

May 12, 2025

## **Via Camino**

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Department of Development Services  
Planning and Zoning Division  
100 W. Atlantic Boulevard  
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Re: Code Text Amendment  
Sec. 155.4209, Health Care Uses; Art. 9, Definitions; and Appendix A,  
Consolidated Use Table

### **A. Introduction and Summary of Request**

On behalf of HCA Florida Northwest Hospital (“Applicant”), we hereby submit this application to amend the City of Pompano Beach Zoning Code (“Code”) to accommodate the establishment of a relatively new type of medical use commonly referred to as a free-standing emergency room (“FSER”). FSERs are referred to as ‘hospital-based off-campus emergency departments’ in our proposed Code amendment (“Code amendment”), consistent with the definition used in Florida Statutes Chapter 395. More specifically, this application seeks to make changes as summarized below. Several of these changes originated from City staff as noted:

- Sec. 155.4209, *Health Care Uses*: Minor clean-up changes to the definitions of ‘medical office’ and ‘medical or dental lab’ (*introduced by City staff*);
- Sec. 155.4209: Complete re-write of ‘Specialty Medical Facility’ to more clearly define what types of uses fall into this category (*introduced by City staff*)
- Sec. 155.4209: Remove the Overnight Treatment standard across all uses, because it is redundant with the Hours of Operation standard (*introduced by City staff*)
- Sec. 155.4209: Amend the standards for an ‘Urgent Care Facility’ to remove ‘24-hours’ from its name since it is redundant with the Hours of Operation standard; permit it by-right in the B-3 district rather than with a Special Exception; permit overnight treatment; remove the requirement for it to be separated by 500 feet from a Single-Family (RS) or Two-Family (RD) zoning district; and introduce two new development standards to minimize impacts on residents when said use is within 500 feet of an RS or RD district;
- Sec. 155.4209: Create new health care use category of ‘Hospital-based off-campus emergency department’, with development standards identical to those of an urgent care facility

- Article 9, Definitions: Amend this Code section to be consistent with the changes to the definitions in Sec. 155.4209
- Appendix A, Consolidated Use Table: Amend the Use Table to be consistent with the changes in Sec. 155.4209

## **B. Background**

FSERs are a relatively new type of health care use that is not envisioned in most cities' Codes; the definition and regulations governing this use were not even added to the Florida Statutes until 2021 (Florida Laws, Chapter 2021-112). Despite the newness of this concept, they are proliferating quickly — 30 standalone emergency rooms have opened, are under construction or planned in Broward, Palm Beach, and Miami-Dade counties.<sup>1</sup>

An FSER is a hospital-owned and operated facility that is located on separate premises from the hospital and is generally open 24 hours a day, 7 days a week. These facilities provide a mix of services commonly classified as 'urgent care', where the patient would either walk in, drive themselves, or have themselves driven to the facility; as well as services typically classified as 'emergency care'. The local EMS authority dictates which facilities patients are transported to based on a variety of factors that the FSER operator does not control. The standard practice for FSER emergency department leaders is to meet quarterly with the relevant EMS agencies to determine the types of patients and services that can be routed to the proposed FSER.

## **C. Code Amendment**

The City of Pompano Beach currently has 7 categories of health care uses in its Code. FSERs most closely resemble either an 'urgent care facility', 'specialty hospital', or 'general hospital', but none of these categories is a perfect fit. In the past, City staff has stated that FSERs would fit under the 'specialty hospital' or 'general hospital' category because urgent care facilities are supposed to provide 'immediate, but not emergent, care". However, a general hospital is a use that is several magnitudes more intense than an FSER; for example, the FSER proposed by the Applicant is only approximately 11,000 square feet in size. A specialty hospital, on the other hand, is intended for 'treatment of patients with specific categories of medical or psychiatric illnesses or disorders'. Both specialty and general hospitals have a 3-acre minimum lot size requirement, which is inappropriate given the small building size of most FSERs.

