



LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)
MEDICAL USES SUB-COMMITTEE

MARCH 29TH, 2018

AGENDA

2300 NORTH JOG ROAD, CONFERENCE ROOM VC-1W-47 – 1ST FLOOR

9:00 – 11:00 AM

A. CALL TO ORDER

1. Select Chair and Vice Chair From LDRAB Members
2. Interested Parties and Staff Introductions
3. Additions, Substitutions and Deletions to Agenda
4. Motion to Adopt Agenda

B. SUBCOMMITTEE MISSION AND GOALS-STAFF

- Focus on Medical Uses in ULDC and Ongoing Changes at State Level
- Recommend Amendment Necessary to Ensure Regulation Reflect Consistency with State Regulations

C. OVERVIEW OF MEDICAL USE-STAFF

- Nursing Home – PBC Use Classification and Zoning Districts (Attachment 1)
- CLF Types I, II, III – PBC Use Classification and Zoning Districts (Attachment 2)
- Residential House, Types I thru IV – State Approval Process (Attachment 3)
- Reasonable Accommodation – Process. (Attachment 4)

D. INPUT FROM PARTICIPANTS ON VARIOUS MEDICAL USE AND CHANGES IN STATE REQUIREMENTS

E. DISCUSSION ON COUNTY ATTORNEY PROPOSED DRAFT ULDC CODE AMENDMENT FOR CONGREGATE LIVING FACILITIES (CLF) TYPE I / TYPE II – BOB BANKS, COUNTY ATTORNEY (ATTACHMENT 5)

F. SUMMARY OF TODAY'S DISCUSSION-CHAIR

G. FUTURE MEETING TOPICS-CHAIR

H. ADJOURN

LDRAB Medical Uses Sub-Committee March 29, 2018

Excerpts from Chapter 397, Florida Statutes and Chapter 65-D-30, Florida Administrative Code

Chapter 397

SUBSTANCE ABUSE SERVICES

397.311 Definitions

2. "Day or night treatment" is a service provided in a nonresidential environment, with a structured schedule of treatment and rehabilitative services.
3. "Day or night treatment with community housing" means a program intended for individuals who can benefit from living independently in peer community housing while participating in treatment services for a minimum of 5 hours a day for a minimum of 25 hours per week.
4. "Detoxification" is a service involving subacute care that is provided on an inpatient or an outpatient basis to assist individuals to withdraw from the physiological and psychological effects of substance abuse and who meet the placement criteria for this component.
5. "Intensive inpatient treatment" includes a planned regimen of evaluation, observation, medical monitoring, and clinical protocols delivered through an interdisciplinary team approach provided 24 hours per day, 7 days per week, in a highly structured, live-in environment

9. "Residential treatment" is a service provided in a structured live-in environment within a nonhospital setting on a 24-hours-per-day, 7-days-per-week basis, and is intended for individuals who meet the placement criteria for this component.

- (37) "Recovery residence" means a residential dwelling unit, or other form of group housing, that is offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment.
- (38) "Recovery residence administrator" means the person responsible for overall management of the recovery residence, including, but not limited to, the supervision of residents and staff employed by, or volunteering for, the residence.
- (39) "Recovery support" means services designed to strengthen or assist individuals to regain skills, develop the environmental supports necessary to help the individual thrive in the community, and meet life goals that promote recovery from alcohol and drug use. These services include, but are not limited to, economic, vocational, employment, educational, housing, and other ancillary services.

CHAPTER 65D-30

SUBSTANCE ABUSE SERVICES OFFICE

65D-30.002 Definitions.

(16) "Component" means the operational entity of a provider that is subject to licensing. The primary components are listed and defined below:

(a) "Addictions Receiving Facility," is a secure, acute-care, residential facility operated 24 hours-per-day, 7 days-per-week, designated by the department to serve persons found to be substance abuse impaired as described in Section 397.675, F.S., and who meet the placement criteria for this component.

(b) "Detoxification," is a process involving sub-acute care that is provided on a residential or an outpatient basis to assist clients who meet the placement criteria for this component to withdraw from the physiological and psychological effects of substance abuse.

(c) “Intensive Inpatient Treatment,” includes a planned regimen of evaluation, observation, medical monitoring, and clinical protocols delivered through an interdisciplinary team approach provided 24 hours-per-day, 7 days per week in a highly structured, live-in environment.

(d) “Residential Treatment,” is provided on a residential basis 24 hours-per-day, 7 days-per-week, and is intended for clients who meet the placement criteria for this component. For the purpose of these rules, there are five levels of residential treatment that vary according to the type, frequency, and duration of services provided.

