

**TOWN OF MALABAR**  
**PLANNING AND ZONING ADVISORY BOARD**  
**REGULAR MEETING**  
**WEDNESDAY JULY 10, 2013**  
**7:30 PM**  
**MALABAR COUNCIL CHAMBER**  
**2725 MALABAR ROAD**  
**MALABAR, FLORIDA**

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**AGENDA**

- A. **CALL TO ORDER, PRAYER AND PLEDGE**
- B. **ROLL CALL**
- C. **ADDITIONS/DELETIONS/CHANGES**
- D. **CONSENT AGENDA :**
  - 1. **Approval of Minutes**                      Planning and Zoning Meeting – 06/26/2013  
    **Exhibit:**                                      Agenda Report No. 1  
    **Recommendation:**                      Motion to Approve
- E. **PRESENTATION:**
- F. **ACTION:**
- G. **DISCUSSION:**
  - 2. **Code Requirements for Assisted Living Facilities**  
    **Exhibit:**                                      Agenda Report No. 2  
    **Recommendation:**                      Discussion
- H. **ADDITIONAL ITEMS FOR FUTURE MEETINGS:**
- I. **PUBLIC:**
- J. **OLD BUSINESS/NEW BUSINESS:**
- K. **ADJOURN**

NOTE: THERE MAY BE ONE OR MORE MALABAR ELECTED OFFICIALS ATTENDING THIS MEETING.

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to insure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105). The Town does not provide this service in compliance with the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

**TOWN OF MALABAR**  
**PLANNING AND ZONING**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 1**  
**Meeting Date: July 10, 2013**

**Prepared By: Denine M. Sherear, Planning and Zoning Board Secretary**

**SUBJECT: Approval of Minutes**

**BACKGROUND/HISTORY:**

The minutes must reflect the actions taken by the Board:

- Who made the Motion
- What is the motion
- Who seconded the motion
- What was the vote

Malabar has historically included discussion to provide the reader the understanding of how the Board came to their vote. It is not verbatim and some editing is done to convey the thought. People do not speak the way they write.

**ATTACHMENTS:**

Draft minutes of P&Z Board Meeting of June 26, 2013

**ACTION OPTIONS:**

Secretary requests approval of the minutes.

"The following draft minutes are subject to changes and/or revisions by the Planning and Zoning Board and shall not be considered the official minutes until approved by the P&Z Board."

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING  
JUNE 26, 2013 7:30 PM**

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

**A. CALL TO ORDER, PRAYER AND PLEDGE:**

Meeting called to order at 7:30 P.M. Prayer and Pledge led by Vice-Chair Liz Ritter.

**B. ROLL CALL:**

CHAIR: PAT REILLY, EXCUSED  
VICE-CHAIR: LIZ RITTER  
BOARD MEMBERS: BUD RYAN  
DON KRIEGER  
GRANT BALL  
ALTERNATE: DICK KORN  
ALTERNATE: LEEANNE SAYLORS  
BOARD SECRETARY: DENINE SHEREAR

ADDITIONAL ATTENDEES: WAYNE ABARE COUNCIL MEMBER

**C. ADDITIONS/DELETIONS/CHANGES:**

**D. CONSENT AGENDA:**

1. **Approval of Minutes** Planning and Zoning Meeting – 06/12/2013

**MOTION:** Krieger/Ryan to approve minutes of 06/12/13 as **CORRECTED**

Ritter, page 3 second paragraph, it was left out, something was mentioned about a restaurant. She had asked Mr. Paladin, please put in minutes.

Page 3, 6 parag. from bottom ~~issues~~ should be issue

Krieger, page 4 second line "not as far as in Malabar", 5<sup>th</sup> parag "Krieger asks not add  
Ryan page 4, 3<sup>rd</sup> parag 1<sup>st</sup> sentence "Mr. paladin is aware they are not there.

Ritter said to add to 3<sup>rd</sup> parag. that Mr. Paladin had said, that the approximate cost of bringing water to project was \$2 million.

Page 5 Krieger, 11 parag. down "Mr. Paladin if ~~are they are~~ are a" 2<sup>nd</sup> sentence residence = residents

Page 5 12<sup>th</sup> parag. Ryan there = their

Page 6 Ryan 2<sup>nd</sup> parag 1st sentence "Meeting with phone = Meeting the person on the phone....

Krieger name to be corrected.

Ryan Page 6 7<sup>th</sup> parag "Ryan discussing about ~~that~~ Legal Notices that...

