

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 153, "RENTAL HOUSING CODE," BY AMENDING SECTION 153.05, "DEFINITIONS," TO MODIFY DEFINITIONS, RELATED TO VARIOUS COMMUNITY RESIDENCES; AMENDING CHAPTER 155, "ZONING CODE," BY AMENDING SECTION 155.2406, "SPECIAL EXCEPTION," TO PROVIDE SPECIAL EXCEPTION REQUIREMENTS AND REVIEW STANDARDS FOR COMMUNITY RESIDENCES AND RECOVERY COMMUNITIES; BY AMENDING SECTION 155.2432, "REASONABLE ACCOMMODATION," TO MODIFY STANDARDS AND PROCEDURES FOR REASONABLE ACCOMMODATION AND ESTABLISH SAME FOR COMMUNITY RESIDENCES AND RECOVERY COMMUNITIES; BY AMENDING ARTICLE 2, "ADMINISTRATION," PART 4, "APPLICATION-SPECIFIC REVIEW PROCEDURES," TO CREATE SECTION 155.2434, "COMMUNITY RESIDENCE AND RECOVERY COMMUNITY CERTIFICATE," TO ESTABLISH PURPOSE, APPLICABILITY AND PROCEDURES; BY AMENDING ARTICLE 3, "ZONING DISTRICTS" OF THE ZONING CODE, TO DESIGNATE SPECIFIC RESIDENTIAL, BUSINESS AND COMMERCIAL DISTRICTS WITHIN THE CITY FOR LOCATION OF COMMUNITY RESIDENCES AND RECOVERY COMMUNITIES; BY AMENDING TABLE 155.3708.H.2 "PRINCIPAL USES REGULATING TABLE," TO MODIFY REFERENCES FOR VARIOUS COMMUNITY RESIDENTIAL USES; BY AMENDING TABLE 155.3709.E.2, "PRINCIPAL USES REGULATING TABLE," TO MODIFY REFERENCES FOR VARIOUS COMMUNITY RESIDENTIAL USES; BY AMENDING ARTICLE 4, "USE STANDARDS" OF THE ZONING CODE TO DESIGNATE ZONING DISTRICTS, AND MODIFY AND PROVIDE DEFINITION REQUIREMENTS AND STANDARDS FOR RESIDENTIAL HOUSEHOLD LIVING USES, FAMILY COMMUNITY RESIDENCES, TRANSITIONAL COMMUNITY RESIDENCES, RESIDENTIAL GROUP LIVING USES, RECOVERY COMMUNITIES, CONTINUING CARE RETIREMENT COMMUNITIES, AND ROOMING AND BOARDING HOUSES; BY AMENDING SECTION 155.5102, "OFF-STREET PARKING AND LOADING," TO MODIFY AND ESTABLISH THE MINIMUM NUMBER OF OFF-STREET PARKING SPACE REQUIREMENTS FOR COMMUNITY RESIDENCES AND RECOVERY COMMUNITIES; BY AMENDING SECTION 155.8402, "CIVIL REMEDIES," TO PROVIDE FOR REVOCATION OF COMMUNITY RESIDENCE AND RECOVERY COMMUNITY CERTIFICATES, INCLUDING PROCEDURES, NOTICE AND APPEAL;

BY AMENDING ARTICLE 9, “DEFINITIONS AND INTERPRETATION” OF THE ZONING CODE, TO MODIFY AND PROVIDE DEFINITIONS RELATING TO DISABILITY, DWELLINGS, FAMILIES, FAMILY COMMUNITY RESIDENCES, ASSISTED LIVING FACILITIES, COMMUNITY RESIDENCES, RECOVERY COMMUNITIES, TRANSITIONAL COMMUNITY RESIDENCES AND SIMILAR USES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Zoning Code Section § 155.2402, the Planning and Zoning Board reviewed the proposed text amendment at a public hearing held on March 25, 2018, and voted five to one to recommend that the changes be approved; and

WHEREAS, pursuant to Section 163.3174(4)(c), Florida Statutes, the Planning and Zoning Board, sitting as the Local Planning Agency, has determined that the changes are consistent with and further the goals, objectives and policies of the Comprehensive Plan; and

WHEREAS, the City Commission of the City of Pompano Beach adopts the findings in the Planning and Zoning Staff Report; and

WHEREAS, the City Commission of the City of Pompano Beach adopts the findings and conclusions of the study it commissioned, *Pompano Beach, Florida: Principles to Guide Zoning for Community Residences for People With Disabilities* dated February 2018; and

WHEREAS, the City Commission of the City of Pompano Beach finds this ordinance is consistent with the city’s Comprehensive Plan; and

WHEREAS, Section 419.001 (11), Florida Statutes, establishes that “siting of community residential homes in areas zoned for single family shall be governed by local zoning ordinances. Nothing in this section prohibits a local government from authorizing the development of community residential homes in areas zoned for single family”; and

WHEREAS, pursuant to Section 419.001 (12), Florida Statutes, the State of Florida allows local jurisdictions to adopt zoning provisions for community residences for people with disabilities that are more liberal than the requirements of the state statutes; and

WHEREAS, certain provisions of this ordinance do not apply if state law requires a more permissive zoning treatment; and

WHEREAS, the City of Pompano Beach recognizes that the Fair Housing Act as amended (42 U.S.C. §3601) provides protections for persons with disabilities; and

WHEREAS, the Fair Housing Act does not preempt local zoning laws or preclude the adoption, amendment, or enforcement of zoning regulations by the City of Pompano Beach pursuant to its local police powers as long as the zoning regulations are consistent with state and federal laws, including the Fair Housing Act as amended; and

WHEREAS, the legislative history of the Fair Housing Amendments Act of 1988 cautions that local zoning regulations are prohibited that result “from false or over-protective assumptions about the needs of handicapped people, as well as unfounded fears of difficulties about the problems that their tenancies may pose.” H.R. Rep. No. 711, 100th Cong. 2D Session, Reprinted in 1988 U.S.C.C.A.N. 2173, 2192 (1988); and

WHEREAS, the case law under the Fair Housing Act calls for local zoning regulation of community residences for people with disabilities to use the least drastic means needed to actually achieve legitimate government interests; and

WHEREAS, the Fair Housing Act does not provide for local land use policies or actions that treat groups of persons with certain disabilities differently than groups of people with other disabilities; and

WHEREAS, the City of Pompano Beach commissioned a detailed study, *Pompano Beach, Florida: Principles to Guide Zoning for Community Residences for People With Disabilities* dated February 2018, (hereinafter, “the Study”) by a planning and law expert on zoning for community residences since 1974 who has written model zoning guidelines for community residences on behalf of the American Planning Association and American Bar Association, provided consulting services on zoning for community residences to dozens of communities, and served as an expert witness for the Department of Housing and Urban Development (“HUD”); and

WHEREAS, the Study reports upon:

The reasonable accommodation requirements the Fair Housing Amendments Act of 1988 established; and

The core nature of community residences for people with disabilities and why they have long been regarded to be residential uses: performing as a functional family by emulating a biological family as a key component to achieving normalization and community integration of their residents; and

How different types of community residences function; and

The functional differences between community residences for people with disabilities, boarding or lodging houses, and institutional uses such as nursing homes; and

The rational foundations for regulating community residences based on actual research; and

A review of the research on the impacts (or lack thereof) on property values, property turnover rates, and neighborhood safety of licensed or certified community residences for people with disabilities not clustered on a block or concentrated in a neighborhood; and

A review of the locations of all community residences throughout the City of Pompano Beach and found clustering of community residences on blocks and concentrations in certain neighborhoods that have created or are creating *de facto* social service districts in the City of Pompano Beach that interfere with the ability of community residences for people with disabilities to achieve their core goals of normalization and community integration of their residents; and

A review of the need to protect the vulnerable populations of people with disabilities from unscrupulous operators of community residences through licensing, certification, or recognition by Congress; and

A review of the documented abuses — including death, prostitution, fraud, and continued use of drugs and alcohol — people with disabilities, generally people in recovery from drug and/or alcohol addiction, have suffered at the hands of unscrupulous and largely unlicensed or uncertified operators of community residences in Pompano Beach and southeastern Florida; and

An evaluation of the current zoning treatment of community residences in Pompano Beach; and

An explanation of how multifamily buildings into which people in recovery have been placed, also known as “recovery communities,” recreate segregative mini-institutions rather than function as discrete residential uses that emulate a biological family; and

An explanation of how recovery communities, especially when clustered together, reduce the opportunities for people in recovery to socialize and interact with the clean and sober neighbors who are intended to serve as role models; and

An explanation of how recovery communities clustered together alter the residential character of a neighborhood; and

A review of the limited carrying capacity of neighborhoods to absorb service-dependent people into their social structure; and

Enunciation of the general principles for zoning for community residences derived from the case law under the Fair Housing Act, sound zoning and planning principles, and factual information about the purpose and operations of such residences; and

Guiding principles for zoning for community residences for people with disabilities; and

The least drastic zoning approach to actually achieve legitimate government interests; and

A sample zoning application form to enable the city to implement the recommended regulatory approach in a timely, but least intrusive manner; and

The limited scope of §419.001, Florida Statutes, that applies to only those community residences for people with disabilities licensed by five state agencies; and

How §419.001(3)(c)(3), Florida Statutes, fails to comply with the nation's Fair Housing Act and lacks a factual basis; and

How community residences for people with disabilities constitute a different type of land use than vacation rentals that warrants different zoning treatments within the context of the Florida Statutes; and

An annotated bibliography of representative studies of the impacts of community residences for people with disabilities on property values, property turnover, and neighborhood safety; and

WHEREAS, clustering of community residences and/or recovery communities on a block and concentrations of community residences and/or recovery communities in a neighborhood undermine the ability of community residences to achieve normalization and community integration for their residents which are two of the essential purposes of a community residence for people with disabilities; and

WHEREAS, to implement the guidelines of the Study, the City of Pompano Beach is hereby amending its land use regulations to make the reasonable accommodations the Fair Housing Act requires by removing any terms and conditions that have the effect of limiting or making housing unavailable to people with disabilities while preserving the ability of community residences for people with disabilities to emulate a family and achieve normalization and community integration of their residents; and

WHEREAS, the City of Pompano Beach is amending its land use regulations to make the reasonable accommodations the Fair Housing Act requires to allow recovery communities to locate in the zoning districts where this mini-institution is appropriate; and

