

## Legislation Text

---

**File #:** PB Reso 18-2016, **Version:** 1

---

Agenda Date: 10/24/16

**Subject:**

Recommendation concerning an ordinance amending Title 10 of the City Code concerning the definitions of Group Home for Persons with Handicaps, Handicap and Assisted Living Facility and to add supplementary standards for group homes for persons with disabilities.

Presented By: Jocelyn Mills, Community Development Director
---

**BACKGROUND:**

It has recently come to staff's attention that the city's zoning code definitions for group home for persons with handicaps, handicap, and assisted living facilities need to be updated. An application concerning a group home for persons with handicaps and related litigation have prompted these proposed amendments.

**STAFF ANALYSIS:**

In Littleton's zoning code, Title 10, Section 10-1-2 contains definitions. Below is the existing definition for group home for persons with handicaps:

*GROUP HOME FOR PERSONS WITH HANDICAPS: A dwelling unit which is shared by four (4) or more persons with handicaps living together as a single housekeeping unit, including resident staff.*

Group homes for persons with handicaps are permitted in the city's residential districts (R-1, R-2, R-3, R-3X, R-4 and R-5), in the Transition District (T) and in the Central Area District (CA) and are characterized by a single dwelling unit. The code distinguishes group homes from larger scale facilities which may provide 24 hour nursing and medical care, such as skilled nursing facilities, nursing homes/congregate housing and assisted living. Such facilities are only permitted in R-5, T and CA Districts and are characterized by multiple units within a facility.

The city received an application concerning a group home for persons with handicaps questioning the meaning of resident staff and seeking an accommodation under the Fair Housing Act to eliminate that requirement. In order to address this, staff recommends removal of the reference to resident staff.

The current definition for group home for persons with handicaps provides a minimum residency requirement of four people with disabilities living together, but does not provide a maximum number of residents. In contrast, the definition for group homes for the elderly limits maximum residency to no more than eight residents. With the removal of the resident staff requirement, staff recommends that the definition for group home for persons with handicaps (disabilities) use the same residency allowance as group homes for the elderly. Creating consistent standards for the maximum number of residents in one dwelling unit will ensure that the character of residential neighborhoods will be maintained in terms of traffic and parking impact.

Due to the recognition that in particular locations of some properties in the city's residential zone districts where there is direct vehicular access to and roadway frontage along arterial streets (e.g., Broadway Boulevard), a larger group home may be acceptable. In these instances, the recommendation is to allow up to a maximum of 12 disabled residents in a single group home dwelling unit. Doubling the maximum number to 16 disabled residents appears to be out of character, yet an additional 4 disabled residents (for up to 12 maximum) appears to still be within the character of some of the city's residential areas. This is intended to provide consistency with the character of the transitional areas between residential and commercial uses, which exhibit more intensive traffic, noise and parking impacts along arterial streets.

Staff is also proposing to change the definitions of handicap. Rather than only referencing the definitional language of the FHA Amendments of 1988, the proposed amendment expands the definition to include that language.

In summary, the following amendments are proposed to the definition of group home for persons with handicaps (disabilities) and handicap (disability):

**GROUP HOME FOR PERSONS WITH HANDICAPS DISABILITIES:** A dwelling unit which is shared by four (4) or more persons with ~~handicaps~~ **DISABILITIES** living together as a single housekeeping unit ~~including resident staff~~. **PROFESSIONAL STAFF MAY PROVIDE 24 HOUR SUPERVISION OR SUPPORTIVE SERVICES, AND MAY RESIDE IN THE DWELLING UNIT.**

**Handicap DISABILITY:** a physical or mental impairment which substantially limits one or more of a person's major life activities, ~~and as further defined in the federal fair housing act amendments of 1988~~ **A RECORD OF HAVING SUCH IMPAIRMENT, OR BEING REGARDED AS HAVING SUCH IMPAIRMENT, NOT TO INCLUDE CURRENT, ILLEGAL USE OF OR ADDICTION TO A CONTROLLED SUBSTANCE.**

The following new supplementary standards also are proposed for group homes for persons with disabilities to ensure the character of residential neighborhoods will be maintained.

1. The home must register with the city before being operated as a group home.
2. The home must provide the city with a copy of its state license for operation.
3. No more than one cooking facility (kitchen) is allowed within the home.
4. The maximum number of persons with disabilities that may reside in the home is eight (8) or the maximum number licensed by the state, whichever is fewer.
5. The maximum number of persons with disabilities that may reside in the home is eight (8) or up to twelve (12) if the provisions below are met. However, in no instance may the number of persons with disabilities in the home exceed the number licensed by the State.
  - a. The home is compatible with the character of the neighborhood in terms of the architectural design, scale, form and location of the home on the site.
  - b. The primary access to the home is located off of a city designated major arterial street.
  - c. The home is licensed for such number by the state.

Additionally, staff is recommending the definition of the city's definition for assisted living facilities be updated to eliminate the following sentence, as shown below, from the definition.

**LIVING FACILITY, ASSISTED:** State licensed rental properties that provide the same services as an independent living facility, as defined in this section, but also provide, in a majority of the units, supportive care from trained employees to residents who are unable to live independently and require assistance with activities

of daily living including BUT NOT LIMITED TO management of medications, bathing, dressing, toileting, ambulating and eating. ~~These properties may have some skilled nursing beds, but the majority of the units are licensed for assisted living. A facility that specializes in the care of residents with Alzheimer's or other forms of dementia shall be considered an assisted living facility.~~

Note on update to the city's land use table: The planning commission and zoning steering committee have been reviewing a draft update to the city's land use table (Chapter 3 of the zoning code) and supplementary standards over the past several months. At this time, this is an intermediate step to update the definitions of group home for persons with handicaps (disabilities), handicap (disability) and assisted living facility, and provide supplementary standards for group homes for persons with disabilities, for further clarity.

#### **COMPREHENSIVE PLAN ANALYSIS:**

The following goal and policy of the adopted Citywide Plan is applicable to this proposed code amendment.

*Goal 1: A Dynamic Littleton*

*Policy 1.6 - Encourage housing that responds to changing demands in the local housing market, allows every generation and income group to call Littleton home, and is otherwise consistent with the comprehensive plan.*

#### **STAFF RECOMMENDATION:**

Based on the above, staff recommends planning commission recommend approval to update the definition of group home for persons with handicaps, the definition of handicap, and the definition of living facility, assisted.

#### **PROPOSED MOTION:**

I move to approve the resolution recommending approval to the city council for an ordinance amending Title 10 of the City Code concerning the definitions of group home for persons with handicaps, handicap, and assisted living facility and to add supplementary standards for group homes for persons with disabilities.