**VOTE:** All Ayes.

**E. PRESENTATION:**

2. **Mr. Paladin and Mr. Richard Kern to Introduce Proposed Project for ALF**  
on 19+/- acres located on Highway 1 - "RM-6" Multiple-Family High-Density Residential Development

Ritter announces that applicants and Mr. Paladin attended last meeting and will be introducing their proposed project down on US 1, zoned in RM6 on 19 acres. I caution the Board that the Land Use

issue as such is Quasi Judicial, if the applicant decides to move forward this will be back before the board for official consideration and vote at that time disclosures will need to be made by the Board members, for any additional conversations with the applicants or site visits, outside of this meeting. Tonight's meeting will be recorded in the minutes.

Mr. Joseph Paladin, he sent out information to this Board, references other municipalities and a formula for density that is used by other counties that are adjacent to us. This Board was given a rough draft of what we are looking to design there. This is not a final drawing we have to have a certified Assisted Living engineer/architect to design the facility and a consultant to tell us exactly what we are allowed to do. i.e certain size hall ways, doorways, meet all the criteria.

Mr. Paladin explains before they move forward with all the elevation drawings, landscaping, pool area, game room, etc and architectural engineer drawings. We will keep you all informed as we move forward. Mr. Paladin explains that this will be a very nice looking, attractive looking and a benefit to the neighborhood, not only financially but will be "eye worthy". It is not going to be an institutional type thing. There will be plenty of "open spaces" we have 20 acres. As you know years ago I designed a condo development on this property when things were a little different economically. There is a need for an ALF community. After several years Mr. Paladin lost the property and contacted the people who purchased the property up in NY convinced them that he was an asset and they let him go forward to design something to make the property useful. Mr. Paladin describes that there is going to be a game room, pool, restaurant, an exercise pool, and exercise room, a card room, a tv room a place where people live not a place where people get locked up in a room. It is going to be an entertaining place to live the people are going to want to be here.

Mr. Paladin explains in order to make this financially feasible this is a project for profit. When building units 500, 600, 700 sq ft and some 900 sq ft. you are not designing large sq ft units that is why this formula was developed in other counties to make it financially feasible to go forward with an ALF instead of condo's or apartments. In order to have the restaurant and some of the amenities that I want to have you have to have a certain amount of numbers to go forward to rationalize to support that financial cost. We need numbers between 245-285. This still gives plenty of open space and parks and maintain the wetlands (preserved wetlands and mitigated with St. John's when going to build condo's) and boardwalks and have a nice place for people to live. The community is going to be proud of this development.

Mr. Paladin offers to answer any questions, Besides his engineer, he brought an expert person with him that deals with ALF, Ms. Virginia Wood.

Leeanne asks:

- Asked about these units? Rented or leased on a 1 yearly lease or sold or purchased.

Mr. Paladin's response, they will be rented or leased on a yearly lease agreement or an extended lease agreement. As long as people want to live there they can extend the agreement. If they need more care other than what is offered they move to another facility and we lease to a new person. They will bring their own furniture like an apartment.

- Leeanne asks if they are going to set a limit on pre leasing these units before you start the development or is that going to be a factor as to when you are going to start your development.

Mr. Paladin's responded that the certified agency that we use to run the development will set all that up, and set the guidelines and do the pre leasing.

Leeanne explains that in past cases that she was aware of that they had to pre lease so much of development before they can get their funding to develop the project.

Mr. Paladin explains the project in Indian River County is being financed through bonds. This particular ALF is not being financed that way, the company that bought the property out of New York the Malbec Corporation who I represent is going to provide all the financing. I don't have to have pre leasing, or a percentage before we can sell. My pre requisite is to have a certain amount of density so it financially makes sense so it will be a profitable project to the people that are financing it, a private group of people from New York.

Mr. Paladin explains that he is going to do in two phases I will build all the building at one time, Then finish of 2/3 of building inside so from center part to one side will be completely finished inside once that is all leased out then we will finish the interior of the rest of the building, there will be no heavy construction on site after that. You never have 100% people coming and going. If I get approved for 280 units I will do 180 units in 1<sup>st</sup> phase. Then once I get that 90% occupied I will finish the second phase.

Leeanne adds that part of that infrastructure is to bring water & sewer to the site. Mr. Paladin said 2.25 miles and people are well aware of this. I have the numbers from the engineering company and Construction Company of updated prices. I have meeting tomorrow w/ Palm Bay to meet with utilities department for a developer's agreement. My goal is to get our investment money back from putting in utilities.

Leeanne asks about 280 units? Ritter asks 285 beds, 114 units? Mr. Paladin says yes 285 beds.

