



Date: July 1, 2021  
To: Planning and Zoning Board  
From: Rachel Prelog, Principal Planner  
Through: Nana Appiah, Planning Director  
Subject: Mesa Zoning Ordinance text amendment (**Community Residence Amendments**)-  
Proposed amendments to Chapters 4, 5, 6, 8, 31, 32, 58, 64, 86, and 87

**PURPOSE AND BACKGROUND:**

The proposed amendments to “group home for the handicapped” or what will be known as “community residence” standards, aim to strengthen the City’s registration process, ensure compliance with state and federal law, and prevent the overconcentration of facilities that may result in a “de facto social service district,” while also providing residents with disabilities the opportunity to live in a family-like setting and to integrate into the surrounding community.

People with disabilities often need a living arrangement where they receive staff support to engage in the everyday life activities that most of us take for granted. These sorts of living arrangements fall under the broad rubric of “community residence” — a term that reflects their residential nature and family-like living environment rather than the institutional nature of a hospital, social service facility, or the non-family nature of a boarding or lodging house. The primary use of “community residence” is residential or a home, not a treatment center, an institution, or a boarding house.

The proposed zoning amendments considers both federal fair housing laws and the State statutes that restrict local zoning from enacting regulations, “...that have the effect of limiting the ability of disabled persons from living in the residence of their choice in the community” (Fair Housing Amendments Act of 1988). The text amendments seek to enable community residences to locate in all appropriate residential zoning districts with reasonable standards geared towards preventing clustering and concentrations of the community residences in the city. The amendments also aim at protecting residents of community residences from improper or incompetent care or abuse by operators of such homes.

The proposed text amendments include five main components; (1) Updating terminology and definitions; (2) Modifying land use tables and the land use processes required in various zoning districts; (3) Modifying development standards to improve the organization of Section 11-31-14 of the Zoning Code for improved readability and including changes to the occupancy limits for community residences, licensure and certification requirements, and Conditional Use Permit approval criteria; (4) Strengthening the City’s registration requirements by requiring proof of licensure or certification, requiring an annual renewal, and providing a revocation process by which the City can terminate a community residence’s registration; and (5) Modifying the City’s reasonable accommodation process by which applicants can request exception to the development standards for community residences.

## SUMMARY OF THE AMENDMENTS AND EXPLANATION:

### *1) Updating terminology and definitions*

The purpose of these changes is to remove and replace outdated terminology, modify duplicative or ambiguous definitions, and align certain definitions with the Arizona Department of Health Services terminology and standards. The specific changes are shown in the table below:

**Table 1: Summary of Definition modifications**

TERMINOLOGY / DEFINITIONS		
<i>Removed</i>	<i>Modified</i>	<i>Added</i>
foster home, group	boarding house	comprehensive youth residence
group home for the handicapped	disability	community residence
group housing	group foster home	family
group residential	multiple residence	family community residence
handicapped person	single residence	single housekeeping unit
residential care institution	social service facility	skilled nursing facility
		transitional community residence

### *2) Modifying land use tables and the land use processes required in various zoning districts*

With the proposed amendments, community residences that house four or less individuals would be considered similar to a single residence and treated like any single residence under the Zoning Ordinance. Community residences housing more than four individuals, on the other hand, will need to: (1) Register with the City as a community residence; and (2) Adhere to zoning district land use regulations and development standards for community residences, including conforming to required spacing distances between another community residence or assisted living facility, the maximum occupancy limits for the number of people allowed to reside in a residence, and licensing or certification requirements.

Also, as part of the zoning text changes, the proposed request seeks to categorize community residences into two types. The two types are family community residence and transitional community residence. This classification is due to differences in the living arrangements, such as the duration of stay. Specifically, a family community residence offers a relatively permanent living arrangement, where there is no limit on how long an individual can reside in the home. Because residents typically stay a year or longer, this arrangement most closely resembles a family where strong ties are built with caregivers, residents, and the surrounding community.

Transitional community residences, on the other hand, are relatively temporary living arrangements where residents typically stay in the residence for months, instead of years. Due to the transitional nature, residents of transitional community residence become less permanent members of the neighborhood. Therefore, staff recommends that transitional community

residences require a Special Use Permit (SUP) in single residence areas and be permitted by-right in multiple residences areas because the transient nature of such uses is similar to multiple residence occupants.

Table 2 below illustrates the proposed land use processes required for family community residences and transitional community residences within various zoning districts. Previously in the Zoning Ordinance, group homes for the handicapped (community residences) were categorized as one use and did not distinguish between the length of tenancy.

**Table 2: Summary of zoning district land use table modifications**

<b>COMMUNITY RESIDENCE</b>		
<b><i>Zoning District</i></b>	<b><i>Family Community Residence</i></b>	<b><i>Transitional Community Residence</i></b>
Agriculture (AG)	P	SUP
Single Residential (RS)	P	SUP
Residential Small Lot (RSL)	P	SUP
Multiple Residence	P	P
Neighborhood Commercial (NC)	CUP/P	CUP/P
Limited Commercial (LC)	CUP/P	CUP/P
General Commercial (GC)	CUP/P	CUP/P
Office Commercial (OC)	--	--
Mixed-Use (MX)	CUP/P	CUP/P
Downtown Residential-1 (DR-1)	P	P
Downtown Residential-2 (DR-2)	P	P
Downtown Residential-3 (DR-3)	P	P
Downtown Business-1 (DB-1)	P	P
Downtown Business-2 (DB-2)	CUP	CUP
Downtown Core (DC)	P	P
T3 Neighborhood (T3N)	P	P
T4 Neighborhood (T4N)	P	P
T4 Neighborhood Flex (T4NF)	P	P
T4 Main Street (T4MS)	P	P
T5 Neighborhood (T5N)	P	P
T5 Main Street Flex (T5MSF)	P	P
T5 Main Street (T5MS)	P	P
T6 Main Street (T6MS)	P	P

***3) Modifying development standards to improve the organization of Section 11-31-14 of the Zoning Code for improved readability and including changes to the occupancy limits for community residences***

Currently Section 11-31-14 of the Zoning Ordinance contains development standards for development and operation of group home for the handicapped. The standards outline the separation distance between other group home for the handicapped, the maximum number of residents allowed per home, signage, and City registration requirements.