WHEREAS, the City of Pompano Beach is hereby amending its land use regulations to give prospective operators of community residences for people with disabilities and recovery

communities clarity and certainty on where such uses may locate as of right and via a special exception; and

WHEREAS, in accord with case law, community residences for people with disabilities that fit within the cap of three unrelated occupants that can constitute a family under Pompano Beach's *Zoning Code* must be treated the same as any other family; and

WHEREAS, these new zoning provisions make the reasonable accommodation the Fair Housing Act requires by allowing the relatively permanent living arrangement of a "family community residence" for four to ten people with disabilities as a permitted use in all residential districts and all other zoning districts where residential uses are allowed, subject to a rationally-based spacing distance of a typical block of 660 linear feet from an existing community residence or recovery community, and a licensing or certification requirement for the operator or the home itself; and

WHEREAS, transitional community residences for four to ten people with disabilities tend to perform more like multi-family housing, therefore a reasonable accommodation is made that allows them as a permitted use in all multi-family residential districts and all other zoning districts where multi-family residential uses are allowed, subject to a rationally-based spacing distance of a typical block of 660 linear feet from an existing community residence or recovery community and a licensing or certification requirement for the operator or the home itself; and

WHEREAS, because transitional community residences for people with disabilities are more akin in terms of function and performance to multi-family uses than single-family residences, the heightened scrutiny of a special exception is warranted for transitional community residences in single-family zoning districts; and

WHEREAS, because the concentration of people in a recovery community is significantly greater than in a community residence and can tax a neighborhood's carrying capacity to absorb service dependent people into its social structure, a longer spacing distance of 1,200 linear feet is warranted between recovery communities and community residences to prevent the clustering and concentrations that undermine the ability of these uses to achieve their core purposes of normalization and community integration; and

WHEREAS, these new zoning provisions make the reasonable accommodation the Fair Housing Act requires by allowing recovery communities as a use in all zoning districts where multiple-family residential uses are allowed as well as commercial and institutional districts, subject to a rationally-based spacing distance 1,200 linear feet from any existing community residence or recovery community, and a licensing or certification requirement for the operator or the recovery community itself; and

WHEREAS, the heightened scrutiny of a special exception is warranted when a proposed recovery community seeks to locate within the rationally-based spacing distance; and

WHEREAS, a recovery community that has been denied state licensing or certification required by this ordinance would not be allowed in Pompano Beach; and

WHEREAS, this ordinance specifies standards narrowly tailored to assure that a proposed community residence or recovery community will not interfere with normalization or community integration of the occupants of any nearby existing community residences or recovery communities nor contribute to creating a *de facto* social service district that thwarts the purpose and successful functioning of community residences and results in segregation of people with disabilities; and

WHEREAS, the heightened scrutiny of a special exception is warranted when a proposed community residence for people with disabilities fails to meet both criteria to be allowed as a permitted use; and

WHEREAS, a community residence for people with disabilities that has been denied required state licensing or certification would not be allowed due to the state's own licensing or certification laws; and

WHEREAS, some community residences for people with disabilities need to house more than ten people for therapeutic and/or financial reasons, a procedure is established to grant a further reasonable accommodation to allow more than ten residents as long as it can be demonstrated this group can and will perform as a functional family which is a core principle and purpose of community residences for people with disabilities; and

WHEREAS, like all residential uses, the overcrowding provisions in the City's adopted housing code determines the maximum number of occupants of a community residence for people with disabilities no matter how many the zoning code would allow, with or without a reasonable accommodation request to house more than 10 people; and

WHEREAS, this ordinance establishes off-street parking requirements for community residences for people with disabilities narrowly tailored to the actual need of the different types of community residences based on the population served; and

WHEREAS, the Fair Housing Act affords no protections to individuals with or without disabilities who present a direct threat to the persons or property of others, provided however, that determining whether someone poses such a direct threat must be made on an individualized basis, and cannot be based on general assumptions or speculation about the nature of a disability; and

WHEREAS, in accordance with Florida Statutes, Section 166.041(3)(c)2, advertisements in accordance with said statute have been published in a newspaper of general paid circulation in the City of Pompano Beach and of general interest and readership in the community, notifying the public of two public hearings on this proposed Ordinance; and

WHEREAS, two public hearings have been held pursuant to said published hearings and all persons so desiring had the opportunity to be, and were, in fact, heard; now, therefore,

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

SECTION 1. That Section 153.05, “Definitions,” of Chapter 153, “Rental Housing Code,” of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 153.05 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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BUILDING. Any structure having a roof supported by columns and/or walls and intended for the shelter, housing, or enclosure of persons, animals, or chattel or part thereof.

COMMUNITY RESIDENCE. See Part 5 (Terms and Uses Defined) of Article 9 (Definitions and Interpretations) of Chapter 155 (Zoning Code).

DILAPIDATED. No longer adequate for the purpose or use for which it was originally intended.

DISABILITY. See Part 5 (Terms and Uses Defined) of Article 9 (Definitions and Interpretations) of Chapter 155 (Zoning Code).

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FAMILY. See Part 5 (Terms and Uses Defined) of Article 9 (Definitions and Interpretations) of Chapter 155 (Zoning Code).

FAMILY COMMUNITY RESIDENCE. See Part 5 (Terms and Uses Defined) of Article 9 (Definitions and Interpretations) of Chapter 155 (Zoning Code).

GRADE. As it relates to a building shall mean the finished grade of the first floor of the building or structure in question and as it relates to the ground shall mean the average finished grade of the ground adjacent to the building or structure in question.

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OWNER, ABSENTEE. The owner of the property who does not live within or maintain a permanent place of business within the jurisdictional limits of Palm Beach, Broward, or Miami-Dade Counties, Florida.

OXFORD HOUSE. See Part 5 (Terms and Uses Defined) of Article 9 (Definitions and Interpretations) of Chapter 155 (Zoning Code).

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PUBLIC HALL. A hall, corridor or passageway for providing egress from a rental unit to a public area and not within the exclusive control of one family.

RECOVERY COMMUNITY. See Part 5 (Terms and Uses Defined) of Article 9 (Definitions and Interpretations) of Chapter 155 (Zoning Code).

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SHORT TERM RENTAL. A dwelling unit that rents, leases, or lets for consideration any living quarters or accommodations for a term of six months or less in a calendar year. This term does not include condominiums, condo hotels, hotels, motels, timeshare ~~property~~ properties, or bed and breakfasts, or community residences and recovery communities as defined in this Code.

...

TEMPORARY OCCUPANCY. When the rental unit is not the sole residence of the occupant(s).

TRANSITIONAL COMMUNITY RESIDENCE. See Part 5 (Terms and Uses Defined) of Article 9 (Definitions and Interpretations) of Chapter 155 (Zoning Code).

SECTION 2. That Section 155.2406., “Special Exception,” of Chapter 155, “Zoning Code,” of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

155.2406. SPECIAL EXCEPTION

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D. SPECIAL EXCEPTION REVIEW STANDARDS

Except for community residences and recovery communities, a A
Special Exception shall be approved only on a finding that there is competent substantial evidence in the record that the Special Exception, as proposed:

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E. SPECIAL EXCEPTION REVIEW STANDARDS FOR COMMUNITY RESIDENCES

A Special Exception for a community residence (family or transitional) shall be approved by simple majority vote of the Board members present, only on a finding that there is competent substantial evidence in the record that the Special Exception meets the following applicable standards:

1. When the proposed community residence arrangement is required to obtain a special exception because it would be located within 660 linear feet of an existing community residence or recovery community:

(a) The applicant demonstrates that the proposed community residence will not interfere with the normalization and community integration of the residents of any existing community residence or recovery community and that the presence of other community residences or recovery communities will not interfere with the normalization and community integration of the residents of the proposed community residence, and

(b) The applicant demonstrates that the proposed community residence in combination with any existing community residences and/or recovery

communities will not alter the residential character of the surrounding neighborhood by creating an institutional atmosphere or by creating or intensifying an institutional atmosphere or *de facto* social service district by concentrating or clustering community residences and/or recovery communities on a block face or in a neighborhood.

2. When the proposed community residence is required to obtain a special exception because the State of Florida does not offer a license or certification for this type of community residence and the population it would serve, the applicant must demonstrate that:

(a) The proposed community residence will be operated in a manner effectively similar to that of a licensed or certified community residence;

(b) Staff will be adequately trained in accord with standards typically required by licensing or state certification for a community residence;

(c) The community residence will emulate a biological family and be operated to achieve normalization and community integration; and

(d) The rules and practices governing how the community residence is operated will actually protect residents from abuse, exploitation, fraud, theft, insufficient support, use of illegal drugs or alcohol, and misuse of prescription medications.

3. In districts where a community residence is allowed as a special exception, the community residence shall be approved only on a finding that there is competent substantial evidence in the record that the Special Exception meets the applicable standards:

(a) The applicant demonstrates that the proposed community residence will not interfere with the normalization and community integration of the residents of any existing community residence and/or recovery community and that the presence of other community residences and/or any recovery communities will not interfere with the

normalization and community integration of the residents of the proposed community residence;

- (b) The applicant demonstrates that the proposed community residence in combination with any existing community residences and/or recovery communities will 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 or clustering community residences and/or any recovery community on a block or in a neighborhood, and
- (c) The applicant demonstrates that the proposed community residence will be compatible with the residential uses allowed as of right in the zoning district;
- (d) When the proposed community residence would be located in a single-family zoning district, the applicant demonstrates that the proposed transitional community residence, alone or in combination with any existing community residences, will not alter the residential stability of the single-family zoning district;
- (e) The applicant demonstrates that the applicant or the proposed community residence has been granted certification by the State of Florida or license required by the State of Florida, and
- (f) When the State of Florida does not offer certification or require a license for this type of transitional community residence and the population it would serve, the application demonstrates that:

 - (1) The proposed community residence will be operated in a manner effectively similar to that of a licensed or certified community residence;
 - (2) Staff will be adequately trained in accord with standards typically required by

licensing or state certification for a community residence;

(3) The community residence will emulate a biological family and be operated to achieve normalization and community integration; and

(4) The rules and practices governing how the community residence is operated will actually protect residents from abuse, exploitation, fraud, theft, insufficient support, use of illegal drugs or alcohol, and misuse of prescription medications.

