



City of Phoenix
PLANNING AND DEVELOPMENT DEPARTMENT

Staff Report
Zoning Ordinance Text Amendment
Z-TA-22-08
December 28, 2016

Application No Z-TA-22-08: Amend the following Sections of the Phoenix Zoning Ordinance regarding group facilities, such as adult day care, assisted living facilities, homes for individuals with disabilities, and associated uses:

Section 202 (Definitions), Section 603.A. (Suburban S-1 District—Ranch or Farm Residence), Section 605.A. (Residential Estate RE-43 District—One-Family Residence), Section 606.A. (Residential Estate RE-24 District—One-Family Residence), Section 608. (Residence Districts), Section 609. (RE-35 Single-Family Residence District), Section 610. (R1-18 Single-Family Residence District), Section 611. (R1-10 Single-Family Residence District), Section 612. (R1-8 Single-Family Residence District), Section 613. (R1-6 Single-Family Residence District), Section 614.C. (R-2 Multifamily Residence District), Section 615.C. (R-3 Multifamily Residence District), Section 616.C. (R-3A Multifamily Residence District), Section 617.C. (R-4 Multifamily Residence District), Section 618.D. (R-5 Multifamily Residence District), Section 619.A. (Residential R-4A District—Multifamily Residence—General), Section 620.B. (Residential Office R-O District—Restricted Commercial), Section 621.B. (Commercial Office C-O District—Restricted Commercial), Section 622.D. (Commercial C-1 District—Neighborhood Retail), Section 623.D. (Commercial C-2 District—Intermediate Commercial), Section 626. (Commerce Park District), Section 635.C.1. (Planned Area Development), 642. (Urban Residential (UR) District), Section 646. (Capitol Mall Overlay District), Section 647 (Special Permit Uses), Section 649. (Mixed Use Agricultural (MUA) District), Section 658. (Deer Valley Airport Overlay (DVAO) District), Section 660. (Four Corners Overlay District), Section 701.E. (Separation Requirements—Registration), Section 702. (Off-Street Parking and Loading), Section 1204. (Land Use Matrix, Downtown Code), Section 1306. (Land Use Matrix, Walkable Urban Code), and Section 1307. (Parking standards, Walkable Urban Code).

Staff recommendation: Staff recommends approval of Z-TA-22-08 as shown in the recommended text in Attachment A.

Purpose:

The intent of the proposed text amendment is to update outdated terminology used in the Zoning Ordinance related to group facilities; delete and add new definitions related to group facilities; and to add said uses to the use lists in appropriate zoning districts. The proposed definitions and regulations will be more consistent with the Arizona Department of Health Services terminology and standards. In addition, a reasonable accommodation provision is proposed to ensure that the Phoenix zoning regulations are in compliance with the federal Fair Housing Act and Americans with Disabilities Act.

Proposal:

The proposed text amendment includes three main components: Definitions, regulations in each respective zoning district, and an addition of a reasonable accommodation provision. Attachment B, Summary of Z-TA-22-08, provides a summary of the proposed changes.

1. Definitions:

Terms that are proposed to be deleted include foster home, group home for the handicapped, handicapped, personal care home, and rooming house. Group home for the handicapped will be replaced with assisted living home, residential care home, and sober living home. Personal care home will be replaced with assisted living center and residential care center.

Foster Home

A foster home is permitted by-right in all zoning districts that allow residential uses per the definition of a family, therefore there is no need to place any further zoning regulation on foster homes. Additionally, foster homes obtain a license from the Arizona Department of Child Safety as a Family Foster Home.

Group Home for the Handicapped – Assisted Living, Residential Care, and Sober Living Home

Group homes for the handicapped currently include assisted living homes, and homes for both mentally and physically disabled individuals, including sober living homes. Group home for the handicapped will be replaced with various facility types that may be licensed by the state. An assisted living home is a residence that houses up to 10 individuals with a disability and is licensed by the Arizona Department of Health Services as an Assisted Living Home or Adult Foster Care. The term was already defined in the Zoning Ordinance with one of the Downtown Code Text Amendment's (Z-TA-3-12), however the proposal is to update the definition to replace the word "handicapped" with "disabled."

Definitions for a residential care home and sober living home are proposed for homes that house up to 10 individuals with a disability. A residential care home will be licensed by the Arizona Department of Health Services as either a Behavioral Health Residential Facility or a Group Home for the Developmentally Disabled. A definition for sober living home is proposed for homes that house up to 10 individuals whom are actively recovering from alcohol or drug/substance abuse. A sober living home may or may not be licensed by the Arizona Department of Health Services as a Behavioral Health Residential Facility depending on the level of care provided.

Handicapped – Disability

The term handicapped is an outdated term and will be replaced with disability to be consistent with the Americans with Disabilities Act and the Fair Housing Act.

Personal Care Home – Assisted Living and Residential Care Center

Personal care homes currently include assisted living centers, and facilities for both mentally and physically disabled individuals. Personal care home is an outdated term and will be replaced with assisted living center and residential care center. An assisted living center is a facility that houses 11 or more individuals with a disability and is licensed by the Arizona Department of Health Services as an Assisted Living Center. A residential care center is a facility that houses 11 or more individuals with a disability and is licensed by the Arizona Department of Health Services as a Behavioral Health Residential Facility or an Intermediate Care Facility for the Intellectually Disabled.

Rooming House

The term rooming house is only found in the CMO (Capitol Mall Overlay District, Section 646) district. It is an outdated term and is proposed to be deleted from the Zoning Ordinance.

Additional, terms that are to be added include adult day care home and center, group foster home, and hospice.

Adult Day Care Home and Center

An adult day care home provides care in a residential setting for up to 10 adults with a disability and is licensed by the Arizona Department of Health Services as an Adult Day Care Home. An adult day care center provides care for 11 or more adults with a disability and is licensed by the Arizona Department of Health Services as an Adult Day Care Center.

Group Foster Home

Group foster home provisions already exist in the Zoning Ordinance, however there is currently no definition. The proposed definition for a group foster home is based on the existing definition for foster home and would allow 6 to 10 unrelated children. An exemption has been included in the definition to allow overcapacity foster homes to operate and not be considered a group foster home. Foster homes for up to 5 unrelated children are licensed by the Arizona Department of Child Safety as a Family Foster Home. If a foster home is overcapacity due to a special circumstance, such as keeping siblings together, then the home would be licensed by the Arizona Department of Child Safety as a Family Foster Home and have a Group Foster Home Certification. A group foster home is licensed by the Arizona Department of Child Safety as a Group Foster Home.

Hospice

The term hospice is proposed to be added to the definition section of the Zoning Ordinance. A hospice facility is licensed by the Arizona Department of Health Services as a Hospice.

Additional minor technical corrections are also proposed. The definition for group home will remain the same, however the formatting of the number 6 is proposed to change to numeric form to be consistent with other changes proposed. Also the definition for rest home is proposed to relate to assisted living centers or nursing homes rather than group homes.

2. Regulations in each respective zoning district:

The Zoning Ordinance currently does not have provisions for adult day care use. There have been a variety of zoning interpretations which have allowed adult day care, at a variety of scales, analogous to dependent care facilities, schools for the mentally or physically handicapped, commercial schools, professional or medical offices, personal care homes, nursing homes, and as an accessory use to a church (similar to child care). The scale, intensity and operation of such a use is similar to a child care facility, therefore staff is proposing standards similar to the existing Zoning Ordinance standards for child care. The bulk of the Zoning Ordinance refers to child care as dependent care and nursery school. Smaller-scale adult day care homes with up to 10 adults, in a residential setting are proposed to be allowed in all residential zoning districts with the following conditions:

- Outdoor recreational areas shall be screened.
- Care is provided for no more than 4 adults.
- A use permit is required for the care of 5 to 10 adults.

Larger-scale, adult day care centers for 11 or more adults are proposed to be allowed in most of the multifamily districts, subject to a use permit and the same screening requirement above. Adult day care center is also proposed to be allowed in commercial zoning districts. The break-down of the number of individuals who are cared for is consistent with the state licensing regulations for adult day care and child care.

All provisions for group homes for the handicapped with 6 to 10 residents are proposed to be deleted and replaced with assisted living, residential care, and sober living homes. The proposed provisions for assisted living, residential care, and sober living homes ("registered care home") include the following:

- Allowed for up to 6 residents.
- For 7-10 residents the following applies:
 - Registration required.
 - Quarter mile separation from other registered care homes with 7-10 residents.
 - Disability accommodation provision.

The same separation distance is being proposed, however there is a slight modification in the number of residents in a home that the spacing applies to in order to be consistent with the state law for group homes for the developmentally disabled (Arizona Revised Statutes 36-582).

The zoning districts that currently do not deliberately include provisions for group homes for the handicapped with 6 to 10 residents include S-1 (Section 603), R-O (Residential Office, Section 620), UR (Urban Residential, Section 642), and MUA (Mixed Use Agricultural, Section 649). To ensure equity between residential zoning districts, provisions for registered care homes are proposed in these zoning districts.

All provisions for group homes for the handicapped with an unspecified number of residents are proposed to be deleted and replaced with assisted living and residential care center. The current provisions require the following:

- Quarter mile separation.
- Registration requirement.

The proposed provisions for assisted living and residential care centers are the same that currently apply to personal care homes with the exception detailed in the next paragraph.

All provisions for personal care homes will be deleted and replaced with assisted living and residential care center. The same provisions will apply to all zoning districts that currently allow personal care homes with one exception. The proposal allows both assisted living and residential care centers, subject to a use permit rather than a special permit in the R-3, R-3A, and R-4 (Multifamily) zoning districts. The reasoning is that these multifamily zoning districts currently allow for group homes, subject to a use permit.

The Zoning Ordinance currently does not have provisions for hospice facilities. A hospice, depending on the scale, is similar in intensity as either an assisted living center or nursing home. Staff is proposing standards similar to the existing Zoning Ordinance standards for a nursing home.

Attachment C, the Proposed Use/District Matrix, shows how the existing uses relate to the proposed uses, and summarizes where the uses are allowed.

