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## **Chapter 99. DELTONA RESIDENTIAL PRISON DIVERSION PROGRAMS REGULATORY LICENSE ORDINANCE**

### **Sec. 99-1. Findings of Fact**

The City may adopt, pursuant to its police power, zoning ordinances and regulatory ordinances to protect the public health, welfare and safety that are consistent with the state and federal law, including the Fair Housing Act and the Fair Housing Act Amendments. The adoption of zoning ordinances, regulatory ordinances and land use planning are fundamental functions of local government. This chapter is enacted under the home rule power of the City and pursuant to Florida Statutes, Section 166.221.

Residential prison diversion programs are designed to provide services to people who have been convicted of a crime, and would have been sent to a correctional facility by a court of law because of that conviction, but have agreed to be court ordered to an alternative program to avoid being sent to a correctional facility. As a result, due to their status of meeting the criteria to be sent to a correctional facility, the people utilizing these programs may pose a danger to the safety of the community and any adjacent residents.

The fundamental precept of the City's Zoning Code provisions relative to residential zones is that individual dwelling units are intended for the occupancy and use of single-families. Accordingly, the City does not allow group residential uses, such as boarding or rooming houses, dormitories, motels, and single-room occupancy hotels in residential zoning districts in the City because such uses are frequently transient and institutional in nature and differ in character and create impacts on residential neighborhoods from single house units.

The more on-site services a program offers, the less suitable the program is for a residential setting. With the addition of services, the use becomes more commercial in nature rather than a use that would be appropriate for a residential area. Additionally, the need for easy access to services makes these uses more appropriate for a commercial setting, where these services would generally already be located.

The Florida Department of Corrections has reported that 37.3% of persons on parole will be returned to prison each year because they have either been convicted of new crimes or have violated the conditions of their parole. Residences housing two or more prison diversion candidates or parolees may pose a danger to the safety of the community and adjacent residents, and the City does not intend to permit such uses in residential areas.

### **Sec. 99-2. Definition**

For the purposes of this Ordinance, the following term, whether appearing in the singular or plural form, shall have the following meaning:

*Residential Prison Diversion Program.* A residence operated and maintained by an individual or a sponsoring private entity or governmental agency to provide services to two or more unrelated residents with at least one supervisor living on-premises, wherein one or more of the residents has been placed in the program via court order or such placement is voluntarily requested by the resident, for the purpose of or with the effect of avoiding being sentenced by a court of competent jurisdiction to confinement in a county jail, state Department of Corrections facility, federal corrections facility, or any other type of detention facility, and wherein the services being provided may include, but not be limited to, one or more of the following: board, lodging, meals, supervision, controlled administration of medication, counseling, group sessions, therapy, education, job skill training and other services, as needed.

### **Sec. 99-3. Locational and Program Standards**

- a. *Location.* Residential prison diversion programs shall be allowed by special exception in the C-2 General Commercial district, by special exception in the C-3 Heavy Commercial district, and by special exception in the I Industrial district.
- b. *Distance requirements.*
  1. No residential prison diversion program may operate within 1000 feet of any school or licensed child care facility.
  2. No residential prison diversion program may operate within 1000 feet of any public park, public playground or public recreation center utilized by juveniles.
  3. No residential prison diversion program may operate within 1000 feet of any other residential prison diversion program.
  4. No residential prison diversion program may operate within 1000 feet of a single family residence.
  5. No residential prison diversion program may operate within 1000 feet of a house of worship.
- c. *Parking.* Parking requirements for residential prison diversion programs shall be in accordance with the City's Land Development Code regarding off-street parking and loading relating to homes for the aged, sanitariums, convalescent or nursing homes.
- d. *Program limits.* No more than six (6) residents may be housed at the program site at one time. This does not include the residential supervisor or staff provided as part of the program operations.
- e. *Property standards.* Residential prison diversion programs shall meet the following property standards:
  1. The facility shall abide by all fire safety codes for group home living.
  2. The facility shall provide a full kitchen.
  3. The facility shall provide each resident with adequate personal storage and living space.
  4. The facility shall have one sink, one toilet, and one shower for every four people who reside at the facility.
  5. The facility shall have laundry services available on-site.
  6. The facility shall provide any necessary safety or security measures needed to provide for the safety of the residents and residents on adjacent properties. This may include but is not limited to installing a perimeter fence, outdoor security lighting, an alarm system or security system, or any other reasonable security measure.
- f. *Good Neighbor standards.* Residential prison diversion programs shall provide neighbors to the facility with contact information for the designated person who will address all neighbor complaints, even if it is not possible to resolve the issue.

### **Sec. 99-4. Application and Residential Prison Diversion Program Regulatory License.**

- a. *Application.* No person, private entity or governmental agency shall operate a residential prison diversion program without first obtaining a residential prison diversion program regulatory license. A person desiring to apply for such a regulatory license shall make an application in writing on a form prescribed by the City Manager, or designee.
  1. The application shall include the following:

- (a) A written statement that the person, private agency or governmental agency will take reasonable safety precautions to provide for the safety of the citizens located around the program site, and an itemization of the steps contemplated to reach this goal.
- (b) A copy of any applicable state license(s) and/or documentation that the program has been contracted by an appropriate state agency to provide such services.
- (c) Copies of the licenses issued by the Florida Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling or other professional licensing board for any mental health counselors, social workers, marriage and family therapists, or other licensed professional providing services to the residents at the facility.
- (d) Documentation that the program meets all required standards, as listed in Section 99-3.

b. *Residential Prison Diversion Program Regulatory License Issuance.* As a prerequisite to the issuance of a residential prison diversion program regulatory license, an inspection shall be made of the premises by the City's fire inspector and the Volusia County Sheriff's Office.

**Sec. 99-5. Residential Prison Diversion Program Regulatory License Fee**

The City Commission of the City of Deltona shall annually, as a part of its budgeting process, set the amount of the Residential Prison Diversion Program Regulatory License Fee. Such fee shall be determined to generate revenue commensurate with the cost of the regulatory activity.

**Sec. 99-6. Operations and Records**

Each residential prison diversion program shall conform to the following operational and record keeping requirements:

- a. Each program, regardless of whether it is licensed under this article, shall create, establish and maintain a record of all workers of the business. The record shall contain the worker's full legal name and any aliases and all past or current aliases of the worker; his or her date of birth; his or her residential address; his or her telephone number (if any) and all pager numbers and other similar numbers used; his or her driver's license number and a photocopy of the license; his or her state or federally issued identification card number including the workers social security account number; the employment status of the worker including, but not limited to, whether the worker is a salaried employee, an independent contractor, a lessee, a sub-lessee, a subcontractor allowed to work at the establishment, or such other arrangement as may be in place; and a recent photograph of the worker as of the date of association with the business which accurately reflects the date on which the photograph was taken.
- b. The residential prison diversion program regulatory license holder or other designee shall be responsible for ensuring that all staff has the appropriate licenses and training required to perform the work at the program. Documentation shall be kept in the worker file.
- c. The residential prison diversion program regulatory license holder or other designee shall ensure that any resident who is required to register as a sex offender complies with the requirements of registration in accordance with 943.0435 F.S. and keep documentation of registration in the program records.

**Sec. 99-7. Implementing Administrative Actions**

The City Manager, or designee, shall implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative forms, policies, procedures, processes and rules. All development orders shall be issued in a manner consistent with controlling law and rendered in appealable form with the City Clerk. Denials of development approvals shall be issued in accordance with controlling law to include, but not be limited to, Section 166.033, Florida Statutes.

**CHAPTERS 100--101 RESERVED**