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January 29, 2018

VIA E-MAIL

Chair David Mann and Commissioners
Village of Oak Park Plan Commission
123 Madison Street
Oak Park, Illinois 60302

Re: Community Residences

Chair Mann and Commissioners:

As requested by the Plan Commission, we have drafted this memorandum, which provides you with the legal parameters of the Village of Oak Park's zoning authority over community residences, also known as group homes. This memorandum outlines the Village's legal authority in this area, and does not delve into the policy considerations to be discussed and deliberated by the Plan Commission regarding these uses, as the range of policy considerations are beyond the scope of this legal memorandum and differ from the legal analysis presented herein.

This memorandum is meant to serve as a starting point for your discussion and deliberation, and additional information and analysis regarding the Village's legal authority in this area will be provided if and when requested.

Framework for Discussion

Some initial policy-related questions to be considered by the Plan Commission regarding community residences include:

1. What does the Village want to achieve with its Zoning Ordinance regarding these uses?
2. What issues, if any, are the Village trying to address with its Zoning Ordinance regarding these uses?

The answers to these questions will help determine the scope of regulations under consideration regarding community residences. We will then determine if the potential regulations are within the Village's legal authority.

The zoning "tools" for regulating community residences discussed in this memorandum are tools, not policy. We recommend the Plan Commission first settle on

a policy regarding community residences, and then determine what tools are available and within the Village's legal authority to implement that policy.

Background

The Plan Commission recommended a comprehensive rewrite of the Village's Zoning Ordinance to the Village Board in 2017. Among the portions adopted by the Village Board were the community residence provisions. Though the Village Board adopted the community residence provisions, the Village Board remanded, or sent them back, to the Plan Commission for further review.

A community residence is defined as follows in the Zoning Ordinance:

A residence licensed, certified, or accredited for specialized residential care home by the appropriate state or federal agencies, that functions as a single housekeeping unit for the housing of unrelated persons with functional disabilities who share responsibilities, meals, recreation, social activities, and other aspects of residential living. The use matrix in Table 8-1 distinguishes sizes of community residents by number of residents; this number includes any caretakers that live on-site.

The following are the use restrictions for community residences in the Zoning Ordinance:

8.3 Use Restrictions (Table 8-1):

Use	R-1	R-2	R-3 -50 & -35	R-4	R-5	R-6	R-7	DT ¹	HS	GC	MS ¹	NA	NC ¹	RR ¹	OS	I	H	Use Standard § = Section
Residential																		
Community Residence – Small (6 or Fewer Residents)	P	P	P	P	P	P	P											§8.4.E
Community Residence – Large (7 or More Residents)						S	S											§8.4.E

The following are the use standards for community residences in the Zoning Ordinance:

1. Community residences must meet all federal, state, and local requirements including, but not limited to, licensing, health, safety, and building code requirements.
2. The facility must retain a residential character, which is compatible with the surrounding residential neighborhood.
3. All applicants are required to submit a statement of the exact nature of the community residence, the qualifications of the agency that will operate the community residence, the number and type of personnel who

will be employed, and the number and nature of the residents who will live in the community residence. No certificate of occupancy will be issued until such statement is submitted.

The issues raised with these community residence provisions, as identified by the Village Planner, are the following:

1. No definition of “Family” in Zoning Ordinance.
2. Number of permitted occupants should be dependent on definition of family.
3. Distance Requirement if more than # allowed by family definition. (660 feet?).
4. If within distance requirement, then Special Use required.
5. Parking spaces relevant to structure type.

Our recommendations on these issues are set forth at the end of this memorandum.

State Regulated Facilities

The following types of facilities are regulated by the State of Illinois, which depending on their size and operational focus, may come within the Village’s definition of “community residence.”

1. Skilled Nursing and Intermediate Care Facilities, governed by the Illinois Nursing Home Care Act, 210 ILCS 45/1-101, *et seq.* and related regulations. A regulated “skilled nursing facility” is defined as a facility that “(1) is primarily engaged in providing to residents (A) skilled nursing care and related services for residents who require medical or nursing care, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons, and is not primarily for the care and treatment of mental diseases.”
2. Sheltered Care Facilities, governed by the Illinois Nursing Home Care Act, 210 ILCS 45/1-101, *et seq.* and related regulations. “Sheltered care” is defined as “maintenance and personal care.”
3. Intermediate Care for the Developmentally Disabled Facilities, governed by the Illinois Nursing Home Care Act, 210 ILCS 45/1-101, *et seq.* and related regulations.