Other updates and corrections are proposed to ensure consistency with the proposed language. This includes the following:

- Updating language that references when a group home or group foster home is subject to a use permit.
- Changing numbers to numeric form.
- Updating language in the CMO district related to group homes. The current provision refers to “nonhandicapped group facilities” and “rooming house” which for all intents and purposes are group homes. The current language also does not allow for the option to vary from the required distance requirement which is not legal. The proposed language has been updated to allow the option for a variance.
- Updating language in the DVAO (Deer Valley Airport Overlay, Section 658) district to remove deleted terms, and include the additional residential and

- assembly uses in the prohibited uses list of Areas 2 and 3 of the overlay district.
- Updating language in the Four Corners Overlay District (Section 660) to delete a repeated sentence in the parking requirements, and relate the day care center parking requirements to both adult and child care.
 - Update parking provisions in Section 702, Off-Street Parking and Loading, to remove deleted terms and include the proposed additional uses.
 - Update the land use matrix and conditions in the Downtown Code (Chapter 12 of the Zoning Ordinance) to remove deleted terms and include the proposed additional uses and conditions.
 - Update the land use matrix and conditions in the Walkable Urban Code (Chapter 13 of the Zoning Ordinance) to remove deleted terms and include the proposed additional uses and conditions. The parking standards are also proposed to be updated to relate day care center to both adult and child care.

3. Addition of a reasonable accommodation provision:

The Fair Housing Act, Title VIII of the Civil Rights Act of 1968, prohibits discriminatory practices in housing based on race, color, sex, religion, national origin or familial status. The Fair Housing Amendments Act (FHAA) was adopted by Congress in 1988 to extend protections to persons with disabilities. The Joint Statement of the Department of Justice and the Department of Housing and Urban Development (Attachment D) states that the FHAA prohibits the refusal “to make reasonable accommodations in land use and zoning policies and procedures where such accommodations may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing.”

A provision for requests for reasonable accommodations is proposed with regard to the separation requirement for a registered care home to ensure equal access to housing for individuals with disabilities. Staff is proposing to call this a request for a disability accommodation. The separation requirement exists, and is proposed to remain, as both a benefit to registered care homes and to neighborhoods. The required separation allows for the dispersal of registered care homes to discourage clustering that might create a de facto institutional environment. The Joint Statement of the Department of Justice and the Department of Housing and Urban Development states that, “if a neighborhood came to be composed largely of group homes, that could adversely affect individuals with disabilities and would be inconsistent with the objective of integrating persons with disabilities into the community.”

In some situations, allowing a registered care home to locate within the required spacing area may not contribute to a clustering issue due to other physical features that may exist, such as a major street or freeway. Staff is proposing objective criteria in order to make determinations on requests for a disability accommodation. If the request is denied, then the Planning and Development Department Director would

make the final determination and may consider other factors such as proximity to public transportation.

Additionally, an administrative provision is proposed to allow staff to remove a registered care home that is no longer operating from the city's record of registered care homes. This is proposed to provide applicants an option to facilitate the removal process in order to locate within the required separation area.

Documentation would be required to demonstrate that the registered care home is no longer operating and that the property owner no longer intends on operating a registered care home.

Research:

Staff has conducted research that included review of the following:

- Joint Statement of the Department of Justice and the Department of Housing and Urban Development
- Arizona Department of Health Services regulations
- Other municipality regulations (both within and out of the state)
- Zoning Adjustment applications
- Formal and informal zoning interpretations
- Several published documents related to regulating group facilities
- Review of case law related to regulating group facilities

Staff obtained input from various stakeholders and held two meetings to review and request additional input on the proposed text amendment. Stakeholders included individuals from the following organizations:

- City of Phoenix: Equal Opportunity Department and Neighborhood Services Department
- Arizona Attorney General's Office - Civil Rights Division
- Arizona Department of Child Safety
- Arizona Department of Health Services
- Arizona Assisted Living Homes Association
- Arizona Association for Home Care
- Arizona Center for Disability Law
- Arizona Fair Housing Council
- Crossroads
- David Evans and Associates, Inc.
- Hospice of the Valley
- Mercy Maricopa Integrated Care
- National Council on Alcoholism and Drug Dependence
- Plan-et, planning, policy, design
- Sender Associates, Chtd.
- Southwest Behavioral Health
- Southwest Fair Housing Council
- Various assisted living facilities

Conclusion:

With all factors considered, staff is recommending minimal changes. The same separation distance is being proposed, however there is a slight modification in the number of residents in a home that the spacing applies to in order to be consistent with the state law for group homes for the developmentally disabled. Another minor change proposed is to allow assisted living and residential care centers with a use permit rather than a special permit in the R-3, R-3A, and R-4 (Multifamily) zoning districts. The use permit process will still provide some additional oversight and also allow for neighborhood input. Additionally, a reasonable accommodation provision is proposed to ensure equal access to housing for individuals with disabilities.

The proposed text amendment will update outdated terminology used in the Zoning Ordinance related to group facilities; delete and add new definitions related to group facilities; and to add said uses to the use lists in appropriate zoning districts. The proposed definitions and regulations will be more consistent with the Arizona Department of Health Services terminology and standards. In addition, a reasonable accommodation provision is proposed to ensure that the Phoenix zoning regulations are in compliance with the federal Fair Housing Act and Americans with Disabilities Act.

Staff recommends approval of the changes to the Zoning Ordinance as proposed in Attachment A.

Writer

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Attachments

- A. Proposed Language
- B. Summary of Z-TA-22-08
- C. Proposed Use/District Matrix
- D. The Joint Statement of the Department of Justice and the Department of Housing and Urban Development

ATTACHMENT A

Text Amendment Z-TA-22-08: Group facilities, such as adult day care, assisted living facilities, homes for individuals with disabilities, and associated uses

Proposed Language:

Amend Chapter 2, Section 202 (Definitions) to read as follows and alphabetize accordingly:

ADULT DAY CARE HOME: A RESIDENTIAL HOME PROVIDING CARE FOR 1 TO 10 ADULT PERSONS FOR LESS THAN 24 HOURS PER DAY AND FOR COMPENSATION. AN ADULT DAY CARE HOME SHALL BE LICENSED BY THE STATE OF ARIZONA.

ADULT DAY CARE CENTER: A FACILITY PROVIDING CARE FOR 11 OR MORE ADULT PERSONS FOR LESS THAN 24 HOURS PER DAY AND FOR COMPENSATION. AN ADULT DAY CARE CENTER SHALL BE LICENSED BY THE STATE OF ARIZONA.

Assisted Living Center: A residential care institution that provides resident rooms, or residential units, to 11 or more ~~handicapped~~ DISABLED or elderly persons. The facility provides, or contracts to provide, supervisory care services, personal care services, or directed care services on a continuous basis. An assisted living center shall be licensed by the State of Arizona.

Assisted Living Home: A dwelling unit shared as their primary residence by ~~one~~ 1 to ~~ten~~ 10 ~~handicapped~~ DISABLED or elderly persons living together as a single housekeeping unit, where staff persons provide on-site care, training, or support for the residents. The facility provides, or contracts to provide, supervisory care services, personal care services, or directed care services on a continuous basis. An assisted living home shall be licensed by the State of Arizona.

DISABILITY: (1) A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE MAJOR LIFE ACTIVITIES; (2) A RECORD OF HAVING SUCH AN IMPAIRMENT; OR (3) BEING REGARDED AS HAVING SUCH AN IMPAIRMENT.

HOWEVER, A PERSON WITH A DISABILITY SHALL NOT INCLUDE: (1) ANY PERSON CURRENTLY ENGAGING IN THE ILLEGAL USE OF CONTROLLED SUBSTANCES [AS DEFINED IN SECTION 102 OF THE CONTROLLED SUBSTANCE ACT (21 UNITED STATES CODE 802)]; OR (2) ANY PERSON WHO WOULD CONSTITUTE A DIRECT THREAT TO THE HEALTH OR SAFETY OF OTHER INDIVIDUALS OR WOULD RESULT IN SUBSTANTIAL PHYSICAL DAMAGE TO THE PROPERTY OF OTHERS THAT CANNOT BE ELIMINATED OR REDUCED BY REASONABLE ACCOMMODATION.

DISABILITY AND DIRECT THREAT WILL BE INTERPRETED CONSISTENT WITH THE AMERICANS WITH DISABILITIES ACT (42 UNITED STATES CODE 12101, ET SEQ.), AS AMENDED, AND THE FEDERAL FAIR HOUSING ACT (42 UNITED STATES CODE 3601 – 3619).

~~*Foster Home:* A home maintained by any individual or individuals having the care or control of one or more, but not more than five (5) minor children, other than those related to each other by blood or marriage, or related to such individuals, or who are legal wards of such individuals which is licensed by the appropriate government agency.~~

GROUP FOSTER HOME: A HOME MAINTAINED BY ANY INDIVIDUAL OR INDIVIDUALS HAVING THE CARE OR CONTROL OF 6 TO 10 MINOR CHILDREN WHO ARE NOT: (1) RELATED TO SUCH INDIVIDUALS OR TO EACH OTHER BY BLOOD, MARRIAGE, OR ADOPTION; OR (2) LEGAL WARDS OF SUCH INDIVIDUALS. A GROUP FOSTER HOME SHALL BE LICENSED BY THE STATE OF ARIZONA AND DOES NOT INCLUDE HOMES LICENSED AS A FAMILY FOSTER HOME THAT ARE OVER CAPACITY AND HAVE A GROUP FOSTER HOME CERTIFICATION.