F. SPECIAL EXCEPTION REVIEW STANDARDS FOR RECOVERY COMMUNITIES

A Special Exception for a recovery community shall be approved by Simple Majority vote of the Board members present, only on a finding that there is competent substantial evidence in the record that the Special Exception meets the following applicable standards:

1. When the proposed recovery community is required to obtain a special exception because it would be located within 1,200 linear feet of an existing recovery community or community residence:

(a) The applicant demonstrates that the proposed recovery community will not interfere with the normalization and community integration of the residents of any existing community residence or recovery community and that the presence of existing community residences or recovery communities will not interfere with the normalization and community integration of the residents of the proposed recovery community; and

(b) The applicant demonstrates that the proposed recovery community in combination with any existing recovery communities or community residences will not alter the residential character of the

surrounding neighborhood by creating or intensifying an institutional atmosphere or creating or intensifying a *de facto* social service district by concentrating or clustering recovery communities and/or community residences on a block face or in a neighborhood.

2. In zoning districts where a recovery community is allowed only as a special exception, the recovery community shall be approved only on a finding that there is competent substantial evidence in the record that the Special Exception meets the following applicable standards:

- (a) The applicant demonstrates that the proposed recovery community will not interfere with the normalization and community integration of the residents of any existing community residence or recovery community and that the presence of existing community residences or recovery communities will not interfere with the normalization and community integration of the residents of the proposed recovery community;
- (b) The applicant demonstrates that the proposed recovery community in combination with any existing recovery community or community residence will not alter the residential character of the surrounding neighborhood by creating or intensifying an institutional atmosphere or creating or intensifying a *de facto* social service district by concentrating or clustering recovery communities and/or community residences on a block face or in a neighborhood;
- (c) The applicant demonstrates that the proposed recovery community will be compatible with the residential uses allowed as of right in the zoning district;
- (d) When the proposed recovery community would be located in a two-family zoning

district, the applicant demonstrates that the proposed recovery community, alone or in combination with any recovery community or community residence, will not alter the residential stability of the two-family zoning district; and

(e) The applicant demonstrates that the applicant or the proposed recovery community has been granted certification available from the State of Florida or license required by the State of Florida.

(f) If the proposed recovery community would be located within 1,200 linear feet of an existing recovery community or community residence:

(1) The applicant demonstrates that the proposed recovery community will not interfere with the normalization and community integration of the residents of any existing community residence or recovery community and that the presence of existing community residences or recovery communities will not interfere with the normalization and community integration of the residents of the proposed recovery community; and

(2) The applicant demonstrates that the proposed recovery community in combination with any existing recovery communities or community residences will not alter the residential character of the surrounding neighborhood by creating or intensifying an institutional atmosphere or creating or intensifying a *de facto* social service district by concentrating or clustering recovery communities and/or community residences on a block face or in a neighborhood.

E. G. EFFECT OF APPROVAL

A development order for a Special Exception authorizes the submittal of an application for a Zoning Compliance Permit or Zoning Use Certificate and any other development permit that may be required before construction or use of the development approved by the development order for the Special Exception.

F. H. EXPIRATION

1. A development order for a Special Exception shall automatically expire if a Zoning Compliance Permit or Zoning Use Certificate, as appropriate, for the development authorized by the Special Exception is not obtained within two years after the date of the development order, or an extension of this time period authorized in accordance with Section 155.2308.B.2, Extension of Expiration Time Period.
2. A development order for a Special Exception shall automatically expire if the authorized development is discontinued and not resumed for a period of one year, or an extension of this time period authorized in accordance with Section 155.2308.B.2, Extension of Expiration Time Period.

G. I. MINOR DEVIATIONS

Subsequent applications for a Zoning Compliance Permit, or other development permits reviewed under this Code, for development authorized by a development order for a Special Exception, may include minor deviations from the approved plans and conditions without the need to amend the Special Exception. Such deviations, however, are limited to changes that the Development Services Director determines would not:

1. Materially alter the drainage, streets, or other engineering design;
2. Adversely impact the management of stormwater quality or stormwater quantity;
3. Substantially affect the terms of the original approval; or
4. Result in significant adverse impacts on the surrounding properties or the city at large.

H. J. AMENDMENT

Any modifications of development subject to an approved Special Exception other than those authorized in accordance with Section 155.2406.G, Minor Deviations, shall require amendment of the Special Exception in accordance with Section 155.2308.C, Modification or Amendment of Development Order.

I. K. LAWFUL SPECIAL EXCEPTION

1. For purposes of this section, "Permitted by Right "P"" shall include uses that were permitted and/or legally approved for permanent development under the applicable jurisdiction. When a building or lot is approved for a Use designated as Permitted by Right "P" in a particular zoning district, and the Use is later designated as Permitted by Special Exception "S", that use shall be considered a lawful special exception use. Lawful special exception uses are not required to obtain Special Exception approval. Expansions of lawful special exceptions uses shall be permitted only on a finding that the expansion is for additions or alterations to buildings or land improvements that existed at the time the use was designated Permitted by Right "P" and within the area of the lot included in the ownership at the time the use was designated Permitted by Right "P". Expansions of lawful special exception uses shall be subject to the dimensional and intensity standards for uses designated as Permitted by Right "P" in the district or districts in which they are located.
2. A community residence or recovery community located in Pompano Beach as May 23, 2018 that is not currently licensed or certified by the State of Florida and that does not receive licensure, certification, or recertification from the designated state entity by March 1, 2019 shall no longer constitute a Lawful Special Exception and must cease operation by March 1, 2019 or within 60 days of the date on which certification, recertification, or the required license is denied, whichever date comes first. Such a community residence or recovery community must either return residents to their families or relocate them to safe, secure housing within 60 days of the date on which certification, recertification, or the required license is denied or by March 1, 2019, whichever date comes first.
3. To continue to constitute a Lawful Special Exception, a family or transitional community residence located in Pompano Beach as of May 23, 2018 that is occupied by more than ten unrelated individuals is required to obtain no later than March 1, 2019, a Reasonable Accommodation to house more than ten unrelated individuals in accord with, respectively, §155.4202 H. 3. (c) or

§155.4202 I. 3. (c) of this Code, except state licensed community residences for seven to 14 individuals established under Chapter 419 of the state statutes. The number of occupants of a community residence may not exceed the maximum number allowed under the city's Rental Housing Code or the number authorized under the community residence's state certification or license, whichever is less.

4. The number of occupants of a recovery community that is a Lawful Special Exception may not exceed the maximum number allowed under the city's Rental Housing Code or the number authorized under the recovery community's state certification or license, whichever is less.

SECTION 3. That Section 155.2432., Reasonable Accommodation,” of Chapter 155, “Zoning Code,” of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 155.2432. REASONABLE ACCOMMODATION

A. PURPOSE

The purpose of this section is to establish a uniform mechanism to process requests for reasonable accommodation to its ordinances, rules, policies, and procedures for persons with disabilities as provided by the Federal Fair Housing Amendments Act (42 U.S.C. 3601, et seq.) (“FHA”) and Title II of the Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) (“ADA”). The provisions of this Code that establish community residences and recovery communities as permitted uses and Special Exceptions in various zoning districts subject to a spacing distance between community residences and/or recovery communities and possession of a license or certification from the State of Florida are intended to constitute this required reasonable accommodation. Further reasonable accommodations for community residences and recovery communities may be granted to allow more than ten occupants in a community residence or to reduce off-street parking requirements established in this Code.

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C. REASONABLE ACCOMMODATION PROCEDURE

1. Step 1: Pre-Application Conference

Optional (See Section 155.2301.).

2. Step 2: Neighborhood Meeting

Not applicable.

3. Step 3: Application Submittal and Acceptance

Applicable (See Section 155.2303.).

Application Requirements:

A request by an applicant for reasonable accommodation under this section shall be made in writing by completion of a reasonable accommodation request form. The reasonable accommodation form shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request and shall include the following information: ~~A~~applicant's name, telephone number, and address; ~~A~~address of housing or other location at which accommodation is requested; a description of qualifying disability or handicap; ~~D~~description of the accommodation and the specific regulation(s) and or procedure(s) from which accommodation is sought; ~~R~~reasons the reasonable accommodation may be necessary for the individual with disabilities to use and enjoy the housing or other service; ~~N~~name, address and telephone number of representative, if applicable; any other relevant information; and the ~~S~~signature of the ~~A~~applicant or ~~R~~representative, if applicable, or ~~Q~~qualifying ~~E~~entity.

Sensitive and Personal Information:

Should the information provided by the applicant to the city include medical information or records, including records indicating the medical condition, diagnosis or medical history of the applicant, such individual may, at the time of submitting such medical information, request that the city, to the extent allowed by law, treat such medical information as confidential information of the applicant. The city shall thereafter endeavor to provide written notice to the applicant, and/or their representative, of any request received by the city for disclosure of the medical information or documentation which the applicant has previously requested, be treated as confidential by the city.

The city will cooperate with the applicant, to the extent allowed by law, in actions initiated by such individual to oppose the disclosure of such medical information or documentation, but the city 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 allocation of internal resources) in connection therewith, and may comply with any judicial order without prior notice to the applicant.

4. ~~Step 4: Staff Review and Action~~ Public Hearing Scheduling and Notice

~~Applicable to a final decision by the City Manager within 45 days, of the determination that the application is complete and after notice and public hearing to receive comments, input and information from the public (provided, however, the City Manager or designee shall not be required to render their decision at said public hearing).~~

~~The City Manager may, in accordance with federal law:~~

- ~~a. Grant the accommodation request;~~
- ~~b. Grant a portion of the request and deny a portion of the request, and/or impose conditions upon the grant of the request; or~~
- ~~c. Deny the request, in accordance with federal law.~~

~~Any such denial shall be in writing and shall state the grounds therefor. 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 applicant or his or her representative) by certified mail, return receipt requested. If reasonably necessary to reach a determination on the request for reasonable accommodation, the City Manager, or designee, may, prior to the end of said 45 day period, request additional information from the requesting party, specifying in sufficient detail what information is required. The requesting party shall have 15 days after the date of the request for additional information to provide the requested information. In the event a request for additional information is made, the 45 day period, to issue a~~

~~written determination shall no longer be applicable, and the City Manager, or designee, shall issue a written determination within 30 days after receipt of the additional information. If the requesting party fails to provide the requested additional information within said 15-day period, the City Manager, or designee, shall issue a written notice advising that the requesting party had failed to timely submit the additional information, and therefore the request for reasonable accommodation shall be deemed abandoned and/or withdrawn and no further action by the city with regard to said reasonable accommodation request shall be required.~~

A public hearing may be held at a date and time determined by the Development Services Director, or designee, to solicit input from the public on the application. An agenda of the meeting shall be posted a week before the date of the public hearing. This application type shall not be considered an “application for a development permit” and thus is not subject to the standards established in 155.2305 Public Hearing Scheduling and Notice.

