

Planning Commission

April 15, 2021



Case No:	21-LDC-0001
Project Name:	Boarding and Group Housing Amendments
Location:	Louisville Metro
Applicant:	Louisville Metro
Jurisdiction:	Louisville Metro
Council District:	All Council Districts
Case Manager:	Joseph Haberman, AICP, Planning Manager

REQUEST

Amend the Land Development Code (LDC) concerning boarding and group housing regulations.

SUMMARY

Louisville Metro Council has directed staff at the Office of Planning & Design Services to review the LDC regarding temporary housing in residential zoning districts and consider additional standards to improve the compatibility of these uses within residential areas. In addition, Metro Council requested recommendations that will aid in the enforcement of the regulations to ensure compliance (see Attachment #2, Metro Council Resolution #016, Series 2029). As defined in the resolution, temporary housing, often referred to as group housing, includes Boarding and Lodging Houses, Homeless Shelters, Rehabilitation Houses, Residential Care Facilities, and Transitional Housing.

Currently, the terms *temporary housing* and *group housing* are not defined or used in the LDC. In this report, the term group housing is utilized to broadly categorize several defined uses including *boarding and lodging houses*, *homeless shelters*, *rehabilitation homes*, *residential care facilities*, and *transitional housing*. These housing-related uses generally are temporary living arrangements and for occupants that are not defined as a *family* or otherwise classified as a single housekeeping unit. Please note that terms *italicized* in this report are currently defined in section 1.2.2 of the Louisville Metro LDC.

Group housing is different than other temporary or transient rental options, such as *hotels*, *motels*, *bed and breakfast inns*, and *short term rentals*. In addition, while some forms of group housing may include incidental and accessory medical services, in the context of this report, group housing does not include accommodations that are associated with medically oriented uses such as *assisted living*, *family care homes*, *hospitals*, and *nursing homes*. Usually situated in residential areas, group housing options serve as alternatives to more traditional housing arrangements and generally accommodate residents of the community and not visitors. Many establishments serve as sober living/recovery houses and/or as places to transition from homelessness, incarceration, or a hardship.

For residents, group housing can serve as fair and affordable housing and provide vulnerable members of the community needed places to live, recover, and transition. On the other hand, if not adequately regulated, group housing that is commercial in nature, poorly managed, or overconcentrated may adversely impact other residents in residential areas. Regulations should effectively provide for the needs of the community and mitigate potential adverse impacts on quality of life.

Group housing is currently regulated by way of the Louisville Metro Code of Ordinances (LMCO) and the LDC. It should be noted that cities with zoning authority may not have the same LDC provisions as Louisville Metro. As Metro Council requested this review, this report focuses on the regulations as presented in the Louisville Metro LDC.

Summary of Existing LMCO Provisions:

- Requires annual license for some, but not all, of the aforementioned group housing types (*boarding and lodging houses, homeless shelters, and transitional housing* only)
- Allows for an annual review and inspection by different agencies
- Provides penalties for non-compliance with the LMCO provisions

Summary of Existing LDC provisions:

- Defines and differentiates types of group housing
- Regulates where different types of group housing can and cannot be located (by zoning district)
- If permitted, provides one of three processes for approval – 1) by right (non-discretionary, allowed without any public hearing or special approval; 2) by right with special standards (non-discretionary, allowed without any public hearing or special approval if stated standards are met; and 3) by *Conditional Use Permit* or CUP (discretionary, approved or denied following a public hearing by the Board of Zoning Adjustment or BOZA)
- Provides penalties for non-compliance with the LDC provisions (consistent with KRS)
- *Boarding and Lodging Houses:*
 - Provides rooms for occupants in a *dwelling unit*
 - Has an undefined minimum and maximum stay
 - Limits to 8 or fewer occupants
 - Allows for meals to be provided; however other services are not permitted unless otherwise allowed by the zoning category
 - Permits by right in office residential (OR) and commercial (C) zones
 - Permits in residential (R) zones with a CUP
- *Homeless Shelters:*
 - Provides overnight sleeping accommodations for occupants, with or without charge
 - May be in a dwelling unit or commercial structure
 - Allows for meals and ancillary social, educational, and health services
 - Permits in any zoning district with special standards or with a CUP (the CUP is required if special standards cannot be met)
- *Rehabilitation Homes:*
 - Provides residence for persons recovering from substance abuse or psychiatric disorders and/or as a condition of their parole or probation
 - May be in a dwelling unit or commercial structure
 - Has an undefined minimum and maximum stay
 - Permits in any zoning district with a CUP
- *Residential care facilities:*
 - Authorized or licensed by the Commonwealth of Kentucky, provides services in a homelike setting for persons with disabilities
 - Permits by right in any zoning district
- *Transitional Housing:*

