

ORDINANCE NO. 11-26

AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, STATE OF NEW JERSEY, TO AMEND CHAPTER 600, LAND USE, OF THE TOWNSHIP CODE TO REGULATE ROOMING AND BOARDING HOUSES, INCLUDING COOPERATIVE SOBER LIVING RESIDENCES

WHEREAS, the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. (MLUL), grants to municipalities the power to adopt zoning ordinances relating to the nature and extent of the uses of lands, buildings and structures thereon; and

WHEREAS, the Township of Denville has reviewed Chapter 600, Land Use, of the Township Code, regarding regulations for rooming and boarding houses, including “cooperative sober living residences,” a subcategory of rooming and boarding house established in 2018 by the Department of Community Affairs (DCA) through regulatory action, and only recently incorporated into the Rooming and Boarding House Act of 1979, N.J.S.A. 55:13B-1 et seq., by legislative amendment pursuant to P.L. 2025, c. 60 effective October 1, 2025 (collectively the “Rooming and Boarding House Laws”); and

WHEREAS, N.J.S.A. 55:13B-3m of the Rooming and Boarding House Laws defines a cooperative sober living residence as “a boarding house that serves solely as a home for individuals who are recovering from drug or alcohol addiction and is intended to provide an environment where residents can support each other’s sobriety and recovery”; and

WHEREAS, DCA’s regulations have established certain licensing, administrative and enforcement criteria and requirements with respect to cooperative sober living residences; and

WHEREAS, pursuant to DCA’s regulations, the Bureau of Rooming and Boarding House Standards (the “Bureau”) within the Division of Codes and Standards is responsible for reviewing and approving applications for cooperative sober living residences; and

WHEREAS, the Rooming and Boarding House Laws, including those for cooperative sober living residences, do not preempt local zoning requirements, and the Bureau’s issuance of a license does not exempt the owners and operators of any type of rooming and boarding house from complying with municipal zoning laws; and

WHEREAS, such licenses are issued with the expectation that the owners/operators will comply with municipal zoning requirements, including obtaining municipal zoning and land use approvals prior to commencing operation; and

WHEREAS, in February 2024, the State Commission of Investigation issued a comprehensive report as a result of a lengthy investigation into abuses and corrupt practices in the addiction rehabilitation industry in New Jersey; and

WHEREAS, the report identified serious concerns over the State’s regulatory oversight of cooperative sober living residences across New Jersey; and

WHEREAS, the Township of Denville has reviewed Chapter 600, Land Use, of the Township Code, regarding regulations for rooming and boarding houses, including with respective cooperative sober living residences in an effort to address the multitude of concerns and evidence identified in the State Commission of Investigation’s report; and

WHEREAS, the Township recognizes that the New Jersey Law Against Discrimination, and the Federal Fair Housing Act as amended by the Federal Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601 et seq. (FHA), provide protections for persons with disabilities and recognized handicaps; and

WHEREAS, the FHA does not preempt local zoning laws or preclude the adoption, amendment, or enforcement of zoning regulations by the Township pursuant to its local police powers, as long as the zoning regulations are consistent with State and federal law, including the FHA; and

WHEREAS, zoning regulations of cooperative sober living residences should seek to achieve legitimate government interests, actually achieve those legitimate government interests, and be the least drastic means of actually achieving those legitimate government interests; and

WHEREAS, the clustering of cooperative sober living residences on a block or within a neighborhood leads to the institutionalization of residential neighborhoods and undermines the ability of the occupants therein to continue to maintain sobriety and their path to full recovery, by achieving normalization and community integration, which is one of the essential purposes of cooperative sober living residences; and

WHEREAS, congregating large numbers of cooperative sober living residences in close proximity to each other does not provide individuals with qualifying handicaps an opportunity to “live in normal residential surroundings,” but rather places them into living environments bearing more in common with the types of institutional/campus/dormitory living that the FHA was designed to provide relief from for the handicapped, and which no reasonable person could contend provides a life in a normal residential surrounding; and