5. Step 5: Public Hearing Scheduling and Notice Staff Review and Action

~~Not Applicable.~~

Applicable to a final decision by the Development Services Director within 45 days, 30 days for a community residence, of the determination that the application is complete and after notice and public hearing to receive comments, input and information from the public (provided, however, the Development Services Director or designee shall not be required to render their decision at said public hearing).

The Development Services Director or designee may, in accord with federal law:

- a. Grant the accommodation request;
- b. Grant a portion of the request and deny a portion of the request, and/or impose

conditions upon the grant of the request, in accord with federal law; or

c. Deny the request, in accord with federal law.

Any such denial shall be in writing and shall state the grounds for the denial. All written determinations shall give notice of the right to appeal to a Special Magistrate. The notice of determination shall be sent to the requesting party (i.e. the applicant or its representative) by certified mail, return receipt requested. If reasonably necessary to reach a determination on the request for reasonable accommodation, the Development Services Director, or designee, may, before this 45-day period ends, 30 days in the case of a community residence, request additional information from the requesting party and specify in sufficient detail the required information. Within 15 days of the date of the request, the requesting party shall provide the additional requested information. When a request for additional information is made, the 45-day period, 30 days for a community residence, to issue a written determination shall no longer be applicable, and the Development Services Director, or designee, shall issue a written determination within 30 days after receiving the additional information, 15 days in the case of a community residence. If the requesting party fails to provide the requested additional information within the applicable 30 or 15-day period, the Development Services Director, or designee, shall issue a written notice advising that the requesting party failed to submit the additional information within the requisite time period, and the request for reasonable accommodation is therefore deemed abandoned and/or withdrawn and that no further action by the city with regard to this reasonable accommodation request shall be required.

6. Appeal of Staff's Decision (if applicable)

Any applicant denied a Reasonable Accommodation by the Development Services Director or designee may request a hearing to appeal the denial before the City's Special Magistrate. This appeal must be filed in writing and submitted to the Development Services Director within ten days of receiving the denial in writing. The hearing before the Special Magistrate shall be de novo and governed by the Standards in Subsection D. below. Appeal of the

Special Magistrate's decision shall be to the Broward Circuit Court or, if a housing discrimination claim is made under the nation's Fair Housing Act, to federal district court.

...

D. REASONABLE ACCOMMODATION REVIEW STANDARDS

In determining whether the reasonable accommodation request shall be granted or denied, the applicant shall be required to comply with the following:

1. Establish that they are protected under the FHA and/or ADA by demonstrating that they are handicapped or disabled, as defined in the FHA and/or ADA. Although the definition of disability is subject to judicial interpretation, for purposes of this section the applicant must show:
 - a. A physical or mental impairment, which substantially limits one or more major life activities;
 - b. A record of having such impairment; or
 - c. That they are regarded as having such impairment.
2. If seeking to house more than ten unrelated individuals in a community residence, the applicant must satisfy the following standards:
 - a. Specify by how many individuals it wishes to exceed the as of right maximum of ten residents and demonstrate by a preponderance of the evidence the financial and/or therapeutic need to house the proposed number of residents;
 - b. Demonstrate by a preponderance of the evidence that the primary function of the proposed community residence is residential where any medical treatment is merely incidental to the residential use of the property;
 - c. Demonstrate by a preponderance of the evidence that the proposed community residence will emulate a biological family and operate as a functional family rather than as an institution, boarding or

rooming house, nursing home, short term rental, continuing care facility, motel, hotel, treatment center, rehabilitation center, institutional use, or other nonresidential use; and

d. Demonstrate by a preponderance of the evidence that the requested number of residents in the proposed community residence will not interfere with the normalization and community integration of the occupants of any existing community residence or recovery community.

~~2. 3.~~ Demonstrate that the proposed accommodations being sought are reasonable and necessary to afford handicapped/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 Development Services Director ~~City Manager~~, or designee, or by ~~the City Commission~~ the Special Magistrate in the event of an appeal.

...

SECTION 4. That Section 155.2434., “Community Residence and Recovery Community Certificate,” of Chapter 155, “Zoning Code,” of the Code of Ordinances of the City of Pompano Beach is hereby created to read as follows:

§ 155.2434. COMMUNITY RESIDENCE AND RECOVERY COMMUNITY CERTIFICATE

A. PURPOSE

The purpose of a Community Residence and Recovery Community Certificate is to ensure that any proposed or existing community residence or recovery community complies with the applicable standards in this Code including to determine whether the proposed use is allowed as of right under the definition of “family” in this Code; is allowed as of right subject to the standards in §155.4202 H.3., §155.4202 I.3., or §155.4203 B.3.; requires a special exception; requires a reasonable accommodation to be occupied by more than ten unrelated individuals under §155.2432 and either §155.4202 H.3.(c) or §155.4202 I.3.(c); complies with minimum floor area requirements applicable to all residential

rental uses in Pompano Beach; and provides the minimum amount of off-street parking required by this Code.

B. APPLICABILITY

A Community Residence and Recovery Community Certificate is required for any person or entity to operate a community residence or recovery community within the city limits. A “Community Residence and Recovery Community Application” form shall be completed for all community residences and recovery communities with any number of occupants established beginning on the date on which this ordinance goes into effect, for any existing community residence with any number of occupants not licensed by the State of Florida and recovery community that has not been granted a reasonable accommodation by the City of Pompano Beach under the provisions of §155.2432 of this Code, and for the recertification of any existing community residence with any number of occupants and recovery community to which the City of Pompano Beach granted a reasonable accommodation prior to the date on which this ordinance goes into effect. A new Community Residence and Recovery Community Certificate is required for any change in use, additional use, change in location, change in ownership, and/or change in business name. A Community Residence and Recovery Community Certificate is required prior to the issuance of a Business Tax Receipt.

C. COMMUNITY RESIDENCE AND RECOVERY COMMUNITY CERTIFICATE PROCEDURE

1. Step 1: Pre-Application Conference

Not Applicable.

2. Step 2: Neighborhood Meeting

Not applicable.

3. Step 3: Application Submittal and Acceptance

Applicable (See Section 155.2303.).

4. Step 4: Staff Review and Action

Applicable to a final decision by the Development Services Director (See Section 155.2304.).

5. Step 5: Public Hearing Scheduling and Notice

Not applicable.

6. Step 6: Advisory Body Review and Recommendation

Not applicable.

7. Step 7: Decision-Making Body Review and Decision

Not applicable.

**Community Residence
and Recovery Community
Certificate**



**D. COMMUNITY RESIDENCE AND RECOVERY
COMMUNITY CONTENTS**

1. The “Community Residence and Recovery Community Application” form shall be obtained from and shall be returned to the Director of Development Services or designee prior to occupancy or construction of the proposed community residence or recovery community. The

application form shall request information needed to determine whether the proposed community residence is allowed as of right under the definition of “family” in this Code and whether the proposed community residence or recovery community is allowed as of right subject to the standards in §155.4202 H.3., §155.4202,I.3., or §155.4203 B.3.; requires a special exception; requires a reasonable accommodation to be occupied by more than ten unrelated individuals under §155.2432 and either §155.4202 H.3.(c) or §155.4202 I.3.(c); the maximum number of occupants allowed under city code provisions that apply to all residential uses; to determine the minimum number of off-street parking spaces required; and to identify whether any further accommodation is needed in accord with §155.2432 Reasonable Accommodation of this Code.

E. COMMUNITY RESIDENCE AND RECOVERY COMMUNITY APPLICATION REVIEW STANDARDS

A Community Residence and Recovery Community Certificate shall be approved only on a finding that the proposed use complies with all applicable standards in this Code.

F. EFFECT OF APPROVAL

A Business Tax Receipt shall only be issued for the use specified in the approved Community Residence and Recovery Community Certificate. An approved Community Residence and Recovery Community Certificate is only valid for the specific address, business name, corporate name, and type of business for which it was approved.

G. EXPIRATION

A Community Residence and Recovery Community Certificate shall automatically expire if a Business Tax Receipt is not obtained within 60 days after the date of approval. A Community Residence and Recovery Community may be revoked in accordance with Section 155.8402.B.3, Revocation of Community Residence and Recovery Community Certificate.

H. APPEAL

A party aggrieved by the decision rendered by the Development Services Director may appeal the decision to the ZBA in accordance with the procedures in Section 155.2424, Appeal.

I. REVOCATION

A Community Residence and Recovery Community Certificate may be revoked in accordance with the procedures in Section 155.8402.B.3, Revocation of Community Residence and Recovery Community Certificate. A Community Residence and Recovery Community Certificate that has been revoked nullifies the accompanying Business Tax Receipt.

SECTION 5. That Article 3: “Zoning Districts,” Part 2: “Residential Base Zoning Districts,” of Chapter 155, “Zoning Code,” of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

ARTICLE 3: ZONING DISTRICTS

PART 2: Residential Base Zoning Districts

...

§ 155.3202. SINGLE-FAMILY RESIDENCE 1 (RS-1)

A. PURPOSE

The Single-Family Residence 1 (RS-1) District is established and intended to accommodate primarily single-family dwellings including family community residences at low densities on lots greater than 12,000 square feet in area. The district also accommodates accessory dwelling units and transitional community residences as well as limited nonresidential uses usually found in urban single-family neighborhoods, generally as Special Exceptions.

...

§ 155.3203. SINGLE-FAMILY RESIDENCE 2 (RS-2)

A. PURPOSE

The Single-Family Residence 2 (RS-2) district is established and intended to accommodate primarily single-family dwellings including family community residences at moderate densities on lots greater than 7,000 square feet in area. The district also accommodates accessory dwelling units and transitional community residences as well as limited nonresidential uses

usually found in urban single-family neighborhoods (e.g., parks, places of worship, golf courses), generally as Special Exceptions.

...

§ 155.3204. SINGLE-FAMILY RESIDENCE 3 (RS-3)

A. PURPOSE

The Single-Family Residence 3 (RS-3) district is established and intended to accommodate primarily single-family dwellings including family community residences at moderate densities on lots greater than 6,000 square feet in area. The district also accommodates transitional community residences and accessory dwelling units as well as limited nonresidential uses usually found in urban single-family neighborhoods, generally as Special Exceptions.