- Serves as a temporary residential living arrangement for persons participating in a program that provides supportive services to help persons them achieve personal independence
- Has an undefined minimum and maximum stay
- Permits in any zoning district where residential use is permitted with special standards or with a CUP (the CUP is required if special standards cannot be met)

BACKGROUND

On February 21, 2019, Metro Council passed Metro Council Resolution #016, Series 2029.

In order to solicit and gather input prior to drafting amendments, staff met with several stakeholders since the resolution was passed in 2019. Stakeholders included residents affected by group housing in their neighborhoods, group housing operators, staff with the Departments of Codes & Regulations and Public Health & Wellness, staff with local and state agencies involved with group housing and monitoring persons on probation and parole, fair housing advocates, sober living/recovery housing advocates, and other interested parties.

Staff also created a dedicated webpage to disseminate information and obtain comments regarding the regulations. The webpage, which is updated regularly, provides links to several documents and an online comment form. The webpage can be accessed via the menu on the Planning & Design Services homepage at louisvilleky.gov or directly by entering: <https://louisvilleky.gov/government/planning-design/changes-boarding-and-group-housing-regulations> or <https://louisvilleky.gov/grouphousingchanges> (both links take users to the same webpage).

In addition, staff held three community meetings in October 2020 to obtain comments and suggestions on how to improve the regulations by way of a community conversation. Due to the COVID-19 pandemic, the meetings were held online via Cisco Webex. Two of the meetings were also livestreamed via Facebook Live (technical difficulties resulted in the Facebook Live livestream being interrupted on October 17, 2020). Recordings of the three meetings may be viewed at <https://louisvilleky.gov/grouphousingchanges> or at Develop Louisville's Facebook profile - <https://www.facebook.com/DevelopLouisville/>. The meetings were moderated by Mellone Long of the Center for Neighborhoods with Louisville Metro staff available to listen to comments, provide information, and answer questions.

Participation statistics from the community meetings:

- Boarding House Meeting #1 – Wednesday, October 14, 2020 at 6:30 PM
 - 36 Webex participants
 - Streamed live/after on Facebook, 122+ views
 - <https://www.facebook.com/172105342900102/videos/337964343940227>
 - Posted on website after the meeting; unknown number of viewers
- Boarding House Meeting #2 – Saturday, October 17, 2020 at 10:30 AM
 - 20 Webex participants
 - Streamed after on Facebook, 50+ views
 - <https://www.facebook.com/DevelopLouisville/videos/2917324521702821/?fref=tag>
 - Posted on website after the meeting; unknown number of viewers
- Boarding House Meeting #3 – Wednesday, October 21, 2020 at 10:30 AM

- 57 Webex participants
- Streamed live on Facebook; 75+ views
 - <https://www.facebook.com/DevelopLouisville/videos/267026284671919/?fref=tag>
- Posted on website after the meeting; unknown number of viewers

The Planning Committee discussed/reviewed the proposed amendments at meetings on February 8, 2021 and March 15, 2021.

STAFF ANALYSIS

Develop Louisville has solicited public comments regarding the group housing regulations from 2019 to present. Comments have been both supportive and unsupportive of allowing *boarding houses*, *transitional housing*, and/or *rehabilitation homes* in residential areas, with some members of the public requesting less regulation and other members of the public requesting additional regulation or prohibitions. There were few comments and substantive recommendations about the *homeless shelter* and *residential care facility* regulations. While there are comments in support and opposition to the allowance of several types of group housing, most of the critical comments and feedback focus on the impact of group housing on residential neighborhoods and the overconcentration of such establishments in certain areas of Louisville Metro.

