



NAVAJO COUNTY PUBLIC WORKS DEPARTMENT
PLANNING & ZONING

STAFF REPORT

PLANNING & ZONING

Hearing Date: October 17, 2019

Case No: 19-46

Action: Zoning Ordinance Amendment

Applicant: Planning & Zoning Staff

Project Name: Group Homes for the Disabled Zoning Ordinance Addition

TITLE:

Policy Discussion on Proposed Amendments to Zoning Ordinance Articles 3, 4, 9, 13, 20, 25, and 30.

RECOMMENDED ACTION:

Staff will be seeking Planning and Zoning Commission direction on any policy issues associated with proposed amendments to Articles 3, 4, 9, 13, 20, 25, and 30 of the Navajo County Zoning Ordinance.

EXECUTIVE SUMMARY:

This request is intended to start discussion and potentially come to a recommended resolution with the Planning and Zoning Commission on the amendments of Articles 3, 4, 9, 13, 20, 25, and 30 of the Navajo County Zoning Ordinance for the inclusion of Group Homes for the Disabled as an allowed use in various zoning categories while also providing guidelines, regulations, and definitions related to Group Homes for the Disabled. With this request, staff will introduce the proposed amendments to the Planning and Zoning Commission, explaining the reason for them and why new amendments are being proposed. The Planning and Zoning Commission will be able to identify any policy issues that warrant a more in-depth discussion, either at the current meeting, or in a future meeting.

COMPREHENSIVE PLAN:

The Navajo County Comprehensive Plan supports the update and amendment of the Navajo County Zoning Ordinance with the following goal(s) (policies only included where needed to clarify a goal):

Goal 2: To administer the Land Use Element of the Navajo County Comprehensive Plan so as to further the purposes of the Plan.

Policy 2-C: Revise the Navajo County Zoning Ordinance, as desired and necessary, to support

newer aspects of this Comprehensive Plan, including possible addition of new and different commercial districts, revision of development standards to mitigate impacts between uses, etc.

POLICY AMENDMENT:

The amendments identified by staff may require a more in-depth policy discussion with the Planning and Zoning Commission and are summarized in the tables in the first attachment (The Planning and Zoning Commission may also identify additional policy issues as they review the proposed amendment).

Attached are two documents that contain all the amendments proposed for the addition of assisted living facility regulations and definitions within the Navajo County Zoning Ordinance, including:

- The additions to the Zoning Ordinance in Article 3, 4, 9, 13, 20, 25, and 30.
- A track changes version of the amendment to Article 3, 4, 9, 13, 20, 25, and 30.
- A clean version with all changes accepted for the addition to Articles 3, 4, 9, 13, 20, 25, and 30.

**Summary of Policy Issues
Proposed Amendments to the Zoning Ordinance
Articles 3, 4, 9, 13, 20, 25, and 30**

Articles 3, 4, 9, and 13

Policy Question(s)

- Should there be the addition of a use category for Group Homes for the Disabled within the residential Zoning Districts in the Navajo County Zoning Ordinance?

Existing Zoning Ordinance	Proposed Amendment to the Zoning Ordinance
There are currently no use categories for Group Homes for the Disabled in any of the residential Zoning Districts.	This amendment would add the use category of “Group Homes for the Disabled subject to Section 2518” to all residential Zoning Districts. Section 2518 will prescribe the regulations surrounding Group Homes for the Disabled to ensure they are serving their actual defined purpose.

Article 20

Policy Question(s)

- Should there be the addition of a special use category for Institutional Residential and Other Group Homes within the Special Uses category in the Navajo County Zoning Ordinance?

Existing Zoning Ordinance	Proposed Amendment to the Zoning Ordinance
There are currently no use categories for Institutional Residential or Other Group Homes in the Special Uses category, or any Zoning District within the Zoning Ordinance.	The addition of a Special Use category for Institutional Residential or Other Group Homes would allow for all group homes not included under the definition of Group Homes for the Disabled to be applied for through the Special Use Permit process.

Article 25

Policy Question(s)

- Should there be policies in place in the Navajo County Zoning Ordinance for Group Homes for the Disabled so that there can be oversight on such facilities and regulation on other Group Home Facilities that do not fit under the definition of Group Homes for the Disabled?