Grant asks Mr. Paladin are there going to be up front monies that an applicant has to put in other than the lease.

Mr. Paladin responds there are not significant monies to put up, it depends on needs of person, and there are different programs.

This facility is going to provide full time staff, when totally built 85-90 jobs good high paying jobs and people will be taking care of, not a nursing home.

Ms. Virginia Wood, talking about licensing as ALF through agency of Assisted Living Care Facilities a lot of looking at different situations. There are regulations that will keep facility the way you want it.

Grant asks about the part of property that is on east side of US Hwy 1, what will they be doing with that property?

Mr. Paladin, responds about putting a dock out there to walk out to sit, not disturbing the natural life.

Last time he was going to develop the property, we spent two year saving the tortoise's paying \$38,000.00 to move them. Preserve the sea grass no boat docks.

Mr. Richard Kern speaks to Board, he is Mr. Paladins engineer, the task to develop zoning codes for the ALF issues,

Kern is explaining that he researched three close municipalities, Palm Bay, Melbourne and Indian River County (IRC). IRC and Palm Bay deal with the density in the same way. He explains this property is RM 6 it is 6 units per acre Palm Bay & IRC take that density

Kern explains that Paladin is seeking 285 beds = 2.8 beds per units, Palm Bay formulated 2.66 beds per units, they used the data from 2010 census, they arrived at this by what would be equivalent to a residential unit.

Indian River County formulated 2.5 beds per unit; basically that is what is needed here at the Malabar project.

Kern briefly talks about parking, Palm Bay a straight ratio .6 parking spaces per units, if the density allows 6 units per acre that would =, 20 acres parcel x .6 would = 120 units for parking spaces. Melbourne is a little different use ratio 1 space per employee that works there plus 2 parking spaces per 3 living units, ie if you had 30 living units on a site that would be 20 parking spaces plus 1 per employee.

Kern asks if any questions from Board

Don asks about the 2.6 number from 2010 census, does that have anything to do with the size of the units. Kern responds that they are using the census as the average number of beds per residential unit.

Ritter comments the minimum living areas are 350 to 800 sq ft, how small are they planning to make units will there be efficiencies, normally it is 550 to 700 sq ft. for 1 or 2 bedroom.

Paladin explains to Krieger that the density is based on bedroom & baths per standard unit, they base that on how they figure the sq ft per unit.

Ritter adds this is minimum living area that does not include the bathroom.

Paladin explains the smallest unit is 500 sq ft the largest unit is 900 sq ft (very few) but most are between 500-700 sq ft.

Wayne Abare 2530 Rocky Point Road, my comments and questions tonight are as a resident not as a Town Council member. I owned this property for 20 + years and sold it to Paladin. About ALF my mother is in one now. She was in, Glenbrook there you could have ALF and then independent as well as dementia unit with lock down. Do you plan on having any of these units?

Virginia explains in operating 285 units you are going to have situations where people have memory issues. If the license on building, the independent part is not required to have a license, the assisted living license there are levels of licenses, Glenbrook is a standard license that allows caring for people based on needs, the whole philosophy of ALF is for people to age in place. People do get older and live there to the very end. Assisted Living (AL) partner with hospice, the beauty of AL is the cost to hire individuals for all your needs is expensive. You would pay about \$90,000 a year for private duty services. In an ALF you are sharing the cost and everyone is tending to your needs. This is helping people age gracefully.

Virginia explains that a standard license you may have a memory care community. It would be a secured community; those people should never be a problem because they are always escorted. Ritter asks if they need medical attention will they be allowed to stay there. Virginia responds no they will not. Regulations are very clear; people will not be allowed to stay in ALF if they need skilled nursing. In an ALF in an emergency they call 911.

Korn asks about buildings in same facility requiring separate licensing, for example, ALF and independent living.

Virginia responds the level of care is greater with more staff present in a memory care facility, those people may move to a certain unit.

Korn is asking on our part as a Board trying to come up with guidelines, regulations and rules we need to know how many definitions we need to have.

Wayne asks at what point do you have a resident move out of ALF. Virginia explains that dementia can live next to you, but people with behavioral problems are more of an issue. People with dementia in the right facility can live a wonderful life.

Wayne asks if they will have a secured unit her in Malabar. Virginia responds she does not know, the license that they pull for the ALF will allow it.

Paladin plans on having a wing that caters to dementia with proper care and supervision; I foresee having a wing for dementia, allowed due to memory care unit with our license.

