

CODE OF ORDINANCES  
AND LAND DEVELOPMENT CODE  
CITY of TALLAHASSEE, FLORIDA

Chapter 1, Section 1-2 Definitions

*Rooming house.* The term "rooming house" means a single-family dwelling or either unit of a two-family dwelling (duplex) which is rented for a valuable consideration or wherein rooms with or without cooking facilities are rented for a valuable consideration to or occupied by four or more natural persons unrelated by blood, marriage or legal adoption to the owner of the house or unrelated by blood, marriage or legal adoption to each other. Foster children placed in a lawful foster family home, a community residential home with six or fewer residents, a nursing home, or a residential care facility shall not be considered a rooming house. Temporary gratuitous guests as used herein shall refer to natural persons occasionally visiting the single-family house for a short period of time not to exceed 30 days in a 90-day period.

Chapter 10 ZONING

Sec. 10-83. Rooming houses as nonconforming uses.

- (a) All rooming houses in existence on or any time between June 14, 1998, and June 14, 2000, in the following zoning districts: RP-1, RP-2, R-1, and R-2, which districts prohibit rooming houses as permitted uses, shall register with the city as nonconforming uses on or before June 1, 2001.
- (b) Failure to register as a nonconforming use with the city shall result in failure to obtain nonconforming use status.
- (c) No dwelling may continue to be used as a rooming house in the zoning districts designated in subsection (a) of this section if it is not registered as a nonconforming use on or before June 1, 2001. Dwellings not used as a rooming house at any time between June 14, 1998, and June 14, 2000, shall not be allowed nonconforming use status as a rooming house under this section.
- (d) The owner of a rooming house seeking designation under this section as a nonconforming use shall, at the time of registration of the rooming house under this section, appoint an agent who resides within the county for the purpose of receiving notices from the city concerning the use of the nonconforming property. The owner shall provide the name, address, and telephone number of the agent. The agent shall be available to be contacted 24 hours a day, seven days a week, regarding the rooming house.
- (e) A rooming house may lose its status as a nonconforming use if the police department or the city's neighborhood and community services department confirms that on three or more separate occasions within a six-month period, civil or criminal citations have been issued at the address of the rooming house, or the property is determined to be a public nuisance by the code enforcement board pursuant to article IV of chapter 9 of the City Code of Ordinances. Multiple

citations issued to different people at a single address at the same time shall not be considered "separate occasions." In determining whether a nonconforming use shall be terminated, citations on matters including, but not limited to, the following shall be considered:

- (1) Noise ordinances;
  - (2) Animal control ordinances (chapter 4, City Code);
  - (3) General health and sanitation ordinances (chapter 9, article I, City Code);
  - (4) Solid waste ordinances (chapter 21, article XI, City Code);
  - (5) Offensive accumulations and growths code (chapter 9, article III, City Code);
  - (6) Standard housing code (chapter 3, article IX, division 2, Land Development Code);
  - (7) Abandoned and nonoperating vehicles (chapter 20, article IV, City Code);
  - (8) Compliance with the parking requirements in this chapter for rooming houses;
  - (9) Failure to comply with subsection (d) of this section; and
  - (10) State law regarding any of the above topics.
- (f) Determination of a loss of nonconforming use status for a rooming house shall be made in accordance with section 10-84 pertaining to loss of legal nonconformity status for rooming houses.
- (g) A decision by the staff committee under section 10-84(a) to seek review by the rooming house code board shall be a material breach of a lease of any rooming house regulated by this section, and grounds for termination of the lease.
- (h) Rooming houses shall not be eligible for nonconformity relief procedures set forth in section 10-80 nor for waiver of nonconforming land uses as provided in sections 10-104 through 10-108.
- (i) The provisions of section 10-79 shall apply to rooming houses with nonconforming use status only to the extent those provisions do not conflict with this section.
- (j) Rezoning.
- (1) At any time property within the city limits is rezoned from any zoning district which allows rooming houses as a permitted use to residential preservation 1 (RP-1), residential preservation 2 (RP-2), single-family detached residential district (R-1), or single-family detached residential district (R-2), or any other district which prohibits rooming houses, the owner of any rezoned parcel on which a rooming house is located at the time of rezoning shall have 30 days from the date the rezoning is approved by the city commission to file an application under this article to apply for nonconforming use status.
  - (2) Notice of this provision shall be included in notices sent to property owners for rezonings to RP-1, RP-2, R-1, R-2, or any other district which prohibits rooming houses.
  - (3) If the rezoning is challenged in court, the owner shall have 30 days from the date the judicial challenge is finally resolved to file an application for nonconforming use status.

