COUNTY AGENDA REQUEST

Department:	Code Enforcement	Presenter(s):	Officer Kathy Hobbs
Meeting Date:	Thursday, October 23, 2014	Type of Request:	New Business

Wording for the Agenda:

Consideration of staff's recommendation to adopt Ordinance 2014-16 and in so doing deleting Article IV pertaining to "Personal Care Homes and Community Living Arrangements," of Chapter 8, in its entirety, and replacing it with a new Article IV in Chapter 8 entitled "Article IV. Personal Care Homes and Community Living Arrangements."

Background/History/Details:

On October 24, 2013, the Board of Commissioners approved Ordinance 2013-16 pertaining to Chapter 6- Business Licenses which was titled Regulation of Specific Occupations. The ordinance did not include definitions for Personal Care Homes and for Community Living Arrangements.

Given the lack of definitions, other typographical errors, and subsequent changes by the State of Georgia, Assistant Solicitor General Joe Myers has requested the an update to this ordinance. Mr. Myer's suggestion was forwarded to the County Attorney's office for review.

Proposed Ordinance 2014-16 will delete Article IV in its entirety and will replace it with a new Article IV in Chapter 8 entitled "Article IV. Personal Care Homes and Living Center."

The supporting material includes a Red-Lined Version of the proposed ordinance (Attachment A) and the final form of the ordinance (Attachment B).

What action are you seeking from the Board of Commissioners?

Approval of staff's recommendation to adopt Ordinance 2014-16 and in so doing deleting Article IV pertaining to "Personal Care Homes and Community Living Arrangements," of Chapter 8, in its entirety, and replacing it with a new Article IV in Chapter 8 entitled "Article IV. Personal Care Homes and Community Living Arrangements."

If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years?		If so, when?	
Is Audio-Visual Equipment Required for this Request?*		Backup Provided with Request?	

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Not Applicable	Reviewed by Legal	
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval			

Staff Notes:

CHAPTER 8. BUSINESSES.

ARTICLE IV. PERSONAL CARE HOMES AND COMMUNITY LIVING ARRANGEMENTS

Sec. 8-91. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator shall mean the person designated to maintain responsibility of the household on a 24-hour basis, seven (7) days a week and 365 days a year and who shall live on site. The administrator shall be registered with the State of Georgia Department of Community Health.

Employee shall mean any person who receives compensation in any form for services rendered in their duties at a community living arrangement or a personal care home and who has been approved by the State of Georgia Department of Community Health to be employed at such a location.

Family or *family member* shall mean one or more persons occupying a single dwelling unit, provided that all persons are related by blood or marriage or are lawful wards, and shall also include a group of persons, not exceeding four, living and cooking together as a single, nonprofit housekeeping unit. The members of said group need not be related by blood or marriage or be lawful wards, where said group is occupying a single dwelling unit.

Community living arrangement shall mean any residence, whether operated for profit or not, that undertakes through its ownership or management to provide or arrange for the provision of daily personal services, supports, care, or treatment exclusively for two (2) or more adults who are not related to the owner or administrator by blood or marriage and whose residential services are financially supported, in whole or in part, by funds designated through the Department of Human Resources, Division of Mental Health, Developmental Disabilities, and Addictive Diseases. A Community Living Arrangement is also referred to as a "residence".

Personal care home shall mean any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one or more personal services for two (2) or more adults who are not related to the owner or administrator by blood or marriage.

Resident shall mean any non-family adult living in a community living arrangement or personal care home and receiving services, supports, care, or treatment.

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Sec. 8-~~91~~92. Permit required.

~~As required in state regulations from the department of human services 297-9-37-01 through 297-9-37-25 community living arrangements; whether operated for non-profit or profit which undertakes through their ownership or management to provide or arrange for the provision of daily personal services, supports, care, or treatment exclusively for two or more adults who are not related to the owner or administrator by blood or marriage and whose residential services are financial supported in whole or in part by funds designated through the department of behavioral health and developmental disabilities, and personal care home regulations from the department of community health chapter 111-8, 111-8-62 in its entirety are hereby adopted as part of the county regulation of specific occupations code of ordinance.~~Prior to offering any services to residents, the owner of a community living arrangement or a personal care home must obtain a permit to operate said facility within the unincorporated portion of Fayette County.