Existing Zoning Ordinance	Proposed Amendment to the Zoning Ordinance
The current Zoning Ordinance makes no mention of Group Homes of any variety. Without there being any listing or definition for Group Homes, there are effectively no Planning and Zoning related restrictions, regulations, or allowances for these types of uses within the County’s Zoning Districts.	The addition to the Zoning Ordinance would allow for a process to verify if a proposed Group Home qualifies for a Group Home for the Disabled. If this Home does meet all State and County requirements, it would then be an allowed use following a permit. If a Group Home did not qualify under these standards,

	they would then need to go through the Special Use Permit process, a public process, before being allowed to operate in the County.
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Article 30

Policy Question(s)

- Should there be definitions added to the Navajo County Zoning Ordinance that help to modernize allowed and special uses in the Ordinance and add clarity to the different types of Group Homes that exist?

Existing Zoning Ordinance	Proposed Amendment to the Zoning Ordinance
Currently, there are no definitions related to Group Homes within the Navajo County Zoning Ordinance. The closest reference to facilities of this type are “orphanages,” which are not defined within the Ordinance.	The proposed amendments look to add definitions for Group Homes for the Disabled and alter the definition for Family to create more consistency with updated Ordinance standards.

Analysis:

Navajo County’s Zoning Ordinance currently has no allowances for any variety of Group Homes. It could be argued that, given this, there are no regulations against group homes in the County. However, given the way that our Zoning Ordinance is worded, group homes should not currently be an allowed use unless the Director of Development Services were to find the group home use similar to another use within a Zoning District. When reviewing this fact, it has become apparent that the addition of group homes to the Zoning Ordinance was overlooked while many of its’ other components were modernized.

According to the Fair Housing Act, it is prohibited to discriminate in the sale, rental, and financing of dwellings and in other housing-related activities based on disability, as well as a number of other protected classes. In the case of group home occupancy, it is important not to take part in anything that would be considered discriminatory, as potential regulations could fall under “other housing-related activities.” Persons with disabilities protected by these measures include the following:

1. An individual with a physical or mental impairment that substantially limits one or more major life activities.
2. An individual with a record of the abovementioned impairment.
3. An individual who is regarded as having such impairments.

Physical mental impairments include, but are not limited to, conditions such as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus (HIV), developmental disabilities, mental illness, drug addiction, and alcoholism. It is vital that the County develops policies for group homes that will have no effect of discrimination against these protected classes and will help to make these occupants feel welcome as residents.

In addition to Federal regulations, there are State regulations that also must be considered in the development of policies for group homes within Navajo County. The residential facilities that will be

referenced from this point onwards will have the following definition:

“Homes in which persons with developmental disabilities live and that are licensed, operated, supported, or supervised by the State.”

In the State of Arizona, residential facilities that serve six or fewer persons shall be considered a residential use of property for all zoning purposes if care is provided on a twenty-four-hour basis. These facilities shall not be included in any policies that imply they are any different from a single-family residence. No conditional use permit, zoning variance, or other zoning clearance shall be required of these facilities. Prior to the establishment of these facilities, the department is required to give sixty days written notice to the locally affected government agency. In the thirty days following, the agency is then allowed to contest the establishment of the facility in a residential area.

RESOLUTION NO. 19-46P

A RESOLUTION OF THE NAVAJO COUNTY PLANNING & ZONING COMMISSION, RECOMMENDING AMENDMENTS TO THE NAVAJO COUNTY ZONING ORDINANCE

WHEREAS, Planning & Zoning Staff has recommended the amendment of the Navajo County Zoning Ordinance, adding uses to Articles 3, 4, 9, and 13, adding a special use to Article 20, adding general provisions to Article 25, and adding and changing existing definitions in Article 30.

WHEREAS, a duly noticed public hearing on said amendments was held by the Planning & Zoning Commission on October 17, 2019; and

WHEREAS, the Commission finds that said amendments are in the public interest and should be approved.

