

CODE ORDINANCE

Prepared by: Attorney  
Requested by: Lowe  
Introduced: May 14, 2001  
Substituted: June 11, 2001  
Public Hearing: June 11, 2001  
Adopted: June 11, 2001  
Vote: Unanimous

CITY OF WASILLA  
ORDINANCE SERIAL NO. 01-31(SUB)

AN ORDINANCE OF THE WASILLA CITY COUNCIL AMENDING WMC 16.40.070, DEFINITIONS AND 16.20.020, DISTRICT USE CHART, IN RELATION TO GROUP HOMES.

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BE IT ENACTED:

\* **Section 1. Classification.** This ordinance is of a general and permanent nature and shall become part of the city code.

\* **Section 2. Amendment of section.** WMC 16.04.070, Definitions, are amended to read as follows:

"Correctional facility" means a **structure used in whole or in part to house persons who are subject to state or federal government supervision as a result of a criminal proceeding.** [USE, IN A PUBLIC OR PRIVATE FACILITY, PROVIDING LIVING QUARTERS IN A SECURE SITUATION FOR PRISONERS OR PEOPLE AWAITING TRIAL.] This term includes prisons, penitentiaries, trial holding facilities, **halfway houses** and other similar uses.

"Family" means **not more than eight persons,** [ONE PERSON, OR TWO OR MORE PERSONS] **whether or not** related by blood, marriage or adoption, **all of whom**[. THE TERM INCLUDES A GROUP OF EIGHT PERSONS OR LESS WHO ARE UNRELATED BY BLOOD, MARRIAGE OR ADOPTION, ANY OF WHICH] are living together as **a[AN] single,** independent housekeeping unit. **The term "family"**

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**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

does not include persons living in a group home, an institutional home or a correctional facility.

"Group home" means a **structure** [USE OF A RESIDENTIAL DWELLING(S) OR ANY LIVING UNIT OR ACCESSORY, BUILDINGS THEREOF,] designed, used or intended for use **in whole or in part** as a long term **residence providing** [HUMAN HABITATION IN A HOME-LIKE FAMILY SETTING. THE PRINCIPAL USE OF WHICH IS TO SERVE AS A DWELLING FOR] **supervised or** assisted living for **not more than** eight people **who are not handicapped, as defined in 42 U.S.C. §3602**[OR LESS WHO SEEK REHABILITATION OR RECOVERY FROM ANY LONG-TERM ILLNESS, PHYSICAL, MENTAL, OR OTHER INFIRMITY OR DISABILITY]. **The term group home does not include a correctional facility.**

"Institutional home" means a **structure** [USE OF A RESIDENTIAL DWELLING(S) OR ANY LIVING UNIT OR ACCESSORY, BUILDINGS THEREOF,] designed, used or intended for use **in whole or in part** as a **long term residence providing** [RELATIVELY PERMANENT HUMAN HABITATION IN A HOME-LIKE FAMILY SETTING. THE PRINCIPAL USE OF WHICH IS TO SERVE AS A DWELLING FOR] **supervised or** assisted living for more than eight people, **including people** who seek rehabilitation or recovery from any long-term illness, physical, mental, or other infirmity or disability. The term includes limited care facilities for the elderly, homes for children, sanitariums, nursing homes, **and** living quarters for people with long term illness [AND TRANSITIONAL HOMES FOR CRIMINALS]. **The term institutional home does not include a correctional facility.**

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

\* **Section 3. Amendment of section.** WMC 16.43.602, District Use Chart, is amended to read as follows:

**16.43.602 District Use Chart.**

(A) The following chart summarizes the uses allowed and the standard of review for each use. In the commercial and industrial districts, more than one building housing a permissible principal use may be erected on a single lot, provided that each building and use shall comply with all applicable requirements of this chapter and other borough, state or federal regulations.

AA = Administrative Approval  
EX = Excluded

UP = Use Permit  
Blank = No City approval necessary

CU = Conditional Use

Districts	RR Rural	R1 Single Family	R2 Residential	RM Multi- Family	C Commercial	I Industrial	P Public
<b>USES</b>							
Accessory Uses	AA	AA	AA	AA	AA	UP	AA
Adult Business	EX	EX	EX	EX	CU	EX	EX
Agriculture	UP	EX	EX	EX	EX	EX	EX
Animal Husbandry	UP	EX	UP	EX	EX	EX	EX
Animal Shelter	EX	EX	EX	EX	CU	UP	UP
Automotive Sales	UP	EX	EX	EX	AA	AA	EX
Bed and Breakfast		UP	AA	AA		EX	EX
Campground	UP	EX	EX	EX	UP	EX	AA
Cemetery	UP	EX	EX	EX	UP	UP	UP
Church	UP	EX	UP	UP	UP	EX	EX