...

§ 155.3205. SINGLE-FAMILY RESIDENCE 4 (RS-4)

A. PURPOSE

The Single-Family Residence 4 (RS-4) district is established and intended to accommodate primarily single-family dwellings including family community residences at moderate densities on lots greater than 5,000 square feet in area. The district also accommodates accessory dwelling units, transitional community residences, and zero-lot-line development, as well as limited nonresidential uses usually found in urban single-family neighborhoods, generally as Special Exceptions.

...

§ 155.3206. SINGLE-FAMILY RESIDENCE LEISUREVILLE (RS-L)

A. PURPOSE

The Single-Family Residence Leisureville (RS-L) district is established and intended to accommodate primarily cluster developments containing single-family dwellings including family community residences at a density of one dwelling per 5,000 square feet of site area, and where the site area is held in common by all owners of dwellings in the development. The district also accommodates accessory dwelling units and development-serving

recreation facilities and community centers, as well as places of worship (as a Special Exception).

...

§155.3207. TWO-FAMILY RESIDENCE (RD-1)

A. PURPOSE

The Two-Family Residence (RD-1) district is established and intended to accommodate primarily single-family dwellings and two-family dwellings including family community residences at moderate densities. The district also accommodates accessory dwelling units (with single-family dwellings), transitional community residences, and recovery communities as well as limited nonresidential uses usually found in urban single-family neighborhoods (e.g. parks, places of worship, golf courses), generally as Special Exceptions.

...

§ 155.3208. MULTIPLE-FAMILY RESIDENCE 7 (RM-7)

A. PURPOSE

The Multiple-Family Residence 7 (RM-7) district is established and intended to accommodate primarily multifamily dwellings (including townhouse development) including community residences and recovery communities at low to moderate densities. The district also accommodates single-family and two-family dwellings, zero-lot-line development, ~~community residential homes~~, assisted living facilities, and continuing care retirement communities. Limited nonresidential uses are allowed as Special Exceptions.

...

§ 155.3209. MULTIPLE-FAMILY RESIDENCE 12 (RM-12)

A. PURPOSE

The Multiple-Family Residence 12 (RM-12) district is established and intended to accommodate primarily multifamily dwellings (including townhouse development) including community residences and recovery communities at moderate densities. The district also accommodates single-family and two-family dwellings, zero-lot-line development, ~~community residential~~

~~homes~~, assisted living facilities, and continuing care retirement communities. Limited neighborhood-serving nonresidential uses, as well as office buildings with a floor area of 2,000 square feet or less, are allowed as Special Exceptions.

...

§ 155.3210. MULTIPLE-FAMILY RESIDENCE 20 (RM-20)

A. PURPOSE

The Multiple-Family Residence 20 (RM-20) district is established and intended to accommodate primarily multifamily dwellings (including townhouse development) including community residences and recovery communities at moderate densities. The district also accommodates single-family and two-family dwellings, zero-lot-line development, ~~community residential homes~~, and continuing care retirement communities. Limited neighborhood-serving nonresidential uses, as well as office buildings, financial institutions, hotels/motels, and condo hotels, are allowed as Special Exceptions.

...

§ 155.3211. MULTIPLE-FAMILY RESIDENCE 30 (RM-30)

A. PURPOSE

The Multiple-Family Residence 30 (RM-30) district is established and intended to accommodate primarily multifamily dwellings (including townhouse development) including community residences and recovery communities at moderately high densities. The district also accommodates single-family and two-family dwellings, zero-lot-line development, ~~community residential homes~~, assisted living facilities, and continuing care retirement communities. Limited neighborhood-serving nonresidential uses, as well as office buildings, financial institutions, hotels/motels, and condo hotels, are allowed as Special Exceptions.

...

§ 155.3212. MULTIPLE-FAMILY RESIDENCE 45 (RM-45)

A. PURPOSE

The Multiple-Family Residence 45 (RM-45) district is established and intended to accommodate primarily multifamily dwellings (including townhouse development) including community

residences and recovery communities at high densities. The district also accommodates single-family and two-family dwellings, zero-lot-line development, ~~community residential homes~~, assisted living facilities, and continuing care retirement communities. Limited neighborhood-serving nonresidential uses, as well as office buildings, financial institutions, hotels/motels, and condo hotels, are allowed as Special Exceptions.

...

§ 155.3302. LIMITED BUSINESS (B-1)

A. Purpose

The Limited Business (B-1) district is established and intended to accommodate primarily small-scale, low-intensity office, institutional, personal service, and retail sales uses that primarily serve the needs of residents of the immediately surrounding neighborhood (e.g., professional and business offices, business services, banks, restaurants), as well as serving institutional uses (e.g., child care facilities, places of worship). It also accommodates complementary residential uses (e.g., live-work and upper-story dwellings), ~~and~~ moderate-density multifamily development (either stand-alone or mixed with commercial development), community residences, and recovery communities. The district generally serves as transitional zoning between more intensive commercial development and low- and medium-density residential neighborhoods.

...

§ 155.3303. COMMUNITY BUSINESS (B-2)

A. PURPOSE

The Community Business (B-2) district is established and intended to accommodate primarily low- to moderate-intensity office, service, and retail uses that primarily serve the needs of residents of surrounding residential neighborhoods (e.g., professional and business offices, business services, banks, restaurants, convenience stores, gasoline filling stations), as well as neighborhood-serving institutional uses (e.g., child care facilities, places of worship). It also accommodates complementary residential uses (e.g., live-work and upper-story dwellings) and moderate- to high-density multifamily development (either stand-alone or mixed with

commercial development), community residences, and recovery communities.

...

§ 155.3304. GENERAL BUSINESS (B-3)

A. PURPOSE

The General Business (B-3) district is established and intended to accommodate a diverse range of moderate-intensity retail, service, office, recreation/entertainment, visitor accommodation, and institutional uses that serve the residents and businesses in the community at large (e.g., most retail sales and service uses, restaurants, offices, banks, restaurants, gasoline filling stations, marinas, auto and boat sales and service uses, theaters, hotels, child care facilities, vocational or trade schools, health care facilities, places of worship). It also accommodates complementary residential uses (e.g., live-work and upper-story dwellings) and moderate- to high-density multifamily development (either stand-alone or mixed with commercial development), community residences, and recovery communities.

...

§ 155.3603. RESIDENTIAL PLANNED UNIT DEVELOPMENT (RPUD)

A. PURPOSE

The Residential Planned Unit Development (RPUD) district is established and intended to encourage the use of innovative and creative design to provide a mix of different residential uses, in close proximity to one another, as well as community residences and recovery communities, while at the same time providing an efficient use of open space. Limited, small-scale institutional and commercial uses (e.g., child care facilities, elementary schools, recreational/entertainment uses, dry cleaning or laundry drop-off establishments, restaurants, convenience stores, grocery stores) may be allowed in the RPUD district, when of a type and scale that primarily serves the needs of residents in the development. RPUD districts are appropriate in areas designated on the comprehensive plan's future land use map as Residential.

...

§ 155.3604. PLANNED COMMERCIAL/INDUSTRIAL (PCD)

A. PURPOSE

The Planned Commercial/Industrial (PCD) district is established and intended to encourage the use of innovative and creative design to provide a mix of employment-generating uses (office, research, shopping mall or other concentrated retail, light industrial), as well as ancillary service, retail, and institutional uses. Limited moderate and high-density residential uses including community residences and recovery communities are appropriate when integrated into the development, both on upper stories and as stand-alone development, so as to encourage pedestrian access and activity. PCD districts are generally appropriate in areas designated by the Land Use Plan as Commercial or Industrial. PCD development is subject to buffer requirements and transitional standards that ensure compatibility with any adjacent lower-density residential development.

SECTION 6. That Section 155.3708., “Downtown Pompano Beach (DP) Overlay District,” of Chapter 155, “Zoning Code,” of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

TABLE 155.3708.H.2: PRINCIPAL USES REGULATING TABLE

P = PERMITTED. S = SPECIAL EXCEPTION. BLANK = NOT PERMITTED. (1) = 2nd Floor Only. (2) = Not Permitted in Historic Core. (3) = Not Permitted in Historic Transition.

Use Types		Use Areas															
		MM1		MM2		MUR		MO	RM	RS	MUC P - All Floors	CC1 - All Floors	CC2 - All Floors	RO	CF	PU	TR
		1st & 2nd Floors	2nd Floor & above	1st floor	2nd Floor & above	1st & 2nd Floors	3rd Floor & above										
RESIDENTIAL USES																	
Single Family Res. (155.4202)	Dwelling, Single-family (2) (3)									P							
	Family Care Home (2) (3)																
Household Living Uses (155.4202)	Dwelling, live/work		P		P	P	P				P		P				
	Dwelling, multifamily		P		P	P	P		P		P		P				
	Dwelling, single-family (zero lot line)					P	P		P								
	Dwelling, mixed-use		P		P	P	P				P		P				
	<u>Family Community Residence</u>		P		P	P	P		P	P	P		P				
	<u>Transitional Community Residence</u>		P		P	P	P		P	P	P		P				
Group Living Uses (155.4203)	<u>Community residential home</u>					P	P		P								
	Continuing care retirement community		P		P	P	P		P		P		P				
	Rooming or boarding house		P		P	P	P		P		P		P				
	<u>Recovery Community</u>		P		P	P	P		P		P		P				

SECTION 7. That Section 155.3709., “East Overlay District (EOD),” of Chapter 155, “Zoning Code,” of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

TABLE 155.3709.E.2: PRINCIPAL USES REGULATING TABLE

P = PERMITTED S = SPECIAL EXCEPTION BLANK = NOT PERMITTED (1) = 2nd Floor Only if multistory building fronting Federal Highway or Atlantic in the Core sub-area. (2) = In Core sub-area only east of 20th Avenue. (3) = Except If directly abutting or across the street from an RM or RS use-area/zoning district. (4) = Maximum 30,000 sf. (5) = Except for residential lobby entrances (no greater than 50% of building frontage), the first 20-feet of depth fronting on Federal Highway and Atlantic must be nonresidential active use. (6) = See modified use standards in 155.3709.E.1.e.