Sec. 8-~~92~~93. Application.

Any person or entity making application for a permit required by Section 8-92 shall submit a complete application prior to being issued a permit. A complete application shall consist of the form required by Fayette County along with the following information and documentation. An application is not considered complete unless the following material is attached thereto:

(a) ~~Operator and/or~~The owner shall provide a copy of the application submitted to the state ~~with~~ and a copy of the approved state permit.

(b) For the administrator and/or owner (if different), the following information shall be provided:

(1) Personal data ~~concerning administrator and owner if different.~~including:

a. Name and address~~.~~;

b. Date of birth~~.~~; and

~~c. Social Security number.~~

~~d. Sex.~~

~~e~~c. ~~Affidavit~~ If the individual is the administrator, an affidavit of residency on site.

(2) ~~References – Furnish the name, address, and phone number~~ The names, addresses, and phone numbers of at least three (3) individuals, other than family members, as references.

(3) A background check conducted by the Fayette County Sheriff's Office.

(~~b~~c) A complete list of all employees~~ with~~, as well as an affidavit of approval from ~~DCH or DHS~~the Georgia Department of Community Health or Georgia Department of Human Resources.

(~~e~~d) ~~Approval~~ An approval letter from the ~~county environmental health~~Fayette County Department of Environmental Health stating that the facility has an adequate septic system.

(~~d~~e) ~~Approval~~ An approval letter from the ~~county zoning administrator,~~Fayette County Department of Planning and Zoning showing ~~approved zoning area~~that the use is permitted for the relevant zoning district.

(~~e~~f) ~~Approval~~ An approval letter from the ~~county building permits and inspections~~Fayette County Department of Building Permits and Inspections showing that the site has passed ~~inspection~~all relevant inspections.

(~~f~~g) ~~Approval~~ An approval letter from the ~~county fire marshal~~Fayette County Fire Marshal showing that the site ~~compliant~~ is in compliance with all life safety codes as required by state and local law.

(~~g~~h) ~~Copy~~ A copy of a liability insurance policy as required by state law~~ ($1,000,000.00 per resident and $3,000,000.00 per incident as of 8-29-2013)~~.

(i) Any other information deemed necessary by Fayette County Code Enforcement or the Fayette County Board of Commissioners.

Sec. 8-~~93~~94. ~~Size~~Operational procedures.

(a) No community living arrangement or personal care home shall have more than three (3) residents and one (1) administrator living on site.

(b) All occupants of the permitted location who are not residents receiving care~~,~~ must be ~~related by blood, marriage, or adoption~~family or family members as defined in Section 8-91 of this Article.

(c) Every occupant of the permitted location, regardless whether they receive care services, shall have a minimum square footage and bed space for residents as required by state and local law.

(d) Each permitted facility shall maintain records of treatment as required by state law and/or regulations of the Georgia Department of Community Health and/or the Georgia Department of Behavioral Health and Developmental Disabilities.

~~**Sec. 8-94. Records of treatment.**~~

~~As required by state law and/or DCH and/or DBHDD regulations.~~

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Sec. 8-95. Permit issued.

~~The county permit shall be issued in accordance with all state required laws and regulations.~~ Upon receipt and review of a completed application, the County shall issue a permit in accordance with this Article and all other relevant state and local laws.

Sec. 8-96. Fees.

Permits are issued on a yearly basis ~~expiring~~ and shall expire at midnight on December 31 ~~a~~ of each year. A permit fee ~~as~~ shall be set by the ~~board of commissioners~~Fayette County Board of Commissioners as part of a schedule of fees and shall include an application/investigation fee (which shall be nonrefundable and shall not be deducted from the permit fee) and an annual permit fee. ~~shall be paid and include:~~

~~(1) Application/investigation fee (nonrefundable and not deducted from permit fee).~~

~~(2) Annual permit fee.~~

Sec. 8-97. Denial or revocation of permit.