4. Community Living Facilities, governed by the Illinois Community Living Facilities Licensing Act, 210 ILCS 35/1, *et seq.* and related regulations. A regulated “community living facility” is defined as “a transitional residential setting which provides guidance, supervision, training and other assistance to ambulatory or mobile adults with a mild or moderate developmental disability with the goal of eventually moving these persons to more independent living arrangements. Residents are required to participate in day activities, such as vocational training, sheltered workshops or regular employment. A Community Living Facility shall not be a nursing or medical facility and shall house no more than 20 residents, excluding staff.”
5. Specialized Mental Health Rehabilitation Facilities, governed by the Illinois Specialized Mental Health Rehabilitation Act of 2013, 210 ILCS 49/1-101, *et seq.* and related regulations. A regulated “facility” is defined as “a specialized mental health rehabilitation facility that provides at least one of the following services: (1) triage center; (2) crisis stabilization; (3) recovery and rehabilitation supports; or (4) transitional living units for 3 or more persons. The facility shall provide a 24-hour program that provides intensive support and recovery services designed to assist persons, 18 years or older, with mental disorders to develop the skills to become self-sufficient and capable of increasing levels of independent functioning.”
6. Life Care Facilities, governed by the Illinois Life Care Facilities Act, 210 ILCS 40/1, *et seq.* and related regulations. A regulated “facility” is defined as “a place or places in which a provider undertakes to provide a resident with nursing services, medical services or personal care services, in addition to maintenance services for a term in excess of one year or for life pursuant to a life care contract. The term also means a place or places in which a provider undertakes to provide such services to a non-resident.”
7. Supportive Living Facilities, governed by the Illinois Public Aid Code, 305 ILCS 5/5-5.01a and related regulations. A regulated “facility” is defined as “either a free-standing facility or a distinct physical and operational entity within a nursing facility. A supportive living facility integrates housing with health, personal care, and supportive services and is a designated setting that offers residents their own separate, private, and distinct living units.”
8. Supportive Residences for Persons with HIV Disease, governed by the Illinois Supportive Residences Licensing Act, 210 ILCS 65/1, *et seq.* and related regulations. A regulated “facility” is defined as “a private home, institution, building, residence, or any other place that provides a home-like atmosphere as well as a continuum of care which takes into account the special needs of persons with HIV Disease.”

9. Community Integrated Living Arrangements Facilities, governed by the Illinois Community-Integrated Living Arrangements Licensure and Certification Act, 210 ILCS 135/1, *et seq.* A regulated “Community-integrated living arrangement” is defined as “a living arrangement certified by a community mental health or developmental services agency under this Act where 8 or fewer recipients with mental illness or recipients with a developmental disability who reside under the supervision of the agency. Examples of community integrated living arrangements include but are not limited to the following: (1) "Adult foster care", a living arrangement for recipients in residences of families unrelated to them, for the purpose of providing family care for the recipients on a full-time basis; (2) "Assisted residential care", an independent living arrangement where recipients are intermittently supervised by off-site staff; (3) "Crisis residential care", a non-medical living arrangement where recipients in need of non-medical, crisis services are supervised by on-site staff 24 hours a day; (4) "Home individual programs", living arrangements for 2 unrelated adults outside the family home; (5) "Supported residential care", a living arrangement where recipients are supervised by on-site staff and such supervision is provided less than 24 hours a day; (6) "Community residential alternatives", as defined in the Community Residential Alternatives Licensing Act; and (7) "Special needs trust-supported residential care", a living arrangement where recipients are supervised by on-site staff and that supervision is provided 24 hours per day or less, as dictated by the needs of the recipients, and determined by service providers. As used in this item (7), "special needs trust" means a trust for the benefit of a beneficiary with a disability as described in Section 15.1 of the Trusts and Trustees Act.”
10. Assisted Living or Shared Housing Establishments, governed by the Illinois Assisted Living and Shared Housing Act, 210 ILCS 9/1, *et seq.* and related regulations. A regulated “establishment” is defined as “a publicly or privately operated free-standing residence for 16 or fewer persons, at least 80% of whom are 55 years of age or older and who are unrelated to the owners and one manager of the residence, where the following are provided: (1) services consistent with a social model that is based on the premise that the resident's unit is his or her own home; (2) community-based residential care for persons who need assistance with activities of daily living, including housing and personal, supportive, and intermittent health-related services available 24 hours per day, if needed, to meet the scheduled and unscheduled needs of a resident; and (3) mandatory services, whether provided directly by the establishment or by another entity arranged for by the establishment, with the consent of the resident or the resident's representative.”
11. Intermediate Care Facility for Persons with Developmental Disability, governed by the Illinois ID/DD Community Care Act, 210 ILCS 47-1-101,

et seq. and related regulations. A regulated “facility” is defined as “an intermediate care facility for persons with developmental disabilities, whether operated for profit or not, which provides, through its ownership or management, personal care or nursing for 3 or more persons not related to the applicant or owner by blood or marriage. It includes intermediate care facilities for the intellectually disabled as the term is defined in Title XVIII and Title XIX of the federal Social Security Act.”

12. Medically Complex for the Developmentally Disabled Facilities, governed by the Illinois MC/DD Act, 210 ILCS 46/1-101, *et seq.* and related regulations. A regulated “facility” is defined as “a medically complex for the developmentally disabled facility, whether operated for profit or not, which provides, through its ownership or management, personal care or nursing for 3 or more persons not related to the applicant or owner by blood or marriage.”

We have attempted to determine the number and locations of community facilities currently operating in the Village. However, the Illinois Department of Public Health has not provided the requested information.

Relatedly, the Chicago Tribune ran a story titled “Where are the homes” in November of 2016, which included a searchable database of State-funded community residences.¹ The database allows for a search based on zip code, and returns the number of residents and number of community residences. For the Village’s zip codes, the database states there were forty-nine (49) residents living in nineteen (19) State-funded community residences.