(4) Once a rooming house receives nonconforming use status under this subsection (j), all provisions of this Code derived from Ord. No. 00-O-54, shall apply to the parcel.

(Ord. No. 00-O-54AA, § 5, 9-27-2000; Ord. No. 01-O-16, § 2, 2-28-2001)

Sec. 10-84. Loss of legal nonconformity status for rooming houses; procedures.

(a) At such time as it is confirmed that, on three or more separate occasions within a six-month period, civil or criminal citations have been issued at the address of a rooming house, a staff committee composed of one representative from the police department, neighborhood and community services, and the city attorney's office shall review the citations to determine if the citations warrant a hearing before the rooming house code board for possible termination of nonconformity status of the rooming house where the citations were issued.

(b) If the staff committee determines that the citations warrant further review by the rooming house code board, the neighborhood and community services department shall give notice to the owner or agent of the rooming house that a hearing before the rooming house code board will be set to determine whether the nonconformity status of the rooming house should be terminated. The notice shall be given by certified mail, return receipt requested, shall clearly state the reasons for the hearing, and shall specify the date and time of the hearing. Each notice shall include a conspicuous note informing the property owner or agent that, if a person decides to appeal any decision made by the rooming house code board, he or she will need a record of the proceedings; and, for such purpose, may need to ensure that a verbatim record of the proceedings is made. (See F.S. § 286.0105.)

(c) The city manager shall appoint five members to the rooming house code board to conduct hearings on the termination of nonconformity status for rooming houses. Of the five members, one shall be a landlord with at least five years experience as a landlord; one shall be a licensed real estate agent with at least five years experience in property management; one shall be a college or university student over the age of 18; one shall be a homeowner who resides in one of the following zoning districts: RP-1, RP-2, R-1, or R-2; and one shall be a representative recommended by the council of neighborhood associations. All members shall reside within the city limits.

(d) Each member of the rooming house code board shall serve at the pleasure of the city manager.

(e) Hearings shall be staffed by neighborhood and community services, and shall be conducted in the following manner:

(1) All hearings shall be held within 30 days of the date the notice from neighborhood and community services was served on the property owner or agent, unless all parties stipulate to a later date.

(2) All hearings shall be open to the public.

(3) The parties in the hearing shall be the property owner or agent, the property owner's witnesses, city staff, and city witnesses.

(4) Neighborhood and community services shall provide the following to the rooming house code board at least five working days prior to the hearing:

- a. The notice sent to the property owner or agent;
  - b. Copies of the citations issued at the rooming house address; and
  - c. A staff report and recommendation with proposed findings.
- (5) All witnesses shall testify under oath and be subject to reasonable cross examination, unless all parties waive these formalities.
- (6) Neighborhood and community services shall present its case, followed by the property owner or agent.
- (7) The chair of the rooming house code board shall decide all questions of procedure and admission of evidence. The board may request additional evidence as it deems necessary and appropriate.
- (8) The rooming house code board may order the hearing continued until a date certain if necessary to obtain additional information for determination of the matters at issue.
- (9) The rooming house code board shall promptly enter a written order, with findings of fact.
- (10) Ex parte communications with any member or alternate member of the rooming house code board on the merits of the matter before it are prohibited. However, the foregoing does not prohibit discussions between the chair of the board and city staff that pertain solely to scheduling and other administrative matters unrelated to the merits of the matter.
- (f) If the rooming house code board determines that the nonconforming use status of a rooming house should be terminated, the order shall be effective 30 calendar days after it is rendered unless the property owner or agent initiates eviction proceedings against the residents of the rooming house. In that event, the nonconforming use status of the rooming house may continue as long as the property owner or agent diligently prosecutes the eviction proceedings.
- (1) Notwithstanding the foregoing, if the same rooming house is the subject of proceedings before the rooming house code board under this section more than once during a 12-month period, and the rooming house code board finds in each proceeding that the nonconforming status of the subject rooming house should be terminated, the nonconforming use status of that rooming house may be terminated, regardless of whether eviction proceedings have begun.
- (2) If city staff intends to request termination of nonconforming use status under subsection (f)(1) of this section, the notice to the owner or agent sent pursuant to subsection (a) of this section shall specifically and conspicuously advise the owner or agent that such relief is being requested.
- (g) Any party aggrieved by the decision of the rooming house code board may seek judicial relief in circuit court by seeking certiorari review. The effect of the board's order shall be stayed until the circuit court proceedings are concluded. (Code 1984, ch. 27, § 12.9; Ord. No. 95-O-0025AA, 9-13-1995; Ord. No. 00-O-54AA, §§ 5, 7, 9-27-2000)