Grant comments because we are working on definitions for ALF's you mentioned about providing assistance with medication at the facility, what is staffing going to be? How do we describe it as far as giving assistance with meds. Virginia explains that is all regulated your meds have to be self administration. A pharmacy will also to be a part of this service provided. There will be help available like a med tech to pass out medication.

Paladin explains it is a case by case deal, in referenced to meds. We have a certified company that runs these facilities. The rules are state set.

Ritter adds the individuals are taking care of themselves, just the memory unit they have to be reminded. It is just when they come physically disabled you cannot care for them

Paladin says they will not be licensed for full time care. Virginia explains that people that are totally physically disabled are capable of being independent. The criteria is based on needs of the actual needs of daily living for the individual, A project such as this, is a customer driven business people are not going to support this if it is not very nice. This is a great opportunity in your community to have a facility like this.

Ritter asks Virginia if they do inspections from Dept of Elder Affairs (DOEA). The state has financial issues the regulators are constantly AHCA – Agency for Health Care Administration also regulates ALF and the bldg. You renew your license bi annually; we are required to send liability insurance and anything that is a potential incident, if there is a complaint the bldg is very regulated. The climate of caring for elders that occurred in south Florida you will see more regulating in ALF's.

Wayne Abare applauds picking a large site for this, when you run out of money you have to put two in a room. Are you going to have an elevator and a backup generator? Paladin stated it is going to be required.

Ryan asks Paladin will the residents be required to deal with a certain pharmacy; Paladin responds they will be able to deal with whomever they want. The residence by law picks their own pharmacy. It would be more of a courier service to pick up meds.

Don has two questions of Paladin, because this is an ALF that is why you are going to have small spaces, so that limits the buildings future uses for a change to the buildings application, if it ever become something other than an ALF.

Paladin does not know an ALF that has been converted to something else once it became an ALF. The size of rooms would limit what you can do. It would not be financially intelligent to try and go from ALF to something else.

Don asks about explaining about the "Certificate of Need". Paladin explains that years ago a Certificate of Need (by state) was required to go forward with ALF's. Anymore they do not require a Certificate of Need. The Marketing study that is required shows the need for ALF in that area.

Korn asks Paladin could this be converted into normal living facilities. Paladin responds it could be a rental facility; I don't for see that happening.

Tom & Joanne Murdoch, new owners of the "Old School House" 1490 Marie Street. Looking to get a zoning change from the current "CL" to "R/LC" so we can have residential as well our plans to use the bottom floor for events. We would like to potentially live on the top floor. Murdoch asks what the Board suggestion to move forward to get to Council for approval. Ryan asks if had checked with staff.

Sherear, comments that Mr. & Mrs. Murdoch came into Malabar staff and we explained that the future use could possibly be "R/LC" and they wanted to come and introduce themselves.

Mr. Chuck Leedy, Smith Lane, about fixing the road on Corey Road, they don't fix it.

Sherear explains that it is by Fern Creek before Malabar Road., we have put some asphalt in the dip.

Krieger adds that Corey Rd and Weber Rd are 30 years old and they are going to need to be repaved the Town should be thinking about. Ritter adds that this should be taken before Town Council they deal with roads.

Sherear has stated that he has talked to TA and they have added asphalt to dip.

Board directed Mr. Leedy to Council and /or Council Members or Bonnie

**F. ACTION: NONE**

**G. DISCUSSION:**

**3. Code Requirements for Assisted Living Facilities**

<b>Exhibit:</b>	Agenda Report No. 3
<b>Recommendation:</b>	Discussion

Ritter is discussing to match up with the FS for the ALF. The Town Council has recommend to pull ALF's out of "OI".Ritter comments to Board about Sherear putting new ALF's information books together for all Board members.

Krieger is discussing about the page 119, Table 1-3.2 in the Code Book, Krieger asks about the Ord that Attorney wrote.

Ritter recommends we use the FS definitions and terms, page 39/160 ALF book 2011 FS the whole chapter is under assisted care communities it is broken down into 3 different levels. The FL Bldg Codes try to align with the FS for requirements.

Krieger we need the definition of "unit", Council asked to do one thing, take "IO" out. There is no reason to drop "group homes". Ritter states that they define "group homes", it is all about the number of people, and they have requirements for that. R/LC is a different thing we wanted it to be business and residential.

Ritter comments that the state has a lot of regulations on what they can do and not do in a facility. Ritter has not found where a restaurant is required.

Krieger commented that we gave no positive reflection on a project. It is a remote site that has to have public facilities installed prior to them breaking ground. We want to make sure the gentleman knows that there are significant code changes that need to take place. Ritter explains the state has requirements also; we need to align with the building statues, the building codes require them to be residential.