In ~~the~~ addition to ~~other reasons for~~any other justification for denial or revocation stated in this ~~chapter~~Article or any other state or local law, ~~the~~ a permit for a community living arrangement or personal care home may be revoked upon grounds including, but not limited to, the following:

(a~~1~~) The permit holder ~~is guilty of~~has committed fraud in the rendering of services or fraud or deceit in obtaining a permit;

(b~~2~~) The permit holder is addicted to the use of intoxicating liquors, narcotics or stimulants to such an extent to incapacitate such person or to the extent the services rendered ~~is~~ are not being fulfilled;

(c~~3~~) The permit holder or any employee ~~is guilty of~~has engaged in any fraudulent, false, misleading~~,~~ or deceptive practices in the operation of the facility;

(d~~4~~) The state permit ~~is~~ has been suspended or revoked;

(e~~5~~) The permit holder, resident or any employee commits any criminal act at the permit holder's premises.

Sec. 8-98. Adoption of state regulations.

In addition to the provisions of this Article, the rules and regulations of the Georgia Department of Human Services and the Georgia Department of Community Health with regard to community living arrangements, Chapter 290-9-37, and personal care homes, Chapter 111-8-62, as they existed on October 23, 2014, are hereby adopted as part of this Code of Ordinances.

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Attachment B

STATE OF GEORGIA

FAYETTE COUNTY

ORDINANCE

NO. 2014-16

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR FAYETTE COUNTY, GEORGIA; TO REVISE PROVISIONS PERTAINING TO PERSONAL CARE HOMES AND COMMUNITY LIVING ARRANGEMENTS; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE, AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF FAYETTE COUNTY AND IT IS HEREBY ENACTED PURSUANT TO THE AUTHORITY OF THE SAME THAT THE CODE OF ORDINANCES OF FAYETTE COUNTY AS IT PERTAINS TO PERSONAL CARE HOMES AND COMMUNITY LIVING ARRANGEMENTS (ARTICLE IV OF CHAPTER 8), BE AMENDED AS FOLLOWS:

Section 1. By deleting Article IV, pertaining to "Personal Care Homes and Community Living Arrangements", of Chapter 8, in its entirety, and by replacing it with a new Article IV in Chapter 8, to be numbered and read as follows:

ARTICLE IV. PERSONAL CARE HOMES AND COMMUNITY LIVING ARRANGEMENTS.

Sec. 8-91. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a

different meaning:

Administrator shall mean the person designated to maintain responsibility of the household on a 24-hour basis, seven (7) days a week and 365 days a year and who shall live on site. The administrator shall be registered with the State of Georgia Department of Community Health.

Employee shall mean any person who receives compensation in any form for services rendered in their duties at a community living arrangement or a personal care home and who has been approved by the State of Georgia Department of Community Health to be employed at such a location.

Family or *family member* shall mean one or more persons occupying a single dwelling unit, provided that all persons are related by blood or marriage or are lawful wards, and shall also include a group of persons, not exceeding four, living and cooking together as a single, nonprofit housekeeping unit. The members of said group need not be related by blood or marriage or be lawful wards, where said group is occupying a single dwelling unit.

Community living arrangement shall mean any residence, whether operated for profit or not, that undertakes through its ownership or management to provide or arrange for the provision of daily personal services, supports, care, or treatment exclusively for two (2) or more adults who are not related to the owner or administrator by blood or marriage and whose residential services are financially supported, in whole or in part, by funds designated through the Department of Human Resources, Division of Mental Health, Developmental Disabilities, and Addictive Diseases. A Community Living Arrangement is also referred to as a “residence”.

Personal care home shall mean any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one or more personal services for two (2) or more adults who are not related to the owner or administrator by blood or marriage.

Resident shall mean any non-family adult living in a community living arrangement or personal care home and receiving services, supports, care, or treatment.

Sec. 8-92. Permit required.

Prior to offering any services to residents, the owner of a community living arrangement or a personal care home must obtain a permit to operate said facility within the unincorporated portion of Fayette County.

Sec. 8-93. Application.