Accordingly, the Code amendment proposes to create a new health care use category of 'Hospital-based off-campus emergency department' for the FSER rather than trying to fit it into an existing category. Because FSERs are similar in scale and have similar impacts on the surrounding area as urgent care facilities, the Applicant proposes to have identical development standards for these two health care uses, while also modifying the standards for the urgent care

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<sup>1</sup> South Florida Sun-Sentinel. *Free-standing ERs are popping up all over South Florida. Don't confuse them for urgent cares.* January 27, 2025.

facility use. This modification is necessary due to the lack of suitable sites for FSERs (or urgent care facilities) as described further in the Code criteria justification.

#### **D. Code Criteria Justification**

Per Section 155.2402.C of the Code, in determining whether to adopt or deny the proposed amendment, the City Commission shall weigh the relevance of and consider whether and the extent to which the proposed amendment addresses the following review criteria. Each of the criteria are listed below in **bold** with Applicant's justification below in regular font.

##### **1. Is consistent with the comprehensive plan;**

The proposed text amendment is consistent with the following goals, policies, and objectives of the City's Comprehensive Plan.

*Future Land Use Element Policy 01.01.12*

*The City's Future Land Use Map will be in conformance with the County's Land Use Plan and will implement the County's regional vision including provision of essential public services and facilities, enhanced sustainability and livability and give priority to protecting public beach access sites.*

The proposed text amendment will allow for an innovative new medical use to be located closer to the communities they serve, thus enhancing public services and reducing response times and drive times for medical emergencies.

*Future Land Use Element Policy 01.03.06*

*Consider density and intensity revisions with an emphasis on minimal negative impacts to existing residential areas, particularly single-family areas.*

*Future Land Use Element Policy 01.03.08*

*Establish criteria to protect residential areas and other land uses that are adjacent to industrial and commercial areas from excessive odors, traffic and parking impacts.*

The B-3 district already permits a wide range of uses by-right without a distance separation requirement, including retail, restaurants, colleges, grade schools, courthouses, fire or EMS stations, and police stations. All of these by-right uses are expected to have far greater noise and traffic impacts on surrounding neighborhoods. Fire, EMS, and police stations in particular are worth noting due to the frequency of emergency vehicle trips and the accompanying siren noise. Other HCA-operated free-standing emergency rooms located in Boynton Beach and Palm Beach Gardens have experienced long term ambulance visits that average only 0.4 and 0.8 ambulance visits per day respectively.

Furthermore, the text amendment includes two new standards for an urgent care facility or FSER within 500 feet of a Single-Family (RS) or Two-Family (RD) zoning district. The first requires primary vehicular access for an urgent care facility or FSER to be on an arterial or collector road. The second requires the urgent care facility or FSER to provide a Type C Buffer along all local roads, which is the most stringent type of landscape buffer, prevents visual contact between uses, and creates a strong impression of total separation.

*Future Land Use Element Policy 01.04.03*

*Except for schools, regional and community facilities shall be located close to major traffic corridors and mass transit routes adequate to carry the volume of traffic generated by such facilities.*

The text amendment ameliorates the impact of eliminating the 500-foot separation requirement for RS and RD districts by requiring that any urgent care facilities or FSERs located within 500 feet of such a district locate their primary entrance on an arterial or collector roadway and direct traffic away from residential neighborhoods to the maximum extent practical.

**2. Does not conflict with any provision of this Code or the Code of Ordinances;**

The proposed text amendment does not conflict with the Code and helps clarify the types of uses that would be classified as a ‘specialty medical facility’.

One of the amendments to the ‘urgent care facility 24-hours’ use standards is to remove the standard which previously prohibited overnight treatment. Permitting overnight treatment is consistent with the very name of the use ‘urgent care facility 24-hours’, as well as Standard C which states ‘*The facility may be open 24 hours per day*’.<sup>2</sup> Presumably, the intent is to allow treatment at night as no other activity such as paperwork or deliveries could possibly be taking place at 4 in the morning.

