

EXHIBIT "A" TO ORDINANCE 76-16

City of Avon
Proposed Zoning Amendments Related to Congregate Care Facilities
May 10, 2016
(Clean Copy)

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PART I — AMENDMENTS RELATED TO CONGREGATE CARE FACILITIES

Amendment 1 — Amend the definition of "Congregate Care Facility" (Section 1222.02 (19) to clarify; and be more specific. The revised definition to read:

(19) "Congregate Care Facility." A residential facility to provide for the needs of individuals who are elderly or handicapped and such facility shall consist of: residential dwelling units (for Senior Independent Living and Assisted Living) and/or beds (for nursing care) designed specifically for the elderly or handicapped; common food preparation facilities with sufficient capacity to serve three (3) meals per day to the residents; a common dining room with the capacity to serve all the residents of the facility in one sitting at each meal; a common living room; common social and recreational facilities; and the provision of transportation to meet the needs of residents to such destinations as shopping, medical appointments and social, cultural and recreation facilities and events.

Amendment 2 — Add definitions for "Continuing Care Retirement Community," "Senior Independent Living," "Assisted Living" and "Beds (for Nursing Care)" as a sub-category of Congregate Care Facility. The definitions to read:

(19a) "Continuing Care Retirement Community" (also referred to as "CCRC") is a Congregate Care Facility, or a campus of Congregate Care Facilities, that provides three levels of housing and care (Senior Independent Living, Assisted Living and Skilled nursing Care) for people primarily aged 62 years or over and all normal and necessary support facilities such as: recreational opportunities, personal care needs, the sale of accessory retail goods and services within the buildings.

(19b) "Senior Independent Living" is a Congregate Care Facility that is only permitted as a portion of a Continuing Care Retirement Community or in association with Assisted Living and when such Senior Independent Living portion of the facility is occupied by persons 62 years of age or older and the entire development is owned and operated as a single management entity.

(19c) "Assisted Living." Is a Congregate Care Facility, or portion thereof, that provides Assisted Living Services that includes: laundry, housekeeping and at least one staff person on duty 24 hours each day.

(19d) "Beds (for Nursing Care) designed specifically for the elderly and handicapped" means a bed that has been counted for certification, licensure, eligibility for Medicare or Medicaid payment formulas, or other purposes related to the elderly and handicapped.

*Amendment 3 — Amend Subsection "(h)" in Section **1280.06 SUPPLEMENTAL REGULATIONS FOR CERTAIN USES** to add location criteria and clarify the current terminology and density. Amended subsection "(h)" of Section 1280.06 to read:*

(h) Congregate Care Facility.

(1) A congregate care facility is conditionally permitted in the R-3 and C-4 districts only in the following combinations:

- A. Senior Independent Living - when developed as part of a CCRC or with Assisted Living.
- B. Assisted living - when part of a CCRC, when developed with Senior Independent Living, or developed with Skilled Nursing Care.
- C. Nursing care — when part of a CCRC, when developed with Assisted Living; or when developed independently.

(2) When located in an R-3 District, such facilities shall be located on an arterial or collector street or have direct access to an arterial or collector street without going through a residential neighborhood to lessen the impact on the residential area.

(3) When located in a C-4 District such facility shall comply with subsection "(2)," above, and be located in reasonable proximity to supporting medical, retail and/or community facilities, or where such facilities are reasonably anticipated, and, conversely, shall not be located in areas predominantly developed, or expected to be developed, with uses exclusively permitted in the industrial M-1 and M-2 Districts.

(4) The maximum number of units or beds permitted per acre is set forth in the following Table

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Permitted Density for Congregate Care Facilities
(Dwelling Units (du's) or Beds per acre)

	R-3 Multiple Family District	C-4 General Business District
Continuing Care Retirement Community		17 du's
Senior Independent Living with Assisted Living	17 du's	
Assisted Living with Nursing Care		17 du's
Nursing Care		29 beds

(5) When located in a C-4 District, all regulations of Chapter 1270 shall apply, except for the minimum lot regulations set forth in Section 1280.05(ii).