Krieger and Ritter discussing the RM4 & RM6 if it is RM4 that is 4 units per acres and 4 persons per unit. Krieger said that is what is wrong, in this application it is 500-700 ft and one bed units. They are trying to bring in more density. Krieger thinks that we should look at what was the intention of RM6 not apt houses, so 6 units per acre x 20 acres = 120, Ritter adds there are more than one person per unit. Krieger stated we need to get definition for "unit" what it means. Ritter comments what we have in our Code is not current.

Korn explains his concern is that the information given by Paladin of other area descriptions is more than 2.6 people per unit. Ritter explains it is the average. Grant comments that depending on situations you may have someone else in the room with you.

Juliana Hirsh, 1035 Malabar Road, the confusion is we do not have a zoning for this, the difference is the units not how many people. The 6 per acre is 114 and paladin is coming up with 280, and only has 114 units.

Ritter explains that 6 units per acres, and each units have 4 people=24 people per acre times 19 acres.

Juliana stated the amount of people have nothing to do with the space they are building. They have to conform with the zoning. We don't have a zoning for this. Ritter replies we think we do that is what we are looking at.

Don explains what we have is a residential high density designation; Don explains that when the DCA was running the world they said you have to have so much high and low density. The reason RM 6 is there because everyone thought that no way anyone would develop. Don asks as a as a body what is it that you in-vision being there on that property.

Ritter explains that we have to decide what areas we want to put ALF's in our Town as a conditional use, what the ratio and the units and what are in the units.

Krieger sees 500ft unit =1 person and 1000ft= 2 people Ritter says each unit does not need spaces because they have community areas.

The Board is discussing the living area, (all talking at once.)

Leeanne comments that when an actual design of a unit is seen it will be helpful. The purpose tonight is to work on Assisted Living and come up with zoning and some kind of perimeters.

Ritter explains, not in "OI", R/LC the state and the building codes consider them residential. But we have RM4, RM6, RS 15, RS 21 and we require a certain minimum size lot, like 5 acres and water and sewer. Ritter explains that we could do our zoning requirements.

Leeanne asks are we supposed to be doing ALF. Ritter responds we are going to do it all, meaning "group home" anything that is going to come to Town they are all going to be under this Ordinance. The FS already breaks it out so if we follow that.

Krieger suggesting taking Table 1-3.2 and seeing where you could put ALF and do homework on the rest.

Page 119 in Code- no group home in RR-65

RS10 smallest lot

RS15

RS21

Krieger comments that "Group homes" start at RM4; it is a 5 acre min for multi family

Ritter directs Board to page 123 in Code book, Board is going through the zoning to see where ALF fits.

Korn comments a 500 ft unit is adequate for living. Maybe RM 4 would be too restrictive.

Ritter is reading page 9/160 in building codes tells about areas.

Krieger reviews Table 1-3.2 and Article VI for Condition Use. Krieger asks about if in the future will people have to be required to hook up to utility facilities. Korn adds that the infrastructure should come first.

Staff please find out in contract if water or waste water has to be hooked up when it passes by either 1 or the other. For next meeting

Leeanne comments that she has some properties in Palm Bay, that she has never lived in, that are rental properties that are on well and septic and the City of Palm Bay went right by these houses with water and sewer I was offered to hook up to utilities but not required.

The Board is discussing the water hook up along US Hwy1 with the City of Palm Bay and State regulations.

Krieger suggests the infrastructure be in place before they break ground, referencing Art VI. Ritter suggests your bldg is contingent on your water and sewer coming down US Hwy 1.

Ryan would like to comment about this facility with Paladin, it is nice but in the middle of nowhere. Ritter adds that the facility is providing cars and transportation and some have their own cars. Grant comments that if there is a need there may be public transportation provided.

Leeanne comments that Bonnie is working on right now with "Space Coast Transportation" that comes down US 1 on to Malabar Road and goes to Palm Bay Hospital. Bonnie is trying to get then to stop in Malabar.

The Board is discussing sq ft, Krieger asks if we wish to facilitate one developers needs, Ritter and Leeanne responds it is not about one developer needs, we are working on requirements for 5 acre min , water and sewer .Don asks Ritter how many acres you have at the camp site, Ritter responds about 18. Leeanne asks Krieger how many sq ft do you have on your property. Krieger responds that I don't ask for other people to pay water and sewer. I am in "CG" zoning, but how many sq ft are on your 2.5 acres or whatever it is. Krieger responds about 45,000. Leeanne asks how much coverage are you allowed? Krieger responds exactly what is there. Ritter adds that everyone has requirements we have to decide to meet our requirements and it is under residential, under FS.