Any person or entity making application for a permit required by Section 8-92 shall submit a complete application prior to being issued a permit. A complete application shall consist of the form required by Fayette County along with the following information and documentation. An application is not considered complete unless the following material is attached thereto:

(a) The owner shall provide a copy of the application submitted to the state and a copy of the approved state permit.

(b) For the administrator and/or owner (if different), the following information shall be provided:

(1) Personal data including:

(A) Name and address;

(B) Date of birth; and

(C) If the individual is the administrator, an affidavit of residency on site.

(2) The names, addresses, and phone numbers of at least three (3) individuals, other than family members, as references.

(3) A background check conducted by the Fayette County Sheriff's Office.

(c) A complete list of all employees, as well as an affidavit of approval from the Georgia Department of Community Health or Georgia Department of Human Resources.

(d) An approval letter from the Fayette County Department of Environmental Health stating that the facility has an adequate septic system.

(e) An approval letter from the Fayette County Department of Planning and Zoning showing that the use is permitted for the relevant zoning district.

(f) An approval letter from the Fayette County Department of Building Permits and Inspections showing that the site has passed all relevant inspections.

(g) An approval letter from the Fayette County Fire Marshal showing that the site is in compliance with all life safety codes as required by state and local law.

(h) A copy of a liability insurance policy as required by state law.

(i) Any other information deemed necessary by Fayette County Code Enforcement or the Fayette County Board of Commissioners.

Sec. 8-94. Operational procedures.

(a) No community living arrangement or personal care home shall have more than

three (3) residents and one (1) administrator living on site.

(b) All occupants of the permitted location who are not residents receiving care must be family or family members as defined in Section 8-91 of this Article.

(c) Every occupant of the permitted location, regardless of whether they receive care services, shall have a minimum square footage and bed space for residents as required by state and local law.

(d) Each permitted facility shall maintain records of treatment as required by state law and/or regulations of the Georgia Department of Community Health and/or the Georgia Department of Behavioral Health and Developmental Disabilities.

Sec. 8-95. Permit issued.

Upon receipt and review of a completed application, the County shall issue a permit in accordance with this Article and all other relevant state and local laws.

Sec. 8-96. Fees.

Permits shall be issued on a yearly basis and shall expire at midnight on December 31 of each year. A permit fee shall be set by the Fayette County Board of Commissioners as part of a schedule of fees and shall include an application/investigation fee (which shall be nonrefundable and shall not be deducted from the permit fee) and an annual permit fee.

Sec. 8-97. Denial or revocation of permit.

In addition to any other justification for denial or revocation stated in this Article

or any other state or local law, a permit for a community living arrangement or personal care home may be revoked upon grounds including, but not limited to, the following:

(a) The permit holder has committed fraud in the rendering of services or fraud or deceit in obtaining a permit;

(b) The permit holder is addicted to the use of intoxicating liquors, narcotics or stimulants to such an extent as to incapacitate such person or to the extent the services rendered are not being fulfilled;

(c) The permit holder or any employee has engaged in any fraudulent, false, misleading or deceptive practices in the operation of the facility;

(d) The state permit has been suspended or revoked; or

(e) The permit holder, resident or any employee commits any criminal act at the permit holder's premises.

Sec. 8-98. Adoption of state regulations.

In addition to the provisions of this Article, the rules and regulations of the Georgia Department of Human Services and the Georgia Department of Community Health with regard to community living arrangements, Chapter 290-9-37, and personal care homes, Chapter 111-8-62, as they existed on October 23, 2014, are hereby adopted as part of this Code of Ordinances.

Section 2. This ordinance shall become effective immediately upon its adoption by the Board of Commissioners for Fayette County.

Section 3. All other ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4. In any event any section, subsection, sentence, clause or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect other sections, subsections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not a part thereof. The Board of Commissioners hereby declares that it would have passed the remaining parts of this Ordinance if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

SO ENACTED this _____ day of _____, 2014.

BOARD OF COMMISSIONERS OF
FAYETTE COUNTY

By:_____
Steve Brown, Chairman

(SEAL)

ATTEST:

_____
Floyd Jones, County Clerk

Approved as to form:

_____
County Attorney