***Amendment 4** — Amendment to Section 1230.02 PREAPPLICATION MEETING ENCOURAGED to eliminate the Planning Commission from the section. Amended Section 1230.02 to read:*

1230.02 PREAPPLICATION MEETING ENCOURAGED.

The applicant is encouraged to meet with the Planning Coordinator and Zoning Enforcement Officer or his/her designee prior to submitting an application for a Special Use Permit. The purpose of this meeting is to discuss early and informally with the applicant the purpose and effect of these zoning regulations and the criteria and standards contained within. However, no action shall be taken at such a meeting, and no discussions, opinions, suggestions or recommendations of the Planning Coordinator or

Zoning Enforcement Officer shall be relied upon by the applicant to indicate subsequent approval or disapproval of the application.

Amendment 5 — Amendment to Section 1230.03 SUBMISSION OF APPLICATION to clarify, the submission requirements for a Special Use Permit. Amended Section 1230.03 to read:

1230.03 SUBMISSION OF APPLICATION.

The applicant shall file with the Planning Coordinator an application for a Special Use permit on the form provided for such purposes, which shall be accompanied by payment of the required fee established by Council. The application for a Special Use permit shall disclose all uses proposed for the development, their location, extent and characteristics, and shall include the following:

- (a) A general development plan which includes the following unless specific items are determined by the Planning Coordinator to be inapplicable or unnecessary and are waived in writing by the Planning Coordinator.
 - (1) The applicant's legally sufficient proof of standing to proceed on subject property;
 - (2) The location of all existing structures and access points on the property;
 - (3) The location of existing buildings, parking areas and access drives on parcels within 200 feet of the site;
 - (4) A site plan depicting:
 - the location, size and scope of all proposed construction including buildings, structures, parking areas, landscape and buffer areas and access points;
 - existing and proposed topography, major vegetation features, wooded areas and a preliminary storm water management plan; and
 - the proposed internal road and pedestrian circulation;
 - (5) Preliminary floor plans and building elevations;
 - (6) A summary table showing total acres of the proposed development, the number of acres and/or amount of floor area devoted to each type of use, the number of proposed dwelling units and/or beds by type, if applicable; and the number of parking spaces;

- (7) A written description of the facilities and services to be provided.
- (8) Proposed phases, if the project is to be developed in phases, indicating the phases during which any common facilities are to be constructed and are not otherwise required to be constructed in each phase pursuant to this Zoning Code; and,
- (9) Upon review by the Planning Commission, any of the above information waived by the Planning Coordinator may subsequently be required as well as additional documentation determined by the Planning Commission to be needed to fully evaluate the proposed Special Use.

All drawings shall be to scale and dimensioned to fully convey the size, scope and location of all facilities on the site, including but not limited to: buildings, floor plans, building elevations, parking, access, landscape areas, and storm water management.

- (b) A list of all record title holders of property immediately adjacent to, adjoining, abutting or directly across the street from the property on which the Special Use is proposed, including their addresses and permanent parcel number, as shown on the current tax duplicate in the office of the County Treasurer.
- (c) A statement of need for the proposed use, and documentation that the location is consistent with the locational requirements for the proposed use.
- (d) A summary report identifying and evaluating the consequences and effects of the proposed use on the surrounding properties and the neighborhood at large.
- (e) A statement indicating how the negative effects of the proposed use will be mitigated and how all the conditions for approval set forth in Chapter 1280 for the proposed use will be met.

Amendment 6 — *Amendment to Section 1230.04 SPECIAL USE REVIEW PROCEDURES to identify the “Planning Coordinator” as the person responsible for reviewing and distributing plans for Special Use Permits. Amended Section 1230.04 to read:*

- (a) Review for Completeness. The Planning Coordinator shall review the submitted application for completeness and compliance with the applicable submission requirements. If the application is deemed insufficient, the Planning Coordinator shall notify the applicant within ten days of receipt of the application of the deficiencies and place the application on hold until complete. When the application is determined complete and the application fee has been paid, the Planning Coordinator shall officially accept the application for consideration and place it on the Planning Commission's agenda.