We have attempted to obtain the reporter’s source information to determine the locations of the nineteen (19) State-funded homes in the Village, but have been unable to obtain the requested information from him.

Statutes

The most relevant statutes to the issue of the Village’s zoning authority over community residences are the Federal Fair Housing Act, the Federal Americans With Disabilities Act, and the Federal Rehabilitation Act. These Federal laws apply to municipal zoning ordinances that affect the location and operation of community residences, meaning these laws apply to the Village’s Zoning Ordinance and decisions thereunder with regard to community residences. *Wisconsin Community Services, Inc. v. City of Milwaukee*, 465 F.3d 737 (7th Cir. 2009) and *A.D. by Valencia v. City of Springfield*, 2017 WL 3288110 (C.D. Ill.). The key provisions of each Federal law are set forth below.

¹ See <http://www.chicagotribune.com/ct-group-homes-investigations-where-are-they-htmlstory.html>.

Fair Housing Act

It is unlawful to “discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap” of a person who intends to reside in the dwelling. 42 U.S.C. § 3604(f)(1). It is unlawful to “discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap” of any person who intends to reside in the dwelling after it is made available. 42 U.S.C. § 3604(f)(2).

Americans With Disabilities Act

“Subject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12132. The Village is a public entity covered by the Americans With Disabilities Act. 42 U.S.C. § 12131(1)(B).

Rehabilitation Act

“No otherwise qualified individual with a disability in the United States [] shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance [...]” 29 U.S.C. § 794.

Reasonable Accommodations

Both the Fair Housing Act and the Americans With Disabilities Act require that a municipality must “reasonably accommodate a disabled person by making changes in rules, policies, practices or services[, including requirements in zoning ordinances,] as is necessary to provide that person with access to housing that is equal to that of those who are not disabled.” *Good Shepherd Manor Foundation, Inc. v. City of Muncie*, 323 F.3d 557, 561 (7th Cir. 2003) (citing *Oconomowoc Residential Programs, Inc. v. City of Milwaukee*, 300 F.3d 775, 783 (7th Cir. 2002)).

The Fair Housing Act provides in this regard that it is unlawful to refuse “to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.” 42 U.S.C. § 3604(f)(3)(B).

The Americans With Disabilities Act’s regulations provide in this regard that a “public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.” 28 C.F.R. § 33.130(b)(7)(i).

The Village must make reasonable accommodations to the requirements of its Zoning Ordinance per the Fair Housing Act and Americans With Disabilities Act when required under those laws, regardless of the provisions of the Zoning Ordinance. See e.g. *Dadian v. Village of Wilmette*, 269 F.3d 831 (7th Cir. 2001) (municipality violated Fair Housing Act and Americans With Disabilities Act when it refused to allow for a front driveway prohibited under the zoning ordinance when requested by disabled homeowners). This process applies separately from, though intersects to an extent with, the variation and site development allowance processes in the Zoning Ordinance.

An accommodation must be given if it “(1) is reasonable, and (2) necessary, (3) to afford a handicapped person the equal opportunity to use and enjoy a dwelling.” *Oconomowoc Residential Programs v. City of Milwaukee*, 300 F.3d 775, 783 (7th Cir. 2002). If these criteria are established, the Village may only deny the requested accommodation if it can show the request is unreasonable or would create an undue hardship. *Id.*

Zoning Tools

Courts have approved, or rejected, the following zoning tools relevant to community residences:

Approved

1. Occupancy limits of general applicability. *Village of Belle Terre v. Boraas*, 416 U.S. 1 (1974) and *City of Edmonds v. Oxford House*, 514 U.S. 725 (1995). The Village of Oak Park currently limits occupancy of residential dwellings as set forth in the appendix attached hereto.
2. Special use permit requirement for any dwelling over a certain number of residents, regardless of the makeup of the residents living therein. *United States v. Village of Palatine*, 37 F.3d 1230 (7th Cir. 1994).

Rejected

1. Special use permit requirement for any community residence for the mentally disabled, while “apartment houses, multiple dwellings, boarding and lodging houses, fraternity or sorority houses, dormitories, apartment hotels, hospitals, sanitariums, nursing homes for convalescents or the aged (other than for the insane or feebleminded or alcoholics or drug addicts), [and] private clubs or fraternal orders” were permitted as of right. *City of Cleburne v. Cleburne Living Center*, 473 U.S. 432 (1985).
2. Spacing requirements applicable only to community residences, unless “warranted by the specific needs and abilities of those handicapped persons to whom they apply.” *A.D. by Valencia v. City of Springfield*, 2017

WL 3288110 (C.D. Ill.) and *United States v. City of Chicago Heights*, 161 F.Supp.2d 819 (N.D. Ill. 2001); *see also Nevada Fair Housing Center, Inc. v. Clark County*, 565 F.Supp.2d 1178 (D.Nv. 2008) and *Larkin v. State of Michigan Department of Social Services*, 89 F.3d 285 (6th Cir. 1996).

3. Zoning procedures required only of handicapped persons but not others. *Marbrunak, Inc. v. City of Stow*, 974 F.2d 43 (6th Cir. 1992).