(e) “Day or Night Treatment with Host Homes,” is provided on a nonresidential basis at least three hours per day and at least 12 hours each week and is intended for clients who meet the placement criteria for this level of care. This component also requires that each client reside with a host family as part of the treatment protocol.

(f) “Day or Night Treatment with Community Housing,” is provided on a nonresidential basis at least 5 hours each day and at least 25 hours each week and is intended for clients who can benefit from living independently in peer community housing while undergoing treatment.

(g) “Day or Night Treatment,” is provided on a nonresidential basis at least three hours per day and at least 12 hours each week and is intended for clients who meet the placement criteria for this component.

65D-30.007 Standards for Residential Treatment.

In addition to Rule 65D-30.004, F.A.C., the following standards apply to residential treatment.

(1) Facilities Not Required to be Licensed as Residential Treatment. Licensure as residential treatment as defined in paragraph 65D-30.002(16)(c), F.A.C., shall not apply to facilities operated by a provider that provides only housing, meals, or housing and meals to individuals who are substance abuse impaired or in recovery and where the provider:

(a) Does not mandate that the individuals live in the residential facility as a condition of treatment in a separate facility owned and operated by the provider; and,

(b) May make available or provide support groups such as Alcoholics Anonymous and Narcotics Anonymous as the only services available to the residents in the facility where housing, meals, or housing and meals are provided. All other facilities that provide housing to residents that are substance abuse impaired and provide services as defined in Section 397.311(18)(d), F.S., and as described in subsections 65D-30.007(2) and (3), F.A.C., either at the facility or at alternate locations, must be licensed under this rule.

(2) Categories of Residential Treatment. For the purpose of this rule, there are five levels of residential treatment. In each level, treatment shall be structured to serve clients who need a safe and stable living environment in order to develop sufficient recovery skills for the transition to a less restrictive level of care or reintegration into the general community in accordance with placement criteria. Treatment shall also include a schedule of services provided within a positive environment that reinforce the client’s recovery, and clients will be placed in a level of residential treatment that is based upon their treatment needs and circumstances.

(a) Level 1 programs include those that provide services on a short-term basis. This level is appropriate for persons who have sub-acute biomedical problems or behavioral, emotional, or cognitive problems that are severe enough that they require inpatient treatment, but do not need the full resources of an acute care general hospital or a medically managed inpatient treatment program. Typically, clients have a job and a home to support their recovery upon completion of this level of care. The emphasis is clearly on an intensive regimen of clinical services using a multidisciplinary team approach. Services may include some medical services based on the needs of the client.

(b) Level 2 programs include those that are referred to as therapeutic communities or some variation of therapeutic communities and are longer term than level 1. This level is appropriate for persons characterized as having chaotic and often abusive interpersonal relationships, extensive criminal justice histories, prior treatment

episodes in less restrictive levels of care, inconsistent work histories and educational experiences, and anti-social behavior. In addition to clinical services, considerable emphasis is placed on services that address the client's educational and vocational needs, socially dysfunctional behavior, and need for stable housing upon discharge. It also includes services that assist the client in remaining abstinent upon returning to the community.

(c) Level 3 programs include those that are referred to as domiciliary care and are generally longer term than level 2. This level is appropriate for persons whose cognitive functioning has been severely impaired from the chronic use of substances, either temporarily or permanently. This would include persons who have varying degrees of organic brain disorder or brain injury or other problems that require extended care. The emphasis is on providing services that work on cognitive problems and activities of daily living, socialization, and specific skills to restore and maintain independent living. The services are typically slower paced, more concrete and repetitive. There is considerable emphasis on relapse prevention and reintegration into the community. This involves considerable use of case management and networking residents into ancillary or wrap-around services such as housing, vocational services, transportation, and self-help meetings.

(d) Level 4 programs include those that are referred to as transitional care and are generally short-term. This level is appropriate for persons who have completed other levels of residential treatment, particularly levels 2 and 3. This includes clients who have demonstrated problems in applying recovery skills, a lack of personal responsibility, or a lack of connection to the world of work, education, or family life. Although clinical services are provided, the main emphasis is on services that are low-intensity and typically emphasize a supportive environment. This would include services that would focus on recovery skills, preventing relapse, improving emotional functioning, promoting personal responsibility and reintegrating the individual into the worlds of work, education, and family life.

(e) Level 5 programs are those that provide only housing and meals to clients who are mandated to receive services at alternate locations in facilities that are owned and operated by the same provider. This level is appropriate for persons who need room and board while undergoing treatment. This level would utilize clinical services and other services that would be largely oriented and directed toward the client's lifestyle and the client's attitudinal and behavioral issues.