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

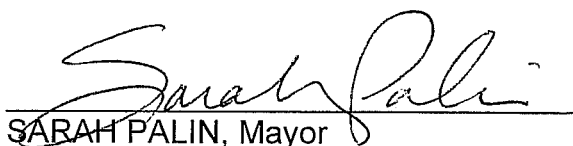
Commercial 10,000 GFA or less	AA	EX	EX	CU	AA	UP	UP
Commercial more than 10,000 GFA	EX	EX	EX	EX	CU	UP	EX
Communication Equipment	AA	UP	AA	AA	AA	AA	AA
Convenience Store	AA	EX	UP	EX	UP	EX	EX
Correctional Facility	EX	EX	EX	EX	EX	CU	CU
Day Care	AA	UP	UP	UP	UP	EX	EX
Duplex	AA	EX	AA	AA	UP	EX	EX
Farm Animals	AA	UP	UP	EX	EX	AA	EX
Group Home	EX	EX	EX	UP	UP	EX	UP
Heavy Equipment	AA	EX	EX	EX	UP	AA	AA
Helipad	EX	EX	EX	EX	UP	AA	UP
Heliport	EX	EX	EX	EX	CU	AA	CU
Home Occupation		AA	AA	AA		EX	EX
Hotel	EX	EX	EX	EX	UP	EX	EX
Institutional Home	<u>EX</u> [CU]	EX	EX	CU	CU	EX	CU
Junkyard	EX	EX	EX	EX	EX	UP	EX
Kennel	UP	EX	CU	EX	UP	EX	EX
Mobile Home	EX	EX	CU	EX	EX	EX	EX
Motel	EX	EX	EX	EX	UP	EX	EX

**Bold and underline added. [CAPS AND BRACKETS, DELETED.]**

Multi-Family	EX	EX	UP	AA	UP	EX	EX
Planned Unit Development	CU	CU	CU	CU	CU	CU	CU
Play Field	UP	UP	UP	UP	UP	EX	UP
Public Facility	UP	CU	UP	UP	UP	AA	AA
Resource Extraction	CU	EX	EX	EX	CU	UP	UP
Single-family dwelling	AA	AA	AA	AA	UP	EX	EX
Subdivision	UP	UP	UP	UP	UP	UP	UP
Utility Facility	AA	UP	UP	UP	AA	AA	AA
Waterfront Use	AA	AA	AA	AA	UP	UP	UP
Zoo	UP	EX	EX	EX	CU	EX	CU

\* **Section 4. Effective date.** This ordinance shall take effect upon adoption of the Wasilla City Council.

ADOPTED by the Wasilla City Council, Alaska, on June 11, 2001.

  
 SARAH PALIN, Mayor

ATTEST:

  
 KRISTIE L. VANGORDER, CMC  
 City Clerk

[SEAL]

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

**SUBJECT: GROUP HOMES**

REQUESTED: Council Member Lowe

PREPARED BY: Thomas Klinkner

DATE: May 8, 2001

FOR AGENDA OF: May 14, 2001

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**SUMMARY:** In an opinion dated January 19, 2001, I provided a detailed explanation of the issues under the federal Fair Housing Act that are raised by the City's current approach to zoning for group homes. Ordinance Serial No. 01-31 would enact the revisions to the City's zoning ordinance that I recommended in that opinion. As stated in the opinion, these revisions have the following purposes:

- Reasonably accommodate living arrangements in the RR, R1 and R2 zoning districts for handicapped persons.
- Exclude from the RR, R1 and R2 zoning districts institutional living arrangements for persons other than the handicapped.
- Separately define and regulate group living arrangements for persons who are likely to pose a risk to public safety.
- Make the regulation of group living arrangements in the various zoning districts internally consistent.

The following are matters for the Council to consider in connection with this ordinance:

**Maximum Dwelling Unit Occupancy.** As my opinion explained, the Fair Housing Act prohibits discrimination in housing in general terms. It does not establish specific numerical standards concerning the number of residents in a facility that must be permitted by right to "reasonably accommodate" the handicapped. Writers and judicial decisions on this issue appear to indicate that the number of residents required for this accommodation ranges from 8 to 12. In addition, the number of unrelated handicapped persons permitted by right to occupy a dwelling may not be less than the number of related persons similarly permitted to occupy a dwelling. Because the Council has expressed a desire to minimize the intrusion of institutional uses into single family residential areas, the definition of "family" in the ordinance makes 8 the maximum number of persons (related or unrelated) who may occupy a single dwelling unit. If the Council finds that a maximum of 8 is unduly restrictive when applied to related persons, it may increase that maximum, provided that the increased number applies also to unrelated handicapped persons.

**Facilities for Children.** I understand that the original controversy over zoning for group homes arose in connection with a home for children. This ordinance does not specifically address homes for children as such. Under the ordinance as submitted, a

home for up to 8 handicapped children would be treated as a by right use, just as any other residence for up to 8 handicapped persons. A residence for children who have been referred from the criminal justice system would be treated as a correctional facility, and not permitted in residential zoning districts. A residence that houses up to 8 children who are neither handicapped nor delinquent still would be regulated as a group home. A separate provision of the Fair Housing Act prohibits discrimination in housing based on "familial status." Some courts have held that this provision protects residences for non-delinquent children who are wards of the state in the same manner that residences for the handicapped are protected. However, the case law on this question is not as well developed as that concerning residences for the handicapped.

**FISCAL IMPACT:**  No  Yes, amount requested: \_\_\_\_\_ Fund: \_\_\_\_\_

**RECOMMENDED ACTION:** Introduction and set for public hearing.

Administration Initial: SP

Attachments: None

Presented with: Ord 01-31 Sub  
Date: 6/11/01 Verified by: yhv.