~~*Group Home:* A residential facility for six (6) or more unrelated persons providing living facilities, sleeping rooms, and meals and which have a permit issued by the appropriate government agency as a boarding house.~~

~~*Group Home for the Handicapped:* Dwelling unit shared as their primary residence by handicapped or handicapped elderly persons living together as a single housekeeping unit, in which staff persons provide on-site care, training or support for the residents. Group homes shall not include nursing homes, personal care homes, or homes for the developmentally disabled as regulated by A.R.S. § 36-582. Such home or services provided therein shall be licensed by, certified by, approved by, registered with, funded by or through, or under contract with the State.~~

~~*Handicapped:* A person who: (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities; (2) has a record of having such an impairment; or (3) is regarded as having such an impairment. However, "handicapped" shall not include current illegal use of or addiction to a controlled substance [as defined in Section 102 of the Controlled Substance Act (21 United States Code 802)].~~

HOSPICE: A HEALTH CARE SERVICE AGENCY OR INSTITUTION OTHER THAN A HOSPITAL, ASSISTED LIVING HOME OR CENTER, OR NURSING HOME THAT PROVIDES INPATIENT BEDS OR RESIDENT BEDS TO PERSONS WHO NEED CONTINUOUS HOSPICE SERVICES. A HOSPICE DOES NOT INCLUDE IN-HOME HOSPICE CARE. A HOSPICE SHALL BE LICENSED BY THE STATE OF ARIZONA.

~~*Personal Care Home:* A health care institution other than a hospital or nursing home which is licensed by the Arizona State Department of Health Services as a personal care home for two (2) or more unrelated persons.~~

RESIDENTIAL CARE HOME: A DWELLING UNIT SHARED AS A PRIMARY RESIDENCE BY 1 TO 10 PERSONS (ADULTS OR MINORS) LIVING TOGETHER AS A SINGLE HOUSEKEEPING UNIT, IN WHICH STAFF PERSONS PROVIDE ON-SITE CARE, TRAINING OR SUPPORT FOR THE RESIDENTS. A RESIDENTIAL CARE HOME SHALL BE LICENSED BY THE STATE OF ARIZONA.

RESIDENTIAL CARE CENTER: A RESIDENTIAL CARE INSTITUTION THAT PROVIDES RESIDENT ROOMS OR RESIDENTIAL UNITS TO 11 OR MORE PERSONS (ADULTS OR MINORS). THE FACILITY PROVIDES ON-SITE CARE, TRAINING OR SUPPORT FOR THE RESIDENTS, AS WELL AS HEALTH AND REHABILITATIVE SERVICES TO PERSONS WITH BEHAVIORAL HEALTH OR DEVELOPMENTAL DISABILITIES. A RESIDENTIAL CARE CENTER SHALL BE LICENSED BY THE STATE OF ARIZONA.

Rest Home: ~~Same as "Group Home"~~ SEE "ASSISTED LIVING CENTER" OR "NURSING HOME".

~~*Rooming House:* Same as "Group Home".~~

SOBER LIVING HOME: A DWELLING UNIT SHARED AS A PRIMARY RESIDENCE BY 1 TO 10 PERSONS (ADULTS OR MINORS) LIVING TOGETHER AS A SINGLE HOUSEKEEPING UNIT, IN WHICH ON-SITE CARE, TRAINING OR SUPPORT FOR RESIDENTS WITH A DISABILITY IN RECOVERY FROM ALCOHOL OR DRUG/SUBSTANCE ABUSE, AS DEFINED BY THE AMERICANS WITH DISABILITIES ACT.

Amend Chapter 6, Section 603.A. (Suburban S-1 District—Ranch or Farm Residence) to read as follows and renumber section accordingly:

2. ADULT DAY CARE HOME, PROVIDED THAT:
 - A. CARE IS PROVIDED FOR NO MORE THAN 4 ADULT PERSONS, NOT INCLUDING STAFF.
 - B. CARE IS PROVIDED FOR 5 TO 10 ADULT PERSONS, NOT INCLUDING STAFF, AND SUBJECT TO A USE PERMIT.
 - C. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

3. ASSISTED LIVING HOME, PROVIDED THAT:
 - A. THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

4. RESIDENTIAL CARE HOME, PROVIDED THAT:
 - A. THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.

- 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.
5. SOBER LIVING HOME, PROVIDED THAT:
- A. THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.
11. ~~Foster homes and g~~Group foster homes.

Amend Chapter 6, Section 605.A. (Residential Estate RE-43 District—One-Family Residence) to read as follows and renumber section accordingly:

- 2. ADULT DAY CARE HOME, PROVIDED THAT:
 - A. CARE IS PROVIDED FOR NO MORE THAN 4 ADULT PERSONS, NOT INCLUDING STAFF.
 - B. CARE IS PROVIDED FOR 5 TO 10 ADULT PERSONS, NOT INCLUDING STAFF, AND SUBJECT TO A USE PERMIT.
 - C. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

3. ASSISTED LIVING HOME, PROVIDED THAT:
 - A. THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

4. RESIDENTIAL CARE HOME, PROVIDED THAT:
 - A. THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

5. SOBER LIVING HOME, PROVIDED THAT:
 - A. THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:

- 1) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.
- 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.
- 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

14. ~~Foster homes.~~

16. ~~Group homes for the handicapped shall be permitted, provided that:~~

- a. ~~No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, of the lot line of another such group home.~~
- b. ~~Such home contains more than five but not more than ten residents, not including staff.~~
- c. ~~Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group homes shall not house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.~~

Amend Chapter 6, Section 606.A. (Residential Estate RE-24 District—One-Family Residence) to read as follows and renumber section accordingly:

2. ADULT DAY CARE HOME, PROVIDED THAT:
 - A. CARE IS PROVIDED FOR NO MORE THAN 4 ADULT PERSONS, NOT INCLUDING STAFF.
 - B. CARE IS PROVIDED FOR 5 TO 10 ADULT PERSONS, NOT INCLUDING STAFF, AND SUBJECT TO A USE PERMIT.
 - C. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.
3. ASSISTED LIVING HOME, PROVIDED THAT:

- A. THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.
4. RESIDENTIAL CARE HOME, PROVIDED THAT:
- A. THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.
5. SOBER LIVING HOME, PROVIDED THAT:
- A. THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.

- 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.
- 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

10. Foster homes.

15. ~~Group homes for the handicapped shall be permitted; provided, that:~~

- a. ~~No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, of the lot line of another such group home.~~
- b. ~~Such home contains more than five but not more than ten residents, not including staff.~~
- c. ~~Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group homes shall not house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.~~

Amend Chapter 6, Section 608. (Residence Districts) to read as follows and renumber section accordingly:

C. Permitted Uses.

Use	Permitted	Permitted With Conditions ⁽¹⁾	Use Permit And Conditions ⁽²⁾
Single-Family DU	X		
Governmental Uses	X		
ASSISTED LIVING HOME		X	
RESIDENTIAL CARE HOME		X	
SOBER LIVING HOME		X	
* * *			

1—6 Dependent Care Facility		X	
1—4 ADULT DAY CARE HOME		X	
Display for Sale of Vehicle		X	
Guestrooms		X	
Public Utility Buildings and Facilities		X	
Schools, Private		X	X
* * *			
5—10 ADULT DAY CARE HOME		X	X
Churches/Place of Worship		X	X
Construction Facilities and Storage		X	X
Home Occupations		X	X
Model Homes and/or Subdivision Sales Office		X	X
Nondaily Newspaper Delivery Service		X	X
Public Assembly—Residential		X	X
* * *			
7—12 Dependent Care Facility			X
Environmental Remediation Facility			X

D. Permitted Uses with Conditions.

1. ADULT DAY CARE HOME FOR THE CARE OF 1 TO 4 ADULT PERSONS, PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.
2. ASSISTED LIVING HOME, PROVIDED THAT:
 - A. THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.

- 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.
3. RESIDENTIAL CARE HOME, PROVIDED THAT:
- A. THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.
4. SOBER LIVING HOME, PROVIDED THAT:
- A. THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.

- 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

F. Permitted with Use Permit Approval Pursuant to Section 307.

- 1. ADULT DAY CARE HOME FOR THE CARE OF 5 TO 10 ADULT PERSONS, SUBJECT TO A USE PERMIT AND PROVIDED THAT:

- A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

G. Accessory Uses.

- ~~2. Foster homes.~~

Amend Chapter 6, Section 609. (RE-35 Single-Family Residence District) to delete as follows and renumber section accordingly:

B. District Regulations.

RE-35 Development Option			
Standards	(a) Subdivision	(b) Average Lot	(c) Planned Residential Development

Allowed uses	Single-family detached; foster homes	Single-family attached; plus (a)	Single-family attached; plus (a)

C. Special Regulations.

- 1. ~~Group homes for the handicapped shall be permitted, provided that:~~
 - a. ~~No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, of the lot line of another such group home.~~
 - b. ~~Such home contains more than five but not more than ten residents, not including staff.~~
 - c. ~~Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group homes shall not house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.~~

Amend Chapter 6, Section 610. (R1-18 Single-Family Residence District) to delete as follows:

B. District Regulations.

R1-18 Development Option			
Standards	(a) Subdivision	(b) Average Lot	(c) Planned Residential Development

Allowed uses	Single-family detached; foster homes	Single-family attached; plus (a)	Single-family attached; plus (a)

~~C. Special Regulations.~~

- 1. ~~Group homes for the handicapped shall be permitted, provided that:~~

- a. ~~No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, of the lot line of another such group home.~~
- b. ~~Such home contains more than five but not more than ten residents, not including staff.~~
- c. ~~Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group homes shall not house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.~~

Amend Chapter 6, Section 611. (R1-10 Single-Family Residence District) to delete as follows:

B. District Regulations.

TABLE B. SINGLE-FAMILY DETACHED (SUBDIVIDED PRIOR TO JUNE 2, 1999), SINGLE-FAMILY ATTACHED AND MULTIFAMILY DEVELOPMENT

Standards	(a) Subdivision	(b) Average Lot	(c) Planned Residential Development

Allowed uses	Single-family detached; foster homes	Single-family attached; plus (a)	Multiple-family plus (b)

C. Special Regulations.

- 1. ~~Group homes for the handicapped shall be permitted, provided that:~~
 - a. ~~No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, of the lot line of another such group home.~~

- b. ~~Such home contains more than five but not more than ten residents, not including staff.~~
- c. ~~Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group homes shall not house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.~~

Amend Chapter 6, Section 612. (R1-8 Single-Family Residence District) to delete as follows:

B. District Regulations.

TABLE B. SINGLE-FAMILY DETACHED (SUBDIVIDED PRIOR TO JUNE 2, 1999), SINGLE-FAMILY ATTACHED AND MULTIFAMILY DEVELOPMENT

Standards	(a) Subdivision	(b) Average Lot	(c) Planned Residential Development

Allowed uses	Single-family detached; foster homes	Single-family attached; plus (a)	Multiple-family plus (b)

C. Special Regulations.

- 1. ~~Group homes for the handicapped shall be permitted, provided that:~~
 - a. ~~No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, of the lot line of another such group home.~~
 - b. ~~Such home contains more than five but not more than ten residents, not including staff.~~

- e. ~~Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group homes shall not house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.~~

Amend Chapter 6, Section 613.C. (R1-6 Single-Family Residence District) to delete as follows:

~~C. Special Regulations.~~

- 1. ~~Group homes for the handicapped shall be permitted, provided that:~~
 - a. ~~No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, of the lot line of another such group home.~~
 - b. ~~Such home contains more than five but not more than ten residents, not including staff.~~
 - c. ~~Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group homes shall not house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.~~

Amend Chapter 6, Section 614.C. (R-2 Multifamily Residence District) to delete as follows:

- 2. ~~Group homes for the handicapped shall be permitted, provided that:~~
 - a. ~~No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, of the lot line of another such group home.~~
 - b. ~~Such home contains more than five but not more than ten residents, not including staff.~~
 - c. ~~Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group homes shall not house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.~~

Amend Chapter 6, Section 615.C. (R-3 Multifamily Residence District) to read as follows and renumber section accordingly:

1. ADULT DAY CARE CENTER, SUBJECT TO A USE PERMIT AND PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.
2. ASSISTED LIVING OR RESIDENTIAL CARE CENTER, SUBJECT TO A USE PERMIT AND THE FOLLOWING CONDITIONS:
 - A. A MAXIMUM LOT COVERAGE OF 25 PERCENT.
 - B. A MINIMUM OF 100 SQUARE FEET OF USABLE OUTDOOR OPEN SPACE PER BED SHALL BE PROVIDED.
 - C. THE LOT SHALL ONLY HAVE VEHICULAR ACCESS FROM AN ARTERIAL OR COLLECTOR STREET.
- ~~13. A group home is allowed, with SUBJECT TO a use permit.~~
- ~~24. A group foster care home is allowed in an R-4 district. A group foster care home is allowed, in an R-3 or R-3A district with SUBJECT TO a use permit.~~
- ~~3. Group homes for the handicapped shall be permitted, provided that:
 - a. No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, from the lot line of another such group home.
 - b. Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group homes shall not house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.~~

Amend Chapter 6, Section 616.C. (R-3A Multifamily Residence District) to read as follows and renumber section accordingly:

1. ADULT DAY CARE CENTER, SUBJECT TO A USE PERMIT AND PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.
2. ASSISTED LIVING OR RESIDENTIAL CARE CENTER, SUBJECT TO A USE PERMIT AND THE FOLLOWING CONDITIONS:
 - A. A MAXIMUM LOT COVERAGE OF 25 PERCENT.
 - B. A MINIMUM OF 100 SQUARE FEET OF USABLE OUTDOOR OPEN SPACE PER BED SHALL BE PROVIDED.
 - C. THE LOT SHALL ONLY HAVE VEHICULAR ACCESS FROM AN ARTERIAL OR COLLECTOR STREET.
- ~~13. A group home is allowed, with SUBJECT TO a use permit.~~
- ~~24. A group foster care home is allowed in an R-4 district. A group foster care home is allowed, in an R-3 or R-3A district with SUBJECT TO a use permit.~~
- ~~3. Group homes for the handicapped shall be permitted, provided that:
 - a. No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, from the lot line of another such group home.
 - b. Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.Notwithstanding the foregoing, group homes shall not house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.~~

Amend Chapter 6, Section 617.C. (R-4 Multifamily Residence District) to read as follows and renumber section accordingly:

1. ADULT DAY CARE CENTER, SUBJECT TO A USE PERMIT AND THE PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.
2. ASSISTED LIVING OR RESIDENTIAL CARE CENTER, SUBJECT TO A USE PERMIT AND THE FOLLOWING CONDITIONS:
 - A. A MAXIMUM LOT COVERAGE OF 25 PERCENT.
 - B. A MINIMUM OF 100 SQUARE FEET OF USABLE OUTDOOR OPEN SPACE PER BED SHALL BE PROVIDED.
 - C. THE LOT SHALL ONLY HAVE VEHICULAR ACCESS FROM AN ARTERIAL OR COLLECTOR STREET.
- ~~43. A group home is allowed, with SUBJECT TO a use permit.~~
- ~~24. A group foster care home is allowed in an R-4 district. A group foster care home is allowed in an R-3 or R-3A district with a use permit.~~
- ~~3. Group homes for the handicapped shall be permitted, provided that:

 - a. No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, from the lot line of another such group home.
 - b. Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.
 Notwithstanding the foregoing, group homes shall not house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.~~

Amend Chapter 6, Section 618.D. (R-5 Multifamily Residence District) to read as follows and renumber section accordingly:

1. ADULT DAY CARE CENTER, SUBJECT TO A USE PERMIT AND PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

2. ASSISTED LIVING CENTER, SUBJECT TO A USE PERMIT AND THE FOLLOWING CONDITIONS:

- A. A MAXIMUM LOT COVERAGE OF 25 PERCENT.
- B. A MINIMUM OF 50 SQUARE FEET OF USABLE OUTDOOR OPEN SPACE PER BED SHALL BE PROVIDED.

79. Group Foster Care Home

~~9. Group home for the handicapped shall be permitted; provided, that:~~

- ~~a. No such home is located on a lot with a property line within 1,320 feet, measured in a straight line in any direction, from the lot line of another such group home.~~
- ~~b. Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group home shall not house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.~~

12. HOSPICE, SUBJECT TO A USE PERMIT.

~~1416. Personal care home and a nNursing home, subject to a use permit and the following conditions:~~

- ~~a. A maximum lot coverage of 25 percent.~~
- ~~b. A minimum of 50 square feet of usable outdoor open space per bed SHALL BE PROVIDED.~~

18. RESIDENTIAL CARE CENTER, SUBJECT TO A USE PERMIT AND THE FOLLOWING CONDITIONS:

- A. A MAXIMUM LOT COVERAGE OF 25 PERCENT.
- B. A MINIMUM OF 50 SQUARE FEET OF USABLE OUTDOOR OPEN SPACE PER BED SHALL BE PROVIDED.

Amend Chapter 6, Section 619.A. (Residential R-4A District—Multifamily Residence—General) to read as follows and renumber section accordingly:

- 3. ADULT DAY CARE CENTER, SUBJECT TO A USE PERMIT AND PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.
- 4. ASSISTED LIVING CENTER, SUBJECT TO A USE PERMIT AND THE FOLLOWING CONDITIONS:
 - A. A MAXIMUM LOT COVERAGE OF 25 PERCENT.
 - B. A MINIMUM OF 50 SQUARE FEET OF USABLE OUTDOOR OPEN SPACE PER BED SHALL BE PROVIDED.

- 7. HOSPICE, SUBJECT TO A USE PERMIT.
- 58. Nursing home, ~~and personal care home~~ subject to a use permit. ~~In addition, the following special provisions shall be complied with~~ AND THE FOLLOWING CONDITIONS:
 - a. A maximum lot coverage of ~~twenty-five~~25 percent.
 - b. A minimum of ~~fifty~~50 square feet of usable outdoor open space per bed SHALL BE PROVIDED.
 - c. Walls or fences shall be required as provided in Section 703.A.
- 6. ~~Group homes for the handicapped shall be permitted, provided that:~~

- a. ~~No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, from the lot line of another such group home.~~
- b. ~~Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701.~~

~~Notwithstanding the foregoing, group homes shall not house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.~~

- 10. RESIDENTIAL CARE CENTER, SUBJECT TO A USE PERMIT AND THE FOLLOWING CONDITIONS:
 - A. A MAXIMUM LOT COVERAGE OF 25 PERCENT.
 - B. A MINIMUM OF 50 SQUARE FEET OF USABLE OUTDOOR OPEN SPACE PER BED SHALL BE PROVIDED.

Amend Chapter 6, Section 620.B. (Residential Office R-O District—Restricted Commercial), to read as follows and renumber section accordingly:

- 1. ADULT DAY CARE HOME OR CENTER, PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.
- 2. ASSISTED LIVING HOME, PROVIDED THAT:
 - A. THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.

- 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.
 3. RESIDENTIAL CARE HOME, PROVIDED THAT:
 - A. THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.
 4. SOBER LIVING HOME, PROVIDED THAT:
 - A. THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.

- 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

Amend Chapter 6, Section 621.B. (Commercial Office C-O District—Restricted Commercial), to read as follows and renumber section accordingly:

1. ADULT DAY CARE CENTER, PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

Amend Chapter 6, Section 622.D. (Commercial C-1 District—Neighborhood Retail), to read as follows and renumber section accordingly:

2. ADULT DAY CARE HOME AND CENTER.

7. ASSISTED LIVING CENTER, SUBJECT TO A USE PERMIT.

81. HOSPICE, SUBJECT TO A USE PERMIT.

- ~~124. Personal Care Home, subject to a use permit~~

148. RESIDENTIAL CARE CENTER, SUBJECT TO A USE PERMIT.

Amend Chapter 6, Section 623.D. (Commercial C-2 District—Intermediate Commercial) to read as follows and renumber section accordingly:

10. ASSISTED LIVING CENTER.

84. HOSPICE.

~~133. Personal Care Home~~

Amend Chapter 6, Section 626. (Commerce Park District) to read as follows and renumber section accordingly:

E. Business Park option.

2. Permitted uses.

A. ADULT DAY CARE CENTER, PROVIDED THAT:

- (1) OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

F. General Commerce Park option.

2. Permitted uses.

A. ADULT DAY CARE CENTER, PROVIDED THAT:

- (1) OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

Amend Chapter 6, Section 635.C.1. (Planned Area Development) to read as follows:

b. Other uses as permitted in Section 608 AND 703.A.