(3) Services. Each client shall receive services each week. The services shall include a specified number of hours of counseling as provided for in subsection 65D-30.007(4), F.A.C. Clinical staff shall provide those services. Each provider shall be capable of providing or arranging for the services listed below. With the exception of counseling, it is not intended that all services listed below be provided. Services shall be provided in accordance with the needs of the client as identified in the treatment plan as follows:

(a) Individual counseling;

(b) Group counseling;

(c) Counseling with families;

(d) Substance abuse education, such as strategies for avoiding substance abuse or relapse, health problems related to substance abuse, and motivational enhancement and strategies for achieving a substance-free lifestyle;

(e) Life skills training such as anger management, communication skills, employability skills, problem solving, relapse prevention, recovery training, decision-making, relationship skills, and symptom management;

(f) Non-verbal therapies such as recreation therapy, art therapy, music therapy, or dance (movement) therapy to provide the client with alternative means of self expression and problem resolution;

(g) Training or advising in health and medical issues;

(h) Employment or educational support services to assist clients in becoming financially independent; and,

(i) Mental health services for the purpose of:

1. Managing clients with disorders who are stabilized,
2. Evaluating clients' needs for in-depth mental health assessment,
3. Training clients to manage symptoms; and,

4. Timely referral to an appropriate provider for mental health crises or the emergence of a primary mental health disorder when the provider is not staffed to address primary mental health problems.

For clients participating under subsections 65D-30.003(16) and 65D-30.004(35), F.A.C., services shall be provided according to the conditions of the Department of Corrections' contract with the provider. Juvenile Justice Commitment Programs and detention facilities operated by or under contract with the Department of Juvenile Justice are exempt from the requirements of this subsection but shall provide such services as required in the policies, standards, and contractual conditions established by the Department of Juvenile Justice.

(4) Required Hours of Services.

(a) For level 1, each client shall receive services each week in accordance with subsection 65D-30.007(3), F.A.C., including at least 14 hours of counseling.

(b) For level 2, each client shall receive services each week in accordance with subsection 65D-30.007(3), F.A.C., including at least 10 hours of counseling.

(c) For level 3, each client shall receive services each week in accordance with subsection 65D-30.007(3), F.A.C., including at least 4 hours of counseling.

(d) For level 4, each client shall receive services each week in accordance with subsection 65D-30.007(3), F.A.C., including at least 2 hours of counseling.

(e) For level 5, each client shall receive services each week in accordance with the requirements of the licensed component service in which the client is required to participate.

In those instances in which it is determined that a client requires fewer hours of counseling in any of the levels of residential treatment, this shall be described and justified in the client's treatment plan and approved by the qualified professional.

(5) Transportation. Each provider shall arrange for or provide transportation services to clients who are involved in activities or in need of services that are provided at other facilities.

(6) Staff Coverage. Providers shall maintain awake, paid staff coverage 24 hours-per-day, 7 days per week.

(7) Caseload. No primary counselor may have a caseload that exceeds 15 currently participating clients.

Reasonable Accommodation (Art. 2.C.5.F)**1. Purpose**

The purpose of this section is to establish procedures for processing requests for Reasonable Accommodation from the County's Unified Land Development Code and related rules, policies, practices and procedures, for persons with disabilities as provided by the Federal Fair Housing Amendments Act (42 U.S.C. 3601, et. seq.) (FHA), or Title II of the Americans with Disabilities Act (42 U.S.C. Section 12131, et. seq.) (ADA). Any person who is disabled, or qualifying entities, may request a Reasonable Accommodation, pursuant to the procedures set out in this section.

2. Applicability

An applicant shall be required to apply for all applicable Development Review processes available in the ULDC prior to filing a request for Reasonable Accommodation, unless compliance with available Development Review processes would deprive the Applicant, or persons with disabilities served by the Applicant, of an equal opportunity to use and enjoy housing.

3. Notice to the Public of Availability of Accommodation

The County shall endeavor to provide notice to the public, advising that disabled individuals or qualifying entities may request a Reasonable Accommodation.

4. Application Procedures

The application forms and requirements for submitting a request for Reasonable Accommodation shall be on forms specified by the County Administrator or designee.

a. Application Contents

The following considerations shall be applicable for any application information or documentation required:

1) Confidential Information

Upon submittal of any medical information or records, including but not limited to condition, diagnosis, or history related to a disabled individual, an applicant may request that the County, to the extent allowed by law, treat the information or records as confidential. The County shall thereafter endeavor to provide notice to the disabled individual, or their representative, of any request received by the County for disclosure of the medical information or documentation previously requested to be treated as confidential. The County will cooperate with the disabled individual, to the extent allowed by law, in actions—initiated by such individual to oppose the disclosure of such medical information or documentation, but the County shall have no obligation to initiate, prosecute or pursue any-such action, or to incur any legal or other expenses, whether by retention of outside counselor, or allocation of internal resources in connection therewith, and may comply with any judicial order without prior notice to the disabled individual.

