

Lewis Stroud & Deutsch, P.L.

INTEROFFICE MEMORANDUM

TO: Cynthia Everett, City Attorney
FROM: Nancy E. Stroud, Special Counsel
RE: Draft Community Residences Ordinance
DATE: January 31, 2018

This memorandum summarizes the proposed ordinance to regulate Community Residences in the City of Ft. Lauderdale. The City has expressed a desire to regulate community residences, commonly referred to a “sober homes” in order to protect the residents of those homes, persons with disabilities who are in recovery, from concentrations that undermine the ability of community residents to achieve normalization and community integration, and from impact of unscrupulous operators. The ordinance generally is modelled after an ordinance recently adopted in Delray Beach and is informed by the study prepared for the Delray Beach ordinance regarding the applicable zoning and disability law. The City staff is continuing to collect data particular to the City of Ft. Lauderdale and we have engaged Mr. Daniel Lauber to conduct a study for Ft. Lauderdale in the same manner he did for Delray Beach, using the City of Ft. Lauderdale data.

The ordinance regulates Community Residences, in summary, by 1) defining “family” for purposes of describing and regulating dwelling units; 2) defining Community Residences, including two types: Family Community Residences and Transitional Community Residences; 3) allowing Community Residences in the city residential zoning districts as either permitted or conditional uses, depending on the type of Community Residence, the number of residents, and distance requirements; 3) requiring certification of all Community Residences by the state credentialing agency under Section 397.487, Florida Statutes; 4) establishing conditional use requirements for Community Residences; and 5) establishing a reasonable accommodation process, by special magistrate, necessary for Community Residences of 11 persons or more, and available to allow modifications in the zoning standards.

Definition of family. Essentially, a family is defined as related persons, or up to three (3) unrelated persons.

Community Residences. A Community Residence generally is a residential living arrangement for more than (3) unrelated individuals with disabilities, living as a single functional family for purposes to provide shelter in a family-like environment, which is important to their recovery. A Family Community Residence is a relatively permanent living arrangement, measured in years, for 4 – 10 persons. A Transitional Community Residence is a temporary living arrangement, measured in weeks or months, for 4- 10 persons.

Zoning. All Community Residences must register with the City and be certified by the state credentialing agency, if one is available for the type of disability.

- Community Residences, of either type, are allowed in all residential districts as permitted uses if they are 3 persons or less.
- Community Residences, of either type, with 11 or more residents, are only allowed in residential districts if they receive a reasonable accommodation approval.
- Community Residences for which there is no state license or certification available must obtain conditional use approval that assures their operation is consistent with community residences for which state license or certification is available.
- Family community residences (4 – 10 persons) are allowed in all residential districts as a permitted use if they meet 1000' distance requirements from other community residences and community residential homes (SSRFs). If they do not meet distance separation requirements, they must obtain a conditional use permit, which includes additional standards for community residences.
- Transitional community residences (4 – 10 persons) are allowed in single family residential districts by conditional use and must meet 1000' distance requirements from other community residences and community residential homes (SSRFs). They are also permitted in multifamily residential districts if they meet 1000' distance requirements from other community residences and community residential homes (SSRFs). If they do not meet distance requirements in multifamily districts, they must obtain a conditional use permit, which includes additional standards for community residences.

Conditional use requirements. In addition to the standard conditional use requirements, community residences which are not located within the spacing distances, and transitional community residences in single family zoning districts must meet additional conditional use requirements. They must demonstrate, among other things, that the residence in combination with other existing community residences, will not alter the residential character of the surrounding neighborhood, and will not interfere with the normalization and community integration of the residents of the proposed community residence.

Reasonable accommodation process. To allow modifications for residents with disabilities (or operators of residences) from the zoning code and other city ordinances, the ordinance creates a reasonable accommodation process. An accommodation can be granted by a special magistrate (with appeal to the court), if the applicant is disabled or operates housing for disabled individuals, and meets certain standards incorporated from the law interpreting the Fair Housing Act and Americans with Disabilities Act. In addition, the reasonable accommodation process is required for community residences with more than 11 persons.