Amend Chapter 6, Section 642. (Urban Residential (UR) District) to read as follows and renumber section accordingly:

C. Permitted uses.

1. Primary uses.

- A. ASSISTED LIVING HOME, PROVIDED THAT:
 - (1) THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
 - (2) FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - (A) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.
 - (B) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.
 - (C) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

- B. RESIDENTIAL CARE HOME, PROVIDED THAT:
 - (1) THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
 - (2) FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - (A) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.
 - (B) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.

(C) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

C. SOBER LIVING HOME, PROVIDED THAT:

(1) THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR

(2) FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:

(A) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.

(B) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.

(C) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

2. **Accessory use.**

a. Neighborhood commercial uses:

(2) ADULT DAY CARE HOME AND CENTER, PROVIDED THAT:

(A) OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

Amend Chapter 6, Section 646. (Capitol Mall Overlay District) to read as follows:

F. Special Permit Uses.

1. Land in the CMO district may be used for the following purposes, subject to the procedures and standards of Section 504.1 regarding special permits.

- b. ~~Nonhandicapped group facilities, including, but not limited to group homes, boarding or rooming houses. No nonhandicapped group facility shall be located within one thousand five hundred feet of another such facility as measured between the closest property lines of the two facilities; this standard shall not be varied by the procedures of Section 307~~

A GROUP HOME SHALL BE A MINIMUM OF 1,500 FEET FROM ANOTHER GROUP HOME.

Amend Chapter 6, Section 647 (Special Permit Uses) to read as follows and renumber section accordingly:

- A. Permitted uses. There shall be permitted, in addition to the uses enumerated in the several use districts, certain additional uses subject to the requirements of this section.

2. A special permit may be granted by the Council upon recommendation of the Commission to establish the following uses in the use districts named:

- p. ~~Nursing home and personal care home~~ in the R-3, R-3A, and R-4 districts. The site shall be subject to the following:
 - (1) A maximum lot coverage of ~~twenty-five~~25 percent.
 - (2) A MINIMUM OF ~~One hundred~~ 100 square feet of usable outdoor OPEN space per bed shall be provided.
 - (3) The lot shall only have vehicular access from an arterial or collector street.
 - Q. HOSPICE IN THE R-3, R-3A, AND R-4 DISTRICTS.

Amend Chapter 6, Section 649. (Mixed Use Agricultural (MUA) District) to read as follows and renumber section accordingly:

C. **Permitted Primary Uses.** The following uses are permitted in accordance with the regulations and special standards established below.

6. ASSISTED LIVING HOME, PROVIDED THAT:
 - A. THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

- ~~26. Group home for the handicapped, provided that:~~
 - ~~a. No such home is located on a lot with a property line within one thousand three hundred twenty feet, measured in a straight line in any direction, of the lot line of another such group home;~~
 - ~~b. Such home contains more than five but not more than ten residents, not including staff; and~~
 - ~~c. Such home is registered with, and administratively approved by, the Zoning Administrator as to compliance with the standards of this section as provided in Section 701~~

44. RESIDENTIAL CARE HOME, PROVIDED THAT:

- A. THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
- B. FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

- 49. SOBER LIVING HOME, PROVIDED THAT:
 - A. THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
 - B. FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

- D. **Use Permit Uses.** Land in the MUA District may be used for the following purposes, subject to obtaining a use permit in accordance with the standards and procedures of Section 307.

1. ADULT DAY CARE HOME FOR THE CARE OF 5 TO 10 ADULT PERSONS, PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.
 - B. ONE PARKING SPACE SHALL BE PROVIDED FOR EACH EMPLOYEE WHO DOES NOT RESIDE AT THE FACILITY.

7. GROUP FOSTER HOME.

E. **Permitted Accessory Uses.** Land in the MUA District may be used as permitted accessory uses and structures, incidental to and on the same zoning lot as the primary use, for the following uses:

1. ADULT DAY CARE HOME FOR THE CARE OF 1 TO 4 ADULT PERSONS, PROVIDED THAT:
 - A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

Amend Chapter 6, Section 658. (Deer Valley Airport Overlay (DVAO) District) to read as follows and renumber section accordingly:

C. Regulation Areas: The DVAO District is divided into three separate regulation areas. When a parcel falls partially into one or more of the regulation areas, the most restrictive regulation area shall apply to the entire parcel.

2. Prohibited uses, Areas 2 & 3: Same as Area 1 and the following:
 - A. ADULT DAY CARE HOME OR CENTER.
 - aB. Assembly halls and auditoriums.
 - C. ASSISTED LIVING HOME OR CENTER.

- ⓓ. Church or similar place of worship; including parish houses, parsonages, rectories and convents, and dormitories (including all elements of such as defined in Section 608.C.4).
- ⓔE. Dependent care facility.
- ⓔ. ~~Foster home.~~
- ⓔF. Group foster ~~care~~ home.
- ⓔf. ~~Group home for the handicapped.~~
- g. Gymnasium; private or commercial.
- h. Hospital.
- i. Motion picture theater.
- j. Nursery School.
- k. Nursing Home.
- ⓔ. ~~Personal care home.~~
- ⓓL. Public assembly uses limited to active recreational and spectator only.
- ⓔ. ~~Schools, private.~~
- M. RESIDENTIAL CARE HOME OR CENTER.
- ⓔN. Residential uses in the C-1, C-2 or C-3 Zoning Districts; except that one dwelling unit may be maintained as an accessory use to a self-service storage warehouse for housing a watchman or caretaker employed on the premises.
- O. SCHOOL, PRIVATE.
- P. SOBER LIVING HOME.

Amend Chapter 6, Section 660. (Four Corners Overlay District) to read as follows:

- C. **Permitted Uses:** The Four Corners Overlay District is established to encourage the development of neighborhood serving retail uses and limited community serving uses. Uses listed in the underlying commercial district are permitted except that certain uses and the sale of certain products will be permitted only subject to a special permit approval in accordance with Section 504.1 of the Zoning Ordinance. These include:

* ~~Personal care homes~~ ASSISTED LIVING CENTER;

- E. **Parking Requirements.** The amount of parking is reduced from what is otherwise required in order to encourage more pedestrian activity and less vehicle trips between uses.
~~Off-street automobile parking space or area shall be provided according to the following table.~~
 Off-street automobile parking space or area shall be provided according to the following table.

TYPE OF LAND USE	PARKING REQUIREMENT FOUR CORNERS OVERLAY
Day care center (ADULT AND CHILD CARE)	1 space per 500 square feet of floor area

Amend Chapter 7, Section 701.E. (Separation Requirements—Registration) to read as follows and renumber section accordingly:

2. **Establishment of registered use.**
 Establishment of a registered use shall be evidenced by and shall occur on the date a certificate of occupancy is issued for such use. Application for and issuance of a certificate of occupancy shall be according to the procedures established in the Construction Code. If, at the expiration of the time period specified in subsection 1 of this section, the registered use has been established, no other use which under the provisions of this ordinance is required to maintain a minimum separation from the registered use may subsequently be established closer to the registered use than the minimum distance prescribed by this ordinance.
 - A. THE APPLICANT MAY PROVIDE EVIDENCE TO THE PLANNING AND DEVELOPMENT DEPARTMENT STAFF THAT A REGISTERED FACILITY WITHIN THE SPACING REQUIREMENTS IS NO LONGER OPERATING. THE PLANNING AND DEVELOPMENT DEPARTMENT STAFF WILL VERIFY THE STATUS OF THE FACILITY WITHIN 3 BUSINESS DAYS AND UPDATE THE REGISTERED USE DOCUMENTS.
3. **REQUEST FOR A DISABILITY ACCOMMODATION.**

- A. AN APPLICANT MAY REQUEST A DISABILITY ACCOMMODATION FROM A SEPARATION REQUIREMENT IF THE REQUIREMENT PROHIBITS AN ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME (“REGISTERED CARE HOME”) FOR A PERSON WITH DISABILITIES ON A LOT. THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR’S DESIGNEE MAY ADMINISTRATIVELY APPROVE SUCH REQUESTS IF THERE ARE NO MORE THAN 5 REGISTERED CARE HOMES WITH 7 TO 10 RESIDENTS WITHIN A HALF MILE AREA (2,640-FOOT RADIUS).

A REGISTERED CARE HOME IS NOT DEEMED WITHIN THE HALF MILE AREA IF SEPARATED FROM THE PROPOSED LOT BY A NATURAL OR MAN-MADE BARRIER INCLUDING, BUT NOT LIMITED TO, ANY OF THE FOLLOWING:

- (1) ARIZONA CANAL,
CENTRAL ARIZONA PROJECT CANAL,
ELLIOT CANAL,
GRAND CANAL,
HIGHLINE CANAL,
ROOSEVELT IRRIGATION DISTRICT CANAL, AND
WESTERN CANAL;
 - (2) MUNICIPAL OPEN SPACE THAT IS AT LEAST 5 ACRES IN SIZE (SUCH AS A PARK OR GOLF COURSE);
 - (3) RAILROAD;
 - (4) FREEWAY; OR
 - (5) ARTERIAL STREET.
- B. IF THE DISABILITY ACCOMMODATION REQUEST IS DENIED, THE APPLICANT MAY APPEAL THE DENIAL TO THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR. THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR’S DETERMINATION CONSTITUTES A FINAL ADMINISTRATIVE ACTION.

Amend Chapter 7, Section 702. (Off-Street Parking and Loading) to read as follows:

C. Parking Requirements.

Day Care Center (ADULT AND CHILD CARE) 1 space per 300 s.f. of floor area (20% reduction allowed for storage, restrooms, etc).