2) Address of Applicant

Address of the applicant is requested, unless governed by 42 U.S.C. §290d.d, in which case the address shall not be required, but the applicant may be requested to provide documentation to substantiate a claim verifying applicability.

3) Address of Housing

Address of housing or other location at which accommodation is requested unless governed by 42 U.S.C. 290d.d, in which case address shall not be required, but the applicant may be requested to provide documentation to substantiate a claim verifying applicability.

b. Sufficiency Determination

The County Administrator or designee shall determine whether the application is sufficient or insufficient within ten days of submittal by reviewing the information required in the application. If staff determines the application is not sufficient, a written notice shall be sent to the applicant specifying the deficiencies within the ten day determination timeframe set forth herein.

c. Fee

There shall be no fee imposed by the County for a request for Reasonable Accommodation under this section or an appeal of a determination on such request, and the County shall have no obligation to pay an applicant's, or an appealing party as applicable, attorneys' fees or costs in connection with the request, or an appeal.

d. County Assistance

The County shall provide such assistance and accommodation as is required pursuant to FHA and ADA in connection with a disabled person's request for Reasonable Accommodation, including assistance with reading application questions, and responding to questions related to completing application or appeal forms, among others, to ensure the process is accessible.

e. Findings for Reasonable Accommodation

In determining whether the Reasonable Accommodation request shall be granted or denied, the applicant shall be required to establish that they are protected under the FHA or ADA by demonstrating that they are handicapped or disabled, as defined in the FHA or ADA. Although the definition of disability is subject to judicial interpretation, for purposes of this ordinance the disabled individual must show:

- 1) a physical or mental impairment which substantially limits one or more major life activities;
- 2) a record of having such impairment; or
- 3) that they are regarded as having such impairment.

The applicant shall demonstrate that the proposed accommodations being sought are reasonable and necessary to afford disabled persons equal opportunity to use and enjoy housing. The foregoing, as interpreted by the Courts, shall be the basis for a decision upon a Reasonable Accommodation request made by the appropriate PBC official.

f. Authority

The determination of which appropriate PBC official has the authority to consider and act on requests, or appeals of a decision for Reasonable Accommodation, shall be consistent with Art.1.B.1.A, Authority.

g. Action by Appropriate PBC Official

A written response shall be issued within 45 days of the date of sufficiency advising the applicant of the PBC official's action.

1) Request for Additional Information Timeframes

If additional information is required to make a final decision, the following shall apply:

- a) Within 45 days of sufficiency determination, a written notice requesting additional information may be requested, specifying what information is required.
- b) The applicant shall have 15 days from the date of the written notice to respond to the request for additional information not to exceed 60 days from the date of the sufficiency determination.
 - (1) If the additional information provided by the applicant satisfies staffs' request, a written determination shall be issued within 30 days.
 - (2) If the applicant fails to provide the requested additional information within the 15 day period, a letter shall be issued to the applicant advising the applicant that the application is considered withdrawn.

2) Determination

In accordance with Federal law, the appropriate PBC official, shall:

- a) grant the accommodation request;
- b) grant a portion of the request and deny a portion of the request;
- c) impose conditions upon the grant of the request; or
- d) deny the request. Any such denial shall be in writing and shall state the grounds therefore.

3) Notice of Proposed Decision

All written determinations shall give notice of the right to appeal. The notice of determination shall be sent to the requesting party (i.e. the disabled individual or his/her representative) by certified mail, return receipt requested.

h. Appeal

Within 30 days after the appropriate PBC official has rendered a decision on a Reasonable Accommodation, the applicant may appeal the decision. This timeframe shall be based upon the date of the letter mailed to the requesting party. All appeals shall contain a statement containing sufficient detail of the grounds for the appeal. Appeals shall be to a Hearing Officer as set forth in this Code. The Hearing Officer shall, after duly noticing the applicant of the public hearing for appeal, render a determination as soon as reasonably practicable, but in no event later than 60 days after an appeal has been filed. Such hearing shall be de novo. A Hearing Officer's decision may be appealed to the 15th Judicial Circuit Court by petition for writ of certiorari.

i. Stay of Enforcement

While an application for Reasonable Accommodation, or appeal of a determination of same, is pending before the County, the County will not enforce the subject ULDC requirement, or related rules, policies, practices or procedures, against the applicant.

j. Time Limitation

A Determination granting, partially granting, or granting with conditions, a Reasonable Accommodation, may remain valid either for one-year from the date of issuance, or by the date specified in a Development Order or associated Condition of Approval, otherwise it shall become null and void. This provision shall retroactively apply to all prior Determinations for a Reasonable Accommodation prior to the effective date of this Ordinance.