WHEREAS, by establishing certain zoning and land use standards for cooperative sober living residences, the Township attempts to strike a balance between preserving the characteristics of residential neighborhoods and providing opportunities for qualifying handicapped persons to reside in such neighborhoods that are enjoyed by the non-handicapped; and

WHEREAS, in the Ohio House, LLC v. City of Costa Mesa, 135 F.4th 645 (2025), the United States Court of Appeals, Ninth Circuit, held that the municipal group-living regulations establishing minimum distances between community residences to prevent such clustering did not discriminate against individuals with disabilities in violation of the FHA, and in fact facially benefited the protected class; and

WHEREAS, the Township desires to amend Chapter 600, Land Use, of the Township Code, to include zoning regulations that achieve those legitimate government interests and provide clarity and certainty to the public and current and prospective owners and operators of cooperative sober living residences as to where such cooperative sober living residences may locate and operate as of right pursuant to a conditional use permit as a reasonable accommodation while continuing to restrict and prohibit rooming houses and boarding houses from residential zones within the Township.

NOW, THEREFORE, BE IT ORDAINED, by the Municipal Council of the Township of Denville, County of Morris, State of New Jersey, as follows:

SECTION 1. Chapter 600, Land Use, Part 4, Zoning, Article XXIX, Conditional Uses, of the Township Code is hereby amended and supplemented to add new Section 600-201.1, Cooperative Sober Living Residences, to read as follows:

§ 600-201.1 Purpose

The purpose of this subchapter is intended to preserve the residential character of single-family residential neighborhoods and to further the purposes of the Federal Fair Housing Amendments Act, and the New Jersey Law Against Discrimination by, among other things: (1) ensuring that cooperative sober living residences are actually entitled to a reasonable, special or additional accommodation provided under the Township Code; (2) limiting the secondary impacts of cooperative sober living residences by reducing noise, congestion, and traffic, preserving safety and providing adequate parking; (3) providing an accommodation for the handicapped that is reasonable and actually bears resemblance to the opportunities afforded non-handicapped individuals to use and enjoy a dwelling unit in a single-family neighborhood; and (4) to provide comfortable living environments that will enhance the opportunity for the handicapped and for persons in actual recovery from drug and/or alcohol addiction to be successful in their programs.

§ 600-201.2 Cooperative Sober Living Residences

This section establishes zoning and operational standards for “cooperative sober living residences” within Denville Township, as the term is defined under N.J.S.A. 55:13B-3 of the Rooming and Boarding House Act of 1979 and the New Jersey Department of Community Affairs pursuant to N.J.A.C. 5:27-1.

A. Definitions

Cooperative Sober Living Residence(s)/ “CSLR” shall mean and refer to a specific boarding house that serves solely as a home for individuals who are recovering from drug or alcohol addiction and is intended to provide an environment where residents can support each other’s sobriety and recovery and which the owner and operator(s) thereof hold of a valid and good standing Class “F” License issued by the New Jersey Department of Community Affairs pursuant to N.J.A.C. 5:27-1.1 et seq., for the specific location and address in the Township.

Operator: As referred to in this section only, means the individual or entity responsible for the management and oversight of a cooperative sober living residence holding a valid Class “F” “Operator” license issued by the New Jersey Department of Community Affairs.

Owner: As referred to in this section only, means an individual or entity responsible for the management and oversight of a cooperative sober living residence holding a valid Class “F” Owner license issued by the New Jersey Department of Community Affairs.

Occupant/Resident: For purposes of this subsection only, means an individual residing in the sober living residence with a qualifying handicap for the purpose of recovery.

B. Permitted Zones

Cooperative Sober living residences shall be permitted as a conditional use in the in R-1 R-1A and R-1B Residential Zones, subject to review and approval by the designated land use authority. Cooperative Sober living residences shall meet the bulk standards found in the zone they are located and the conditional use criteria set-forth in §600-201.2C.