Defining Community Residences

As set forth above, the definition of community residence in the Village's Zoning Ordinance is:

A residence licensed, certified, or accredited for specialized residential care home by the appropriate state or federal agencies, that functions as a single housekeeping unit for the housing of unrelated persons with functional disabilities who share responsibilities, meals, recreation, social activities, and other aspects of residential living. The use matrix in Table 8-1 distinguishes sizes of community residents by number of residents; this number includes any caretakers that live on-site.

Other communities in the vicinity of the Village define community residences and/or group homes as follows:

Des Plaines

For the purposes of this section, "group home" shall mean a living arrangement certified by a community mental health or developmental services agency where eight (8) or fewer persons with a mental illness or with a developmental disability reside together under the supervision of the agency. A group home shall be equivalent in all respects to a "community-integrated living arrangement" as defined in the community-integrated living arrangements licensure and certification act.

Oak Lawn

Community Residence: A group home or specialized residential care home serving unrelated persons with disabilities. Community residence does not include a residence which serves persons as an alternative to incarceration for a criminal offense.

Palatine

Group Home: A single dwelling unit occupied on a relatively permanent basis in a family-like environment by unrelated persons with disabilities, as identified and regulated within the Federal Fair Housing Act. Paid

professional support staff, provided by a sponsoring agency, either living with the residents on a 24- hour basis, or present whenever residents are present at the dwelling, shall be required unless a Special Use approval is obtained to eliminate the requirement of supervision. A "Group Home" shall comply with the zoning regulations for the district in which the site is located and shall provide the necessary staff and resident parking on site, as more fully described within Article 10. For purposes of this definition, disability shall mean, with respect to a person: (1) a physical or mental impairment which substantially limits one or more of such person's major life activities; (2) a record of having such an impairment; or (3) being regarded as having such an impairment. However, "persons with disability" shall not include any person involved in the current, illegal use of or addiction to a controlled substance (as defined in section 802 of the Controlled Substance Act (21 U.S.C. Sec. 802), nor does it include any person whose residency would constitute a direct threat to the health or safety of other individuals or whose residency would result in substantial physical damage to the property of others.

Riverside

Community Residence: A group residence consisting of a group home or specialized residential care home licensed, certified or accredited by the appropriate state or federal agencies, and serving as a single housekeeping unit for the housing of unrelated persons with mental or physical disabilities who share responsibilities, meals, recreation, social activities and other aspects of residential living. "Community residence" does not include a residence which services persons as an alternative to incarceration for a criminal offense, or persons whose primary reason for placement is substance or alcohol abuse; nor does it include a nursing or medical facility.

Community Residence, Large: A community residence providing living accommodations for more than eight (8) residents, including disabled persons and live-in staff. Visiting staff who do not reside within the community residence shall not be counted for purposes of establishing the number of residents.

Community Residence, Small: A community residence providing living accommodations for no more than eight (8) residents, including disabled persons and live-in staff. Visiting staff who do not reside within the community residence shall not be counted for purposes of establishing the number of residents.

River Forest

Group Home: A specialized residential care home serving no more than six unrelated persons with disabilities, including resident support staff, which is licensed, certified or accredited by appropriate local, state or national bodies. Group homes do not include a residence which serves persons as an alternative to incarceration for a criminal offense, or persons whose primary reason for placement is substance or alcohol abuse, or persons whose primary reason for placement is the treatment of a communicable disease.

Additional definitions of, and considerations regarding, community residences and/or group homes were included in the information previously provided to the Plan Commission by Village staff.

Recommendations

We recommend you consider the following during your discussion and deliberation on this matter:

1. The inclusion of language specifically noting the reasonable accommodation process required by the Federal laws discussed above. Most municipal zoning ordinances do not reference the reasonable accommodation process, and more progressive zoning ordinances do specifically refer to it. For example, the Village of Lake Bluff and the Village of Riverwoods Zoning Ordinances have extensive provisions regarding reasonable accommodations for community residences, which are included in the appendix attached hereto.
2. Whether additional performance standards for community residences might be appropriate. For example, the Village of Lake Bluff and the Village of Palatine Zoning Ordinances include performance standards for community residences, which are included in the appendix attached hereto.

With regard to the five (5) issues identified by the Village Planner in the prior community residences materials, we provide the following recommendations:

1. Issue: No definition of "Family" in Zoning Ordinance.

Response: The Village regulates the maximum number of occupants in dwelling units based on life-safety concerns, as seen in the appendix attached hereto. How would defining family, and using that definition in the context of regulating dwellings, including within community residences, assist the Village in meeting its policy goals?

2. Number of permitted occupants should be dependent on definition of family.

Response: See response to # 1 above.

3. Distance Requirement if more than # allowed by family definition. (660 feet?).

Response: If distance requirements are under further consideration, we recommend additional legal research be conducted into the legality and scope of such requirements per the case law cited above.

4. If within distance requirement, then Special Use required.

Response: See response to # 3 above.