EXHIBIT A

REASONABLE ACCOMMODATION, CONGREGATE LIVING FACILITIES (CLF) AND NURSING HOME SUMMARY OF AMENDMENTS

(Updated XX/XX/XX)

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Part 1. ULDC Art. 2.D.7, Reasonable Accommodation (page 47 – 49 of 87), is hereby amended as follows:

Reason for amendments: [Zoning]
1. In order to expedite the reasonable accommodation process required pursuant to the Fair Housing Amendments Act and Americans with Disabilities Act, applications for reasonable accommodation of facilities of 10 or less residents shall not be required to apply for the applicable development review process.
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CHAPTER ~~D~~ C ADMINISTRATIVE PROCESSES

Section 5 ~~E.~~ Standards for Administrative Approval ~~Types of Application~~

F. Reasonable Accommodation

1. Purpose

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Section 7 Reasonable Accommodation

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A. Purpose and Intent

The purpose of this section is to establish procedures for processing requests for Reasonable Accommodation from the County's Unified Land Development Code and related rules, policies, practices and procedures, for persons with disabilities as provided by the Federal Fair Housing Amendments Act (42 U.S.C. 3601, et. seq.) (FHA), or Title II of the Americans with Disabilities Act (42 U.S.C. Section 12131, et. seq.) (ADA). Any person who is disabled, or qualifying entities, may request a Reasonable Accommodation, pursuant to the procedures set out in this section. [Ord. 2011-016]

B. Applicability

An applicant shall be required to apply for all applicable Development Review processes available in the ULDC prior to filing a request for Reasonable Accommodation, unless compliance with available Development Review processes would deprive the applicant, or persons with disabilities served by the applicant, of an equal opportunity to use and enjoy housing. [Ord. 2015-006] An increase in the size of a residential facility serving the disabled with occupancy of 10 or fewer residents may be accommodated by the reasonable accommodation process without requiring the applicable development review process that is required pursuant to Art 4, Use Matrices. Reasonable accommodation of a residential facility serving the disabled with a total occupancy of more than ten residents shall require the same review process as the equivalent size congregate living facility.

C. Notice to the Public of Availability of Accommodation

The County shall endeavor to provide notice to the public, advising that disabled individuals or qualifying entities may request a Reasonable Accommodation. [Ord. 2011-016]

D. Application Procedures

The application forms and requirements for submitting a request for Reasonable Accommodation shall be on forms specified by the County Administrator or designee. [Ord. 2011-016]

1. Application Contents

The following considerations shall be applicable for any application information or documentation required: [Ord. 2011-016]

a. Confidential Information

Upon submittal of any medical information or records, including but not limited to condition, diagnosis, or history related to a disabled individual, an applicant may request that the County, to the extent allowed by law, treat the information or records as confidential. The County shall thereafter endeavor to provide notice to the disabled individual, or their representative, of any request received by the County for disclosure of the medical information or documentation previously requested to be treated as confidential. The County will cooperate with the disabled individual, to the extent allowed by law, in actions initiated by such individual to oppose the disclosure of such medical information or documentation, but the County shall have no obligation to initiate, prosecute or pursue any

Notes:

Underlined indicates **new** text.

~~Stricken~~ indicates text to be **deleted**. ~~Stricken and italicized~~ means text to be totally or partially relocated. If being relocated destination is noted in bolded brackets [**Relocated to:**].

Italicized indicates text to be relocated. Source is noted in bolded brackets [**Relocated from:**].

.... A series of four bolded ellipses indicates language omitted to save space.

EXHIBIT A

REASONABLE ACCOMMODATION, CONGREGATE LIVING FACILITIES (CLF) AND NURSING HOME SUMMARY OF AMENDMENTS

(Updated XX/XX/XX)

1 such action, or to incur any legal or other expenses, whether by retention of outside
2 counselor, or allocation of internal resources in connection therewith, and may comply with
3 any judicial order without prior notice to the disabled individual. [Ord. 2011-016]

4 **b. Address of Applicant**

5 Address of the applicant is requested, unless governed by 42 U.S.C. §290d.d., in which
6 case the address shall not be required, but the applicant may be requested to provide
7 documentation to substantiate a claim verifying applicability. [Ord. 2011-016] [Ord. 2015-
8 006]

9 **c. Address of Housing**

10 Address of housing or other location at which accommodation is requested unless
11 governed by 42 U.S.C. §290d.d., in which case address shall not be required, but the
12 applicant may be requested to provide documentation to substantiate a claim verifying
13 applicability. [Ord. 2011-016]