Assisted Living and Residential Care Facility CENTER, Nursing Homes, Personal Care Homes, Specialized Treatment Facility, AND HOSPICE 1 space per 2 RESIDENT/patient beds

Amend Chapter 12, Section 1204. (Land Use Matrix) to read as follows and alphabetize accordingly:

C. The following shall apply to uses that are permitted with conditions (pc) as indicated with a number that corresponds with the Land Use Matrix in Section 1204.D:

Spacing

4. No use shall be located ON A LOT WITH A PROPERTY LINE within 1,320 feet of the same type of use as measured IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER SUCH ~~from the exterior walls of the building or portion thereof in which the use is conducted.~~

DISPERSAL & ESTABLISHMENT OF A REGISTERED USE:

34. ASSISTED LIVING, RESIDENTIAL CARE, AND SOBER LIVING HOMES, SUBJECT TO THE FOLLOWING:

- A. THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
- B. FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

D. **Land Use Matrix**

LAND USE CATEGORIES	LAND CHARACTER AREAS															
	ACTIVE USE	BioMed	BC	Central Park	Community Corridor	Downtown Gateway	East Evergreen	Evans Churchill East	Evans Churchill West	McDowell Corridor	Roosevelt East	Roosevelt North	Roosevelt South	Townsend Park	Van Buren	Warehouse
Residential Uses																
Assisted Living Home		pe4 34	pe4 34	pe4,2 34	pe4,2 34	pe4 34	pe4 34	pe4 34	pe4 34	pe4,20 34	pe4,20 34	pe4,20 34	pe4,20 34	pe4,20 34	pe4 34	pe4 34

Group Home		pc4	pc4	pc4,2 0	pc4,2 0	pc4	pc4	pc4	pc4	pc4,20	pc4,20	pc4,20	pc4,20	pc4,20	pc,4	pc4

GROU P FOST ER HOME		P	P	UP	P	P	P	P	P	P	P	UP	UP	P	P	P

RESI DENTI AL CARE HOME		PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34
SOBE R LIVIN G HOME		PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34	PC 34
Assembly Uses																

Day Care (ADUL T DAY CARE CENT ER AND CHILD CARE , Nurser y Schoo l	x	p	p	pc 20, 22	p	p	pc20 ,22	p	p	p	p	pc20 ,22	pc20 ,22	p	p	p

Health and Support Services																

HOSP ICE	X	P	P	SP	P	P	P	P	P	P	P	SP	UP	P	P	P

RESIDENTIAL CARE CENTER	X	P	P	SP	P	P	P	P	P	P	P	SP	UP	P	P	P

Accessory Uses and Facilities																
ADULT DAY CARE HOME		UP	P	UP	P	P	P	P	P	P	P	UP	P	P	P	P

Amend Chapter 13, Section 1306. (Land Use Matrix) to read as follows, and renumber and alphabetize accordingly:

TABLE 1306.1 LAND USE MATRIX

CATEGORY: RESIDENTIAL USES	T3	T4	T5:2	T5:3	T5:5	T5:6	T5:7	T6:7 T6:15	T6:22 T6:H WR

ADULT DAY CARE HOME									
1-4 PERSONS	PC	PC	PC	P	P	P	NP	NP	NP
5-10 PERSONS	NP	UP	UP	P	P	P	NP	NP	NP
Assisted Living Home									
1-10 residents	NPPC	PC	PC	PC	PC	PC	P	P	P
Assisted Living Home CENTER									
11+ residents	NP	UP	UP	P	P	P	P	P	P
Dependent Care Facility									
1-6 residents DEPENDENTS	PC	PC	PC	P	P	P	NP	NP	NP
Dependent Care Facility									

7-12 residents DEPENDENTS	NP	UP	UP	P	P	P	NP	NP	NP

GROUP FOSTER HOME Group Home for the Handicapped	NP	UP	UP	P	P	P	P	P	P
5-10 residents (not including staff)	PC	PC	PC	PC	PC	PC	NP	NP	NP
11+ residents	NP	PC	PC	PC	PC	PC	NP	NP	NP
NURSING HOME	NP	UP	UP	P	P	P	P	P	P
RESIDENTIAL CARE HOME									
1-10 RESIDENTS	PC	PC	PC	PC	PC	PC	P	P	P
RESIDENTIAL CARE CENTER									
11+ RESIDENTS	NP	UP	UP	P	P	P	P	P	P
SOBER LIVING HOME									
1-10 RESIDENTS	PC	PC	PC	PC	PC	PC	P	P	P

C. Residential Uses, Land Use Conditions.

1. ADULT DAY CARE HOME.

- A. OUTDOOR RECREATION AREAS SHALL BE SCREENED FROM ADJACENT PROPERTIES BY A 6-FOOT-HIGH LANDSCAPE HEDGE, SOLID FENCE, OR SOLID WALL.

42. Assisted Living, RESIDENTIAL CARE, AND SOBER LIVING HOME.

- a. ~~Such home shall be licensed by the State of~~ THE HOME HAS NO MORE THAN 6 RESIDENTS, NOT INCLUDING STAFF; OR
- B. FOR A HOME WITH 7 TO 10 RESIDENTS, NOT INCLUDING STAFF, THE FOLLOWING CONDITIONS SHALL APPLY:
 - 1) SUCH HOME SHALL COMPLY WITH THE STANDARDS OF THIS SECTION AND BE REGISTERED AS PROVIDED IN SECTION 701.
 - 2) NO ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME SHALL BE LOCATED ON A LOT WITH A PROPERTY LINE WITHIN 1,320 FEET, MEASURED IN A STRAIGHT LINE IN ANY DIRECTION OF THE LOT LINE OF ANOTHER ASSISTED LIVING, RESIDENTIAL CARE, OR SOBER LIVING HOME THAT HAS BEEN REGISTERED WITH 7 TO 10 RESIDENTS.
 - 3) DISABILITY ACCOMODATION FROM THE SPACING REQUIREMENT MAY BE REQUESTED BY AN APPLICANT PER SECTION 701.E.3.

23. Dependent Care Facility.

- a. One to ~~six~~6 residents DEPENDENTS: standards as per Section 608.D.1. Use permit required for ~~seven~~7 to 12 residents DEPENDENTS.
3. ~~Group Homes for the Handicapped:~~
- a. ~~No such home is located on a lot with a property line within 1,320 feet, measured in a straight line in any direction, of the lot line of another such group home.~~
 - b. ~~Such home is registered with, and administratively approved by, the Zoning Administrator.~~
 - c. ~~The subject property must be at least 1,320 feet away from another registered handicapped group home that has six to ten residents.~~
 - d. ~~Notwithstanding the foregoing, group homes shall not house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.~~

TABLE 1306.1 LAND USE MATRIX

CATEGORY: ASSEMBLY USES	T3	T4	T5:2	T5:3	T5:5	T5:6	T5:7	T6:7 T6:15	T6:22 T6:H WR

Day Care (ADULT DAY CARE CENTER AND CHILD CARE), Nursery School	PC	PC	P	P	P	P	P	P	P

D. Assembly Uses, Land Use Conditions.

- 4. Day Care (ADULT DAY CARE CENTER AND CHILD CARE)/Nursery School.
 - a. Outdoor uses or activities must be screened by a minimum ~~six~~6-foot-high solid decorative fence or wall.

TABLE 1306.1 LAND USE MATRIX

CATEGORY: SERVICES	T3	T4	T5:2	T5:3	T5:5	T5:6	T5:7	T6:7 T6:15	T6:22 T6:H WR

HOSPICE	NP	UP	UP	P	P	P	P	P	P

Amend Chapter 13, Section 1307. (Parking standards) to read as follows:

TABLE 1307.1. MINIMUM REQUIRED VEHICULAR PARKING

USE	Measure	T3	T4	T5 1-5 stories	T5 6-10 stories	T6

Assisted Living AND RESIDENTIAL CARE CENTER; and Group Home; AND HOSPICE	per bedroom	1	0.75	0.75		0.5

SUMMARY

Z-TA-22-08: Group facilities, such as adult day care, assisted living facilities, homes for individuals with disabilities, and associated uses

Purpose:

Amendment to the Phoenix Zoning Ordinance to update definitions related to Group facilities, such as Group Homes for the Handicapped, Adult Day Care Homes and Centers, Assisted Living Homes and Centers, Residential Care Homes and Centers, Sober Living Homes, Foster Homes, and Hospice; and to add said uses to the use lists in appropriate zoning districts.

- Revise Zoning Ordinance definitions and regulations to be consistent with the Arizona Department of Health Services terminology and standards.
- Ensure compliance with the federal Fair Housing Act and Americans with Disabilities Act.
- Allow reasonable accommodations to ensure equal access to housing for individuals with disabilities pursuant to federal law.

Proposed Changes:

- Update definition from handicapped to disability.
- Update regulations related to group homes for the handicapped to be more consistent with state licensing regulations. This use currently includes assisted living homes, and homes for both mentally and physically disabled individuals, including sober living homes. Group home for the handicapped is an outdated term and will be replaced with various facility types that are licensed by the state, such as:
 - Assisted Living Home (1 to 10 residents).
 - * Require ¼-mile separation for homes with 7-10 residents (previously 6-10 residents).
 - Residential Care Home (1-10 residents) – Includes homes for individuals with a developmental disability and behavioral health care homes.
 - * Require ¼-mile separation for homes with 7-10 residents (previously 6-10 residents).
 - Sober Living Home (1-10 residents) – Includes homes for individuals recovering from alcohol or drug/substance abuse.
 - * Require ¼-mile separation for homes with 7-10 residents (previously 6-10 residents).
 - * This facility type may or may not be licensed by the state, depending on the level of care provided.
- Remove all reference to group home for the handicapped (with unspecified number of residents) and personal care home, and replace with:
 - Assisted Living Center (11+ residents).
 - Residential Care Center (11+ residents) – Facilities that include residential care, training and support for residents with a developmental disability or require behavioral health care.
- Require Assisted Living and Residential Care Centers, subject to a Use Permit in the R-3, R-3A, R-4, R-4A, R-5, and C-1 zoning districts and allow them by-right in the C-2, C-3, and RSC zoning districts, rather than only requiring 1,320 feet spacing.
- Allow Assisted Living and Residential Care Centers, subject to a Use Permit rather than a Special Permit in the R-3, R-3A, and R-4 zoning districts.
- Add definition and provisions for adult day care home and center.
- Add definition and provisions for hospice.
- Add definition for group foster home to be consistent with other definitions for state regulated facilities. Delete definition and provisions for foster homes. Foster homes are permitted in any residential district based on the definition of a “family.”
- Add a provision for requests for reasonable accommodations with objective criteria.