## Rooming House Ordinance

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### **ORDINANCE NO. 00-O-54AA**

AN ORDINANCE OF THE CITY OF TALLAHASSEE, FLORIDA, AMENDING CHAPTER 27, ARTICLE II, SECTION 2.2 OF THE CODE OF ORDINANCES, REVISING THE DEFINITIONS OF ROOMING HOUSE, BOARDING HOUSE, AND FAMILY; DELETING THE DEFINITION OF SINGLE ROOM OCCUPANCY HOUSING (SRO); CHANGING PERMITTED USES IN CERTAIN DESIGNATED ZONING DISTRICTS; PROVIDING FOR ROOMING HOUSES EXISTING IN THE DESIGNATED ZONING DISTRICTS AS OF JUNE 14, 2000, TO QUALIFY AS NON-CONFORMING USES; PROVIDING FOR REGISTRATION OF ROOMING HOUSES AS NON-CONFORMING USES; PROVIDING FOR MANDATORY REGISTRATION AND OTHER CRITERIA TO MAINTAIN NON-CONFORMING STATUS; PROVIDING FOR SEVERABILITY AND CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.



### **NOW THEREFORE BE IT ENACTED**

by the People of the City of Tallahassee, Florida, as follows:

**Section 1.** This ordinance shall be known as the "Rooming House Ordinance."

**Section 2.** Section 2.2, Article II, of Chapter 27 of the City of Tallahassee Code of Ordinances, the Zoning, Site Plan and Subdivision Regulations, is hereby amended as follows:

**Sec. 2-2. Definitions.** *Boarding house:* A single-family house, wherein furnished rooms without cooking facilities are rented for a valuable consideration, to one (1) or more individuals unrelated by blood or marriage to the owner or operator of the house, and where renting individuals are also served with meals prepared in one (1) kitchen by the owner or operator of the house.

*Family:* One natural person, or a group of two or more natural persons, living together and interrelated by bonds of blood, marriage or legal adoption, plus no more than two additional, unrelated, natural persons, occupying the whole or part of a dwelling unit as a separate housekeeping unit. A family also includes any foster children placed in a lawful foster family home and includes a community residential home with six or fewer residents. The persons constituting a family may also include temporary gratuitous guests. "Temporary gratuitous guests" as used herein shall refer to natural persons occasionally visiting such housekeeping unit for a short period of time not to exceed 30 days within a 90-day period.

*Rooming house:* A single-family dwelling or either unit of a two-family dwelling (duplex), which is rented for a valuable consideration or wherein rooms with or without cooking facilities are rented for a valuable consideration to or occupied by four (4) or more natural persons unrelated by blood, marriage or legal adoption to the owner or operator of the house. Foster children placed in a lawful foster family home, a community residential home with six or fewer residents, a nursing home, or a residential care facility shall not be considered a rooming house. Temporary gratuitous guests as used herein shall refer to natural persons occasionally visiting the single-family house for a short period of time not to exceed 30 days within a 90-day period.