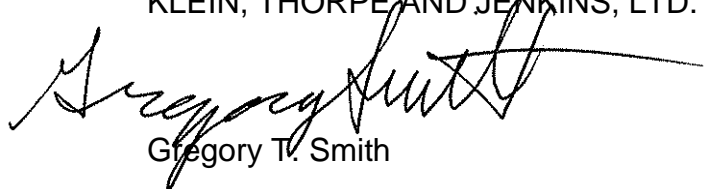
5. Parking spaces relevant to structure type.

Response: Parking requirements could be included as a separate performance standard relative to group homes. Generally applicable parking requirements for community residences should be reviewed to determine if adequate for the anticipated parking demands associated with community residences.

If you have any questions regarding this matter, or if I can be of further assistance, please contact me at (312) 984-6436.

Very truly yours,

KLEIN, THORPE AND JENKINS, LTD.



Gregory T. Smith

cc: Tammie Grossman, Development Customer Services Director, Village of Oak Park
Craig Failor, Village Planner, Village of Oak Park

APPENDIX

VILLAGE OF OAK PARK VILLAGE CODE SECTION 7-13-2

AMENDMENTS TO THE INTERNATIONAL PROPERTY MAINTENANCE CODE, 2009 EDITION (additions from the 2009 IPMC underlined and deletions struck through)

CHAPTER 4

LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

Section 402.2 Common Halls And Stairways. Except for one-family dwellings, every common hall and stairway in residential occupancies ~~other than in one- and two-family dwellings, including exterior means of egress,~~ shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet (19 m²) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In two and three-family residential occupancies, light fixtures serving means of egress may be controlled by occupancy sensors. ~~In other than non-residential occupancies, means of egress, including exterior means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of 1 footcandle (11 lux) at floors, landings and treads.~~

Refer to **Section 605.3** for requirements for luminaires in other locations.

Section 403.1 Habitable Spaces. ~~Every habitable space shall have at least one openable window. The total openable area of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in section 402.1.~~ Every habitable room shall have one or more of the following ventilation systems:

A. At least one window which can be easily opened, with the total of all such openable window area in such room at least 45 percent of the minimum window area size required by section 402.1

B. A ventilator or similar device, leading directly to outside air, with effective opening area equivalent to openable window area required under subsection 403.1(A) of this section; and

C. A forced air ventilation system, properly installed, maintained in safe and good working condition, supplying outside air to such room, which meets the requirements of

the 2009 international property maintenance code. A forced air ventilation system may not substitute for natural ventilation in sleeping rooms.

Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m²). The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

Section 404.4.1 Room Area. Every living room shall contain at least 120 square feet (11.2 m²). ~~and every bedroom~~ Every bedroom sleeping room used for single occupancy shall contain at least 70 square feet (6.5 m²). If a dwelling unit is used for multiple occupancy, a sleeping room shall contain at least 50 square feet (4.65 m²) of floor space for each occupant.

Section 404.4.6 Basement Occupancy. No basement space shall be used as a habitable room or dwelling unit unless:

A. The minimum clear ceiling height is 7 feet (2134 mm), except as permitted in section 404.3.

B. The minimum glazed area is 8 percent of the floor square footage for habitable rooms.

C. The minimum ventilation area is 50 percent of the glazed area or is 4 percent of the square footage for habitable rooms.

D. The basement complies with the 2009 international residential code for emergency escape.

E. The floors and walls are impervious to leakage of underground and surface runoff water or measures have been taken to mitigate the effects of water penetration and are insulated against dampness; and

F. The dwelling unit meets the other requirements of this code.

Section 404.4.7 Basement And Third Floor Occupancy For Rooming Houses. No license required by this article shall be issued to any person proposing to use a basement or any part thereof as a habitable room for rooming house purposes. Third floor occupancy of any frame dwelling shall not be permitted without the written

approval of the Director of Development Customer Services, Chief of the Fire Department and the Director of Public Health.

Section 404.4.8 Use Of Accessory Buildings For Rooming Houses. No accessory building shall be used for rooming house purposes.

Section 404.5.1 Maximum Number Of Occupants. Every dwelling unit must contain at least 200 square feet (19 m²) of floor space for the first occupant thereof and 150 square feet (13.94 m²) of floor space for each additional occupant thereof, except that under no circumstances shall the maximum occupancy for any studio dwelling unit exceed 3 persons. For purposes of this section, calculated floor space shall not include verandas, porches, terraces, balconies and basements. See table 404.5.1.

Table 404.5.1 is provided by way of illustration and is not a limitation upon this section.

TABLE 404.5.1 MAXIMUM NUMBER OF OCCUPANTS

<u>Floor Area</u>	<u>Number Of Occupants Permitted</u>						
	<u>0</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>
<u>Less than 200</u>	X						
<u>200 to 349</u>		X					
<u>350 to 500</u>			X				
<u>501 to 650</u>				X			
<u>651 to 800</u>					X		
<u>801 to 950</u>						X	
<u>951 to 1100</u>							X

VILLAGE OF LAKE BLUFF ZONING ORDINANCE SECTION 10-4-2(J)

PROCESSING REQUESTS FOR RESONABLE ACCOMMODATIONS

1. Purpose: The purpose of this subsection is to provide a procedure to request reasonable accommodation from the strict application of the village's zoning regulations concerning special use permits for community residences pursuant to this section for persons seeking equal access to housing under the fair housing act, 42 USC section 3602(h)(1) ("the act") and who have disabilities or handicaps as defined by the act.