**Z-TA-22-08 (Group Facilities)
PROPOSED USE/DISTRICT MATRIX**

ATTACHMENT C

EXISTING USE	PROPOSED USE (ZONING DISTRICT SECTIONS)	ZONING DISTRICTS													
		RURAL RANCH	RESIDENTIAL ESTATE	SINGLE FAMILY	MULTIFAMILY DISTRICTS			RESIDENTIAL OFFICE	COMMERCIAL DISTRICTS			INDUSTRIAL	URBAN RESIDENTIAL	MIXED USED AGRICULTURAL	
		S-1 S-2 (603-604)	RE-43 RE-24 R1-14 (605-607)	RE-35 R1-18 R1-10 R1-8 R1-6 R-2 (608-614)	R-3 R-3A (615-616)	R-4 (617)	R-4A R-5 (618-619)	R-O (620)	C-O CP (621, 626)	C-1 (622)	C-2 C-3 RSC (623-624, 638)	A-1 A-2 (627-628)	UR (642)	MUA (649)	
N/A	Adult Day Care Home														
	1-4 Adults	PC	PC	PC	PC	PC	PC	PC	PC	NP	P	P	UP	PC	PC
	5-10 Adults	UP	UP	UP	UP	UP	UP	PC	NP	P	P	UP	PC	UP	
N/A	Adult Day Care Center 11+ Adults	NP	NP	NP	UP	UP	UP	PC	PC	P	P	P	PC	NP	
Group Home for the Handicapped	Assisted Living Home														
1-5 Residents	1-6 Residents	P	P	P	P	P	P	P	NP	P	P	UP	P	P	
6-10 Residents	7-10 Residents	PC	PC	PC	PC	PC	PC	PC	NP	PC	P	UP	PC	PC	
Unspecified Number of Residents	Assisted Living / Residential Care Center (11+ Residents)	NP	NP	NP	UP	UP	UP	NP	NP	UP	P	UP	NP	NP	
Personal Care Home 11+ Residents	Assisted Living Center 11+ Residents	NP	NP	NP	UP	UP	UP	NP	NP	UP	P	UP	NP	NP	
Group Home for the Handicapped	Residential Care Home														
1-5 Residents	1-6 Residents	P	P	P	P	P	P	P	NP	P	P	UP	P	P	
6-10 Residents	7-10 Residents	PC	PC	PC	PC	PC	PC	PC	NP	PC	PC	UP	PC	PC	
Personal Care Home 11+ Residents	Residential Care Center 11+ Residents	NP	NP	NP	UP	UP	UP	NP	NP	UP	P	UP	NP	NP	
Group Home for the Handicapped	Sober Living Home														
1-5 Residents	1-6 Residents	P	P	P	P	P	P	P	NP	P	P	UP	P	P	
6-10 Residents	7-10 Residents	PC	PC	PC	PC	PC	PC	PC	NP	PC	PC	UP	PC	PC	
Foster Home	Permitted in single-family homes or within multifamily units	P	P	P	P	P	P	P	NP	P	P	UP	P	P	
Group Foster Home 6-10 Children	Group Foster Home 6-10 Children	P	UP	NP	UP	P	P	NP	NP	P	P	UP	NP	UP	
N/A	Hospice	NP	NP	NP	SP	SP	UP	NP	NP	UP	P	UP	NP	NP	
Group Home	Group Home - NO CHANGES PROPOSED -	SP*	SP*	SP*	UP	UP	P	SP*	NP	P	P	UP	SP*	SP*	

P: Permitted

PC: Permitted with conditions

UP: Permitted with a Use Permit

UP: Permitted with a Use Permit
(Currently requires SP)

SP: Permitted with a Special Permit

SP: Permitted with a Special Permit
(Max. 10 residents)

NP: Not permitted

NP: Currently permitted by-right with 1,320' spacing

JOINT STATEMENT OF THE DEPARTMENT OF JUSTICE AND THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

GROUP HOMES, LOCAL LAND USE, AND THE FAIR HOUSING ACT

Since the federal Fair Housing Act ("the Act") was amended by Congress in 1988 to add protections for persons with disabilities and families with children, there has been a great deal of litigation concerning the Act's effect on the ability of local governments to exercise control over group living arrangements, particularly for persons with disabilities. The Department of Justice has taken an active part in much of this litigation, often following referral of a matter by the Department of Housing and Urban Development ("HUD"). This joint statement provides an overview of the Fair Housing Act's requirements in this area.

Specific topics are addressed in more depth in the attached Questions and Answers.

The Fair Housing Act prohibits a broad range of practices that discriminate against individuals on the basis of race, color, religion, sex, national origin, familial status, and disability.⁽¹⁾ The Act does not pre-empt local zoning laws. However, the Act applies to municipalities and other local government entities and prohibits them from making zoning or land use decisions or implementing land use policies that exclude or otherwise discriminate against protected persons, including individuals with disabilities.

The Fair Housing Act makes it unlawful --

- To utilize land use policies or actions that treat groups of persons with disabilities less favorably than groups of non-disabled persons. An example would be an ordinance prohibiting housing for persons with disabilities or a specific type of disability, such as mental illness, from locating in a particular area, while allowing other groups of unrelated individuals to live together in that area.
- To take action against, or deny a permit, for a home because of the disability of individuals who live or would live there. An example would be denying a building permit for a home because it was intended to provide housing for persons with mental retardation.
- To refuse to make reasonable accommodations in land use and zoning policies and procedures where such accommodations may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing.
- What constitutes a reasonable accommodation is a case-by-case determination.
- Not all requested modifications of rules or policies are reasonable. If a requested modification imposes an undue financial or administrative burden on a local government, or if a modification creates a fundamental alteration in a local government's land use and zoning scheme, it is not a "reasonable" accommodation.

The disability discrimination provisions of the Fair Housing Act do not extend to persons 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. Furthermore, the Fair Housing Act does not protect persons who currently use illegal drugs, persons who have been convicted of the manufacture or sale of illegal drugs, or persons with or without disabilities who present a direct threat to the persons or property of others.

HUD and the Department of Justice encourage parties to group home disputes to explore all reasonable dispute resolution procedures, like mediation, as alternatives to litigation.

DATE: AUGUST 18, 1999

Questions and Answers

on the Fair Housing Act and Zoning

Q. Does the Fair Housing Act pre-empt local zoning laws?

No. "Pre-emption" is a legal term meaning that one level of government has taken over a field and left no room for government at any other level to pass laws or exercise authority in that area. The Fair Housing Act is not a land use or zoning statute; it does not pre-empt local land use and zoning laws. This is an area where state law typically gives local governments primary power. However, if that power is exercised in a specific instance in a way that is inconsistent with a federal law such as the Fair Housing Act, the federal law will control. Long before the 1988 amendments, the courts had held that the Fair Housing Act prohibited local governments from exercising their land use and zoning powers in a discriminatory way.

Q. What is a group home within the meaning of the Fair Housing Act?

The term "group home" does not have a specific legal meaning. In this statement, the term "group home" refers to housing occupied by groups of unrelated individuals with disabilities.² Sometimes, but not always, housing is provided by organizations that also offer various services for individuals with disabilities living in the group homes. Sometimes it is this group home operator, rather than the individuals who live in the home, that interacts with local government in seeking permits and making requests for reasonable accommodations on behalf of those individuals.

The term "group home" is also sometimes applied to any group of unrelated persons who live together in a dwelling -- such as a group of students who voluntarily agree to share the rent on a house. The Act does not generally affect the ability of local governments to regulate housing of this kind, as long as they do not discriminate against the residents on the basis of race, color, national origin, religion, sex, handicap (disability) or familial status (families with minor children).

Q. Who are persons with disabilities within the meaning of the Fair Housing Act?

The Fair Housing Act prohibits discrimination on the basis of handicap. "Handicap" has the same legal meaning as the term "disability" which is used in other federal civil rights laws. Persons with disabilities (handicaps) are individuals with mental or physical impairments which substantially limit one or more major life activities. The term mental or physical impairment may include conditions such as blindness, hearing impairment, mobility impairment, HIV infection, mental retardation, alcoholism, drug addiction, chronic fatigue, learning disability, head injury, and mental illness. The term major life activity may include seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working. The Fair Housing Act also protects persons who have a record of such an impairment, or are regarded as having such an impairment.

Current users of illegal controlled substances, persons convicted for illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders, are not considered disabled under the Fair Housing Act, by virtue of that status.

The Fair Housing Act affords no protections to individuals with or without disabilities who present a direct threat to the persons or property of others. Determining whether someone poses such a direct threat must be made on an individualized basis, however, and cannot be based on general assumptions or speculation about the nature of a disability.

Q. What kinds of local zoning and land use laws relating to group homes violate the Fair Housing Act?

Local zoning and land use laws that treat groups of unrelated persons with disabilities less favorably than similar groups of unrelated persons without disabilities violate the Fair Housing Act. For example, suppose a city's zoning ordinance defines a "family" to include up to six unrelated persons living together as a household unit, and gives such a group of unrelated persons the right to live in any zoning district without special permission. If that ordinance also disallows a group home for six or fewer people with disabilities in a certain district or requires this home to seek a use permit, such requirements would conflict with the Fair Housing Act. The ordinance treats persons with disabilities worse than persons without disabilities.

A local government may generally restrict the ability of groups of unrelated persons to live together as long as the restrictions are imposed on all such groups. Thus, in the case where a family is defined to include up to six unrelated people, an ordinance would not, on its face, violate the Act if a group home for seven people with disabilities was not allowed to locate in a single family zoned neighborhood, because a group of seven unrelated people without disabilities would also be disallowed. However, as discussed below, because persons with disabilities are also entitled to request reasonable accommodations in rules and policies, the group home for seven persons with disabilities would have to be given the opportunity to seek an exception or waiver. If the criteria for reasonable accommodation are met, the permit would have to be given in that instance, but the ordinance would not be invalid in all circumstances.

