

Ordinance 0018-25 – Certificate of Occupancy for Adult Family Homes

An ordinance to amend Chapter 114, Article I, Section 114-1(b); to create Chapter 114, Article II, Division 5, Section 114-99; to amend Chapter 114, Article V, Division 2, Subdivision II, Sections 114-272 and 114-274(a); to amend Chapter 114, Article V, Division 2, Subdivision V, Sections 114-327 and 114-328; to amend Chapter 114, Article V, Division 3, Subdivision II, Section 114-407(a); to amend Chapter 114, Article V, Division 3, Subdivision IV, Section 114-447(b); to amend Chapter 114, Article V, Division 3, Subdivision IV, Section 114-448; and to create Chapter 114, Article VII, Division 14, Section 114-841 of the Municipal Code of the City of Racine, Wisconsin.

The Common Council of the City of Racine, Wisconsin, do ordain as follows:

Part 1: Chapter 114, Article I, Section 114-1(b) of the Municipal Code of the City of Racine is amended to include the following definition in alphabetical order:

Adult family home means a place where up to four adults reside and receive care, treatment, or services that are above the level of room and board, that may include up to seven hours per week of nursing care per resident, and that is licensed or certified by the State of Wisconsin, a county, or their designee.

State Law reference – Definitions, Wis. Stat. §§ 50.01(1), 50.032, 50.033.

Part 2: Chapter 114, Article II, Division 5, Section 114-99 of the Municipal Code of the City of Racine is created as follows:

Sec. 114-99. - Adult family homes.

- (a) *Change in use.* Any change in licensure or certification of an adult family home is a change in use that requires a new certificate of occupancy under section 18-112.
- (b) *Identification.* Every adult family home shall have a certificate of occupancy that names the current or intended licensed or certified provider.
- (c) *Retroactive application intended.* The fee for a certificate of occupancy shall be waived for any current licensed or certified provider of an adult family home that was in operation on the effective date of this ordinance, that has been in continuous operation since such time, and that does not have a valid occupancy permit. This fee waiver does not apply to subsequently licensed or certified providers of the adult family home.
- (d) *Time frame.* Any licensed or certified provider of an adult family home that was operating on the effective date of this ordinance and that does not have a valid certificate of occupancy shall obtain a valid certificate of occupancy by no later than one year after the effective date of this ordinance unless granted an extension by the chief building inspector or designee.

Cross reference – Change in use, § 18-112.

Part 3: Chapter 114, Article V, Division 2, Subdivision II, Section 114-272 of the Municipal Code of the City of Racine is amended to create subsection (10) as follows:

- (10) Adult family homes in accordance with section 114-841.

State Law reference – Community and other living arrangements, Wis. Stat. § 62.23(7)(i)2r.a.

Part 4: Chapter 114, Article V, Division 2, Subdivision II, Section 114-274(a) of the Municipal Code of the City of Racine is amended to create subsection (17) as follows:

- (17) Adult family homes in accordance with section 114-841.

State Law reference – Community and other living arrangements, Wis. Stat. § 62.23(7)(i)2r.a.

Part 5: Chapter 114, Article V, Division 2, Subdivision V, Section 114-327 of the Municipal Code of the City of Racine is amended to create subsection (14) as follows:

- (14) Adult family homes in accordance with section 114-841.

State Law reference – Community and other living arrangements, Wis. Stat. § 62.23(7)(i)2r.a.

Part 6: Chapter 114, Article V, Division 2, Subdivision V, Section 114-328 of the Municipal Code of the City of Racine is amended to create subsection (20) as follows:

- (20) Adult family homes in accordance with section 114-841.

State Law reference – Community and other living arrangements, Wis. Stat. § 62.23(7)(i)2r.a.

Part 7: Chapter 114, Article V, Division 3, Subdivision II, Section 114-407(a) of the Municipal Code of the City of Racine is amended to create subsection (5) as follows:

- (5) Adult family homes in accordance with section 114-841.

State Law reference – Community and other living arrangements, Wis. Stat. § 62.23(7)(i)2r.a.

Part 8: Chapter 114, Article V, Division 3, Subdivision IV, Section 114-447(b) of the Municipal Code of the City of Racine is amended to create subsection (47) as follows:

- (47) Adult family homes in accordance with section 114-841 and located above the first

floor.

Law reference – Community and other living arrangements, Wis. Stat. § 62.23(7)(i)2r.a.

Part 9: Chapter 114, Article V, Division 3, Subdivision IV, Section 114-448 of the Municipal Code of the City of Racine is amended to create subsection (19) as follows:

(19) Adult family homes in accordance with section 114-841 and located below the second floor.

State Law reference – Community and other living arrangements, Wis. Stat. § 62.23(7)(i)2r.a.

Part 10: Chapter 114, Article VII, Division 14 of the Municipal Code of the City of Racine is created as follows:

DIVISION 14. – ADULT FAMILY HOMES

Sec. 114-841. Limited Permitted Use.

- (a) *Distance.* No adult family home may be established within 2,500 feet of any other adult family home or any community living arrangement, unless all of the persons served by the new adult family home are handicapped or disabled under the Fair Housing Amendment Act (FHAA) or the Americans with Disabilities Act (ADA) and are living within the new adult family home because of their handicap or disability, or the adult family home is approved as a conditional use.
- (b) *Transferability.* No conditional use approved under this section shall be transferable to another location, licensee, or certificate holder.
- (c) *Policy.* The zoning administrator may develop policies to ensure compliance with this section.

State Law reference – Community and other living arrangements, Wis. Stat. § 62.23(7)(i)2r.a.

Part 11: This ordinance shall take effect upon passage by a majority vote of the members-elect of the City of Racine Common Council and publication or posting as required by law.

Fiscal Note: Certificate of occupancy fee as determined by the budget as set forth in the fee schedule and established by the common council for each property to be exempted.

Pursuant to Wisconsin Statutes section 62.09(8)(c), the mayor shall have the veto power as to all acts of the common council, except such as to which it is expressly or by necessary implication otherwise provided. All such acts shall be submitted to the mayor by the clerk and shall be in force upon approval evidenced by the mayor's signature, or upon failing to approve or

disapprove within five days, which fact shall be certified thereon by the clerk. If the mayor disapproves the mayor's objections shall be filed with the clerk, who shall present them to the council at its next meeting. A two-thirds vote of all the members of the council shall then make the act effective notwithstanding the objections of the mayor.