NOW, THEREFORE, BE IT RESOLVED that the Planning & Zoning Commission recommends to the Board of Supervisors that Articles 3, 4, 9, 13, 20, 25, and 30 should be amended within the Navajo County Zoning Ordinance as follows:

SECTION 1. That Articles 3, 4, 9, and 13 are hereby amended as follows (new text is shown in underline, and text proposed to be deleted is shown as ~~strikeout~~):

1. Section 302 – Use Regulations.

ADD in the appropriate alphabetical and numerical sequence: Group Homes for the Disabled subject to Section 2518.

2. Section 402 – Use Regulations.

ADD in the appropriate alphabetical and numerical sequence: Group Homes for the Disabled subject to Section 2518.

3. Section 902 – Use Regulations.

ADD in the appropriate alphabetical and numerical sequence: Group Homes for the Disabled subject to Section 2518.

4. Section 1302 – Use Regulations.

ADD in the appropriate alphabetical and numerical sequence: Group Homes for the Disabled subject to Section 2518.

SECTION 2. That Article 20 is hereby amended as follows (new text is shown in underline, and text proposed to be deleted is shown as ~~strikeout~~):

1. Section 2001 – Special Uses.

ADD in the appropriate alphabetical and numerical sequence: Institutional Residential and Other Group Homes.

SECTION 3. That Article 25 is hereby amended as follows (new text is shown in underline, and text proposed to be deleted is shown as ~~strikeout~~):

Section 2518 – Group Homes for the Disabled

1. Purpose.

The purpose of these regulations is to permit disabled persons, as defined by state and federal law, to reside in single-family residences in compliance with the Fair Housing Act and Arizona state law, while maintaining the residential character of neighborhoods.

2. Applicability.

- a. Zoning Confirmation: Prior to registration, requests for zoning confirmation may be submitted to the Planning and Zoning Department to confirm the proposed location of the group home is permitted per this Section.
- b. Additional Requirements of State Law: Notwithstanding the foregoing, if the State has adopted laws or rules for the regulation of a specific type of home, such as a Group Home for the Developmentally Disabled or an Assisted Living Home as defined by state statutes, then any such State law or rule shall apply in addition to the conditions listed herein and shall preempt any conflicting condition listed herein.

3. Performance Standards.

Group Homes for the Disabled shall be located, developed, and operated in compliance with the following standards:

- a. Separation: The minimum separation between group homes shall be 1,200 feet as prescribed by A.R.S. § 36-582, as measured by the closest property lines.
- b. Occupancy: The number of residents, excluding staff, shall not exceed 10.
- c. Exterior Appearance: There shall be no sign or other exterior indication of a group home visible from a street.
- d. Compliance with Building, Environmental Health, and Fire Safety Regulations: Group homes shall be required to comply with all relevant building, environmental health, and fire safety regulations. If a group home has one or more non-ambulatory residents, building code requirements in addition to those applicable to group homes containing no non-ambulatory residents, shall apply.
- e. Licensing: Group homes shall comply with applicable licensing requirements.
- f. Parking: Any parking for the group homes shall be on site.

4. Permits and Administration.

- a. Property is considered a Group Home for the Disabled under this Ordinance after the Navajo County Planning and Zoning Department issues a Permit for a Group Home for the Disabled for that property. Only properties serving occupants who fit the definition of disabled under the Fair Housing Act are eligible for determination as a Group Home for the Disabled.
- b. In order to secure a permit for a group home for the disabled, an application must be submitted on the form prescribed by the Planning and Zoning Department. The application must include the following:
 - (1) A site plan
 - (2) A notarized statement detailing qualifications
 - (3) Copies of applicable licenses
 - (4) Affidavit of compliance and other documentation indicating the property as a group home for the disabled
 - (5) Any additional information or plans, if deemed necessary
- c. If standards are not met, the home shall be considered another group home or institutional residential use and shall be subject to the provisions of the Zoning Ordinance guiding such establishments. Status as a Group Home for the Disabled is open to review by the Navajo County Planning and Zoning Department and may be cancelled at any time upon a determination by the Director that the property is no longer being used for a qualifying purpose or meeting standards laid forth in this Ordinance.

