



Office of  
**INDIAN RIVER COUNTY  
ATTORNEY**

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Dylan Reingold, County Attorney  
William K. DeBaal, Deputy County Attorney  
Kate Pingolt Cotner, Assistant County Attorney

**MEMORANDUM**

**TO:** Board of County Commissioners  
**FROM:** Dylan Reingold, County Attorney *DR*  
**DATE:** February 22, 2018  
**SUBJECT:** Reasonable Accommodation Ordinance

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**BACKGROUND.**

Against the backdrop of the national opioid crisis, the role of recovery residences is being widely discussed by local governments. Several local governments in South Florida and the Treasure Coast have faced litigation from recovery residences for violations of the Fair Housing Act and the Americans with Disabilities Act, which constrain traditional zoning regulations. Additionally, in 2016, the Department of Housing and Urban Development and the Department of Justice issued an updated Joint Statement on State and Local Land Use Laws and Practices and the Application of the Fair Housing Act (the "Joint Statement"). As a result, a number of local governments, including the City of Port St. Lucie, have updated their reasonable accommodation procedures. Attached is a copy of a portion of the City of Port St. Lucie Ordinance 17-79, enacted on November 27, 2017.

The City of Port St. Lucie reasonable accommodation process ordinance addresses several key issues, which include (a) appeals, (b) continuing obligation to verify disabilities, (c) reapplication after denial, (d) spatial considerations, (e) yearly renewal and (f) revocation procedures. Also, attached is a memorandum by R. Gregory Hyden, Special Legal Counsel to the City of Port St. Lucie. The County Attorney's Office believes that it would be beneficial to take a proactive approach and draft an ordinance that codifies a reasonable accommodation procedure. Although any future proposed ordinance may not contain all of the same processes as established in the City of Port St. Lucie, the County Attorney's Office recommends that the Indian River County Board of County Commissioners authorize the County Attorney's Office in conjunction with Indian River County staff to draft a proposed ordinance codifying a reasonable accommodation procedure.

Additionally, although the Joint Statement provides some assistance to local governments, the Joint Statement still lacks specific guidance needed by local governments. As noted in the attached draft letter, further guidance is needed with respect to the over-concentration of recovery residences. Further, the Joint Statement recommendation to simply handle spacing requirements on a case-by-case basis leaves

local governments to wander through the Fair Housing Act and Americans with Disabilities Act with no helpful guideposts. Thus, further guidance from the federal government would be helpful as Indian River County examines the reasonable accommodation procedure. The County Attorney's Office recommends that the Indian River County Board of County Commissioners authorize the County Attorney to execute the draft letter.

**FUNDING.**

There is no funding associated with this agenda item.

**RECOMMENDATION.**

The County Attorney's Office recommends that the Indian River County Board of County Commissioners authorize the County Attorney's Office to draft a reasonable accommodation ordinance and authorize the County Attorney to execute the draft letter to the Department of Housing and Urban Development and the Department of Justice seeking further guidance concerning recovery residences.

**ATTACHMENTS.**

Portion of City of Port St. Lucie Ordinance 17-79

Memorandum by R. Gregory Hyden, Special Legal Counsel to the City of Port St. Lucie, dated October 30, 2017

Department of Housing and Urban Development and the Department of Justice Joint Statement on State and Local Land Use Laws and Practices and the Application of the Fair Housing Act

Draft Letter Regarding Department of Housing and Urban Development and the Department of Justice Joint Statement on State and Local Land Use Laws and Practices and the Application of the Fair Housing Act.