

GENERAL ORDINANCE NO. 1-10

AN ORDINANCE
AMENDING CHAPTER 13,
GREEN BAY MUNICIPAL CODE,
REGARDING COMMUNITY LIVING ARRANGEMENTS
AND COMMUNITY BASED RESIDENTIAL FACILITIES
(TA 09-13)

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 13-303, Green Bay Municipal Code, is amended by amending and creating the following definitions:

13-303. Land Use Definitions. This section defines each land use listed in the use tables of the various zoning districts in the order they appear in the tables. General definitions are listed in Section 13-302. Definitions of signs are listed in Section 13-304.

Congregate Living Uses

Community living arrangement: A facility licensed, operated, or permitted by the State of Wisconsin that is either:

1. ~~Residential childcare center:~~ A facility where four or more children reside and are provided with care and maintenance ~~for no more than 75 days each in any consecutive 12-month period~~ by persons other than a relative or guardian. ~~This term definition includes foster homes, treatment foster homes, community living arrangements for children, and residential childcare centers as defined by Wisconsin State Statutes, but does not apply to include educational institutions, public agencies, hospitals, maternity homes, nursing homes, or sanitariums. A residential childcare center may be considered a dormitory as defined and regulated within this code.~~
2. ~~Community based residential facility:~~ A facility where ~~four~~ three or more adults not related to the operator reside and are typically provided with care, treatment, or services above the level of room service, which may include prescribed personal care. This definition includes Community Living Arrangements (CLAs), Community Based Residential Facilities (CBRFs), and Adult Family Homes (AFHs) as defined by Wisconsin State Statutes, but does not include transitional housing, nursing homes, prisons, jails, correctional facilities, convents, monasteries/seminaries, or educational institutions and related student housing. ~~A community based residential facility may be considered a dormitory as defined and regulated within this code.~~

Educational Uses

Adult daycare home: A residential dwelling where services are provided for part of a day in a group setting to adults who need assistance with activities of daily living, supervision, or

[protection. Services may include personal care and supervision, provision of meals, medical care, medication administration, transportation, and activities designed to meet physical, social, and leisure time needs. Such facilities are not licensed by the State of Wisconsin, but may be certified by the state.](#)

SECTION 2. Section 13-602, Table 6-1, Green Bay Municipal Code is amended as follows:

13-602. Principal uses for the residential districts.

Table 6-1. Principal Uses in the Residential Districts.

Use	District				Dev. Stds.
	R-1	R-2	R-3	RR	
Residential Uses					
Congregate Living					
Community living arrangement:					
serving four or fewer <u>three to eight</u> persons	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	x
serving nine to 15 persons	C	C	<u>P*</u>	-	x
serving five-16 or more persons	-	<u>C</u>	C	-	x

* [A conditional use permit may be required for Community Living Arrangement uses per the Development Standards \(Section 13-1603\).](#)

SECTION 3. Section 13-702, Table 7-1, Green Bay Municipal Code, is amended as follows:

13-702. Principal uses for the mixed-use districts.

Table 7-1. Principal Uses in the Mixed-Use Districts

Use	OR	NC	D	Dev. Stds.
Residential Uses				
Congregate Living				
Community living arrangement:				
serving three to eight or fewer persons	<u>P*</u>	<u>P*</u>	-	x
serving four-nine or more persons	C	C	C	x

* [A conditional use permit may be required for Community Living Arrangement uses per the Development Standards \(Section 13-1603\).](#)

SECTION 4. Section 13-802, Table 8-1, Green Bay Municipal Code, is amended as follows:

13-802. Principal uses for the commercial districts.

Table 8-1. Principal Uses in the Commercial Districts

Use	C1	C2	C3	Dev. Stds.
Residential Uses				
Congregate Living				
Community living arrangements:	C	C	-	X
serving three or fewer persons	C	C	-	
serving four or more persons	C	C	-	

SECTION 5. Section 13-1603(b), Green Bay Municipal Code, is repealed and recreated as follows:

13-1603. Congregate living uses.