- (b) Distribution of Plans. Within three business days after determining that an application is complete, the Planning Coordinator shall forward the application to the appropriate City departments and professional consultants for review and comment. Any reports, comments or expert opinions shall be returned to the Planning Coordinator within 10 days from the date the application is deemed complete.
- (c) Architectural Review in the C-2 District. Applications which include new construction or the significant alteration of a building in the C-2 French Creek district shall be forwarded to the City Architect for review and comment. The City Architect shall review such application for compliance with the design guidelines set forth in Section 1270.09. The City Architect shall provide a recommendation regarding such application to the Planning Coordinator within ten days from the date the application is deemed complete.
- (d) Transmission to the Planning Commission. The Planning Coordinator shall distribute the application and any recommendations from the individuals or departments in division (b) and (c) above to the Planning Commission.

Amendment 7 — Amendment to Section 1230.05 REVIEW BY THE PLANNING COMMISSION to clarify, that the application submitted pursuant to Section 1230.03 SUBMISSION OF APPLICATION is a preliminary development plan unless deliberately determined to be a final development pursuant to Section 1230.07 ACTION BY THE PLANNING COMMISSION. Amended Section 1230.05 to read:

1230.05 REVIEW BY PLANNING COMMISSION.

The Planning Commission shall review the general development plan for the proposed Special Use, to determine whether or not the proposed use is appropriate and in keeping with the purpose and intent of this Planning and Zoning Code and in making its determination shall specifically consider the development plan review procedures and criteria (Section 1228.10); the General Criteria for all Special Uses (Section 1280.02); the Specific Conditions for Special Uses Section 1280.03) and, as applicable, Supplemental Regulations for Certain Uses (Section 1280.06).

The Planning Commission may require the applicant to submit such additional information as deemed necessary, including the carrying out of special studies and the provisions of expert advice.

Amendment 8 — Amendment to Section 1230.07 ACTION BY THE PLANNING COMMISSION to clarify that the Planning Commission has the discretion to determine if the plan submitted pursuant to Section 1230.03 SUBMISSION OF APPLICATION is sufficient to be considered a final development plan and no further Planning Commission action would be required. Amended Section 1230.07 to read:

1230.07 ACTION BY THE PLANNING COMMISSION

The Planning Commission shall take one of the following actions:

- (a) If the proposed Special Use is determined by the Planning Commission to be appropriate and in conformance with the review criteria outlined in Chapter 1280, the Planning Commission shall recommend approval of the Special Use permit. As part of the recommendation, the Planning Commission may prescribe appropriate conditions, stipulations, safeguards and limitations on the duration of the use as it may deem necessary and in conformance with the intent and purposes of Chapter 1280. When making a favorable recommendation for approval to City Council the Planning Commission shall also make a determination, based on the nature and extent of the proposed Special Use, whether the general development plan information submitted pursuant to Section 1230.03 should be considered a final development plan in which case no further action would be required by the Planning Commission. If the Planning Commission does not make such determination, then, subsequent to confirmation of the Special Use permit by Council, a final development plan, pursuant to Section 1228.09, shall be submitted to the Planning Commission and reviewed and approved pursuant to the applicable provisions of Sections 1228.09 through 1228.18 prior to a building permit being issued.
- (b) If the proposed use is found not to comply with the specifications of this Planning and Zoning Code, the Planning Commission shall deny the application. The Planning Commission shall indicate in its minutes the reasons for its action.

Amendment 9 — Amendment to Section 1230.09 TERMS AND DURATION OF SPECIAL USE PERMIT to clarify exactly what constitutes the Special Use Permit and who is responsible for issuing same. Amended Section 1230.09 to read:

1230.09 TERMS AND DURATION OF SPECIAL USE PERMIT.

Following Council's approval of an application for a Special Use permit, the Zoning Enforcement Officer shall provide a copy of the signed ordinance authorizing the Special Use Permit.

- (a) The permit/ordinance shall authorize a particular Special Use on the specific parcel for

which it was approved. The permit/ordinance shall be valid only for the use and the operation of such use as specified on the permit. The breach of any condition, safeguard or requirement shall constitute a violation of this Planning and Zoning Code.

- (b) The Special Use Permit shall expire one year from the date of enactment unless the following occur:
 - (1) The final development plan is approved for uses that require a final development plan;
 - (2) Construction in the establishment of the use has begun. Construction is deemed to have begun when all necessary excavation and piers or footings of the structure included in the application have been completed; or
 - (3) As otherwise specifically approved by the Planning Commission.
- (c) Any expansion, enlargement, or change in the operation of the Special Use that involves enlarging buildings or structures, expanding impervious surfaces, including parking areas, or changing the use shall require approval of a separate Special Use permit and revised development plan.