Use Types		Use Areas (EOD)						
		MM		MUR		RM24	RM36	RO
		1st & 2nd Floors	3rd Floor & above	1st & 2nd Floors	3rd Floor & above			
RESIDENTIAL USES								
Single Family Res. (155.4202)	Dwelling, Single-family (provided they shall only be permitted at locations that had a site plan approved for such use prior to the date of adoption of this code.)							
Household Living Uses (155.4202)	Dwelling, live/work	P	P	P	P			
	Dwelling, multifamily	P(5)	P	P	P	P	P	
	Dwelling, single-family (zero lot line)			P	P	P		
	Dwelling, mixed-use	P(5)	P	P	P			
	Family Community Residence	P(5)	P	P	P	P		
	Transitional Community Residence	P(5)	P	P	P	P		
Group Living Uses (155.4203)	Community residential home, 6 or less			P	P	P	P	
	Community residential home, 7-14			P	P	P	P	
	Continuing care retirement community			P	P	P	P	
	Assisted living facility			P	P			
	Rooming or boarding house			S	S	S	S	
	Recovery community	P(5)	P	P	P	P	P	

SECTION 8. That Article 4: “Use Standards,” Part 2: “Principle Uses and Structures,” of Chapter 155, “Zoning Code,” of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

ARTICLE 4: USE STANDARDS

PART 2: Principle Uses and Structures

...

§ 155.4202. RESIDENTIAL: HOUSEHOLD LIVING USES

...

~~H. COMMUNITY RESIDENTIAL HOME WITH SIX OR FEWER RESIDENTS~~

~~1. Districts Where Permitted~~

RS -1	RS -2	RS -3	RS -4	RS -L	RD -1	RM -7	RM -12	RM -20	RM -30	RM -45	MH -12	B -1	B -2	B -3	B -4
P	P	P	P	P	P	P	P	P	P	P					

M -1	CR	I -1	I -X	OP	M -2	T O	P R	CF	P U	T	B P	RPU D	PC D	PD -TO	LA C	PD -1
						P						P		P	P	P

~~2. Definition~~

~~A community residential home with six or fewer residents is a state-licensed dwelling unit providing a family living environment and care for a group of six or fewer unrelated persons who meet statutory requirements of Fla. Stat. §419.001(2), as amended. A community residential home with six or fewer residents may include such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.~~

3. Standards

~~A community residential home with six or fewer residents shall not be located within a radius of 1,000 feet of another existing such community residential home with six or fewer residents, per Fla. Stat. §419.001(2), as amended.~~

H. FAMILY COMMUNITY RESIDENCE

1. Districts Where Permitted

<u>RS</u> <u>-1</u>	<u>RS</u> <u>-2</u>	<u>RS</u> <u>-3</u>	<u>RS</u> <u>-4</u>	<u>RS</u> <u>-L</u>	<u>RD</u> <u>-1</u>	<u>RM</u> <u>-7</u>	<u>RM</u> <u>-12</u>	<u>RM</u> <u>-20</u>	<u>RM</u> <u>-30</u>	<u>RM</u> <u>-45</u>	<u>MH</u> <u>-12</u>	<u>B</u> <u>-1</u>	<u>B</u> <u>-2</u>	<u>B</u> <u>-3</u>	<u>B</u> <u>-4</u>
<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>	<u>P</u>	<u>P</u>	

<u>M</u> <u>-1</u>	<u>C</u> <u>R</u>	<u>I</u> <u>-1</u>	<u>I</u> <u>-1</u> <u>X</u>	<u>OI</u> <u>P</u>	<u>M</u> <u>-2</u>	<u>T</u> <u>O</u>	<u>P</u> <u>R</u>	<u>C</u> <u>F</u>	<u>P</u> <u>U</u>	<u>T</u>	<u>B</u> <u>P</u>	<u>RPU</u> <u>D</u>	<u>PC</u> <u>D</u>	<u>PD</u> <u>-TO</u>	<u>LA</u> <u>C</u>	<u>PD</u> <u>-1</u>
						<u>P</u>						<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

2. Definition

A family community residence is a community residence that provides a relatively permanent living arrangement for people with disabilities where, in practice and under its rules, charter, or other governing document, does not limit how long a resident may live there. The intent is for residents to live in a family community residence on a long-term basis, typically a year or longer. Oxford House is an example of a family community residence.

3. Standards

(a) Except as required by Chapter 419 state law, a family community residence shall be allowed as of right in the designated zoning districts, when:

(1) It is at least 660 linear feet from the closest existing community residence housing four

or more individuals or recovery community as measured from the nearest property line of the proposed community residence to the nearest property line of the closest existing community residence or recovery community, and

(2) The operator or applicant is licensed or certified by the State of Florida to operate the proposed community residence, has certification from an appropriate national accrediting agency, or has been recognized or sanctioned by Congress to operate the proposed community residence such as an Oxford House.

(b) A family community residence that does not comply with both standards (a) and (b) may be allowed only by special exception in accord with the applicable standards in Section 155.2406 . of this Code.

4. Reasonable accommodation required for more than ten occupants.

To establish a family community residence for more than ten occupants, the applicant shall submit a request for reasonable accommodation in accord with the procedures and applicable standards in §155.2432 of this Code except as required by state law.

5. License Certification, or Recertification Denied or Suspended.

A family community residence that has been denied a license the State of Florida requires or certification offered by the State of Florida, had its license or certification suspended, or be denied recertification is not allowed in the City of Pompano Beach and must cease operations and vacate the premises within 60 days of the date on which its license or certification was denied or suspended or recertification denied.

I. TRANSITIONAL COMMUNITY RESIDENCE

1. Districts Where Permitted

<u>RS</u> <u>-1</u>	<u>RS</u> <u>-2</u>	<u>RS</u> <u>-3</u>	<u>RS</u> <u>-4</u>	<u>RS</u> <u>-L</u>	<u>RD</u> <u>-1</u>	<u>RM</u> <u>-7</u>	<u>RM</u> <u>-12</u>	<u>RM</u> <u>-20</u>	<u>RM</u> <u>-30</u>	<u>RM</u> <u>-45</u>	<u>MH</u> <u>-12</u>	<u>B</u> <u>-1</u>	<u>B</u> <u>-2</u>	<u>B</u> <u>-3</u>	<u>B</u> <u>-4</u>
<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>	<u>P</u>	<u>P</u>	

<u>M</u> <u>-1</u>	<u>C</u> <u>R</u>	<u>I</u> <u>-1</u>	<u>L</u> <u>I</u> <u>X</u>	<u>OI</u> <u>P</u>	<u>M</u> <u>-2</u>	<u>T</u> <u>O</u>	<u>P</u> <u>R</u>	<u>C</u> <u>F</u>	<u>P</u> <u>U</u>	<u>T</u>	<u>B</u> <u>P</u>	<u>RPU</u> <u>D</u>	<u>PC</u> <u>D</u>	<u>PD</u> <u>-TO</u>	<u>LA</u> <u>C</u>	<u>PD</u> <u>-1</u>
						<u>P</u>						<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

2. Definition

A transitional community residence community residence is a community residence that provides a temporary living arrangement for four to ten unrelated people with disabilities with a limit on length of tenancy less than a year that is measured in weeks or months as determined either in practice or by the rules, charter, or other governing document of the community residence. A community residence for people engaged in detoxification is an example of a very short-term transitional community residence.

3. Standards

(a) Districts Where Listed as a Permitted use

(i) A transitional community residence shall be allowed as of right in the designated zoning districts, except as required by Chapter 419 of state law, when:

(A) It is at least 660 linear feet from the closest existing community residence housing four or more individuals or recovery community as measured from the nearest property line of the proposed community residence to the nearest property line of the closest existing community residence or recovery community, and

(B) The operator or applicant is licensed or certified by the State of Florida to operate the proposed community residence, has certification from an appropriate national accrediting agency, or has been recognized or sanctioned by Congress to operate the proposed community residence much such as an Oxford House but with a programmatic or actual limit on length of tenancy.

(b) A transitional community residence that does not comply with both standards (a) and (b) may be allowed only by special exception in accord with the standards established in Section 155.2406 D of this Code.

(c) Districts Where Listed as a Special Exception.

In the zoning districts where a transitional community residence is allowed only by special exception in accord with the applicable standards in Section 155.2406 D E of this Code.

4. Reasonable accommodation required for more than ten occupants.

To establish a transitional community residence for more than ten occupants, the applicant shall submit a request for reasonable accommodation in accord with the procedures and applicable standards in §155.2432 of this Code except as required by state law.

5. License Certification, or Recertification Denied or Suspended.

A transitional community residence that has been denied a license the State of Florida requires or certification offered by the State of Florida, had its license or certification suspended, or be denied recertification is not allowed in the City of Pompano Beach and must cease operations and vacate the premises within 60 days of the date on which its license or certification was denied or suspended or recertification denied.

I J. MOBILE HOME PARK

1. Districts Where Permitted

...

§ 155.4203. RESIDENTIAL: GROUP LIVING USES

A. ASSISTED LIVING FACILITY

1. Districts Where Permitted

RS -1	RS -2	RS -3	RS -4	RS -L	RD -1	RM -7	RM -12	RM -20	RM -30	RM -45	MH -12	B -1	B -2	B -3	B -4
									P	P				P	

M -1	C R	I - 1	I- I X	OI P	M -2	T O	P R	C F	P U	T	B P	RPU D	PC D	PD - TO	LA C	PD -1
						P		P						P	P	

2. Definition

An assisted living facility is a state-licensed building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.

3. Standards

~~An assisted living facility with a licensed capacity of six or fewer persons shall comply with the permitted districts and standards 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. An assisted living facility that houses four to ten individuals with~~

disabilities and that comports with the definition of a “community residence” is a “community residence” subject to the zoning provisions for a “community residence” in Section 155.4202 H and I of this ordinance.

B. COMMUNITY RESIDENTIAL HOME

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-5	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
						P	P	P	P	P		P	P	P	

M-1	CR	I-1	I-1X	OIP	M-2	T-O	PR	CF	PU	T	B-P	RPU-D	PC-D	PD-TO	LA-C	PD-1
						P		P				P	P	P	P	P

2. Definition

A community residential home with seven to 14 residents is a state licensed dwelling unit to provide a family living environment and care for seven to 14 unrelated persons who meet statutory requirements of Fla. Stat. § 419.001(1)(a), as amended. A community residential home with seven to 14 residents may include such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

3. Standards

A community residential home with seven to 14 residents shall not be located within a radius of 1,200 feet of another existing community residential home with six or fewer residents or another existing community residential home with seven to 14 residents, per Fla. Stat. §419.001(3)(c), as amended. A community residential home with seven to 14 residents shall not be located within a radius of 500 feet of a single family zoning district, per Fla. Stat. §419.001(3)(c), as amended.