The definition of an urgent care facility already provides that ‘*patients shall be served solely on an outpatient basis and such services shall not include overnight stays*.’ Article 9, Definitions, does not define the term ‘*treatment*’. Most likely, when the existing standard of ‘*overnight treatment is prohibited*’ was written into the Code, the drafters were thinking of overnight stays rather than taking care of patients. The clearest Code language moving forward is to consistently use ‘*overnight stays*’ when referring to inpatient stays in a hospital bed and eliminate the use of ‘*overnight treatment*’ entirely, since it is synonymous with the hours of operation for that particular medical use and so is already addressed by the Hours of Operation standard.

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<sup>2</sup> The proposed text amendment also removes ‘24-hours’ from the name of the use in order to avoid redundancy with Standard C, which already states the facility may be open 24 hours a day.

Accordingly, the Overnight Treatment standard was deleted across all uses.

**3. Is required by changed conditions;**

As noted in the *Background* section, FSERs are a relatively new type of health care use that is not envisioned in most cities' Codes; the definition and regulations governing this use were not even added to the Florida Statutes until 2021 (Florida Laws, Chapter 2021-112). It is critical to adjust the City's Code accordingly to account for new market innovations and uses that were not previously anticipated, so as not to unduly restrict such uses to the detriment of the City's residents.

**4. Addresses a demonstrated community need;**

FSERs fill an essential middle ground between an urgent care facility and a full hospital. Most urgent care centers have limited lab and X-ray capabilities and are appropriate only for minor ailments like fever, cough, earaches or sprains. FSERs, on the other hand, have equipment like defibrillators, imaging machines and on-site laboratories. and are ideal for cuts that need stitches, severe burns, chest pain or seizures.<sup>3</sup> Unlike full hospitals, FSERs do not require large amounts of land, nor do they generate substantial noise and traffic impacts. Thus, they have more suitable sites to choose from and can be sited closer to residential neighborhoods.

Response times and drive times are crucial factors in an emergency, both of which will be reduced by building more small-scale FSERs closer to residential neighborhoods, as opposed to having a few large hospitals that serve the entire city. FSERs also have shorter wait times – the average time patients spend in an emergency department in a full-size hospital in Florida is 158 minutes. In Broward County, nearby hospital ER wait times range from 131 minutes at Broward Health Imperial Point to 166 minutes at Broward Health North. By comparison, the average time spent in an HCA-operated FSER is 102 minutes. The proposed text amendment will address a demonstrated community need by permitting this innovative health care use to be located closer to the communities they serve.

**5. Is consistent with the purpose and intent of the zoning districts in this Code, or would improve compatibility among uses and would ensure efficient development within the city;**

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<sup>3</sup> South Florida Sun-Sentinel. *Free-standing ERs are popping up all over South Florida. Don't confuse them for urgent cares.* January 27, 2025.

The text amendment is necessary to ensure efficient development of new FSERs in close proximity to the neighborhoods they serve to ensure minimal drive times and response times. Urgent care facilities are currently permitted in the following districts by-right:

- B-4 (Heavy Business)
- I-1 (General Industrial)
- OIP (Office Industrial Park)
- CF (Community Facility)
- PCD (Planned Commercial/Industrial)
- LAC (Local Activity Center)
- PD-I (Planned Development – Infill)

They are also permitted in the B-3 (General Business) district with a Special Exception. The text amendment would permit FSERs in the same exact districts, and would also remove the requirement for the Special Exception in the B-3 district. In addition, the text amendment would remove the 500-foot distance separation requirement.

While the 500-foot separation requirement is in place to protect adjacent residential neighborhoods from potential adverse impacts, it is also important for an FSER to be sited close to the residential communities it would serve given that response time and drive times are crucial factors in an emergency. For instance, most of Pompano Beach west of Interstate 95 consists of industrial districts that are not within 500 feet of a residential zoning district; however, this area would be an inappropriate site for an FSER as it would significantly increase drive times for patients who need urgent or emergency care. On the east side of Pompano Beach, few parcels meet the requirement, as depicted in the *500-Ft Buffer Zoning Exhibit*, which shows zoning districts which currently permit urgent care facilities together with an overlay of the 500-foot separation buffer. Only the areas with a hatch both permit such uses and are not within 500 feet of an RS or RD district.