Many community members, as well as some group housing operators, requested better and more meaningful enforcement action against unlawful or non-compliant group housing establishments. Enforcement can be carried out for non-compliance with zoning violations via the LDC, in which the process is controlled by state law and Louisville Metro is limited in making any amendments thereto, or for non-compliance with the licensing violations via the LMCO, in which Metro Council retains more control over the process and penalties. Associated public nuisance and building/life safety code violations are investigated independently.

Several community members were interested in protecting and allowing sober living/recovery housing. While these operations take different forms, most of the establishments that provide on-site services would be classified as transitional housing. Some suggested requiring or recommending the National Alliance for Recovery Residences (NARR) standards.

Some comments emphasized that Louisville Metro should be aware of the Fair Housing Act, the Americans with Disabilities Act, and applicable court decisions that pertain to housing discrimination.

There was consensus that the existing regulations are complicated and confusing for the average person. In addition, they do not always align with other regulations. Understanding that the regulations must be presented in the LDC and LMCO in a legal format, many suggested simplifying terms, using plain language, and using definitions that are consistent with state law, state administrative regulations, and building codes where possible.

Other comments that do not necessarily relate to the LDC or LMCO regulations, but are worth noting, requested that Metro Government establish a single source location to obtain local permitting information.

The following is a summary of the draft LDC amendments presented in Attachment #1. These recommendations are preliminary in nature and subject to change upon review and feedback from the public, Planning Commission, and Metro Council.

General:

- Revises definitions to better differentiate and describe uses; bring consistency where possible to definitions also provided in LMCO, state law, state administrative regulations, and building codes; and eliminate unnecessary terms
- Does not introduce any new uses, such as recovery housing or halfway houses, as additional defined uses could make the regulations more complicated (these operations can be better described as *transitional housing* or *rehabilitation homes* depending on the level of nonresidential services provided on-site)
- Better clarifies that privately operated halfway houses (where occupants on parole are mandated to stay at those specific locations) are rehabilitation homes (publicly operated institutions such as prisons, jails, and other detention facilities are regulated differently with federal and state-operated uses often exempt from local zoning regulations)
- Regulates most forms of recovery housing as transitional housing (recovery housing without on-site services could be regulated differently)

Boarding Houses:

- Provides a new definition for *boarder* (consistent with definition from KRS 216B.300)
- Changes the name of the defined use from *boarding and lodging house* to *boarding house*
- Amends the definition of *boarding house*, with new sub-definitions for *residential lodging house* and *commercial lodging house*, to align with definitions provided in the 2018 International Residential Code
- Requires a *residential lodging house* to be owner-occupied and have 5 or fewer guestrooms
- Provides different approval processes for *residential lodging houses* due to the owner occupation and lesser intensity
- No longer permits by right without any special standards in OR-1, OR-2, OR-3, OTF, C-2, C-3, C-M, EZ-1, PEC, PVD (Village Center), and TNZD
- Establishes approval processes for *residential lodging houses*:
 - Allows by right with special standards if 4 or fewer occupants in R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, R-8A, and certain areas of TNZD
 - Allows by right with special standards in OR-1, OR-2, OR-3, OTF, C-1, C-2, C-3, C-M, EZ-1, and PEC
 - Allows with a CUP in R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, and R-8A, TNZD (Neighborhood Center), and certain areas of TNZD if greater than 4 occupants
 - Allows with approval of the Planning Commission in PVD and PTD
- Establishes approval processes for *commercial boarding houses*:
 - Allows by right with special standards in OR-1, OR-2, OR-3, OTF, C-1, C-2, C-3, C-M, EZ-1, and PEC
 - Allows with a CUP in R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, and R-8A, TNZD (Neighborhood Center), and TNZD (Neighborhood Transition-Center)
 - Allows with approval of the Planning Commission in PVD and PTD

