

PLANNING COMMISSION REPORT



Meeting Date: November 17, 2021
General Plan Element: *Land Use*
General Plan Goal: *Create a sense of community through land uses*

ACTION

Disability Accommodation/Care Home Text Amendment 147-PA-2020#2

Request to consider the following:

1. To initiate a text amendment to the City of Scottsdale Zoning Ordinance (Ordinance No. 455) for the purpose of amending Article I. Section 1.806 (Disability Accommodations), Section 1.920 (Request for Disability Accommodation), Section 3.100 (Definitions), Sections 5.012 and 5.102 (Use Regulations/Use Table) and any other applicable sections, to modify the provisions specifying consideration of a disability accommodation request and care homes, and update other related definitions, land use, and procedural information.

Related Policies, References:

Zoning Ordinance

Key Items for Consideration

- Inconsistent terms and provisions will be reviewed
- Provide clarification for processing of administrative/non-administrative applications
- Review language and terminology for consistency with associated process and components of related AZDHS licensing (when applicable to an accommodation request)
- Ensure consistency with state and federal case law

APPLICANT CONTACT

Jeff Barnes
City of Scottsdale
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LOCATION

City-wide

PROPOSAL

Purpose of Request

The purpose of this request is to initiate a text amendment to the City of Scottsdale Zoning Ordinance for the purpose of modifying the provisions specifying consideration of a disability accommodation request (Section 1.806, Section 1.920, Sec. 3.100, Sections 5.012 and 5.102, and any other applicable sections). Changes are likely necessary to the criteria and evidence evaluated for a disability accommodation and to the definitions of terms of related processes and components, to be more consistent with regulations of the Americans with Disabilities Act, Fair Housing Act, and applicable licensing components of the Arizona Department of Health Services.

Recently the Board of Adjustment identified some inconsistencies between the City's Care Home definition and the State's licensing categorizations that lead to overturning a Decision by the Zoning Administrator. Part of the purpose of this text amendment will be evaluating adjustment to the definition and land use language to realign it with the direction by the City Council through their previously adopted text amendment action, as well as alignment with state and federal laws.

IMPACT ANALYSIS

Community Involvement

This proposal will include standard community involvement consisting of public notice in the newspaper, online notification, postcard mailing to interested parties and community outreach meetings.

Community Impact

This proposal provides for review of the City's zoning requirements as they relate to Federal law, State law, case law, and consistent application of standards.

STAFF RECOMMENDATION

Recommended Approach:

Staff recommends that the Planning Commission initiate the text amendment.

RESPONSIBLE DEPARTMENT

Planning and Development
Current Planning Services

STAFF CONTACTS

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APPROVED BY



Jeff Barnes, Report Author

11/9/2021

Date



Tim Curtis, AICP, Current Planning Director
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11/10/2021

Date



Randy Grant, Executive Director
Planning and Development Services
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11/10/2021

Date

ATTACHMENTS

1. Zoning Ordinance Section 1.806, Section 1.920, Section 3.100, and Sections 5.012 and 5.102 (current text)

Sec. 1.806. - Disability Accommodation.

- A. A disability accommodation from a development standard or separation requirement shall not be authorized unless the Board shall find upon sufficient evidence all of the following:
 - 1. The requested accommodation is requested by or on the behalf of one (1) or more individuals with a disability protected under federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.);
 - 2. The requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling;
 - 3. The standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the City of Scottsdale;
 - 4. The requested accommodation does not fundamentally alter the nature and purpose of the Zoning Ordinance of the City of Scottsdale;
 - 5. The requested accommodation will not impose an undue financial or administrative burden on the City, as "undue financial or administrative burden" is defined in federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.) and interpretive case law;
- B. The profitability or financial hardship of the owner/service provider of a facility shall not be considered in determining whether to grant a disability accommodation.
- C. The requested accommodation must comply with all applicable building and fire codes.
- D. The requested accommodation must not, under the specific facts of the application, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

(Ord. No. 4326, § 1(Res. No. 10963, § 1(Exh. A)), 12-5-17)

Sec. 1.920. - Request for Disability Accommodation.

An applicant may request a disability accommodation from a development standard or separation requirement if the standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the city of Scottsdale. The zoning administrator may administratively approve up to a ten percent (10%) modification of a development standard or separation requirement upon finding that such a modification will further the policies contained in the Arizona and federal fair housing laws and the Americans with Disabilities Act. All other requests for disability accommodation shall be submitted to the Board of Adjustment as a request for disability accommodation.

(Ord. No. 4326, § 1(Res. No. 10963, § 1(Exh. A)), 12-5-17)

Sec. 3.100 – General (Definitions)

Care home shall mean a dwelling shared as a primary residence by no more than ten (10) adults with a disability that is licensed as a health care institution under Arizona law, and in which on-site supervisory or other care services are provided to the disabled residents. For purposes of this definition, a person must live in the dwelling a minimum of thirty (30) consecutive days for this dwelling to be considered a primary residence. A care home is a principal, not an accessory, use.

Sec. 5.102 & 5.012 – Use Regulations (Single-family Residential)

Care home is subject to the following criteria:

- a. *Floor area ratio*: Is limited to thirty-five hundredths (0.35) of the net lot area.
- b. *Capacity*: The maximum number of residents, including up to ten (10) disabled persons, the manager/supervisor, property owner, and residential staff at the home is twelve (12) per residential lot.
- c. *Location*: A care home shall not be located within twelve hundred (1200) feet, measured from lot line to lot line, of another care home.
- d. *Compatibility*: The home and its premises shall be maintained in a clean, well-kept condition that is consistent in materials and design style with homes in the surrounding or adjacent neighborhood.
- e. *Criteria*: Care homes must be licensed by the State of Arizona and must provide proof of such licensing by the State of Arizona as a health care institution to the Director of Planning prior to the commencement of operations. All care homes must pass an initial and annual fire inspection administered by the Scottsdale Fire Department. Proof of such inspection and of correction of any noted deficiencies must be available at the care home at all times.
- f. *Accommodation*: A disabled person may request a disability accommodation from the above criteria or a development standard pursuant to Section 1.806. of this Zoning Ordinance.