B. RECOVERY COMMUNITY

1. Districts Where Permitted

<u>RS</u> <u>-1</u>	<u>RS</u> <u>-2</u>	<u>RS</u> <u>-3</u>	<u>RS</u> <u>-4</u>	<u>RS</u> <u>-L</u>	<u>RD</u> <u>-1</u>	<u>RM</u> <u>-7</u>	<u>RM</u> <u>-12</u>	<u>RM</u> <u>-20</u>	<u>RM</u> <u>-30</u>	<u>RM</u> <u>-45</u>	<u>MH</u> <u>-12</u>	<u>B</u> <u>-1</u>	<u>B</u> <u>-2</u>	<u>B</u> <u>-3</u>	<u>B</u> <u>-4</u>
					<u>S</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>	<u>P</u>	<u>P</u>	

<u>M</u> <u>-1</u>	<u>C</u> <u>R</u>	<u>I</u> <u>-1</u>	<u>I</u> <u>-1</u> <u>X</u>	<u>OI</u> <u>P</u>	<u>M</u> <u>-2</u>	<u>T</u> <u>O</u>	<u>P</u> <u>R</u>	<u>C</u> <u>F</u>	<u>P</u> <u>U</u>	<u>T</u>	<u>B</u> <u>P</u>	<u>RPU</u> <u>D</u>	<u>PC</u> <u>D</u>	<u>PD</u> <u>-TO</u>	<u>LA</u> <u>C</u>	<u>PD</u> <u>-1</u>
						<u>P*</u>						<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

* Refer to the applicable Use Regulating Plan and Principal Uses Regulating Table within each Transit Oriented overlay district for the list of permitted locations and/or additional restrictions.

2. Definition

A recovery community consists of multiple dwelling units in a single multi-family structure that are not held out to the general public for rent or occupancy, that provides a drug-free and alcohol-free living arrangement for people in recovery from drug and/or alcohol addiction, which, taken together, do not emulate a single biological family and are under the auspices of a single entity or group of related entities. Recovery communities include land uses for which the operator is eligible to apply for certification from the State of Florida. When located in a multiple-family structure, a recovery community shall be treated as a multiple family structure under building and fire codes applicable in Pompano Beach.

3. Standards

(a) A recovery community shall be allowed as of right in the designated zoning districts except as required by state law when

1. It is at least 1,200 linear feet from the closest existing recovery community or community residence as measured from the nearest property line of the proposed recovery community to the nearest property line of

the closest existing recovery community or community residence, and

2. The operator or applicant is licensed or certified by the State of Florida to operate the proposed recovery community.

(b) A recovery community that does not comply with standard (a) 1, or where only allowed by special exception, may be allowed only by special exception in accord with the standards established in Section 155.2406 D of this Code.

4. License, Certification, or Recertification Denied or Suspended.

A recovery community that has been denied a license the State of Florida requires or certification offered by the State of Florida, had its license or certification suspended, or has been denied recertification is not allowed in the City of Pompano Beach and must cease operations and vacate the premises within 60 days of the date on which its license or certification was denied or suspended or recertification denied.

(C) CONTINUING CARE RETIREMENT COMMUNITY

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
						P	P	P	P	P				P	

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-1
						P		P				P		P	P	

2. Definition

A continuing care retirement facility is an integrated development that offers senior citizens a full continuum of housing options and assistance, ranging from fully independent dwelling units, to assistance with personal care

in assisted living facilities, to long-term skilled nursing care in a nursing home facility. A continuing care community does not emulate a biological family nor seek to achieve normalization or community integration and is not a community residence.

3. Standards

The major component parts of a continuing care retirement community shall each comply with the standards applicable to the principal use most closely representing the component—i.e., nursing home facility standards for the skilled nursing services components, assisted living facility standards for assisted living services component, and single-family, two-family, and/or multifamily dwelling standards, as appropriate, for the independent living component.

D. ROOMING OR BOARDING HOUSE

1. Districts Where Permitted

RS -1	RS -2	RS -3	RS -4	RS -L	RD -1	RM -7	RM -12	RM -20	RM -30	RM -45	MH -12	B -1	B -2	B -3	B -4
								S	S	S					

M -1	C R	I - 1	I- I X	OI P	M -2	T O	P R	C F	P U	T	B P	RPU D	PC D	PD - TO	LA C	PD -1
						S						P		P	P	P

2. Definition

A rooming or boarding house is a single-family dwelling that also contains three or more sleeping rooms used or designed to provide rental lodging for transient or permanent residents, either with meals (boarding house) or without meals (rooming house). A rooming or boarding house does not emulate a biological family nor seek to achieve normalization or community integration and is not a community residence.

3. Standards

A rooming or boarding house shall comply with the following standards:

- a. No more than ten rooms shall be rented at any one time.
- b. The owner shall maintain the house as a primary residence.
- c. Sleeping rooms in a rooming house shall:
 - i. Not include individual kitchen facilities; and
 - ii. Be accessed by a common room or hallway and not have individual access to the outside (except for emergency exits required by Building Code and Fire Code standards).

SECTION 9. That Section 155.5102., “Off-Street Parking and Loading,” of Chapter 155, “Zoning Code,” of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 155.5102. OFF-STREET PARKING AND LOADING

...

D. OFF-STREET PARKING SPACE REQUIREMENTS

1. Minimum Number of Off-Street Parking Spaces

...

TABLE 155.5102.D.1: MINIMUM NUMBER OF OFF-STREET PARKING SPACES			
Use Category	Use Type		Minimum Number of Parking Spaces ^{1,2,3}
Residential Uses			
Household Living Uses	Dwelling, live/work		1 per DU
	Dwelling,	Efficiency DUs	1 per DU

	multifamily ⁹	DUs with 1 or 2 bedrooms	1.5 per DU
		DUs with 3+ bedrooms	2 per DU
		Townhouse guest spaces	1 per 5 townhouse units; in addition to the required parking spaces based on dwelling unit
	Dwelling, single-family		2 per DU
	Dwelling, single-family (zero lot line)		
Household Living Uses	<u>Community residence</u>		<u>2 per DU plus 1 space located within 1,200 linear feet off-site for each resident who maintains a motor vehicle on the premises</u>
	Dwelling, two-family		2 per DU
	Dwelling, mixed-use		1 per DU
	Family care home		1 per 4 beds
	Mobile home park		1.5 per mobile home space
Group Living Uses	<u>Recovery Community</u>	<u>Efficiency DUs</u>	<u>1 per DU located within 1,200 linear feet off-site</u>
		<u>DUs with 1 or 2 bedrooms</u>	<u>1.5 per DU located within 1,200 linear feet off-site</u>
		<u>DUs with 3+ bedrooms</u>	<u>2 per DU located within 1,200 linear feet off-site</u>
	Assisted living facility		1 per 3 beds
	Community residential home		1 per 3 beds
	Continuing care retirement community		Sum of minimum for component parts—see Section 155.5102.D.3
	Rooming or boarding house		1 per guest room

...

SECTION 10. That Section 155.8402., “Civil Remedies,” of Chapter 155, “Zoning Code,” of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 155.8402. CIVIL REMEDIES

...

B. REVOCATION OF PERMIT OR APPROVAL

...

3. Revocation of Community Residence and Recovery Community Certificate

A Community Residence and Recovery Community Certificate may be revoked or suspended only in accordance with the following provisions.

- a. The Director of Development Services may revoke, upon written notice provided, an approved Community Residence and Recovery Community Certificate when same has been issued in error or otherwise in violation of the provisions of this Code. Said determination may be appealed to the Zoning Board of Appeals pursuant to the provisions of Section 155.2424, Appeal.
- b. For Community Residence and Recovery Community Certificates that were issued based on inaccurate or fraudulent information, the Special Magistrate, following a public hearing, may revoke or suspend a Community Residence and Recovery Community Certificate on finding that any of the following conditions exist:
 - i. The holder of the Community Residence and Recovery Community Certificate used fraud or misrepresentation in its description of the conduct or specific nature of the activity at the premises in the application for the Zoning Compliance Permit or a Business Tax Receipt; or
 - ii. The activity at the premises constitutes a public nuisance, based on the use of the business place or premises in a manner as specifically described in Fla. Stat. § 893.138(2)(a) through (e) inclusive; or
 - iii. The holder of the Community Residence and Recovery Community Certificate or any of the owners, directors, officers or principals of the specified premises on the Community Residence and Recovery Community Certificate has been found guilty of or has

entered a plea of nolo contendere to, regardless of adjudication, any offense listed in § 435.04 (2), F.S., unless the Department of Health has issued an exemption under § 397.4872, F.S.; or

- iv. The holder of the Community Residence and Recovery Community Certificate has failed to maintain the location of the community residence or recovery community in compliance with all applicable building and zoning codes and ordinances and has failed to cure violations of such codes and ordinances after receiving notice of the violation from the City.
- c. Before a Community Residence and Recovery Community Certificate may be revoked or suspended, the City shall provide the holder of the Zoning Compliance written notice that the Special Magistrate will hold a public hearing to consider revocation of the Community Residence and Recovery Community Certificate. Such notice shall be delivered at least 15 days before the hearing via certified mail, return receipt requested.
- d. If the Special Magistrate revokes or suspends a Community Residence and Recovery Community Certificate, no portion of the Community Residence and Recovery Community Certificate fee shall be refunded.
- e. Any final decision by the Special Magistrate on whether or not to revoke or suspend a Community Residence and Recovery Community Certificate shall be immediately reviewable as a matter of right by the Circuit Court by the filing of an appropriate pleading by the aggrieved party within 30 days after the date of the decision.
- f. When a revoked or suspended Community Residence and Recovery Community Certificate is for a community residence or recovery community engaged in an activity constitutionally protected by the First Amendment, the City shall stay enforcement of the revocation or suspension during

the 30-day appeal period and during the pendency of any appeal until a final order is issued by the court. During the appeal process, the business may continue to operate.

SECTION 11. That Article 9, “Definitions and Interpretation,” of Chapter 155, “Zoning Code,” of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

ARTICLE 9: DEFINITIONS AND INTERPRETATION

PART 5 TERMS AND USES DEFINED

The following words, terms, and phrases, when used in this Code, shall have the meaning ascribed to them in this section.

...