14 **2. Sufficiency Determination**

15 The County Administrator or designee shall determine whether the application is sufficient or
16 insufficient within ten days of submittal by reviewing the information required in the application.
17 If staff determines the application is not sufficient, a written notice shall be sent to the applicant
18 specifying the deficiencies within the ten day determination timeframe set forth herein. [Ord.
19 2015-006]

20 **3. Fee**

21 There shall be no fee imposed by the County for a request for Reasonable Accommodation
22 under this section or an appeal of a determination on such request, and the County shall have
23 no obligation to pay a applicant's, or an appealing party as applicable, attorneys' fees or costs
24 in connection with the request, or an appeal. [Ord. 2011-016] [Ord. 2015-006]

25 **4. County Assistance**

26 The County shall provide such assistance and accommodation as is required pursuant to FHA
27 and ADA in connection with a disabled person's request for Reasonable Accommodation,
28 including assistance with reading application questions, and responding to questions related
29 to completing application or appeal forms, among others, to ensure the process is accessible.
30 [Ord. 2011-016]

31 **5. Findings for Reasonable Accommodation**

32 In determining whether the Reasonable Accommodation request shall be granted or denied,
33 the applicant shall be required to establish that they are protected under the FHA or ADA by
34 demonstrating that they are handicapped or disabled, as defined in the FHA or ADA. Although
35 the definition of disability is subject to judicial interpretation, for purposes of this ordinance the
36 disabled individual must show: [Ord. 2011-016] [Ord. 2015-006]

37 a. a physical or mental impairment which substantially limits one or more major life activities;
38 [Ord. 2011-016]

39 b. a record of having such impairment; or [Ord. 2011-016]

40 c. that they are regarded as having such impairment. [Ord. 2011-016]

41 The applicant shall demonstrate that the proposed accommodations being sought are
42 reasonable and necessary to afford disabled persons equal opportunity to use and enjoy
43 housing. The foregoing, as interpreted by the Courts, shall be the basis for a decision upon a
44 Reasonable Accommodation request made by the appropriate PBC official. [Ord. 2011-016]
45 [Ord. 2015-006]

46 **6. Authority**

47 The determination of which appropriate PBC official has the authority to consider and act on
48 requests, or appeals of a decision for Reasonable Accommodation, shall be consistent with
49 Art. 1.B.1.A, Authority. [Ord. 2011-016]

50 **7. Action by Appropriate PBC Official**

51 A written response shall be issued within 45 days of the date of sufficiency advising the
52 applicant of the PBC official's action. [Ord. 2011-016] [Ord. 2015-006]

53 **a. Request for Additional Information Timeframes**

54 If additional information is required to make a final decision, the following shall apply:
55 [Ord. 2011-016] [Ord. 2015-006]

56 1) Within 45 days of sufficiency determination, a written notice requesting additional
57 information may be requested, specifying what information is required. [Ord. 2011-
58 016] [Ord. 2015-006]

59 2) The applicant shall have 15 days from the date of the written notice to respond to the
60 request for additional information not to exceed 60 days from the date of the sufficiency
61 determination. [Ord. 2011-016] [Ord. 2015-006]

Notes:

Underlined indicates **new** text.

~~Stricken~~ indicates text to be **deleted**. ~~Stricken and italicized~~ means text to be totally or partially relocated.
If being relocated destination is noted in bolded brackets **[Relocated to:]**.

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.... A series of four bolded ellipses indicates language omitted to save space.

Meeting

Date

EXHIBIT A

REASONABLE ACCOMMODATION, CONGREGATE LIVING FACILITIES (CLF) AND NURSING HOME SUMMARY OF AMENDMENTS

(Updated XX/XX/XX)

- 1 a) If the additional information provided by the applicant satisfies staffs' request, a
2 written determination shall be issued within 30 days. [Ord. 2011-016] [Ord. 2015-
3 006]
4 b) If the applicant fails to provide the requested additional information within the 15
5 day period, a letter shall be issued to the applicant advising the applicant that the
6 application is considered withdrawn. [Ord. 2011-016] [Ord. 2015-006]

7 b. Determination

8 In accordance with Federal law, the appropriate PBC official, shall: [Ord. 2011-016]

- 9 1) grant the accommodation request; [Ord. 2011-016]
10 2) grant a portion of the request and deny a portion of the request; [Ord. 2011-016]
11 3) impose conditions upon the grant of the request; or [Ord. 2011-016]
12 4) deny the request. Any such denial shall be in writing and shall state the grounds
13 therefore. [Ord. 2011-016]