Page 49/160 (6/26/13)-

Ritter suggest looking at the following:

- 5 acres + minimum
- City water & sewer

Homework for next meeting:

- What they describe "living space".

CU in: RM4 RM6 RL/C Section to put in.

- Bldg Codes
- ALF
- Group Homes
- Chapter 400 Section from FS need for Group Homes

- State Requirements for Building an ALF

**H. ADDITIONAL ITEMS FOR FUTURE MEETINGS:**

Review of Brevard Church on Babcock parking lot

**I. PUBLIC:**

**J. OLD BUSINESS/NEW BUSINESS:**

**K. ADJOURN**

There being no further business to discuss, **MOTION:**Krieger/Grant to adjourn this meeting. **Vote:** All Ayes. The meeting adjourned 10:14P.M.

BY:

\_\_\_\_\_  
Liz Ritter, Vice-Chair

\_\_\_\_\_  
Denine Sherear, P&Z Board Secretary

\_\_\_\_\_  
Date Approved: as corrected

DRAFT

# TOWN OF MALABAR

## PLANNING AND ZONING

### AGENDA ITEM REPORT

AGENDA ITEM NO: 2  
Meeting Date: July 10, 2013

Prepared By: Denine M. Sherear Planning & Zoning Secretary

**SUBJECT: Code Requirements for Assisted Living Facilities**

#### **BACKGROUND/HISTORY:**

At the 6/26/13 Meeting the Board was given a 3 ring binder (160 pages) with updated information concerning the Code requirements for ALF's. The Board discussed following the Florida State Statues for the definitions and terms.

The Board is going over what Code requirements that would allow ALF's and the process they would have to follow in the Town of Malabar. It would be a "conditional use" following the Table 1-3.2 and all appropriate verbiage.

#### **ATTACHMENTS: (Please add to you 3- ring binder)**

- 2012 Florida Statues 409 Social & Economical Assistance
- 2012 Florida Statues 419 Community Residential Homes

#### **ACTION OPTIONS:**

Board Discussion.

## 2012 Florida Statutes 409

- Social & Economical Assistance

Select Year:  

## The 2012 Florida Statutes

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[Title XXX](#)[Chapter 409](#)[View Entire Chapter](#)

SOCIAL WELFARE

SOCIAL AND ECONOMIC ASSISTANCE

**409.1677 Model comprehensive residential services programs.—**

(1) As used in this section, the term:

(a) “Residential group care” means a living environment for children who have been adjudicated dependent and are expected to be in foster care for a minimum of 6 months with 24-hour-awake staff or live-in group home parents or staff. Beginning July 1, 2001, all facilities must be appropriately licensed in this state, and they must be accredited by July 1, 2005.

(b) “Serious behavioral problems” means behaviors of children who have been assessed by a licensed master’s-level human-services professional to need at a minimum intensive services but who do not meet the criteria of s. [394.492\(6\)](#) or (7). A child with an emotional disturbance as defined in s. [394.492\(5\)](#) may be served in residential group care unless a determination is made by a mental health professional that such a setting is inappropriate.

(2) The department shall establish a model comprehensive residential services program in Manatee and Miami-Dade Counties through a contract with the designated lead agency established in accordance with s. [409.1671](#) or with a private entity capable of providing residential group care and home-based care and experienced in the delivery of a range of services to foster children, if no lead agency exists. These model programs are to serve that portion of eligible children within each county which is specified in the contract, based on funds appropriated, to include a full array of services for a fixed price. The private entity or lead agency is responsible for all programmatic functions necessary to carry out the intent of this section.

(3) Each model must include:

(a) A focus on serving the full range of children in foster care, including those who have specialized needs, such as children who are unlikely to be reunited with their families or placed in adoptive homes; sibling groups; children who have serious behavioral problems; and children who are victims of sexual abuse.

(b) For each child who is in care, the provision of or arrangements for a comprehensive assessment; residential care; transportation; behavioral health services; recreational activities; clothing, supplies, and miscellaneous expenses associated with caring for these children; educational services; necessary and appropriate health and dental care; legal services; and aftercare services.

(c) A commitment and ability to find and use innovative approaches to address the problems in the traditional foster care system, such as high caregiver turnover, disrupted and multiple placements, runaway behavior, and abusive or nontherapeutic care.

