

EXHIBIT -A

410.24 Group Home

Group Homes are permitted in all single family districts subject to the requirements provided herein. The purpose of these regulations is to permit minors, disabled, handicapped or elderly persons to reside together in single family residential neighborhoods in compliance with the Fair Housing Act, while preserving the residential character of the neighborhood.

- A. **Registration.** Group Homes with 7 – 10 residents shall submit a completed zoning permit application and required supplemental materials to the Planning Division on a form established by the Zoning Administrator. For Group Homes with 7 -10 residents that are licensed by the state, county or other governmental authority, a tentative zoning permit may be issued upon verifying the application complies with the standards below. Said Group Homes shall be considered to be registered with the city at the time they receive a tentative zoning permit. In all cases, permits for Group Homes shall terminate when the Group Home use ceases.
- B. **Standards.** Group Homes shall be located, developed, and operated in compliance with the following standards:
1. **Occupancy.** The number of residents, excluding staff, shall not exceed
 - a. 1- 6 Residents – No Zoning Permit required.
 - b. 7-10 Residents – A Zoning Permit is required.
 2. **Separation.** The minimum separation between Group Homes shall be 1,200 feet, as measured from the closest property lines.
 3. **Exterior Appearance.** There shall be no sign or other exterior indication of a Group Home visible from a street. A minimum six foot high wall or fence shall be provided for purposes of screening and securing outdoor recreational areas.
 4. **Compliance with all Applicable Building and Fire Safety Regulations.** Group Homes shall comply with any and all other applicable state or local requirements including, but not limited to, the City's building and fire codes. These requirements may require safety measures such as fire sprinklers, alarms and monitoring systems depending on such factors as the number of residents and whether the residents are capable of self-preservation.
 5. **Licensing.** Group Homes shall comply with any and all applicable state licensing requirements.
 6. **Parking.** Any parking for the group or residential care homes shall be on site and comply with the requirements of Article 407, On-Site Parking and Loading.
 7. **Exclusive Use.** All administrative activities, including staffing, counseling, and other visitations, shall serve only the residents of the Group Home.
 8. **Pre-Emptions.** Notwithstanding the foregoing, if the State has adopted laws or rules for the regulation of a specific type of Group Home, then any such State law or rule shall

apply in addition to the conditions listed herein and/or shall preempt any conflicting condition listed herein.

C. **Request for Accommodation.** If a group home owner believes any requirement of the Zoning Code prevents the establishment of a group home in an economically viable manner, the owner shall submit to the Zoning Administrator a written request for accommodation and the reasons why the accommodation is required. The written request shall contain sufficient facts to allow the Zoning Administrator to make an individualized determination of the group home's needs, to address the City's safety and welfare concerns, and to assure compliance with this section. The Zoning Administrator shall review the written request and determine:

1. Whether an accommodation should be made pursuant to the requirements of the Fair Housing Act;
2. If so, the nature of the accommodation taking into consideration the requirements of the Fair Housing Act, public safety and welfare concerns, and the residential character of the neighborhood; and
3. The accommodation shall be made only to the extent necessary to comply with the Fair Housing Act. Profitability or financial hardship of the owner/service provider of a facility shall not be considered by the Zoning Administrator in determining to grant a reasonable accommodation waiver. An appeal of the decision of the Zoning Administrator may be made regarding reasonable accommodation to the Board of Adjustment pursuant to Article 501.

Article 601 Use Classifications

Group Home means a residential dwelling unit shared as a primary residence by minors, disabled, handicapped or elderly persons, living together as a single housekeeping unit, in a long term, family-like environment in which staff persons provide on-site care, training, or support for the residents.

Article 602.02 List of Definitions

Family means one or more persons living together as a single housekeeping unit and sharing common living, sleeping, cooking and eating facilities. Members of a "family" need not be related by blood but are distinguished from a group occupying a hotel, club, fraternity or sorority house, or group home.

Red Fonts Letters in CAPS are Additions of the proposed text amendment.