14 c. Notice of Proposed Decision

15 All written determinations shall give notice of the right to appeal. The notice of
16 determination shall be sent to the requesting party (i.e. the disabled individual or his/her
17 representative) by certified mail, return receipt requested. [Ord. 2011-016]

18 8. Appeal

19 Within 30 days after the appropriate PBC official has rendered a decision on a Reasonable
20 Accommodation, the applicant may appeal the decision. This timeframe shall be based upon
21 the date of the letter mailed to the requesting party. All appeals shall contain a statement
22 containing sufficient detail of the grounds for the appeal. Appeals shall be to a Hearing Officer
23 as set forth in this Code. The Hearing Officer shall, after duly noticing the applicant of the
24 public hearing for appeal, render a determination as soon as reasonably practicable, but in no
25 event later than 60 days after an appeal has been filed. Such hearing shall be de novo. A
26 Hearing Officer's decision may be appealed to the 15th Judicial Circuit Court by petition for writ
27 of certiorari. [Ord. 2011-016]

28 9. Stay of Enforcement

29 While an application for Reasonable Accommodation, or appeal of a determination of same, is
30 pending before the County, the County will not enforce the subject ULDC requirement, or
31 related rules, policies, practices or procedures, against the applicant. [Ord. 2011-016]

32 10. Time Limitation

33 A Determination granting, partially granting, or granting with conditions, a Reasonable
34 Accommodation, may remain valid either for one-year from the date of issuance, or by the date
35 specified in a Development Order or associated Condition of Approval, otherwise it shall
36 become null and void. This provision shall retroactively apply to all prior Determinations for a
37 Reasonable Accommodation prior to January 31, 2017. [Ord. 2017-002]

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40 **Part 2. ULDC Art. 4.B.1.C.1, Congregate Living Facility (page 15-16 of 204), is hereby amended**
41 **as follows:**
42

Reason for amendments: [Zoning]
1. Add portions of definition of congregate living facility that were deleted from the use regulation process.
2. Clarify that type 1 congregate living facilities are community residential homes licensed pursuant to Chapter 419, Fla. Stat. or facilities that do not provide treatment on site.
3. Clarify that while limited nursing care is allowed in a congregate living facility 24 hour nursing care is not provided.
4.

43 CHAPTER B USE CLASSIFICATION

44 Section 1 Residential Uses

Notes:

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Meeting

Date

EXHIBIT A

REASONABLE ACCOMMODATION, CONGREGATE LIVING FACILITIES (CLF) AND NURSING HOME SUMMARY OF AMENDMENTS

(Updated XX/XX/XX)

C. Definitions and Supplementary Use Standards for Specific Uses

1. Congregate Living Facility (CLF)

a. Definition

~~A facility which provides long-term care, housing, food service, and one or more assistive care services for persons not related to the owner or administrator by blood or marriage. This term includes assisted living facilities; extended congregate care facilities, transitional living facilities, community residential homes, residential treatment, boarding home, or home for the aged or any other residential structure, which undertakes for a period exceeding 24 hours: care, housing, food service, and one or more personal services for persons not related to the owner or administrator by blood or marriage. In addition, this term shall include other residential uses such as dormitories, group homes with a central dining facility, and similar bed-based uses.~~

b. Licensing

Type 1 and 2 CLFs shall be community residential homes licensed by one of the licensing entities referenced in ~~State Statute Sec. 419.001, Florida Statutes or the residential component of facilities licensed by the agencies referenced in Sec. 419.001 when no treatment is provided onsite.~~

c. Approval Process - RS Zoning District

A Type 3 CLF may be allowed in the RS Zoning District with an HR-8 FLU designation subject to a Class A Conditional Use approval.

d. Maximum Occupancy

1) Type 1 CLF

Six persons, excluding staff.

2) Type 2 CLF

14 persons, excluding staff.

3) Type 3 CLF

The maximum occupancy shall be determined by FLUE Table III.C.1 of the Plan and multiplying the maximum allowable density by 2.39. A dwelling unit is equivalent to 2.39 beds.

4) PDD Occupancy Bonus

The gross area of a pod supporting a CLF in a planned development shall be deducted from the gross area of the planned development for the purpose of calculating the maximum density allowed in the PDD.

e. Separation

The separation requirements in this Section shall be measured from the nearest point of the existing CLF structure to the nearest point of the proposed CLF structure.

1) Type 1 CLF

A Type 1 CLF, shall not be located within a radius of 1,000 feet of another Type 1 CLF regulated by F.S. §419.001 and within a radius of 1,200 feet of a Type 2 CLF.

2) Type 2 CLF - RM Zoning District

A Type 2 CLF located in the RM Zoning District shall not be located within a radius of 1,200 feet of another CLF.

f. Location

A Type 3 CLF shall have frontage and access from a Collector or an Arterial Street, except for the following:

1) A Type 3 CLF having 25 residents or less may have frontage and access from a local street.

