensed or operated or permitted under the authority of the Wisconsin State statutes: child welfare agencies under Section 48.60; foster homes, group foster homes, treatment foster homes, and residential care facilities for children and youth as defined under Section 48.02, Wis. Stats., or such successor statutes as may from time-to-time be adopted; adult family homes, residential care apartment complexes, and community based residential facilities, as defined in Section 50.01, Wis. Stats., or such successor statutes as may from time-to-time be adopted. The establishment of a Community Living Arrangement facility shall be in conformance with applicable Section of the Wisconsin State Statutes, including Section 46.03(22), 62.37(7)(I), and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.

Foster Family Home: The primary domicile of a foster parent which is four (4) or fewer foster children and which is licensed under Section 48.62 of Wisconsin Statutes and amendments thereto.

Group Foster Home: Any facility operated by a person required to be licensed by the State of Wisconsin under State Statute Section 48.62 for the care and maintenance of five (5) to eight (8) foster children.

(c) REGULATIONS

Any owner or operator of a Community Living Arrangement facility as defined in subsection (b) shall:

- (1) Obtain an occupancy certificate from the City of Fort Atkinson, and shall at all times the facility's building or structure is occupied under such occupancy certificate, and a community living arrangement operated or existent therein, comply with all City of Fort Atkinson code compliance requirements, building codes, and all other City of Fort Atkinson occupancy requirements. The occupancy certificate shall be obtained within 60 days from the date of the city council passing this ordinance for an existing Community Living Arrangement facility, or before operation of a new Community Living Arrangement facility. Prior to the issuance of an occupancy permit, all permit applications, building plans, site plans, and operational plans of such facility shall be reviewed by the Planning Commission for its determination of compliance with the regulations as set forth herein. Planning Commission review of compliance with these provisions, and upon such determination of such compliance, approval shall be a matter of discretion. Nothing in this provision shall be deemed an exception to other building permit requirements which may be applicable under other provisions of law.
- (2) File an informal scope of business outline of which shall identify the number of employees, number of residents, hours of operation, type of care provided, estimated volume of traffic generated by employees, medical providers, visitors, transport vehicles, vendors, and any other frequenters generally expected upon

the premises. In addition, there shall be on file with the City of Fort Atkinson Clerk an information statement providing the legally registered name of the owner or operator of the facility, the address, telephone number, and the type of license number of any state or federal license required to operate the community living arrangement facility, and the date operation of the facility is anticipated to commence. This provision shall not be construed to require disclosure of any personal or private information as to employees, or personal or medical information as to residents.

- (3) Comply with all City on-street parking regulations.
- (4) Comply with all City refuse, recycling, building and property maintenance regulations.
- (5) Provide off-street parking for all employees, visitors, transport pick-up and drop off vehicles, and designate off-street parking for handicapped individuals.
- (6) Maintain on file with the Fort Atkinson Police Department an up to date emergency action protocol and continuity of operations plan for each facility, which shall include but not be limited to the name, telephone number, address, fax number, and e-mail contact information for each such facility.
- (7) Install and maintain smoke detection/notification devices and carbon monoxide alarms as provided by current statutes, ordinances and administrative regulations.
- (8) Pay a \$10.00 annual permit fee per bed occupied as a Community Living Arrangement. Such permit fee shall be due by July 1st.

(d) REVIEW

The City Council, subsequent to granting of an occupancy certificate, may, after the licensure of the facility, make a determination as to the effect of the facility on the public health, safety or welfare. Such review shall occur upon request of and statement by the City Manager that there is probable cause to believe that such review is necessary for the health, welfare and safety of the residents of such facility. If the City Council, determines that the facility poses a threat to the health, safety or welfare of the residents of the facility or the City, may order the facility to cease operation unless and until a renewed occupancy permission is obtained.

(e) PENALTY

Any owner, operator, agent, or employee of any Community Living Arrangement facility who violates any of the foregoing provisions shall be subject to a forfeiture in the sum of \$500.00. All forfeitures so charged are a lien upon such property and may be assessed and collected as a special charge. In addition, occupancy of the building or structure in

which the Community Living Arrangement facility is operated shall be deemed conditioned upon compliance with the foregoing regulations, and City Council reserves the right, upon notice of hearing to the owner or applicant, to review and revoke any occupancy certificate issued in the event such violation of the foregoing provisions is determined by the City Council to present an unreasonable risk to the health, welfare or safety of residents therein as hereinbefore set forth.

(f) EFFECTIVE DATE

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated: _____, 2018.

President of the City Council

ATTEST:

Michelle Ebbert, City Clerk