Almost the entire 4.1-mile stretch of North Federal Highway that is zoned B-3 from NE 6th Street to the northern City limits has residential districts adjacent to it within the 500-foot separation distance—Single Family Residence-3 (RS-3) along the northern two thirds, and Two-Family Residence (RD-1) and Multiple-Family Residence (RM-20 and RM-30) in the area around NE 14th Street.

Similarly, the approximately 3.3-mile stretch of North Dixie Highway from Sample Road to NW 14th Street (around the southern boundary of the Pompano Beach Airpark) is zoned B-3 and B-4 and has the RS-3 zoning district within the 500-foot separation distance, with the exception of one larger area zoned I-1 between NE 29th Street and NE 24th Street, on the east side of North Dixie Highway. Even in this one area of I-1, an FSER (or urgent care facility) could not be located on a parcel fronting onto North Dixie Highway because of the RS-3 district on the west side of North Dixie Highway which would still be within the 500 feet; instead, the FSER would have to be located deeper into the industrial park. FSERs need to be located directly on an arterial road so a site on a local road in the middle of an industrial park would be inappropriate.

Even the South Dixie Highway corridor, which is zoned B-4 and is dominated by auto repair businesses, would have almost no parcels that could meet the requirement, as the corridor is within 500 feet of Multiple-Family zoning districts.

**6. Would result in a logical and orderly development pattern; and**

The proposed amendment is consistent with the logical and orderly development pattern created by the regulations associated with health care uses. Urgent care facilities and FSERs are of a similar scale to each other and are anticipated to have similar impacts, so the proposed standards regulating them are identical. As noted elsewhere, the B-3 district already permits a number of very intense uses such as colleges, grade schools, courthouses, fire or EMS stations, and police stations without requiring either a distance separation or a Special Exception for any of them. Permitting urgent care facilities and FSERs in the B-3 district by-right with no distance separation requirement would greatly increase the quantity of feasible sites, as outlined in more detail under *Criterion 5*, while the two new proposed standards pertaining to vehicular access and landscape buffers would minimize any negative externalities.

**7. Would not result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.**

The new FSER use will have similar impacts to the existing ‘urgent care facility’ use. While a free-standing emergency room would generate some ambulance trips, they are expected to be infrequent. Other HCA-operated free-standing emergency rooms located in Boynton Beach and Palm Beach Gardens have experienced long term ambulance visits that average 0.4 and 0.8 ambulance visits per day respectively.

Permitting FSERs and urgent care facilities by-right in the B-3 zoning district and removing the 500-foot distance separation requirement would also not result in adverse impacts on the natural environment. In the B-3 district, a wide range of uses are permitted by-right without a distance separation requirement. Two typical commercial uses were considered: a 10,860-square-foot retail establishment and a 10,860-square-foot high-turnover restaurant. According to Institute of Transportation Engineers (ITE) trip generation rates, the retail would generate approximately 591 daily trips and the restaurant would generate 1,164 daily trips. By contrast, a typical free-standing emergency room (assumed to be 10,860 square feet for this comparison’s purposes) would generate 271 daily trips, 54.1% percent fewer than a similar sized retail use and 76.7% percent fewer than a similar sized high-turnover restaurant use.

In addition to these standard commercial uses, other by-right uses in the B-3 district include: colleges, grade schools, courthouses, fire or EMS stations, and police stations. All of these by-right uses are expected to have far greater noise and traffic impacts on surrounding neighborhoods. Fire, EMS, and police stations in particular are worth noting due to the frequency of emergency vehicle trips and the accompanying siren noise.

Based on the foregoing, Applicant respectfully requests approval of the proposed Code amendment.

Sincerely,

GREENSPOON MARDER LLP



Julian Bobilev, AICP

*500-Ft Buffer Zoning Exhibit*