(d) The provision of a full range of residential services tailored to the individual needs of each child in care, including group homes for initial assessment and for stabilization; professional and traditional foster homes; residential group care provided in a setting that is homelike and provides care in

residences housing no more than 12 children and staffed with full-time, appropriately trained house parents; and independent living apartments. The programs are designed for children who must enter the foster care system, but the use of placement with relatives as part of a child's care is encouraged.

(e) The provision of the full range of administrative services necessary to operate the program.

(f) Specific eligibility criteria established in the contract, including a "no-reject-no-eject" commitment with the described eligible children, unless the court determines that the placement is not in a child's best interest.

(g) An ability, through its trained, multidisciplinary staff, to facilitate the achievement of the permanency goals of the children who are in care.

(h) The design and utilization of a retired-volunteer mentor program that would make use of the skills of retired individuals in helping to meet the needs of both the children in care and their caregivers.

(i) The willingness and ability to assume financial risk for the care of children referred to the program under the contract.

(j) The willingness and ability to serve as a research and teaching laboratory for departmental and community-based care programs throughout the state in an effort to improve the quality of foster care.

(4) This section does not prohibit any provider of these services from appropriately billing Medicaid for services rendered, from contracting with a local school district for educational services, or from earning federal or local funding for services provided, as long as two or more funding sources do not pay for the same specific service that has been provided to a child.

(5) The lead agency, not-for-profit corporation, or local government entity has the legal authority for children served under this program, as provided in chapter 39 or this chapter, as appropriate, to enroll the child in school, to sign for a driver's license for the child, to cosign loans and insurance for the child, to sign for medical treatment, and to authorize other such activities.

(6) The department shall provide technical assistance as requested and contract management services.

(7) The provisions of this section shall be implemented to the extent of available appropriations contained in the annual General Appropriations Act for such purpose.

History.—s. 6, ch. 2001-68; s. 113, ch. 2008-4.

## 2012 Florida Statutes 419

- Community Residential Homes

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## The 2012 Florida Statutes

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[Title XXX](#)  
SOCIAL WELFARE

[Chapter 419](#)  
COMMUNITY RESIDENTIAL HOMES

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### **419.001 Site selection of community residential homes. –**

(1) For the purposes of this section, the term:

(a) “Community residential home” means a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Family Services or licensed by the Agency for Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

(b) “Licensing entity” or “licensing entities” means the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, the Department of Children and Family Services, or the Agency for Health Care Administration, all of which are authorized to license a community residential home to serve residents.

(c) “Local government” means a county as set forth in chapter 7 or a municipality incorporated under the provisions of chapter 165.

(d) “Planned residential community” means a local government-approved, planned unit development that is under unified control, is planned and developed as a whole, has a minimum gross lot area of 8 acres, and has amenities that are designed to serve residents with a developmental disability as defined in s. [393.063](#) but that shall also provide housing options for other individuals. The community shall provide choices with regard to housing arrangements, support providers, and activities. The residents’ freedom of movement within and outside the community may not be restricted. For the purposes of this paragraph, local government approval must be based on criteria that include, but are not limited to, compliance with appropriate land use, zoning, and building codes. A planned residential community may contain two or more community residential homes that are contiguous to one another. A planned residential community may not be located within a 10-mile radius of any other planned residential community.

(e) “Resident” means any of the following: a frail elder as defined in s. [429.65](#); a person who has a handicap as defined in s. [760.22\(7\)\(a\)](#); a person who has a developmental disability as defined in s. [393.063](#); a nondangerous person who has a mental illness as defined in s. [394.455](#); or a child who is found to be dependent as defined in s. [39.01](#) or s. [984.03](#), or a child in need of services as defined in s. [984.03](#) or s. [985.03](#).

(f) “Sponsoring agency” means an agency or unit of government, a profit or nonprofit agency, or any other person or organization which intends to establish or operate a community residential home.

(2) Homes of six or fewer residents which otherwise meet the definition of a community residential home shall be deemed a single-family unit and a noncommercial, residential use for the purpose of local

laws and ordinances. Homes of six or fewer residents which otherwise meet the definition of a community residential home shall be allowed in single-family or multifamily zoning without approval by the local government, provided that such homes shall not be located within a radius of 1,000 feet of another existing such home with six or fewer residents. Such homes with six or fewer residents shall not be required to comply with the notification provisions of this section; provided that, prior to licensure, the sponsoring agency provides the local government with the most recently published data compiled from the licensing entities that identifies all community residential homes within the jurisdictional limits of the local government in which the proposed site is to be located in order to show that no other community residential home is within a radius of 1,000 feet of the proposed home with six or fewer residents. At the time of home occupancy, the sponsoring agency must notify the local government that the home is licensed by the licensing entity.