2. Applicability: A request for reasonable accommodation may be made by any person with a disability or handicap, as defined by the act, or by an entity acting on behalf of a person or persons with disabilities or handicaps to provide or secure equal opportunity to use and enjoy a community residence when the normal application of these zoning regulations would act as a barrier to such equal opportunities. A request for reasonable accommodation may include a modification or exception to the village's zoning regulations when such modification or exception is necessary to eliminate regulatory barriers and provide a person with a disability or handicap with equal opportunity to use and enjoy a community residence. Requests for reasonable accommodation shall be made in the manner prescribed by subsection 3 of this section.

3. Application Requirements:

a. Application: Requests for reasonable accommodation shall be submitted on an application form provided by the building commissioner and shall contain the following information:

- (1) The applicant's name, address, and telephone number;
- (2) The street address and legal description of the property for which the request is being made;
- (3) The current actual use of the property; and
- (4) The zoning regulation or regulations from which reasonable accommodation is being requested.

b. Additional Information: The following information shall be submitted with the application:

- (1) A statement from the applicant describing the basis for the claim that the individual (or group of individuals, if application is made by an entity acting on behalf of a person or persons with disabilities or handicaps) is considered disabled or handicapped under the act.

(2) A statement as to why the requested accommodation is financially, therapeutically, or otherwise necessary to afford a handicapped or disabled person equal opportunity to use and enjoy a community residence.

(3) Documentation supporting the financial, therapeutic, or other necessity for the accommodation.

c. Filing: Upon the filing of the application, together with all information required in this section, the building commissioner shall refer the request for reasonable accommodation from these zoning regulations to the PCZBA.

4. Public Hearing: Following the proper filing of a complete application for reasonable accommodation, notice of a public hearing shall be provided and a public hearing shall be conducted by the PCZBA in accordance with the provisions contained in this subsection.

a. Notice Of Public Hearings:

(1) Building Commissioner To Give Notice: The building commissioner shall cause notice to be given of public hearings set pursuant to this section in the form and manner and to the persons herein specified.

(2) Content Of Notice: All notices shall include the date, time, and place of the hearing or meeting, a description of the matter to be heard or considered, a legal description of the subject property, and the address or particular location of the subject property.

(3) Persons Entitled To Notice: Notice of hearings on an application for designation shall be given by first class mail, not more than thirty (30) days nor less than fifteen (15) days immediately prior to the hearing, to the applicant, the owner or owners of record, and, if known, to other persons having a legal or equitable interest in the subject property. Notice shall also be given by publication in a newspaper of general circulation in the village not more than thirty (30) days nor less than fifteen (15) days immediately prior to the hearing.

b. Concurrent Public Hearing For Related Zoning Relief: The PCZBA may conduct a single public hearing to consider the applicant's request for reasonable accommodation and any application by the applicant for related zoning relief, including, without a limitation, a request for a special use permit for a community residence pursuant to subsection E1 of this section, provided that each application is noticed for hearing as required pursuant to these zoning regulations.

5. Recommendation: The PCZBA shall recommend granting, granting with modifications, or denying the request for reasonable accommodation in accordance with subsection 6 of this section. Failure of the PCZBA to submit its recommendation to the village board within sixty (60) days of the close of the public hearing shall be deemed to be a recommendation of approval, unless the delay is at the request of the applicant.

6. Considerations: In making a determination regarding the reasonableness of a requested accommodation, the following factors shall be considered:

- a. Whether the housing which is the subject of the request will be used by an individual or a group of individuals considered disabled or handicapped under the act;
- b. Whether the accommodation requested is financially, therapeutically, or otherwise necessary to make specific housing available to the individual or group of individuals with a disability or handicap under the act;
- c. Whether there are alternative reasonable accommodations available that would provide an equivalent level of benefit;
- d. Whether alternative accommodations would be suitable based on the circumstances of the particular application;
- e. Whether the requested reasonable accommodation would be consistent with the general purpose and intent of the zoning district in which the use is located;
- f. Whether the requested reasonable accommodation substantially affects the physical attributes of the property;
- g. Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the village; and
- h. Whether the requested reasonable accommodation would require a fundamental alteration in the nature of the village's zoning regulations.

7. Conditions: In granting a request for reasonable accommodation, the village board may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would be consistent with the act and the considerations listed in subsection 6 of this section.

VILLAGE OF LAKE BLUFF ZONING ORDINANCE SECTION 10-4-2(E)

PERFORMANCE STANDARDS FOR COMMUNITY RESIDENCES

(1) Mapping Restriction: Community residences shall be permitted only in the following districts: C-E, E-1, E-2, A-A-A (R-1), A-A (R-2), A (R-3), B (R-4), C (R-5), and D (R-6).

(2) Location Restriction: No community residence shall be located less than three thousand feet (3,000') from any other community residence.

(3) Size Limitations: The unit in which a community residence is located shall have not more than one occupant per one hundred (100) square feet of floor area devoted to use for sleeping purposes; provided, however, that the village board of trustees may waive such requirement in connection with the issuance of a special use permit.