Staff is recommending repealing and replacing Section 11-31-14 of the Zoning Ordinance. This change will improve the organization and readability of the section of the Code, replace the terminology for group home for the handicapped with community residence, and modify development standards such as, occupancy limits, licensure and certification requirements, and Special Use Permit approval criteria for community residences.

One of the most significant changes to the standards for community residences is a change to occupancy limits for such uses. Specifically, with the introduction of the definition of family, community residences will now be required to register with the City when housing five to 10 individuals. In the past, such registration was only required for group homes housing six to 10 residents.

Another significant change with the subject text amendment is the requirement for licensure or certification to operate community residence in the city. This requirement is to ensure residents in community residences are adequately protected and properly cared for. With the proposed amendments, operators of such homes will be required to obtain either a state issued license, Oxford House charter, or certification from the Arizona Recovery Housing Association. Based on research and discussions with various industry stakeholders, cities with such registration requirements have seen better care provided to residents in community residences.

As part of the proposed amendments, some community residences are required to obtain a Conditional Use Permit to operate. Therefore, the subject amendments also include adding certain specific approval to the Conditional Use Permit approval to specifically guide review of community residences.

***4) Strengthening the City's registration requirements by requiring proof of licensure or certification, requiring an annual renewal, and providing a revocation process by which the City can terminate a community residence's registration***

One of the goals of the proposed text amendments is to strengthen the City's registration process for community residences. Currently, group homes for the handicapped are required to register with the City if housing more than five residents. In addition to meeting separation requirements from another home, an operator must provide proof of state licensure to manage the community residence. However, not all types of group homes for the handicapped are required to be licensed by the Arizona Department of Health (AZDHS). As described above in the development standards modifications, those homes not registered by the state will be required to provide another commensurate form of certification, either an Oxford House charter, or certification from the Arizona Recovery Housing Association.

As part of the streamlined process for registering and maintaining a current database for community residences, the City will be requiring annual registration for all community residences in the city. This process ensures that community residences have maintained their required licensure or certification and that the City has current information for community residences operating in the city. Since community residences must adhere to certain separation requirements, such verification will help ensure that opportunities for new community residences are not unnecessarily restricted due to outdated information.

The proposed amendments also include establishing a revocation processes for the City to terminate its issued registration. This revocation process is applicable to both community residences that were approved through an administrative process or those that required a Conditional Use Permit. Specifically, the amendments allow the City to revoke a community residence's registration upon finding that: (1) The applicant provided false or misleading information on their application; or (2) The community residences state license, Oxford House charter, or Arizona Recovery Housing Association certification has been revoked.

***5) Modifying the City's reasonable accommodation process by which applicants can request exception to the development standards for community residences***

Section 11-31-14 of the Zoning Ordinance provides "reasonable accommodation" to development standards that may be necessary to afford a person with disabilities equal opportunity to housing. The proposed text amendments clarify the reasonable accommodation process, as well as Special Use Permit approval criteria applicable to granting the various accommodations. With the proposed changes, a reasonable accommodation request may be made on a case-by-case basis to allow certain variation in the required standards for spacing requirement, occupancy limits, and licensing requirements. Below are descriptions of the three accommodations that may be requested by operators of community residence and an overview of the approval criteria.

Reasonable Accommodation from Spacing Requirements:

Accommodation from the 1,200-foot spacing requirement from another community residence may be considered by the Board of Adjustment through a Special Use Permit (SUP). The SUP may only be granted if the Board of Adjustment finds that the proposed use: (1) Will not interfere with the community integration of the residents of any existing community residence, assisted living home or assisted living center; (2) The proposed use in combination with any existing community residence, assisted living home or assisted living center will not alter the residential character of the surrounding neighborhood by creating or intensifying a de facto social service district; and (3) The proposed use meets all other development standards.

Reasonable Accommodation from Occupancy Limits:

Accommodation from the maximum of 10 residents may be requested through a Special Use Permit (SUP) subject to Board of Adjustment approval. An SUP may only be granted if: (1) The number of residents is needed for therapeutic viability of the community residence; (2) The number of proposed residents will emulate and operate as a family; (3) Residential use is the primary function, and that any treatment is incidental to the residential use; (4) The residence has sufficient parking for the requested number of occupants; and (5) The proposed use meets all other development standards.

Reasonable Accommodation from Licensing Requirements:

Accommodation from licensure requirements may be requested through a Special Use Permit (SUP) subject to Board of Adjustment approval. An SUP may only be granted if the proposed community residence will: (1) Operated in a manner similar to a licensed or certified community residence; (2) Staff is trained under the standards typically required by the state or Oxford House; (3) The proposed use will have operating rules and practices that will protect residents from abuse, exploitation, fraud, theft, insufficient support, use of illegal drugs or alcohol, and misuse of prescription medications; (4) The proposed use will emulate a family and operate to achieve community integration; and (5) The proposed use meets all other development standards.

**RECOMMENDATION**

After thorough evaluation of the Mesa 2040 General Plan, best practices from the profession and municipalities, and based on a commissioned detailed study, *Zoning Principles for Community Residences for People With Disabilities and for Recovery Communities in Mesa, Arizona*, dated March 2021, staff is recommending approval of the proposed amendments to the Zoning Ordinance.