(3)(a) When a site for a community residential home has been selected by a sponsoring agency in an area zoned for multifamily, the agency shall notify the chief executive officer of the local government in writing and include in such notice the specific address of the site, the residential licensing category, the number of residents, and the community support requirements of the program. Such notice shall also contain a statement from the licensing entity indicating the licensing status of the proposed community residential home and specifying how the home meets applicable licensing criteria for the safe care and supervision of the clients in the home. The sponsoring agency shall also provide to the local government the most recently published data compiled from the licensing entities that identifies all community residential homes within the jurisdictional limits of the local government in which the proposed site is to be located. The local government shall review the notification of the sponsoring agency in accordance with the zoning ordinance of the jurisdiction.

(b) Pursuant to such review, the local government may:

1. Determine that the siting of the community residential home is in accordance with local zoning and approve the siting. If the siting is approved, the sponsoring agency may establish the home at the site selected.
2. Fail to respond within 60 days. If the local government fails to respond within such time, the sponsoring agency may establish the home at the site selected.
3. Deny the siting of the home.

(c) The local government shall not deny the siting of a community residential home unless the local government establishes that the siting of the home at the site selected:

1. Does not otherwise conform to existing zoning regulations applicable to other multifamily uses in the area.
2. Does not meet applicable licensing criteria established and determined by the licensing entity, including requirements that the home be located to assure the safe care and supervision of all clients in the home.
3. Would result in such a concentration of community residential homes in the area in proximity to the site selected, or would result in a combination of such homes with other residences in the community, such that the nature and character of the area would be substantially altered. A home that is located within a radius of 1,200 feet of another existing community residential home in a multifamily zone shall be an overconcentration of such homes that substantially alters the nature and character of the area. A home that is located within a radius of 500 feet of an area of single-family zoning substantially alters the nature and character of the area.

(4) Community residential homes, including homes of six or fewer residents which would otherwise meet the definition of a community residential home, which are located within a planned residential

community are not subject to the proximity requirements of this section and may be contiguous to each other. A planned residential community must comply with the applicable local government's land development code and other local ordinances. A local government may not impose proximity limitations between homes within a planned residential community if such limitations are based solely on the types of residents anticipated to be living in the community.

(5) All distance requirements in this section shall be measured from the nearest point of the existing home or area of single-family zoning to the nearest point of the proposed home.

(6) If agreed to by both the local government and the sponsoring agency, a conflict may be resolved through informal mediation. The local government shall arrange for the services of an independent mediator or may utilize the dispute resolution process established by a regional planning council pursuant to s. 186.509. Mediation shall be concluded within 45 days of a request therefor. The resolution of any issue through the mediation process shall not alter any person's right to a judicial determination of any issue if that person is entitled to such a determination under statutory or common law.

(7) The licensing entity shall not issue a license to a sponsoring agency for operation of a community residential home if the sponsoring agency does not notify the local government of its intention to establish a program, as required by subsection (3). A license issued without compliance with the provisions of this section shall be considered null and void, and continued operation of the home may be enjoined.

(8) A dwelling unit housing a community residential home established pursuant to this section shall be subject to the same local laws and ordinances applicable to other noncommercial, residential family units in the area in which it is established.

(9) Nothing in this section shall be deemed to affect the authority of any community residential home lawfully established prior to October 1, 1989, to continue to operate.

(10) Nothing in this section shall permit persons to occupy a community residential home who would constitute a direct threat to the health and safety of other persons or whose residency would result in substantial physical damage to the property of others.

(11) The 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.

(12) Nothing in this section requires any local government to adopt a new ordinance if it has in place an ordinance governing the placement of community residential homes that meet the criteria of this section. State law on community residential homes controls over local ordinances, but nothing in this section prohibits a local government from adopting more liberal standards for siting such homes.

**History.**—s. 1, ch. 89-372; s. 1, ch. 90-192; s. 4, ch. 91-429; s. 36, ch. 93-206; s. 6, ch. 95-152; s. 42, ch. 96-169; s. 222, ch. 97-101; s. 46, ch. 98-280; s. 14, ch. 98-338; s. 53, ch. 99-193; s. 23, ch. 99-284; s. 7, ch. 2000-135; s. 93, ch. 2004-267; s. 34, ch. 2006-86; s. 110, ch. 2006-120; s. 1, ch. 2006-177; s. 99, ch. 2007-5; s. 30, ch. 2008-245; s. 3, ch. 2010-193.