SECTION 4. That Article 30 is hereby amended as follows. The following new definitions shall be added in the proper alphabetical and numerical sequences (new text is shown in underline, and text proposed to be deleted is shown as ~~strikeout~~):

Family:

~~One (1) or more persons occupying a premise and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house, or hotel as herein defined.~~
An individual, or two (2) or more persons related by blood, marriage, or adoption, or other legal relationship including any live-in domestic help, living together as a single housekeeping unit in a dwelling unit, or a group of not more than five (5) adults, who need not be related, living together as a single housekeeping unit in a dwelling unit.

Group Home for the Disabled

A Dwelling Unit that is licensed or authorized by a governmental authority having jurisdiction over operations for 10 or fewer disabled persons who reside together as a single housekeeping unit and who receive care, supervision, or counseling from one or more staff persons. This Use shall not include boarding houses, nursing homes, or other group homes not for the disabled. A facility is not a Group Home for the Disabled unless it meets the provisions of Title VIII of the Civil Rights Act of

1968 as amended by the Fair Housing Act.

Institutional Residence

Facilities for living, sleeping, and sanitation and may include facilities for eating and cooking, for occupancy by other than a Family.

SECTION 5. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 6. Clerical Corrections

The County Clerk is hereby authorized to correct typographical and grammatical errors, as well as errors of wording and punctuation, as necessary related to this ordinance as amended herein, and to make formatting changes needed for purposes of clarity and form, or consistency, within thirty (30) days following adoption by the Board of Supervisors.

SECTION 7. Effective Date

This ordinance shall become effective thirty (30) days following adoptions by the Board of Supervisors.

PASSED AND ADOPTED by the Planning & Zoning Commission by a vote of

_____ yeas and _____ nays on October 17, 2019.

Chairman, Navajo County
Planning & Zoning Commission

ATTEST:

Secretary, Navajo County
Planning & Zoning Commission

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ADD in the appropriate alphabetical and numerical sequence: Group Homes for the Disabled subject to Section 2518.

SECTION 2. That Article 20 is hereby amended as follows:

1. Section 2001 – Special Uses.

ADD in the appropriate alphabetical and numerical sequence: Institutional Residential and Other Group Homes.

SECTION 3. That Article 25 is hereby amended as follows

Section 2518 – Group Homes for the Disabled

1. Purpose.

The purpose of these regulations is to permit disabled persons, as defined by state and federal law, to reside in single-family residences in compliance with the Fair Housing Act and Arizona state law, while maintaining the residential character of neighborhoods.

2. Applicability.

c. Zoning Confirmation: Prior to registration, requests for zoning confirmation may be submitted to the Planning and Zoning Department to confirm the proposed location of the group home is permitted per this Section.

d. Additional Requirements of State Law: Notwithstanding the foregoing, if the State has adopted laws or rules for the regulation of a specific type of home, such as a Group Home for the Developmentally Disabled or an Assisted Living Home as defined by state statutes, then any such State law or rule shall apply in addition to the conditions listed herein and shall preempt any conflicting condition listed herein.

3. Performance Standards.

Group Homes for the Disabled shall be located, developed, and operated in compliance with the following standards:

g. Separation: The minimum separation between group homes shall be 1,200 feet as prescribed by A.R.S. § 36-582, as measured by the closest property lines.

h. Occupancy: The number of residents, excluding staff, shall not exceed 10.

i. Exterior Appearance: There shall be no sign or other exterior indication of a group home visible from a street.

j. Compliance with Building, Environmental Health, and Fire Safety Regulations: Group homes shall be required to comply with all relevant building, environmental health, and fire safety regulations. If a group home has one or more non-ambulatory residents, building code requirements in addition to those applicable to group homes containing no non-ambulatory residents, shall apply.

k. Licensing: Group homes shall comply with applicable licensing requirements.

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4. Permits and Administration.

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- f. If standards are not met, the home shall be considered another group home or institutional residential use and shall be subject to the provisions of the Zoning Ordinance guiding such establishments. Status as a Group Home for the Disabled is open to review by the Navajo County Planning and Zoning Department and may be cancelled at any time upon a determination by the Director that the property is no longer being used for a qualifying purpose or meeting standards laid forth in this Ordinance.

SECTION 4. That Article 30 is hereby amended as follows. The following new definitions shall be added in the proper alphabetical and numerical sequences:

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