Amendment 10 — Amendment to Section 1230.10 RE-APPLICATION to clarify when and why re-application will be accepted. Amended Section 1230.10 to read:

1230.10 RE-APPLICATION.

No re-application for a Special Use permit shall be accepted by the Planning Coordinator until the expiration of six months after the denial, unless the re-application is based on newly discovered evidence, not discoverable at the time of the previous public hearing, sufficient to justify another hearing as determined by the Planning Commission. A re-application shall comply with all the requirements of this chapter, including payment of the required fee.

PART II — AMENDMENTS RELATED TO SENIOR HOUSING IN R-3 DISTRICT

Amendment 1 — Add a definition for "Senior Housing" (Added as definition (115a)) in Section 1222.02. The added definition to read:

"Senior Housing is a residential development that is designed for senior citizens and age restricted so that at least eighty (80) percent of the units must have at least one occupant who is 55 years of age or older.

Amendment 2 — Amend Section 1264.03 SCHEDULE OF PERMITTED USES to add "Senior Housing" as a permitted use. Amended Schedule 1264.03 to read:

1264.03 SCHEDULE OF PERMITTED USES.

(a) Residential	
(1) Attached single-family dwellings	P
(2) Multi-family dwellings	P
(3) Senior Housing	P
(4) Family homes for handicapped persons	SU
(5) Group homes for handicapped persons	SU
(6) Congregate Care Facilities	SU
(b) Community Facilities	
(1) Church or other place of worship	SU
(2) Day care facility, child and/or adult	SU
(3) Library	SU
(4) Public cultural institution	SU
(5) Public safety facility	SU
(6) Public utility substation	SU
(7) School, public or private	SU
(c) Recreation/Open Space	
(1) Cemetery	SU
(2) Public park and/or noncommercial public recreational facility	SU

(d) <u>Agricultural Uses</u>	
(1) Farm	P
(2) Accessory farm building (in excess of 2% of the total lot area)	SU
(3) Commercial farm building	SU
(e) <u>Other</u>	
(1) Accessory uses/structures customarily incidental to permitted use	A
(2) Family day care, Type "B"	A
(3) Home occupations	A
(4) Swimming Pools	A

Amendment 3 — Amend Section 1264.04 AREA AND DENSITY REGULATIONS to increase the maximum permitted density for "Senior Housing" from seven (7) to nine (9) dwelling units per acre. Amended Section 1264.04 to read:

1264.04 AREA AND DENSITY REGULATIONS.

Land area shall be divided and developed, and buildings shall be erected, altered, moved or maintained in an R-3 District only in compliance with the following area regulations:

(a) Minimum Development Area. The gross area of a tract of land to be developed shall not be less than that set forth in Schedule 1264.04(e). The entire tract of land to be developed shall be considered one zoning lot.

(b) Maximum Density.

(1) The density of a residential development project shall not exceed the number of dwelling units per acre set forth in Schedule 1264.04(e).

(2) The total number of dwelling units permitted for a particular development shall be calculated by multiplying the total development area, exclusive of public rights-of-way existing at the time the development plan is submitted, by the number of dwelling units permitted per acre.

(c) Maximum Building Coverage of Lot. The maximum building coverage of the lot, including all areas covered by principal and accessory buildings, shall not exceed the percentage of the total development area set forth in Schedule 1264.04(e).

(d) Minimum Landscaped Open Space. The percentage of the development area devoted to landscaped open space shall not be less than specified in Schedule 1264.04(e).

(e) Schedule 1264.04(e) Area and Density Regulations.

Schedule 1264.04(e) AREA AND DENSITY REGULATIONS	
	R-3 District
(1) Minimum development area	5 acres
(2) Maximum density — General Population	10 Dwelling units/acre
(3) Maximum Density — Senior Housing	12 Dwelling units per acre
(4) Maximum building coverage of lot	30%
(5) Minimum landscaped open space	35%
* or parcels that are defined as lots of record under Section 1222.02(b)(74)	