~~Strikethrough~~ = Deleted text

Article 601 Use Classifications

DEFINITIONS

Family means one or more persons living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking and eating facilities. ~~Members of a "family" need not be related by blood but are distinguished from a group occupying a hotel, club, fraternity or sorority house.~~

~~Group and Residential Care Home.~~ **GROUP HOME.** A Residential dwelling unit for a group of no more than ~~five (5)~~ **SIX (6)** unrelated persons, excluding staff, who are not living together as a single housekeeping unit and in which every person residing in the facility (excluding the service provider, members of the service provider’s family, or persons employed as facility staff) is an individual with a disability. Residential care home service providers may or may not be license by the state or another government authority. This definition shall not include group homes for developmentally disabled nor adult foster care homes as specifically defined and provided for by the Arizona Revised Statutes.

410.24 ~~Residential and Group Care Homes~~ **GROUP HOME**

~~Residential and Group Care Homes~~ **GROUP HOME** are permitted in all single family districts subject to the requirements provided herein. The purpose of these regulations is to permit persons with disabilities to reside in single family residential neighborhoods in compliance with the Fair Housing Act, while preserving the residential character of the neighborhood.

- A. **Registration.** ~~Residential and Group Care~~ homes shall submit a completed zoning permit application and required supplemental materials to the Planning Division on a form established by the Zoning Administrator. For ~~Residential and Group Care~~ homes that are licensed by the state, county or other governmental authority, a tentative zoning permit may be issued upon verifying the application complies with the standards below. Said group homes or residential care home shall be considered to be registered with the city at the time they receive a tentative zoning permit ~~and shall submit to the city a copy of the license issued by the state, county or other governmental authority within ninety (90) days, or said registration shall be withdrawn.~~ In all cases, registration for group homes shall terminate when the group home use ceases.
- B. **Standards.** ~~Residential and Group Care~~ Homes shall be located, developed, and operated in compliance with the following standards:
 - 1. **Occupancy.** The number of residents, excluding staff, shall not exceed
 - a. **5-1- 6 RESIDENTS - NO ZONING PERMIT REQUIRED.**

b. 7-10 RESIDENTS – A ZONING PERMIT IS REQUIRED.

(1) PRIOR TO ISSUANCE OF A BUILDING PERMIT, FIRE SUPPRESSION (SPRINKLER, ALARM AND MONITOR) IS REQUIRED AS APPLICABLE, BY THE BUILDING SAFETY AND FIRE DEPARTMENT

2. SEPARATION. THE MINIMUM SEPARATION BETWEEN GROUP HOMES AND OR RESIDENTIAL CARE HOMES SHALL BE 1,200 FEET, AS MEASURED FROM THE CLOSEST PROPERTY LINES.

3. **Exterior Appearance.** There shall be no sign or other exterior indication of a group home visible from a street. A minimum six foot high wall or fence shall be provided for purposes of screening and securing outdoor recreational areas.

4. **Compliance with all Applicable Building and Fire Safety Regulations.** If a group home has one or more non-ambulatory (SELF PRESERVATION) residents, building AND FIRE CODES requirements in addition to those applicable to group homes with no non-ambulatory residents, shall apply, AS APPLICABLE. Existing garages, carport structures, or driveways shall not be expanded, modified, displaced or otherwise altered for the purposes of accommodating the group home or residential care home use.

5. **Licensing.** Residential and Group Care homes shall comply with applicable STATE licensing requirements.

6. **Parking.** Any parking for the group or residential care homes shall be on site and comply with the requirements of Article 407, On-Site Parking and Loading.

7. **Tenancy.** No group home or residential care home shall 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.

7. Exclusive **Use.** All administrative activities, including staffing, counseling, and other visitations, shall serve only the residents of the group home.