With the exception of Cooperative Sober Living Residences, all other rooming houses and boarding houses are hereby prohibited in any residential zone in the Township.

C. Conditional Use Criteria

Applicants for a conditional use permit must demonstrate compliance with the following standards:

1. **Minimum Separation:** A cooperative sober living residence shall be located no less than 1000 feet from any other cooperative sober living residence as measured from the nearest property boundary line for each property on which the proposed and/or existing cooperative sober living residence is situated
2. **Minimum Lot Area:** A cooperative sober living residence shall be located on a lot that is no less than 40,000 square feet in size.
3. **Occupancy Limits:** No more than seven (7) individuals may reside in a single cooperative sober living residence, including one (1) on-site live-in licensed operator .
4. **Primary Residence Requirement:** All occupants must treat the facility as their primary residence. Transient occupancy, defined as stays of fewer than 30 consecutive days, or use as a short-term rental, is strictly prohibited. Eviction of an occupant for failing to maintain sobriety, noncompliance with house rules, or because the occupant poses a danger to themselves or others shall not be deemed a violation of this requirement.
5. **On-Site Supervision:** Cooperative sober living residences must be professionally supervised at all times by a live-in licensed operator or live-in licensed owner with coverage 24 hours per day, seven days per week.
6. **Landscaping Buffer:** Each cooperative sober living residence shall maintain a residential landscaping buffer of no less than 20 feet from any lot line not abutting an improved street right-of-way.
7. **House Rules:** The owner/operator shall maintain written house rules that prohibit the use of alcohol and drugs, prohibit disruptive/dangerous behavior, and require active participation in recovery programs.
8. **Annual Registration:** The cooperative sober living residence must be registered annually with the Township Zoning Officer.
9. **Parking Standards:**
 - a. Adequate off-street parking shall be provided for all resident occupants and the live-in operator/owner..
 - b. If the site cannot accommodate the required number of parking spaces, the applicant must submit and obtain approval for a transportation management plan. Acceptable alternatives include a scheduled van/shuttle service or an on-demand ride-share arrangement. Class 4 Buses shall not be permitted.
 - c. Parking on public or private streets is strictly prohibited.
 - d. Vehicles shall not be parked on lawns, sidewalks, or any area not specifically designated and constructed for parking. All parking must be within designated driveways or approved parking areas/surfaces.

D. Licensing and Oversight

The owner and operator of any Cooperative Sober Living Residence shall at all times maintain a current and valid Class "F" license issued by the New Jersey Department of Community Affairs, Bureau of Rooming and Boarding House Standards, or its successor agency. Said licenses must remain in good standing at all times.

E. Compliance.

1. All existing Cooperative Sober Living Residence(s) within the Township must apply for and obtain a conditional use permit within 90 days of the effective date of this subsection.

2. Cooperative Sober Living Residences that are in existence upon the effective date of this subsection shall have one year from the effective date of this subsection to comply with the provisions herein, provided that any existing group home which is serving more than six residents, must first comply with the six-resident maximum occupancy limit.

3. Existing Cooperative Sober Living Residences obligated by a written lease exceeding one year from the effective date of the ordinance, or whose activity involves investment of money in a leasehold such that a longer period is necessary to prevent undue financial hardship, are eligible for up to one additional year grace period pursuant to zoning board approval.

SECTION 2. All ordinances of the Township of Denville that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

SECTION 4. This Ordinance shall take effect twenty (20) days following final passage, approval, and publication as required by law, and upon posting of appropriate signage.

BY ORDER OF THE MUNICIPAL COUNCIL
OF THE TOWNSHIP OF DENVILLE

ATTEST:

APPROVED:

MATTHEW N. BANSCH
MUNICIPAL CLERK

MAYOR THOMAS W. ANDES
TOWNSHIP OF DENVILLE

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Municipal Council of the Township of Denville at its meeting held on May 5, 2026.

Matthew N. Bansch, Municipal Clerk