

ORDINANCE NO. 2018-_____

**CITY OF POMPANO BEACH
Broward County, Florida**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 155, "ZONING CODE," BY AMENDING SECTION 155.4203., "RESIDENTIAL: GROUP LIVING USES," AND SECTION 155.4209, "INSTITUTIONAL: HEALTH CARE USES," TO CREATE NEW STANDARDS REQUIRING BOTH ASSISTING LIVING FACILITIES AND NURSING HOMES TO BE EQUIPPED WITH A PERMANENT EMERGENCY GENERATOR; TO ALLOW THE DEVELOPMENT SERVICES DIRECTOR TO APPROVE SITE PLAN MODIFICATIONS FOR THE PLACEMENT OF SUCH GENERATORS IN CERTAIN CIRCUMSTANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, a City-initiated text amendment to the Code of Ordinances providing regulations requiring a permanent emergency generator to be located at assisted living facilities and nursing homes and allowing the Development Services Director to approve a site plan modification for the placement of such generator, subject to the approval of the Planning and Zoning Board, where such a modification complies with all requirements of this Code and does not result in an increase of the intensity of the existing use or the violation of any condition of approval, has been proposed so that these types of facilities can become more self-reliant, protect their patients (who may rely on electricity for medical care/services and may be physically limited or fragile such that relocation to a different location is difficult) during electrical outages, and mitigate any potential degradation in the City's emergency response time during times of emergency; and

WHEREAS, on September 16, 2017, the Florida Department of Elder Affairs and the Agency for Healthcare Administration issued temporary, emergency rules requiring assisted living facilities and nursing homes in the State of Florida to implement a plan within 60 days (by November 5, 2017) providing for the installation, operation, maintenance and testing of a generator system to maintain the ambient air temperature of such facilities at 80 degrees or less for a period of at least 96 hours, in the event of loss of electrical power; and

WHEREAS, the amendment provides the requirements for a permanent emergency generator such that the specified facilities have sufficient operating capacity and fuel storage on-site to provide power to the facility for a minimum of 96 hours; and

WHEREAS, the amendment modifies the list of standards for Assisting Living Facilities and creates a standard requirement for nursing homes to provide emergency generators at said facilities and allows the Development Services Director to approve site plan modifications for generator placement; and

WHEREAS, the Development Services Director has provided his recommendation regarding the proposed amendment to the Code of Ordinances; and

WHEREAS, the Planning and Zoning Board, after notice and public hearing, has considered the proposed amendments to the Code of Ordinances, more specifically described herein, and has submitted its recommendation to the City Commission; and

WHEREAS, the City Commission finds that adoption of the amendment is necessary for the health, safety and welfare of the City; and

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 155.4203., “Residential: Group Living Uses”, of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 155.4203. RESIDENTIAL: GROUP LIVING USES

A. ASSISTED LIVING FACILITY

1. Districts Where Permitted

...

3. Standards

An assisted living facility with a licensed capacity of six or fewer persons shall comply with the permitted districts and standard for Community Residential Home with Six or Fewer Residents. An assisted living facility with a licensed capacity of seven to 14 persons shall comply with the permitted districts and standards for Community Residential Home with Seven to 14 Residents. A permanent emergency generator shall be required at any assisted living facility and nursing home. The installation of the required generator shall be subject to all permit requirements, and shall be inspected and approved by the City and installed prior to the issuance of a certificate of use. The permanent generator shall have sufficient operating capacity, and either sufficient on-site fuel storage capacity (with sufficient fuel) or a continuous fuel source by means of permanently installed infrastructure providing fuel to the site of the adult congregate living facility, convalescent home or nursing home, to provide power to all permanently installed electrical power systems at the facility, as well as all medical equipment necessary to sustain life and health of patients and all residents and to power HVAC systems to maintain a temperature of not more than 80 degrees, for a minimum 96-hour period. Any such uses that are existing and are

operating with a valid certificate of use as of the effective date of this Ordinance shall have the required permanent emergency generator (and fuel) installed as required herein no later than June 1, 2018. Modifications to approved site plans for such uses that are existing and operating with a valid certificate of use as of the effective date of this Ordinance for the purpose of compliance with this Section may be approved by the Development Services Director or designee, provided such modifications generally comply with all requirements of this Code and do not result in an increase of the intensity of existing use or in the violation of any condition of approval. The Development Services Director may approve minor waivers to the standards in Article 5 Development Standards for existing facilities, if it is demonstrated that the implementation of the standard is not possible without creating minor conflicts with required access, circulation, parking, loading, landscaping, screening, fences, and walls. The Development Services Director may additionally waive § 155.4302, GENERAL (B)(2)(g) if the only feasible location for the generator is in front of the principal structure. Violations of this section may be brought before the City's Special Magistrate for Code Compliance. Individuals found in violation of this section shall be subject to a minimum fine of \$500 per day for each offense. Each day of noncompliance shall constitute a separate offense. Nothing contained herein shall preclude the City from enforcing said regulations before any court of competent jurisdiction.

SECTION 2. That Section 155.4209., "Institutional: Health Care Uses," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 155.4209 INSTITUTIONAL: HEALTH CARE USES

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G. NURSING HOME FACILITY

1. Districts Where Permitted

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3. STANDARDS

A permanent emergency generator shall be required at any assisted living facility and nursing home. The installation of the required generator shall be subject to all permit requirements, and shall be inspected and approved by the City and installed prior to the issuance of a certificate of use. The permanent generator shall have sufficient operating capacity, and either sufficient on-site fuel storage capacity (with sufficient fuel) or a continuous fuel source by means of permanently installed infrastructure providing fuel to the site of the adult congregate living facility, convalescent home or nursing home, to provide power to all permanently installed electrical power systems at the facility, as well as all medical equipment necessary to sustain life and health of patients and all residents and to power HVAC systems to maintain a temperature of not more than 80 degrees, for a minimum 96-hour period. Any such uses that are existing and are operating with a valid certificate of use as of the effective date of this Ordinance shall have the required permanent emergency generator (and fuel) installed as required herein no later than June 1, 2018. Modifications to approved site plans for such uses that are existing and operating with a valid certificate of use as of the effective date of this Ordinance for the purpose of compliance with this Section may be approved by the Development Services Director or designee, provided such modifications generally comply with all requirements of this Code and do not result in an increase of the intensity of existing use or in the violation of any condition of approval. The Development Services Director may approve minor waivers to the standards in Article 5 Development Standards for existing facilities, if it is demonstrated that the implementation of the standard is not possible without creating minor conflicts with required access, circulation, parking, loading, landscaping, screening, fences, and walls. The Development Services Director may additionally waive § 155.4302. GENERAL (B)(2)(g) if the only feasible location for the generator is in front of the principal structure. Violations of this section may be brought before the City's Special Magistrate for Code Compliance. Individuals found in violation of this section shall be subject to a minimum fine of \$500 per day for each offense. Each day of noncompliance shall constitute a separate offense. Nothing contained herein shall preclude the City from enforcing said regulations before any court of competent jurisdiction.

SECTION 3. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 4. This Ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2018.

PASSED SECOND READING this _____ day of _____, 2018.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

MEB/tal:jrm
2/14/18
L:ord/ch155/2018-84