- For *boarding houses* requiring a CUP, limits to a max of 4 *boarders* in single-family residential zoning districts (R-R, R-E, R-1, R-2, R-3, R-4, R-5, or U-N) and a max of 8 *boarders* in multi-family residential zoning districts (R-5A, R-5B, R-6, R-7, or R-8A) or TNZD (Neighborhood Center/Neighborhood Transition-Center only)
- For *boarding houses* requiring a CUP, amends the standards to require *boarders* to have their own bedrooms, limit nonresidential uses and services unless otherwise permitted by the zoning, and implement a 1,000' distance requirement
- Allows for the revocation of an approved CUP due to substantiated complaints

Homeless Shelters:

- Substantive changes are not recommended
- Continues to allow by right with special standards in R-5A, R-6, R-7, R-8A, OR, OR-1, OR-2, OR-3, OTF, C-R, C-N, C-1, C-2, C-3, C-N, EZ-1, PRO, PEC, and TNZD
- Continues to permit with a CUP in any zoning district in which not permitted by right with special standards or if a special standard cannot be met

Rehabilitation Homes:

- Amends the definition of *rehabilitation home* to clarify the requirement for supervised medical care and/or to stay at the specific facility as a condition of parole (those under probation are generally not required to stay at a specific facility and not tracked by a single source)
- Continues to allow for two general types, accommodations for occupants receiving supervised medical or professional care and occupants staying at the subject facility for supervised reentry as a condition of their parole
- Continues to allow with a CUP in any zoning district
- Amends CUP standards to limit *rehabilitation homes* in single-family residential zoning districts (R-R, R-E, R-1, R-2, R-3, R-4, R-5, or U-N) to maximums of 4 residents; limit *rehabilitation homes* in multi-family residential districts (R-5A, R-5B, R-6, R-7, or R-8A) to maximums determined by the BOZA, require appropriate 24 hour supervision and adequate support services for residents, and implement a 1,000' distance requirement
- Allows for the revocation of an approved CUP due to substantiated complaints

Residential Care Facilities:

- Substantive changes are not recommended as this use is regulated by KRS
- Continues to allow by right in any zoning district

Transitional Housing:

- Continues to allow by right with special standards in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-5B, U-N, R-5A, R-5B, R-6, R-7, R-8A, OR, OR-1, OR-2, OR-3, OTF, C-R, C-N, C-1, C-2, C-3, C-M, EZ-1, PRO, PEC, and TNZD
- Continues to allow with a CUP in any zoning district if special standards cannot be met
- For *transitional housing* requiring a CUP, amends the standards to review for compatibility, better allow for related services, and implement a 1,000' distance requirement
- Allows for the revocation of an approved CUP due to substantiated complaints
- Suggests NARR Standards for transitional housing serving as recovery housing

The following is a summary of the draft LMCO amendments presented in Attachment #1. Please note that these recommendations are preliminary in nature and subject to change.

- Revises definitions to better differentiate and describe uses; bring consistency where possible to definitions also provided in the LDC, state law, state administrative regulations, and building codes; and eliminate unnecessary terms
- Adds rehabilitation homes to the types of group housing requiring a license
- Amends the penalty section to increase fines for non-compliance with the LMCO regulations

INTERESTED PARTY COMMENT

Interested party comments through the publication date of this report are included in Attachments #5 (public comments submitted via an online form at <https://louisvilleky.gov/grouphousingchanges>) and #3 (public comments submitted during the three community meetings via the Webex chat message). In addition, parties provided their verbal comments at the three community meetings. These meetings were recorded and may be viewed at <https://louisvilleky.gov/grouphousingchanges>.

PROPOSED AMENDMENTS

The Planning Commission must make a recommendation to Metro Council and the legislative bodies of cities with zoning authority to approve, approve with modifications, or deny the LDC text amendments. The proposed changes are presented as specific amendments to the Louisville Metro version of the LDC. The cities with zoning authority in Louisville Metro have different versions. If any of the cities consider incorporating the amendments into its LDC, staff will assist the city in preparing specific amendments that reflect the nature of the changes recommended in this report. Please see Attachment #1 for proposed amendments.

Note: Amendments to the LMCO are also presented. While not required, the Planning Commission may make a recommendation or otherwise provide comments to Metro Council regarding these related amendments.