



CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING

#18-0257

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Lee R. Feldman, ICMA-CM, City Manager

DATE: April 17, 2018

TITLE: Ordinance Amending Unified Land Development Regulations (ULDR) to
Implement Zoning Standards for Community Residences for People with
Disabilities - Case T18001

Recommendation

It is recommended the City Commission adopt an ordinance amending the City of Fort Lauderdale Unified Land Development Regulations (ULDR) to implement zoning standards for community residences for people with disabilities.

Background

Since the federal Fair Housing Act ("FHA") was amended by Congress in 1988 to add protections for persons with disabilities and families with children, there has been a great deal of litigation concerning the Act's effect on the ability of local governments to exercise control over group living arrangements, particularly for persons with disabilities. The FHA makes it unlawful to utilize land use policies or actions that treat groups of persons with disabilities less favorably than groups of non-disabled persons. An example would be an ordinance prohibiting housing for persons with disabilities or a specific type of disability, such as mental illness, from locating in a particular area, while allowing other groups of unrelated individuals to live together in that area. Because of this potential issue, staff has proposed zoning standards for community residences for people with disabilities

The proposed ordinance was originally presented to the Planning and Zoning Board (PZB) on January 17, 2018. The Board deferred the item to February 21, 2018 in order to obtain results of the study and for staff to perform additional public outreach. The minutes from the January 17, 2018 meeting are attached as Exhibit 1. After completing the study and presenting to the Council of Civic Associations, staff took the item back to PZB for consideration on February 21, 2018 and the Board recommended approval (6-0) of the ordinance to the City Commission. The staff report and minutes from the February 21, 2018 PZB meeting are attached as Exhibit 2 and Exhibit 3, respectively.

To provide provisions for persons with disabilities, the proposed ordinance language distinguishes the different types of living arrangements:

- Community Residence is generally defined as a residential living arrangement for unrelated individuals with disabilities living as a single functional family in a single dwelling unit who are in need of the mutual support furnished by other residents of the community residence as well as the support services, if any, provided by the staff of the community residence. Residents may be self-governing or supervised by a sponsoring entity or its staff, which provides habilitative or rehabilitative services, related to the residents' disabilities. A community residence seeks to emulate a biological family to normalize its residents and integrate them into the surrounding community. Its primary purpose is to provide shelter in a family-like environment with treatment being incidental, as in any home. Supportive inter-relationships between residents are an essential component. A community residence may be either a Family Community Residence or a Transitional Community Residence.
- Family Community Residence is generally defined as a type of community residence that is a relatively permanent living arrangement for more than three (3) unrelated people with disabilities with no limit on how long a resident may live in the home. The length of tenancy is measured in years.
- Transitional Community Residence is generally defined as a type of community residence that is a temporary living arrangement for more than three (3) unrelated people with disabilities with a limit on length of tenancy that is measured in weeks or months, not years. The residents in a transitional community residence do not typically, but may as conditioned under a reasonable accommodation approval, operate as a single functional family.

Family has also been redefined to ensure inclusion of all different types of a family unit. Family has been redefined as follows:

One (1) or more persons living together and interrelated by bonds of consanguinity, marriage or legal adoption, or a group of persons not more than three (3) in number who are not so interrelated, occupying the whole or part of a dwelling as a single housekeeping unit, supplied with a kitchen or facilities for doing their own cooking on the premises, and who share common living facilities. Any person under the age of 18 years whose legal custody has been awarded to the State Department of Health and Rehabilitative Services or to a child-placing agency licensed by the Department, or who is otherwise considered to be a foster child under the laws of the state, and who is placed in foster care with a family, shall be deemed to be related to and a member of the family for the purposes of this definition. A family does not include residents of any nursing home; club; boarding or lodging house; dormitory; fraternity; sorority; or group of individuals whose association is seasonal or similar in nature to a resort, motel, hotel, boarding or lodging house.

In addition to the above amendments, new uses (consisting of Community Residence, Family Community Residence, and Transitional Community Residence) are being added to the list of permitted and conditional use tables of the ULDR. Staff has also added language to ULDR Section 47-18, Specific Use Requirements to state specific

requirements for the different uses as well as criteria for conditional approval in ULDR Section 47-24, Development Permits and Procedures.

Family Community Residence and Transitional Community Residence specific use requirements are divided based on the number of residents and distance separation as follows:

Family Community Residence:

- Family community residences with a maximum of three (3) or fewer residents are permitted in all residential zoning districts;
- Family community residences with between four (4) and ten (10) residents and located at least one thousand (1,000) feet from a community residence, or from a community residential home as defined by Section 419.001(1)(a), Florida Statutes, when measured from the closest point of the property line of the proposed community residence to the closest point of the property line of an existing community residence or community residential home, are permitted in any residential zoning district; and,
- Family community residences with between four (4) and ten (10) residents and located less than one thousand (1,000) feet from a community residence, or from a community residential home as defined by Section 419.001(1)(a), Florida Statutes, when measured from the closest point of the property line of the proposed community residence to the closest point of the property line of an existing community residence or community residential home, may be permitted within all residential zoning districts subject to conditional use requirements.