2) A Type 3 CLF having 250 or fewer residents may be located in a multi-family, commercial, or civic pod with access to a local street or a parking tract in a PDD.

g. Lot Size

1) The minimum lot dimension for a Type 2 or Type 3 CLF shall be 8,000 square feet or the zoning district minimum lot requirement, whichever is greater.

2) The required minimum acreage for a PDD may be reduced by 50 percent if it consists exclusively of a CLF.

h. Type 2 or Type 3 CLFs - Fire Rescue Station

A Type 2 or Type 3 CLFs shall be located within five miles of a full service fire-rescue station.

i. Drop-off Area, for Type 2 and Type 3, CLFs

A drop-off area shall be provided for group transportation, such as vans or similar vehicles.

j. Accessory Commercial Uses

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EXHIBIT A

REASONABLE ACCOMMODATION, CONGREGATE LIVING FACILITIES (CLF) AND NURSING HOME SUMMARY OF AMENDMENTS

(Updated XX/XX/XX)

- 1 A limited amount of commercial uses may be Permitted by Right as accessory uses in a
2 Type 3 CLF. Such uses shall be limited to Retail Sales and Personal Services uses
3 designed exclusively to serve the residents of the facility, such as a barber or beauty shop,
4 convenience retail sales, and banking services. No more than ten percent of the GFA of
5 the facility shall be used for accessory commercial uses. There shall be no exterior signage
6 or other indication of the existence of these uses in the facility that may attract
7 nonresidents.
8 k. Signage
9 Signage for a Type 1 or Type 2 CLF shall be limited to one freestanding sign no more than
10 four square feet in sign face area and six feet in height.
11 l. Congregate Living, Assistive Care Services
12 Assistance with activities of daily living and limited nursing services. 24-hour nursing
13 supervision is not allowed in a CLF.
14 m. Emergency Generators
15 A permanent emergency generator shall be required for all Type 2 and Type 3 CLFs, and
16 shall meet the standards of Article 5.B.1.A.18, Permanent Generators.
17 n. Cooking Facilities
18 A CLF shall provide and continuously maintain a central dining facility. Food preparation
19 shall be prohibited in sleeping areas or in individual quarters in Types 1 and 2 CLFs.
20 Individual kitchen facilities may be provided in the living quarters of a Type 3 CLF.
21
22
23

24 Part 3. ULDC Art. 4.B.4.C.12, Nursing Home or Convalescent Facility (page 78-79 of 204), is
25 hereby amended as follows:
26

Table with 1 column and 5 rows. Row 1: Reason for amendments: [Zoning]. Row 2: 1. Drug treatment facilities that include 24 nursing services are classified as nursing homes reflecting the medical component of the use. Row 3: 2. Row 4: 3. Row 5: 4.

27 CHAPTER B USE CLASSIFICATION

28 Section 4 Institutional, Public and Civic Uses
29
30
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EXHIBIT A

REASONABLE ACCOMMODATION, CONGREGATE LIVING FACILITIES (CLF) AND NURSING HOME SUMMARY OF AMENDMENTS

(Updated XX/XX/XX)

C. Definitions and Supplementary Use Standards for Specific Uses

12. Nursing Home or Convalescent Facility

a. Definition

An establishment where 24-hour nursing care, personal care, or custodial care is offered or provided for three or more persons suffering from illness, other than a contagious disease, sociopathic or psychopathic behavior which is not of sufficient severity to require hospital attention, or for three or more persons requiring further institutional care after being discharged from a Hospital, other than a mental hospital. Patients usually require domiciliary care in addition to nursing care, who by reason of illness or physical infirmity or advanced age, require such services, but does not include any place providing care and treatment primarily for the acutely ill.

b. Typical Uses

Such facilities include, but are not limited to nursing homes licensed pursuant to Chapter 400, Fla. Stat. and detoxification, inpatient treatment and residential treatment licensed pursuant to Chapter 397, Fla. Stat.

c. Licensing

A Nursing Home or Convalescent Facility shall be required to be licensed by the State of Florida.

d. Lot Size

A minimum of 10,000 square feet or the minimum requirement of the zoning district, whichever is greater.

e. Frontage

A minimum of 100 feet of frontage or the minimum requirement of the zoning district.

f. Access

If located in a residential FLU designation, access shall be provided from a Collector or Arterial Street.

Maximum Number of Patient Beds

- 1) All FLU designations except RR: One bed per 1,000 square feet of lot area.
2) RR FLU designation: 0.25 bed per 1,000 square feet of lot area.

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