(b) Community living arrangements in all districts:

- (1) Intent. It is the intent and purpose of these regulations to avoid discrimination against disabled persons by maintaining the residential character and desirability of the neighborhoods in which community living arrangements may locate. These regulations are intended to avoid the undue concentration of community living arrangements, as such concentrations may alter the residential character and desirability of a neighborhood and thus defeat the purpose of providing community living housing opportunities in a residential neighborhood setting. It is the nature of community living arrangements as business operations within residential neighborhoods, not the disabled individuals who occupy community living arrangements, that necessitate these regulations. Such facilities impact a residential neighborhood like a “business operation” in that they may include higher levels of non-resident traffic due to staffing, shift changes, and various other service providers, may require state licensing, and may be subject to special regulations administrated by state agencies. The following standards are established consistent with Ch. 62.23(7)(i), Wis. Stats.
- (2) No community living arrangement may be established within 2,500 feet of any other such facility except with a conditional use permit. The Plan Commission shall consider the character and use of surrounding buildings and the potential impact on the surrounding neighborhood. Note that 2,500 feet is not a density standard or minimum separation distance, but rather is a determinant for whether the conditional use process will be applied.

- (3) Community living arrangements shall be permitted under the standard above as long as their total capacity within any aldermanic district does not exceed 25 or one percent (1%) of the population of that district, whichever is greater. When that capacity is reached, no additional community living arrangements shall be permitted within that district until their capacity is reduced or the district's population increases, thus changing the ratio.
- (4) Community living arrangements shall be permitted under the standards above as long as their total capacity does not exceed one percent (1%) of the City's total population. When that total capacity is reached, no additional community living arrangements shall be permitted within the City until their capacity is reduced or the City's population increases, thus changing the ratio.
- (5) In accordance with Ch. 62.23(7)(i), Wis. Stats., in all cases where a community living arrangement has capacity for eight (8) or fewer persons being served by the program, meets the criteria listed in sections (2) through (4) above, and is licensed, operated, or permitted under the authority of the Department of Health Services or the Department of Children and Families, that facility is entitled to locate in any residential zone without being required to obtain a conditional use permit.
- (6) In reviewing a conditional use permit for a community living arrangement, the Plan Commission and Common Council shall consider the following.
 - a. The character and use of surrounding buildings, the density of nearby community living arrangements, and the potential impact of the proposed facility on the character and desirability of the surrounding neighborhood. Such facilities should not be permitted where proposed building architecture (assuming new construction) does not fit in with the surrounding neighborhood or where the density of such facilities (regardless of whether it is new construction or conversion of an existing building) will negatively impact the neighborhood.
 - b. The proximity of the proposed facility to essential services and infrastructure such as police and fire protection, pedestrian paths, transit stops, park facilities, and the like. Such facilities should not be permitted where essential services or infrastructure are not present or planned for improvement or construction.
 - c. Whether granting the conditional use permit will provide disabled persons with reasonable accommodation for housing as defined by the Americans with Disabilities Act (ADA) and Fair Housing Act-Amended (FHAA). Such facilities should not be denied a conditional use permit if they are needed to provide reasonable accommodation.
 - d. Whether any conditions of approval are needed to address the compatibility of the use as a business operation with the character of the residential neighborhood. Such conditions shall not be discriminatory toward disabled residents of a community living arrangement.
- (7) Based on the resident capacity, community living arrangements shall provide adequate living space in compliance with the most restrictive of the dormitory standards of this Ordinance (Section 13-1603(c)), the city Housing Code (Chapter 23 GBMC), and applicable state administrative codes.

(8) A community living arrangement may be considered a dormitory as defined and regulated within this code.

SECTION 6. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 7. This ordinance shall not take effect until a public hearing is held thereon as provided by Section 13-204, Green Bay Municipal Code, and the adoption and publication of this ordinance.

Dated at Green Bay, Wisconsin, this 2nd day of February, 2010

APPROVED:

/s/James J. Schmitt

Mayor

ATTEST:

Chad J. Weininger

Clerk

First Reading: 01/19/10

Effective Date: 02/06/10