Q. What is a reasonable accommodation under the Fair Housing Act?

As a general rule, the Fair Housing Act makes it unlawful to refuse to make "reasonable accommodations" (modifications or exceptions) to rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use or enjoy a dwelling.

Even though a zoning ordinance imposes on group homes the same restrictions it imposes on other groups of unrelated people, a local government may be required, in individual cases and when requested to do so, to grant a reasonable accommodation to a group home for persons with disabilities. For example, it may be a reasonable accommodation to waive a setback requirement so that a paved path of travel can be provided to residents who have mobility impairments. A similar waiver might not be required for a different type of group home where residents do not have difficulty negotiating steps and do not need a setback in order to have an equal opportunity to use and enjoy a dwelling.

Not all requested modifications of rules or policies are reasonable. Whether a particular accommodation is reasonable depends on the facts, and must be decided on a case-by-case basis. The determination of what is reasonable depends on the answers to two questions: First, does the request impose an undue burden or expense on the local government? Second, does the proposed use create a fundamental alteration in the zoning scheme? If the answer to either question is "yes," the requested accommodation is unreasonable.

What is "reasonable" in one circumstance may not be "reasonable" in another. For example, suppose a local government does not allow groups of four or more unrelated people to live together in a single-family neighborhood. A group home for four adults with mental retardation would very likely be able to show that it will have no more impact on parking, traffic, noise, utility use, and other typical concerns of zoning than an "ordinary family." In this circumstance, there would be no undue burden or expense for the local government nor would the single-family character of the neighborhood be fundamentally altered. Granting an exception or waiver to the group home in this circumstance does not invalidate the ordinance. The local government would still be able to keep groups of unrelated persons without disabilities from living in single-family neighborhoods.

By contrast, a fifty-bed nursing home would not ordinarily be considered an appropriate use in a single-family neighborhood, for obvious reasons having nothing to do with the disabilities of its residents. Such a facility might or might not impose significant burdens and expense on the community, but it would likely

create a fundamental change in the single-family character of the neighborhood. On the other hand, a nursing home might not create a "fundamental change" in a neighborhood zoned for multi-family housing. The scope and magnitude of the modification requested, and the features of the surrounding neighborhood are among the factors that will be taken into account in determining whether a requested accommodation is reasonable.

Q. What is the procedure for requesting a reasonable accommodation?

Where a local zoning scheme specifies procedures for seeking a departure from the general rule, courts have decided, and the Department of Justice and HUD agree, that these procedures must ordinarily be followed. If no procedure is specified, persons with disabilities may, nevertheless, request a reasonable accommodation in some other way, and a local government is obligated to grant it if it meets the criteria discussed above. A local government's failure to respond to a request for reasonable accommodation or an inordinate delay in responding could also violate the Act.

Whether a procedure for requesting accommodations is provided or not, if local government officials have previously made statements or otherwise indicated that an application would not receive fair consideration, or if the procedure itself is discriminatory, then individuals with disabilities living in a group home (and/or its operator) might be able to go directly into court to request an order for an accommodation.

Local governments are encouraged to provide mechanisms for requesting reasonable accommodations that operate promptly and efficiently, without imposing significant costs or delays. The local government should also make efforts to insure that the availability of such mechanisms is well known within the community.

Q. When, if ever, can a local government limit the number of group homes that can locate in a certain area?

A concern expressed by some local government officials and neighborhood residents is that certain jurisdictions, governments, or particular neighborhoods within a jurisdiction, may come to have more than their "fair share" of group homes. There are legal ways to address this concern. The Fair Housing Act does not prohibit most governmental programs designed to encourage people of a particular race to move to neighborhoods occupied predominantly by people of another race. A local government that believes a particular area within its boundaries has its "fair share" of group homes, could offer incentives to providers to locate future homes in other neighborhoods.

However, some state and local governments have tried to address this concern by enacting laws requiring that group homes be at a certain minimum distance from one another. The Department of Justice and HUD take the position, and most courts that have addressed the issue agree, that density restrictions are generally inconsistent with the Fair Housing Act. We also believe, however, that if a neighborhood came to be composed largely of group homes, that could adversely affect individuals with disabilities and would be inconsistent with the objective of integrating persons with disabilities into the community. Especially in the licensing and regulatory process, it is appropriate to be concerned about the setting for a group home. A consideration of over-concentration could be considered in this context. This objective does not, however, justify requiring separations which have the effect of foreclosing group homes from locating in entire neighborhoods.

Q. What kinds of health and safety regulations can be imposed upon group homes?

The great majority of group homes for persons with disabilities are subject to state regulations intended to protect the health and safety of their residents. The Department of Justice and HUD believe, as do responsible group home operators, that such licensing schemes are necessary and legitimate. Neighbors

who have concerns that a particular group home is being operated inappropriately should be able to bring their concerns to the attention of the responsible licensing agency. We encourage the states

to commit the resources needed to make these systems responsive to resident and community needs and concerns.

Regulation and licensing requirements for group homes are themselves subject to scrutiny under the Fair Housing Act. Such requirements based on health and safety concerns can be discriminatory themselves or may be cited sometimes to disguise discriminatory motives behind attempts to exclude group homes from a community. Regulators must also recognize that not all individuals with disabilities living in group home settings desire or need the same level of services or protection. For example, it may be appropriate to require heightened fire safety measures in a group home for people who are unable to move about without assistance. But for another group of persons with disabilities who do not desire or need such assistance, it would not be appropriate to require fire safety measures beyond those normally imposed on the size and type of residential building involved.

Q. Can a local government consider the feelings of neighbors in making a decision about granting a permit to a group home to locate in a residential neighborhood?

In the same way a local government would break the law if it rejected low-income housing in a community because of neighbors' fears that such housing would be occupied by racial minorities, a local government can violate the Fair Housing Act if it blocks a group home or denies a requested reasonable accommodation in response to neighbors' stereotypical fears or prejudices about persons with disabilities. This is so even if the individual government decision-makers are not themselves personally prejudiced against persons with disabilities. If the evidence shows that the decision-makers were responding to the wishes of their constituents, and that the constituents were motivated in substantial part by discriminatory concerns, that could be enough to prove a violation.

Of course, a city council or zoning board is not bound by everything that is said by every person who speaks out at a public hearing. It is the record as a whole that will be determinative. If the record shows that there were valid reasons for denying an application that were not related to the disability of the prospective residents, the courts will give little weight to isolated discriminatory statements. If, however, the purportedly legitimate reasons advanced to support the action are not objectively valid, the courts are likely to treat them as pretextual, and to find that there has been discrimination.

For example, neighbors and local government officials may be legitimately concerned that a group home for adults in certain circumstances may create more demand for on-street parking than would a typical family. It is not a violation of the Fair Housing Act for neighbors or officials to raise this concern and to ask the provider to respond. A valid unaddressed concern about inadequate parking facilities could justify denying the application, if another type of facility would ordinarily be denied a permit for such parking problems. However, if a group of individuals with disabilities or a group home operator shows by credible and un rebutted evidence that the home will not create a need for more parking spaces, or submits a plan to provide whatever off-street parking may be needed, then parking concerns would not support a decision to deny the home a permit.

Q. What is the status of group living arrangements for children under the Fair Housing Act?

In the course of litigation addressing group homes for persons with disabilities, the issue has arisen whether the Fair Housing Act also provides protections for group living arrangements for children. Such living arrangements are covered by the Fair Housing Act's provisions prohibiting discrimination against families with children. For example, a local government may not enforce a zoning ordinance which treats group living arrangements for children less favorably than it treats a similar group living arrangement for unrelated

adults. Thus, an ordinance that defined a group of up to six unrelated adult persons as a family, but specifically disallowed a group living arrangement for six or fewer children, would, on its face, discriminate on the basis of familial status. Likewise, a local government might violate the Act if it denied a permit to such a home because neighbors did not want to have a group facility for children next to them.

The law generally recognizes that children require adult supervision. Imposing a reasonable requirement for adequate supervision in group living facilities for children would not violate the familial status provisions of the Fair Housing Act.

Q. How are zoning and land use matters handled by HUD and the Department of Justice?

The Fair Housing Act gives the Department of Housing and Urban Development the power to receive and investigate complaints of discrimination, including complaints that a local government has discriminated in exercising its land use and zoning powers. HUD is also obligated by statute to attempt to conciliate the complaints that it receives, even before it completes an investigation.

In matters involving zoning and land use, HUD does not issue a charge of discrimination. Instead, HUD refers matters it believes may be meritorious to the Department of Justice which, in its discretion, may decide to bring suit against the respondent in such a case. The Department of Justice may also bring suit in a case that has not been the subject of a HUD complaint by exercising its power to initiate litigation alleging a "pattern or practice" of discrimination or a denial of rights to a group of persons which raises an issue of general public importance.

The Department of Justice's principal objective in a suit of this kind is to remove significant barriers to the housing opportunities available for persons with disabilities. The Department ordinarily will not participate in litigation to challenge discriminatory ordinances which are not being enforced, unless there is evidence that the mere existence of the provisions are preventing or discouraging the development of needed housing.

If HUD determines that there is no reasonable basis to believe that there may be a violation, it will close an investigation without referring the matter to the Department of Justice. Although the Department of Justice would still have independent "pattern or practice" authority to take enforcement action in the matter that was the subject of the closed HUD investigation, that would be an unlikely event. A HUD or Department of Justice decision not to proceed with a zoning or land use matter does not foreclose private plaintiffs from pursuing a claim.

Litigation can be an expensive, time-consuming, and uncertain process for all parties. HUD and the Department of Justice encourage parties to group home disputes to explore all reasonable alternatives to litigation, including alternative dispute resolution procedures, like mediation. HUD attempts to conciliate all Fair Housing Act complaints that it receives. In addition, it is the Department of Justice's policy to offer prospective defendants the opportunity to engage in pre-suit settlement negotiations, except in the most unusual circumstances.

1. The Fair Housing Act uses the term "handicap." This document uses the term "disability" which has exactly the same legal meaning.

2. There are groups of unrelated persons with disabilities who choose to live together who do not consider their living arrangements "group homes," and it is inappropriate to consider them "group homes" as that concept is discussed in this statement.