ASSISTED LIVING FACILITY

State-licensed building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator. An Assisted Living Facility that does not function in accord with the definition of “Community Residence” in this Code is not a community residence.

...

COMMUNITY GARDEN

A private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than 1 person, household, or family. Community gardens may be divided into separate plots for cultivation, or may be farmed collectively by members of a group, and may include common areas maintained and used by group members.

COMMUNITY RESIDENCE

Except as required by state law, a community residence is a residential living arrangement for up to ten 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; medical treatment is incidental as in any home. Supportive inter-relationships between residents are an essential component.

A "community residence" occupied by four to ten unrelated individuals with disabilities can be a "family community residence" or a "transitional community residence."

To house more than 10 unrelated people in a community residence, the owner or operator of the community residence may apply for a reasonable accommodation in accord with the standards and procedures established in Section 155.2432 D. 3. of this Code, except as required by State law.

A community residence shall be considered a residential use of property for purposes of all city codes. The term does not include any other group living arrangement for unrelated individuals who are not disabled nor any halfway house, recovery community, boarding or rooming house, lodging house, short-term rental or other use as defined in this Code. Community residences include, but are not limited to, those residences that comport with this definition that are licensed by the Florida Agency for Persons with Disabilities, the Florida Department of Elderly Affairs, the Florida Agency for Health Care Administration, and the Florida Department of Children and Families, and functional family recovery residences certified by the state's designated credentialing entity established under Section 397.487 of the Florida Statutes.

Per state law, community residences for people with developmental disabilities located in a "planned residential community" as defined by Section 419.001(1)(d) of the Florida Statutes, are exempt from the spacing requirements between community residences established in this Code.

To implement this Code, an application that the City of Pompano Beach designates must be completed in full and submitted to the Director of Development Services prior to occupancy or construction of the proposed community residence to determine whether the proposed community residence is a permitted use or requires a special exception, to determine the maximum number of occupants allowed under city code provisions that apply to all residential uses, and to identify whether any further accommodation is needed in accord with Section 155.2432 Reasonable Accommodation of this Code.

~~COMMUNITY RESIDENTIAL HOME WITH SEVEN TO 14 RESIDENTS~~

~~A state-licensed dwelling unit to provide a family living environment and care for seven to 14 unrelated persons who meet statutory requirements of Fla. Stat. §419.001(1)(a), as amended. A community residential home with seven to 14 residents may include such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.~~

~~COMMUNITY RESIDENTIAL HOME WITH SIX OR FEWER RESIDENTS~~

~~A state-licensed dwelling unit providing a family living environment and care for a group of six or fewer unrelated persons who meet statutory requirements of Fla. Stat. §419.001(2), as amended. A community residential home with six or fewer residents may include such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.~~

DIAMETER AT BREAST HEIGHT (DBH)

The diameter of the trunk of a tree measured at breast height (four and one-half feet above the natural grade). The DBH of trees with multiple trunks is the sum of the individual trunk diameters at breast height. Trees with less than four and one-half feet of clear trunk are measured as the diameter of the largest vertical branch or leader at breast height

DISABILITY

A disability is a physical or mental impairment that substantially limits one or more of an individual's major life activities, impairs an individual's ability to live independently, having a record of such an impairment, or being regarded as having such an impairment. People with disabilities do not include individuals who are currently using alcohol, illegal drugs, or using legal drugs to which they are addicted nor individuals who constitute a direct threat to the health and safety of others.

...

DUNE VEGETATION LINE

The landward edge of a concentration of native plant materials located on the ocean beach sand dune.

DWELLING

A building, part of a building, or combination of buildings, located on a single lot or development site (in the case of townhouses), used or designed to be used primarily as living quarters for one or more families. Not included are group living uses, continuing care retirement communities, rooming or boarding houses, assisted living facilities that do not comport with the definition of a community

residence, nursing home facilities, shelters or halfway houses, or visitor accommodation uses.

...

FAMILY

An individual or two or more persons related by blood, marriage, state-approved foster home placement, or court-approved adoption—or up to three unrelated persons—that constitute a single housekeeping unit. A family does not include any society, nursing home, club, boarding or lodging house, dormitory, fraternity, or sorority.

FAMILY COMMUNITY RESIDENCE

A family community residence is a community residence that provides a relatively permanent living arrangement for people with disabilities where, in practice and under its rules, charter, or other governing document, does not limit how long a resident may live there. The intent is for residents to live in a family community residence on a long-term basis, typically a year or longer. Oxford House is an example of a family community residence.

...

HABITABLE SPACE

A space in a structure which involves regular human occupation. Non-habitable space shall include, but not be limited to, self-service storage facilities, warehouses, building service areas such as storage, mechanical, electrical and trash and areas devoted to the parking of vehicles in parking garage structures.

HALFWAY HOUSE

A facility providing transitional housing, including housing on an emergency basis, as well as food, supervision, rehabilitation, and counseling to juvenile or adult persons who have been placed in the facility on release from, or in lieu of, more restrictive custodial confinement under the criminal justice system or to abused and/or homeless persons. A halfway house is not a community residence as defined in this Code.

...

HOME BASED BUSINESS

A business, profession, occupation, or trade that is conducted within a residential dwelling unit for the economic gain or support of a resident of the dwelling, is incidental and secondary to the residential use of the lot and does not adversely and/or perceptively affect the character of the lot or surrounding area. Examples

of home based businesses include, but are not limited to, the following: offices of physicians, dentists, lawyers, architects, engineers, contractors, consultants, stock brokers, marketers, bookkeepers, real estate brokers, and insurance agents; electronic and offsite retail; studios of artists, and musicians; sewing, millinery, and dressmaking services; and personal services such as physical therapy by licensed individuals, hairdressing, pet grooming, and the like. Home based businesses do not include such businesses as: family child care homes and large family child care homes (which are separate accessory uses of homes), automotive repair and the like; any licensed or unlicensed practitioner who performs invasive procedures (acupuncture, tattooing, body piercing, and the like); restaurants, bars, social clubs and the like; animal kennels or hospitals and the like; motor vehicles sales including internet-based motor vehicle sales; or any other business that is clearly inappropriate or out of character for a residential area such that its location constitutes an adverse impact on neighboring residential properties. A home based business does not include a sexually oriented business. A community residence as defined in this Code is not a home based business.

...

LODGING UNIT

A unit located within a visitor accommodation use and which may be composed of a single room or suite of several rooms and which has its own key. Each room which is accessible by a lock-out key is considered a separate lodging unit for purposes of Zoning and Land Use. A lodging unit is not a community residence.

...

NURSING HOME FACILITY

A state-licensed facility or any identifiable component of any facility in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more non-related individuals, including facilities known by varying designations such as rest homes, convalescent homes, skilled care facilities, intermediate care facilities, extended care facilities, and infirmaries. Accessory uses may include dining rooms and recreation and physical therapy facilities for residents, and offices and storage facilities for professional and supervisory staff. This use type does not include the home or residence of any individual who cares for or maintains only persons related to him or her by blood or marriage. It also does not include assisted living facilities or community residences.

...

OWNER OF RECORD

The owner of a lot of record reflected on the current Broward County tax roll.

OXFORD HOUSE

A self-governed community residence for people in recovery that is part of Oxford House, Inc. An Oxford House places no time limit on residency, operates as a democratic system, and utilizes self-support to pay all the household expenses. Sanctioned by Congress, an Oxford House must be granted an Oxford House Charter and be operated in accord with the Oxford House Manual©. The Oxford House Charter shall be treated as the equivalent of certification or licensing and revocation of an Oxford House Charter shall be treated as the equivalent of revocation of certification or licensing.

...

RAINWATER CISTERN OR BARREL

A catchment device to capture rain water from a roof or other surface before it reaches the ground, which may be either above or below ground level.

RECOVERY COMMUNITY

A recovery community consists of multiple dwelling units in a single multi-family structure that are not held out to the general public for rent or occupancy, that provides a drug-free and alcohol-free living arrangement for people in recovery from drug and/or alcohol addiction, which, taken together, do not emulate a single biological family and are under the auspices of a single entity or group of related entities. Recovery communities include land uses for which the operator is eligible to apply for certification from the State of Florida. When located in a multiple-family structure, a recovery community shall be treated as a multiple family structure under building and fire codes applicable in Pompano Beach.

...

ROOMING OR BOARDING HOUSE

Any building or portion thereof with three or more sleeping rooms used or designed to provide rental lodging for transient or permanent residents, either with meals (boarding house) or without meals (rooming house). A rooming or boarding house does not emulate a biological family and does not seek to achieve normalization and community integration of its residents. A rooming or boarding house is not a community residence.

...

SHORT-TERM RENTAL ACCOMMODATION

~~A dwelling unit that is rented or leased to individuals or families for transient accommodation for a period of less than 30 days, generally by the week or a two-week period. Short term rentals do not include motels, hotels, bed and breakfast~~

~~inns, or tourist homes (which are generally rented on an overnight basis), or timeshares, or rooming or boarding houses. A dwelling unit that rents, leases, or lets for consideration any living quarters or accommodations for a term of six months or less in a calendar year. This term does not include condominiums, condo hotels, hotels, motels, timeshare properties, bed and breakfasts, or community residences and recovery communities as defined in this Code.~~

...

TRAILER

A vehicle without motive power designed to be coupled to or drawn by a motor vehicle and constructed so that no part of its weight or that of its load rests upon the towing vehicle.

TRANSITIONAL COMMUNITY RESIDENCE

A transitional community residence community residence is a community residence that provides a temporary living arrangement for four to ten unrelated people with disabilities with a limit on length of tenancy less than a year that is measured in weeks or months as determined either in practice or by the rules, charter, or other governing document of the community residence. A community residence for people engaged in detoxification is an example of a very short-term transitional community residence.

SECTION 12. That Appendix C: Fee Schedule of Chapter 155, “Zoning Code,” of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

APPENDIX C: FEE SCHEDULE

...

The following are the applicable fees for Applications for Development in the city

...

TYPE OF APPLICATION	FEE
II. OTHER DEVELOPMENT SERVICES APPLICATIONS	
...	
D. Special Exception	\$1,070
<u>a. Special Exception</u>	\$1,070

b. <u>Special Exception – Family Community Residence, Transitional Community Residence, Recovery Community</u>	<u>\$300</u>
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...

SECTION 13. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any 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 14. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith are to the extent of such conflicts hereby repealed.

SECTION 15. 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:JG:jmz/jrm
6/5/18
L:ord/ch155/2018-187b