Transitional Community Residence:

- Transitional community residences with a maximum of three (3) or fewer residents are permitted in all residential zoning districts;
- Transitional community residences with between four (4) and ten (10) residents and located at least one thousand (1,000) feet from a community residence, or from a community residential home as defined by Section 419.001(1)(a), Florida Statutes, when measured from the closest point of the property line of the proposed community residence to the closest point of the property line of an existing community residence or community residential home, are permitted in all multifamily zoned property;
- Transitional community residences with between four (4) and (10) residents located at least one thousand (1,000) feet from a community residence, or from a community residential home as defined by Section 419.001(1)(a), Florida Statutes, when measured from the closest point of the property line of the proposed community residence to the closest point of the property line of an existing community residence or community residential home, may be permitted within

single family residential zoning districts subject to conditional use requirements; and,

- Transitional community residences with between four (4) and ten (10) residents located less than one thousand (1,000) feet from a community residence, or from a community residential home as defined by Section 419.001(1)(a), Florida Statutes, when measured from the closest point of the property line of the proposed community residence to the closest point of the property line of an existing community residence or community residential home, may be permitted within all residential zoning districts subject to conditional use requirements.

The following table provides further clarification on the requirements listed above:

	Single-Family Residential Zoning Districts	Multi-Family Residential Zoning Districts
Family Community Residence (=/ $<$ 3 people)	Permitted	Permitted
Family Community Residence (4-10 people & Min 1,000ft)	Permitted	Permitted
Family Community Residence (4-10 people & $<$ 1,000ft)	Conditional Use	Conditional Use
Transitional Community Residence (=/ $<$ 3 people)	Permitted	Permitted
Transitional Community Residence (4-10 people & Min 1,000ft)	Conditional Use	Permitted
Transitional Community Residence (4-10 people & $<$ 1,000ft)	Conditional Use	Conditional Use

All Community residences must register with the City and certified by the state credentialing agency, if one is available for the type of disability. Community residences for which there is no state license or certification available must obtain conditional use approval that assures their operation is consistent with community residences for which a state license or certification is available.

In addition to the standard conditional use requirements, community residences which are not located within the spacing distances and transitional community residences in single family zoning districts must meet additional conditional use requirements. Criteria for conditional approval include:

- Operating in a manner that does not alter the residential character of the surrounding neighborhood by creating an institutional atmosphere or by creating or intensifying a de facto social service district by concentrating transitional community residences or community residences;
- Being located a sufficient distance from any existing transitional community residence or community residence; and,

- Operating as a functional family (also known as emulating a biological family) that fosters normalization and community integration of its residents.

Lastly, a section to implement a procedure for processing requests for Reasonable Accommodation for people with disability has been added in Section 47-24, Development Permits and Procedures. A community residence of more than ten residents in all the residential zoning districts requires a Reasonable Accommodation approval. Persons with disabilities requesting Reasonable Accommodation shall present the requests to the Special Magistrate who shall make findings of fact. To review frequently asked questions and answers about the proposed regulations, please refer to Exhibit 4.

Community Residences for People with Disability Fort Lauderdale Study

City staff engaged Mr. Daniel Lauber, AICP, to conduct a study to analyze the community residences for people with disabilities in Fort Lauderdale. The report titled “Principles to Guide Zoning for Community Residences for People with Disability Fort Lauderdale, Florida Study” explains the basis for the zoning standards proposed for community residences for people with disabilities and is included as part of Exhibit 2.

The study determined that clustering three or more community residences on the same city block not only undermines normalization to aid disabled individuals to integrate into the community, but could inadvertently lead to a de facto social service district that alters the residential character of a neighborhood. Based on research performed over the last 40 years, the study states that one or two nonadjacent community residences for people with disabilities on a block do not alter the residential character of a neighborhood.

The study also states that for normalization to occur, it is essential that community residence occupants have so-called “able-bodied” neighbors as role models. But if another community residence is opened very close to an existing group home, such as next door or within a few doors of it, the residents of the new home may replace the “able-bodied” role models with other people with disabilities and quite possibly hamper the normalization efforts of the existing community residence.

Based on the study, the proposed Fort Lauderdale ordinance will seek to make reasonable accommodations for community residences for people with disabilities that are necessary to achieve full compliance with national law and sound zoning and planning practices and policies. The research from the study strongly suggests there is a legitimate government interest to assure that community residences do not cluster. To review the study in its entirety, please refer to Exhibit 5. To review the proposed ordinance in its entirety, please refer to Exhibit 6.

Public Outreach

As part of the process to adopt the proposed amendments, staff presented to the Council of Fort Lauderdale Civic Associations (CFLCA) on February 13, 2018. The general feedback received from the meeting was positive.

Resource Impact

There is no fiscal impact associated with this action.

Strategic Connections

This item is a *Press Play Fort Lauderdale Strategic Plan 2018* initiative, included within the Neighborhood Enhancement Cylinder of Excellence, specifically advancing:

- Goal 6: Be an inclusive community made up of distinct, complementary, and diverse neighborhoods.
- Objective 1: Evolve and update the land development code to balance neighborhood quality, character, and livability through sustainable development.

This item advances the *Fast Forward Fort Lauderdale 2035 Vision Plan: We Are Community*.

Attachments

- Exhibit 1 – January 17, 2018 PZB Minutes
- Exhibit 2 – February 21, 2018 PZB Staff Report
- Exhibit 3 – February 21, 2018 PZB Minutes
- Exhibit 4 – FAQs to Proposed Regulations
- Exhibit 5 – Fort Lauderdale’s Community Residences for People with Disability Study
- Exhibit 6 – Ordinance

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