(4) Evidence Of Licenses: Each community residence shall provide evidence of any licenses or certifications required by any licensing or regulatory authorities other than the village to the building commissioner.

(5) Supervision Of Children: Where any of the residents of the community residence are children, there must be at least one adult on the premises when such children are present, which adult shall be responsible, at all such times, for the supervision and the well-being of all such children. Where required under state or federal law, such adult supervisor shall be a duly qualified, trained, and licensed caregiver.

(6) Special Conditions: Each community residence shall comply with such lawful special conditions relating to fencing, screening, traffic, parking, visitors, equipment, and other matters as the board of trustees shall determine to be necessary and appropriate to prevent or minimize adverse effects on other property or improvements in the vicinity of the proposed community residence or upon public facilities or services, based upon the population of residents to be served in the community residence and the conditions of both the property on which the community residence is located and the surrounding properties.

(7) Identification Of Handicapped Residents: As part of its application for a special use permit for a community residence, the applicant shall identify whether any or all of the proposed residents of such facility fall within the definition of "handicap" as set forth in, or as judicially construed to be covered by, the fair housing act, 42 USC section 3602(h)(1), as the same has been, and may from time to time hereafter be, amended.

VILLAGE OF RIVERWOODS ZONING ORDINANCE ARTICLE 9-11A

REVIEW OF REQUESTS FOR REASONABLE ACCOMMODATIONS

9-11A-1: PURPOSE:

The purpose of this article is to establish procedures for applications, submitted by or on behalf of persons or groups of persons with disabilities, seeking waivers or exceptions to the requirements of this title when barriers to housing in the village arise from a disability itself and the requested waiver or exception is a necessary and reasonable accommodation to lowering the housing barriers for such persons as mandated by the 1988 amendments to the federal fair housing act, 42 USC section 3601 et seq. (FHAA), and the judicial decisions interpreting the same and binding upon the village.

9-11A-2: PERIODIC REVIEW OF PROVISIONS:

The zoning official shall review this title from time to time to identify provisions which, though applied equally to persons with and without disabilities, if left unmodified, would restrict persons with disabilities, by reason of their disability, from using and enjoying housing opportunities in the village and shall forward a report to the village board once a year.

9-11A-3: AUTHORIZATION:

Waivers or exceptions to the requirements of this title pursuant to this article shall be authorized by the village board by ordinance; provided, that no application for a waiver or exception shall be acted upon by the village board until after:

A. A written report is prepared and forwarded to the village board by the plan commission in the manner prescribed herein for special uses under this title.

B. A public hearing is scheduled, and notice given, and thereafter held by the plan commission, and its findings and recommendations are reported to the village board.

9-11A-4: ELIGIBILITY:

Waivers or exceptions pursuant to this article are authorized and may be granted solely in those instances when the granting thereof would serve to lower barriers to housing for persons with disabilities, as defined in the FHAA. Without limiting the foregoing, the right to apply for waivers or exceptions under the provisions of this article does not apply in the case of individuals who claim to be disabled solely on the basis of having been adjudicated a juvenile delinquent, having a criminal record, or being a sex offender or to persons involved in the current illegal use of or addiction to a controlled substance (as defined in section 802 of the controlled substances act [21 USC section 802]),

persons who have been convicted of the manufacture or sale of controlled substances or persons with or without disabilities who present a direct threat to the persons or property of others.

9-11A-5: APPLICATION:

Any application for waiver or exception from the requirements of this title shall be filed and processed in the manner prescribed for applications for special uses, and shall be of such form, accompanied by such information as shall be established from time to time, by the plan commission. The zoning officer shall process such applications in the manner prescribed for special uses under this title.

9-11A-6: STANDARDS:

No waiver or exception from the requirements of this title ("accommodation") shall be made pursuant to this article unless such accommodation is necessary and reasonable.

A. A necessary accommodation is one that:

1. Is deemed necessary in order for the person or persons with disabilities to compete equally with nondisabled individuals in obtaining housing offered in the village.
2. Would provide a direct amelioration of the disability's effect for the housing in question and, but for the application of the zoning provision or rule, the person or persons with disabilities would have been able to access such housing.
3. Avoids a zoning provision or rule, which if left unmodified, would hurt the person or persons with disabilities by reason of their disability rather than by virtue of what they have in common with other people.

B. A reasonable accommodation is one that:

1. Is both efficacious and proportional to the cost to implement it.
2. Does not fundamentally alter the nature and purposes of this title as summarized in section [9-2-2](#) of this title.
3. Is so designed, located and proposed to be operated that the public health, safety, morals and welfare and interest will be protected.
4. Will not cause substantial injury to the value of other property in the neighborhood in which it is located.

9-11A-7: CONDITIONS:

The plan commission may recommend and the village board may provide in the ordinance approving the accommodation such conditions and restrictions upon the construction, location and operation of the property in question as may be deemed to promote the general objectives of this title and to minimize injury to the value of property in the neighborhood, while preserving the intended benefit of the accommodation. Such conditions may include, without limiting the foregoing, an affidavit to be submitted to the village stating that the accommodation continues to be necessary.