*Single room occupancy housing (SRO):* Multi-tenant building utilized for residential purposes wherein units are available for occupancy by a single individual capable of independent living which may or may not contain food preparation and/or sanitary facilities which shall include at least one (1) habitable room of at least one hundred fifty (150) square feet. Habitable rooms include space for sleeping, eating, or food preparation; not included as habitable are closets, halls, toilet compartments, bathrooms, and storage areas.

**Section 3.** The following sections of Chapter 27 of the City of Tallahassee Code of Ordinances, the Zoning, Site Plan and Subdivision Regulations, are hereby amended as shown in **Attachment 1** to this ordinance to add rooming houses as a permitted use:

Section 10.6.Z and Section 10.6.BB - University Transition District;  
Section 10.6.GG - R-4 Single, Two-Family and Multi-Family Residential District;  
Section 10.6.JJ - MR-1 Medium Density Residential District  
Section 10.6.LL - OR-2, Office Residential District;  
Section 10.6.MM - OR-3 Office Residential;

Section 10.6.QQ - CM, Medical Arts Commercial District; and  
Section 10.6.YY - IC Interchange Commercial District.

**Section 4.** The following sections of Chapter 27 of the City of Tallahassee Code of Ordinances, the Zoning, Site Plan and Subdivision Regulations, are hereby amended as shown in **Attachment 2** to this ordinance to prohibit rooming houses as a permitted use:

Section 10.6.X - Residential Preservation 1 and Residential Preservation 2;  
Section 10.6.DD - R-1 Single-Family Detached Residential District; and  
Section 10.6.EE - R-2 Single-Family Detached Residential District.

**Section 5.** Article XII of Chapter 27 of the City of Tallahassee Code of Ordinances, the Zoning, Site Plan and Subdivision Regulations, is hereby amended by creating a new Section 12.6 as follows, and renumbering the currently existing sections 12.6 - 12.9 accordingly.

**Sec. 12.6. Rooming houses as non-conforming uses.**

A. All rooming houses in existence on June 14, 2000, in the following zoning districts : RP-1, RP-2, R-1, and R-2, which districts prohibit rooming houses as permitted uses, shall register with the City as non-conforming uses on or before June 1, 2001.

B. Failure to register as a nonconforming use with the City shall result in failure to obtain nonconforming use status.

C. No dwelling may continue to be used as a rooming house in the zoning districts designated in paragraph A above if it is not registered as a nonconforming use on or before June 1, 2001. Dwellings not used as a rooming house, as that term is defined in Ordinance No. 00-O-54AA, between June 14, 1998 and June 14, 2000, shall not be allowed nonconforming use status as a rooming house under this section.

D. The owner of a rooming house seeking designation under this section as a nonconforming use shall, at the time of registration of the rooming house under this section, appoint an agent who resides within Leon County for the purpose of receiving notices from the City concerning the use of the nonconforming property. The owner shall provide the name, address, and telephone number of the agent. The agent shall be available to be contacted 24 hours a day, 7 days a week, regarding the rooming house.

E. A rooming house may lose its status as a nonconforming use if the Tallahassee Police Department or the City's Parks, Recreation and Neighborhood Affairs Department confirm that on 3 or more separate occasions within a six-month period, civil or criminal citations have been issued at the address of the rooming house, or the property is determined to be a public nuisance by the Tallahassee Code Enforcement Board pursuant to Article V, Chapter 15 of the City Code of Ordinances. Multiple citations issued to different people at a single address at the same time shall not be considered "separate occasions." In determining whether a nonconforming use shall be terminated, citations on matters including, but not limited to, the following shall be considered:

- a. Noise ordinance (Section 15-2, City Code);
- b. Animal control ordinances (Chapter 5, City Code);
- c. General Health and Sanitation ordinances (Chapter 11, Article I, City Code);
- d. Solid waste ordinances (Chapter 11, Article II, City Code);
- e. Offensive Accumulation and Growth Code (Chapter 11, Article III, City Code);
- f. Standard Housing Code (Chapter 12, Article I, City Code);
- g. Abandoned and Non-Operating Vehicles (Chapter 15, Article II, City Code);
- h. Compliance with the parking requirements in this Chapter for rooming houses;
- i. Failure to comply with Section 12.6.D. herein; and
- j. State law regarding any of the above topics.