8. **PRE-EMPTIONS. NOTWITHSTANDING THE FOREGOING, IF THE STATE HAS ADOPTED LAWS OR RULES FOR THE REGULATION OF A SPECIFIC TYPE OF GROUP HOME, THEN ANY SUCH STATE LAW OR RULE SHALL APPLY IN ADDITION TO THE CONDITIONS LISTED HEREIN AND/OR SHALL PREEMPT ANY CONFLICTING CONDITION LISTED HEREIN.**

C. **Request for Accommodation.** If a group home owner believes any requirement of the Zoning Code prevents the establishment of a group home in an economically viable manner, the owner shall submit to the Zoning Administrator a written request for accommodation and the reasons why the accommodation is required. The written request shall contain sufficient facts to allow the Zoning Administrator to make an individualized determination of the group home's needs, to address the City's safety and welfare concerns, and to assure compliance with this section. The Zoning Administrator shall review the written request and determine:

9. Whether an accommodation should be made pursuant to the requirements of the Fair Housing Act;
10. If so, the nature of the accommodation taking into consideration the requirements of the Fair Housing Act, public safety and welfare concerns, and the residential character of the neighborhood; and
11. The accommodation shall be made only to the extent necessary to comply with the Fair Housing Act. Profitability or financial hardship of the owner/service provider of a facility shall not be considered by the Zoning Administrator in determining to grant a reasonable accommodation waiver. An appeal of the decision of the Zoning Administrator may be made regarding reasonable accommodation to the Board of Adjustment pursuant to Article 501.

Original Text with Staff Proposed Text

36-582. Residential facilities; zoning; notice; appeal

A. Unrelated persons living together notwithstanding, a residential facility which serves six or fewer persons shall be considered a residential use of property for the purposes of all local zoning ordinances if such facility provides care on a twenty-four hour per day basis. The residents and operators of such a facility shall be considered a family for the purposes of any law or zoning ordinance which relates to the residential use of property. The limitation of six or fewer persons does not include the operator of a residential facility, members of the operator's family or persons employed as staff, except that the total number of all persons living at the residential facility shall not exceed eight.

B. For the purpose of all local ordinances, a residential facility which serves six or fewer persons shall not be included within the definition of any term which implies that the residential facility differs in any way from a single family residence.

C. The provisions of this section shall not be construed to forbid any city, county or other local public entity from placing restrictions on building heights, setback, lot dimensions and placements of signs of a residential facility which serves six or fewer persons as long as such restrictions are identical to those applied to other single family residences.

D. The provisions of this section shall not be construed to forbid the application to a residential facility of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity provided that such ordinance does not distinguish residential facilities which serve six or fewer persons from other single family dwellings and provided further that such ordinance does not distinguish residents of such residential facilities from persons who reside in other single family dwellings.

E. A local ordinance which distinguishes, tends to distinguish, or has the effect of distinguishing residential facilities which serve six or fewer persons from single family dwellings shall be void and of no effect as applied to such facilities.

F. No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential facility which serves six or fewer persons which is not required of a single family residence in the same zone.

G. For the purposes of any contract, deed, or covenant for the transfer of real property executed subsequent to the effective date of this section, a residential facility which serves six or fewer persons shall be considered a residential use of property and a use of property by a single family, notwithstanding any disclaimers to the contrary.

H. No residential facility shall be established within a twelve hundred foot radius of an existing residential facility in a residential area.

I. Prior to the establishment of a residential facility in a residential area, the department shall give at least sixty days written notice to the local government unit affected. The government unit shall have the right to contest the establishment of a residential facility in a residential area by written objection filed with the department within thirty days after receiving notice and may request an administrative hearing pursuant to title 41, chapter 14, article 3.

J. Other residential facilities which serve seven or more persons shall be a permitted use in any zone in which residential buildings of similar size, containing rooms or apartments which are provided on a continuing basis for compensation, are a permitted use. Nothing in this section shall be construed to prohibit any city or county from requiring a conditional use permit in order to maintain a residential facility serving seven or more persons, provided that no conditions shall be imposed on such a facility which are more restrictive than those imposed on other similar dwellings in the same zones.

K. The provisions of this article shall apply only to residential facilities licensed, operated, supported or supervised by the department and the establishment of a particular facility shall not create any zoning rights with respect to any subsequent use of the property involved.

L. This article shall apply only as to those government units which have adopted zoning ordinances which place more restrictions on the establishment of residential facilities than those pertaining to facilities authorized under this article, except that the local government unit to which this article does not otherwise apply may require the same notice and hearing procedures applicable to other zoning matters notwithstanding the provisions of subsection I of this section.