9-11A-8: TERM:

The village board may repeal an ordinance granting an accommodation under this article if the property in question is no longer occupied by a person or group of persons with the disability or disabilities for which the accommodation was first granted.

9-11A-9: ENFORCEMENT:

A. If the village determines that an owner has failed to comply with the conditions stated in any ordinance granting an accommodation, the village shall provide written notification to the property owner. The property owner shall have a period of thirty (30) days from the date of notification to bring the property into compliance.

B. Any person violating any provision of this section shall be fined not less than two hundred dollars (\$200.00) or more than seven hundred fifty dollars (\$750.00) for each offense. Each day's continued violation shall be deemed a separate offense.

C. In the event such property is not brought into compliance with this article within the specified time period or if the village finds that such property constitutes a nuisance, the village may pursue any and all available legal remedies to cause the abatement of the nuisance at the property owner's expense.

9-11A-10: SEVERABILITY:

If any section, subsection, sentence, clause, phrase or portion of this article is held invalid or unconstitutional for any reason by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such judgment shall not affect the validity of the remaining portions hereof.

9-11A-11: CONFLICTS:

This article supersedes all chapters or parts of ordinances adopted prior hereto which are in conflict herewith, to the extent of such conflict.

VILLAGE OF PALATINE ZONING ORDINANCE
PERFORMANCE STANDARDS FOR GROUP HOMES

Section 10.02(a)(9), R-1 Single-Family District, Permitted Uses.

Group homes, subject to the following:

9.01. No more than four (4) persons plus staff.

9.02. For existing homes that are converted to a Group Home, the residential occupancy must also comply with the International Property Maintenance Code in terms of bedroom occupancy, inclusive of residents and staff that regularly sleep overnight. For new construction, the residential occupancy must comply with the International Building and International Residential Codes, inclusive of residents and staff that regularly sleep overnight.

9.03. Licensed or certified by the State of Illinois.

9.04. A minimum distance of one thousand (1,000) feet, measured from lot line to lot line is maintained between group homes.

9.05 The group home conforms to all provisions outlined in chapter 10 in the Village of Palatine Code of Ordinances or state licensing standards, if applicable to the use.

9.06 Parking for the staff and residents, if applicable, shall be provided on-site and contained within the subject property of the Group Home (garage parking, driveway, or other paved parking, as required and permitted by code). Such parking shall conform to the residential parking requirements found in Article 7 and the lot coverage and building coverage limitations in Article 10 of the Village of Palatine Zoning Ordinance. Required parking for group homes shall be calculated at one (1) parking space per staff per shift and one (1) parking space per resident, maintaining a car on site. This required parking is reflected in the required parking table found in Section 7.03 (b) (1) of the Village of Palatine Zoning Ordinance.

9.07 If the staff and resident parking requirements cannot be met within the boundaries of the subject property, then a variation shall be required.

9.08 The Group Home shall meet the fire prevention requirements of the International Fire Code and Life Safety Code, as set forth in Section 10-27 (d) of the Palatine Code of Ordinances.

Section 10.02(a)(c), R-1 Single-Family District, Special Uses.

Group homes that have five (5) or more persons plus staff, subject to the following:

10.01. A minimum distance of one thousand three hundred (1,300) feet is maintained between group homes.

10.02 For existing homes that are converted to a Group Home, the residential occupancy must also comply with the International Property Maintenance Code in terms of bedroom occupancy, inclusive of residents and staff that regularly sleep overnight. For new construction, the residential occupancy must comply with the International Building and International Residential Codes, inclusive of residents and staff that regularly sleep overnight.

10.03. The group home conforms to all provisions outlined in chapter 10 of the Code of Ordinances or state licensing standards, if applicable to the use.

10.04 Parking for the staff and residents, if applicable, shall be provided on-site and contained within the subject property of the Group Home (garage parking, driveway, or other paved parking, as required and permitted by code). Such parking shall conform to the residential parking requirements found in Article 7 and the lot coverage and building coverage limitations in Article 10 of the Village of Palatine Zoning Ordinance. Required parking for group homes shall be calculated at one (1) parking space per staff per shift and one (1) parking space per resident, maintaining a car on site. This required parking is reflected in the required parking table found in Section 7.03 (b) (1) of the Village of Palatine Zoning Ordinance.

10.05 If the staff and resident parking requirements cannot be met within the boundaries of the subject property, then a variation shall be required, in conjunction with the Special Use for the Group Home.

10.06 The Group Home shall meet the fire prevention requirements of the International Fire Code and Life Safety Code, as set forth in Section 10-27 (d) of the Palatine Code of Ordinances.

10.07 All Group Homes not required to be licensed or certified by the State of Illinois shall comply with the licensing and background investigation requirements of Title 89 Illinois Administrative Code 385 et al. (Illinois Administrative Code Title 89, Chapter 111, Subchapter D, Part 385 Background Checks.)

[Note: each Palatine zoning district in which group homes are allowed have specific standards, which will be made to you for further review upon request. Alternatively, you may view the Village of Palatine Zoning Ordinance online at the following link: <https://www.palatine.il.us/DocumentCenter/Home/View/568>]