F. Determination of a loss of nonconforming use status for a rooming house shall be made in accordance with Section 12.10, Loss of legal nonconformity status for rooming houses; procedures, herein.

G. A decision by the staff committee under Section 12.10.A. of this Chapter to seek review by the Rooming House Code Board shall be a material breach of a lease of any rooming house regulated by this section, and grounds for termination of the lease.

H. Rooming houses shall not be eligible for nonconformity relief procedures set forth in Section 12.6 (renumbered by this ordinance as 12.7) nor for waiver of non-conforming land uses as provided in Article XII A of this Chapter.

I. The provisions of Section 12.5.E. in this article shall apply to rooming houses with nonconforming use status only to the extent those provisions do not conflict with this section.

**Section 6.** Section 12.8, (renumbered by this ordinance as 12.9) Loss of legal nonconformity status; procedures, Article XII of Chapter 27 of the City of Tallahassee Code of Ordinances, the Zoning, Site Plan and Subdivision Regulations, is hereby amended as follows:

**Sec. 12.9. Loss of legal nonconformity status; procedures.**

A. At such time as the Planning Commission determines that reason(s) exist(s) for a property (other than a rooming house under Section 12.6 of this Chapter) to lose its legal nonconformity status, notice of such determination shall be given to the property owner by the City. The notice shall be given by certified mail, return receipt requested,; shall clearly state the reasons for the determination, and shall advise the property owner that a hearing to consider the determination shall be held by the Planning Commission on a date not less than twenty (20) calendar days following the date of the notice. The time and place of the hearing shall be specified in the notice. The Planning Commission shall have no jurisdiction to determine whether the nonconforming status of a rooming house shall be terminated. See Section 12.10 herein.

B. A public hearing shall be conducted by the Planning Commission with respect to all proceedings regarding loss of legal nonconformity status. A staff report shall be prepared and shall contain a recommendation as to the appropriate course of action. Where such proceedings have been instituted against a group of similarly-situated nonconformities, such proceedings may be consolidated for hearing purposes. C. Following the close of the public hearing, the Planning Commission shall render its decision within thirty (30) calendar days of the date of the hearing. The decision shall be supported by written findings, and a record of the proceeding shall be kept.

D. Any party aggrieved by the decision of the Planning Commission may seek judicial relief in Circuit Court by seeking certiorari review.

**Section 7.** Section 12.9, (renumbered by this ordinance as 12.10) Administrative appeals, Article XII of Chapter 27 of the City of Tallahassee Code of Ordinances, the Zoning, Site Plan and Subdivision Regulations, is hereby amended by deleting it in its entirety and substituting the following in its stead:

**Sec. 12.10. Loss of legal nonconformity status for rooming houses; procedures.**

A. At such time as it is confirmed that, on 3 or more separate occasions within a six-month period, civil or criminal citations have been issued at the address of a rooming house, a staff committee composed of one representative from the Tallahassee Police Department, Parks, Recreation and Neighborhood Affairs, and the City Attorney's Office shall review the citations to determine if the citations warrant a hearing before the Rooming House Code Board for possible termination of nonconformity status of the rooming house where the citations were issued.

If the staff committee determines that the citations warrant further review by the Rooming House Code Board, the Parks, Recreation and Neighborhood Affairs Department shall give notice to the owner or agent of the rooming house that a hearing before the Rooming House Code Board will be set to determine whether the nonconformity status of the rooming house should be terminated. The notice shall be given by certified mail, return receipt requested, shall clearly state the reasons for the hearing, and shall specify the date and time of the hearing. Each notice shall include a conspicuous note informing the property owner or agent that, if a person decides to appeal any decision made by the Rooming House Code Board, he or she will need a record of the proceedings; and, for such purpose, may need to ensure that a verbatim record of the proceedings is made. [See Sec. 286.0105, Fla. Stat. (1999).]

B. The City Manager shall appoint 5 members to the Rooming House Code Board to conduct hearings on the termination of nonconformity status for rooming houses. Of the 5 members, one shall be a landlord with at least 5 years experience as a landlord; one shall be a licensed real estate agent with at least 5 years experience in property management; one shall be a college or university student over the age of 18; one shall be a home owner who resides in one of the following zoning districts: RP-1, RP-2, R-1, or R-2; and one shall be a representative recommended by the Council of Neighborhood Associations. All members shall reside within the City limits.

C. Each member of the Rooming House Code Board shall serve at the pleasure of the City Manager.

D. Hearings shall be staffed by Parks, Recreation and Neighborhood Affairs, and shall be conducted in the following manner:

1. All hearings shall be held within thirty (30) days of the date the notice from Parks, Recreation and Neighborhood Affairs was served on the property owner or agent, unless all parties stipulate to a later date.
2. All hearings shall be open to the public.
3. The parties in the hearing shall be the property owner or agent, the property owner's witnesses, city staff, and city witnesses.

- 4. Parks, Recreation and Neighborhood Affairs shall provide the following to the Rooming House Code Board at least five (5) working days prior to the hearing:
  - a. The notice sent to the property owner or agent;
  - b. Copies of the citations issued at the rooming house address; and
  - c. A staff report and recommendation with proposed findings.
- 5. All witnesses shall testify under oath and be subject to reasonable cross-examination, unless all parties waive these formalities.
- 6. Parks, Recreation and Neighborhood Affairs shall present its case, followed by the property owner or agent.
- 7. The Chair of the Rooming House Code Board shall decide all questions of procedure and admission of evidence. The Board may request additional evidence as it deems necessary and appropriate.
- 8. The Rooming House Code Board may order the hearing continued until a date certain if necessary to obtain additional information for determination of the matters at issue.
- 9. The Rooming House Code Board shall promptly enter a written order, with findings of fact.
- 10. Ex parte communications with any member or alternate member of the Rooming House Code Board on the merits of the matter before it are prohibited. However, the foregoing does not prohibit discussions between the Chair of the Board and city staff that pertain solely to scheduling and other administrative matters unrelated to the merits of the matter.

E. If the Rooming House Code Board determines that the non-conforming use status of a rooming house should be terminated, the order shall be effective thirty (30) calendar days after it is rendered unless the property owner or agent initiates eviction proceedings against the residents of the rooming house. In that event, the nonconforming use status of the rooming house may continue as long as the property owner or agent diligently prosecutes the eviction proceedings.

Notwithstanding the foregoing, if the same rooming house is the subject of proceedings before the Rooming House Code Board under this section more than once during a twelve-month period, and the Rooming House Code Board finds in each proceeding that the nonconforming status of the subject rooming house should be terminated, the non-conforming use status of that rooming house may be terminated, regardless of whether eviction proceedings have begun.

If City staff intends to request termination of non-conforming use status under the preceding paragraph, the notice to the owner or agent sent pursuant to Section 12.10.A. herein shall specifically and conspicuously advise the owner or agent that such relief is being requested.

F. Any party aggrieved by the decision of the Rooming House Code Board may seek judicial relief in Circuit Court by seeking certiorari review. The effect of the Board's order shall be stayed until the Circuit Court proceedings are concluded.

**Section 8.** Within 90 days from the date of this ordinance, the City Manager or his/her designee shall develop a procedure to use in registering rooming houses as nonconforming uses. Within 120 days from the date of this ordinance, the City Manager or his/her designee shall begin accepting and processing applications for nonconforming status.

**Section 9. Conflict With Other Ordinances and Codes.** All ordinances or parts of ordinances of the Code of Ordinances of the City of Tallahassee, Florida, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**Section 10. Severability.** If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

**Section 11.** This ordinance shall become effective immediately upon passage.

INTRODUCED in the City Commission on the 12th day of July, 2000.  
 PASSED by the City Commission on the 27 th day of September, 2000.  
 SCOTT MADDIX, MAYOR

**ATTEST:**  
 ROBERT B. INZER  
 Treasurer-Clerk

**APPROVED AS TO FORM:**  
 JAMES R. ENGLISH  
 City Attorney