

ORDINANCE NO. 2020-105

AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF BENTONVILLE, ARKANSAS, PROVIDING FOR DEFINITIONS AND LAND USE REGULATIONS RELATED TO CERTAIN RESIDENTIAL USES.

WHEREAS, the Bentonville Planning Commission and City Council have determined that it is appropriate to make certain modifications to several sections of the Zoning Code of the City of Bentonville, Arkansas, related to certain uses which are residential in nature; and

WHEREAS, the proposed modifications were presented and discussed at a public hearing of the Bentonville Planning Commission where the Planning Commission voted to recommend approval of the modifications; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF BENTONVILLE, ARKANSAS:

Section 1: That Article 201 Definitions shall be and is hereby amended by deleting the definition of “family” in its entirety and replacing with a new definition to read as follows:

Family: In addition to customary domestic servants, family shall mean the following: (1) An individual or two (2) or more persons related by blood, marriage, or adoption, maintaining a common household in a dwelling unit; or (2) a group of not more than four (4) persons who are not related by blood, marriage, or adoption, living together as a common household in a dwelling unit. The City is defining family for the purpose of preserving the character of residential neighborhoods by controlling population density, noise disturbance, and traffic congestion, and shall not be applied so as to prevent the city from making reasonable accommodation where the city determines it necessary to afford handicapped persons living together in a household equal access to housing pursuant to the Federal Fair Housing Amendments Act of 1988.

Section 2: That Article 201 Definitions shall be and is hereby amended by adding the following definition of “group home” to read as follows:

Group Home: A facility that does not fall within another defined facility category within this Article and which provides housing in a family-like environment to more than four (4) handicapped individuals.

Section 3. That Article 301 Administration and Enforcement shall be and is hereby amended to provide for the addition of a new sub-section to read as follows:

Sec. 301.11 Accommodation. Should an applicant believe that circumstances make it necessary to seek an accommodation from the requirements of this Code to afford handicapped persons equal access to housing pursuant to the Federal Fair Housing Amendment Act of 1988, the applicant is responsible for submitting a request to the Bentonville Planning Staff setting forth in detail the needed accommodation. The request shall subsequently be referred to the Planning Commission for a decision on the request.

Section 4: That Article 401 Zoning Regulations, Section 401.05 Table of Uses shall be and is hereby amended by adding the land use “group home” to the Table of Uses and allowing “group home” with a conditional use in all agriculture, residential, downtown residential, and industrial zoning districts and by right in all commercial and downtown commercial zoning districts.

Section 5. That Article 601 Use Regulations shall be and is hereby amended by adding the following as Sec. 601.32 Group Homes to read as follows.

Sec. 601.32 Group homes.

(a) Conditional use permit required. No person or business shall operate a group home within the city limits without a valid conditional use permit, except in zoning districts where the use is allowed by right.

(b) Neighborhood impacts. Separation, spacing, and procedural requirements for group homes will be determined by the Planning Commission so as not to adversely impact the surrounding properties in the neighborhood. For this Section, a "neighborhood" shall be defined as an area incorporating all properties lying within 1,500 feet of the site, unless the Commission determines that a different area is more appropriate, for which the permit is requested.

(c) Review criteria. The planning commission shall consider during its review of a group home the following, but not limited to:

- (1) Spacing of existing similar facilities.*
- (2) Existing zoning and land use patterns.*
- (3) The maximum number of individuals proposed to be served, the number of employees proposed, and the type of services, being proposed.*
- (4) The need and provision for readily accessible public or quasi-public transportation.*
- (5) Access to needed support services such as social services agencies, employment agencies, and medical service providers.*
- (6) Availability of adequate on-site parking.*
- (7) There shall be a presumption that a conditional use permit for a group home of five (5); or six (6) handicapped persons will be granted if all ordinance requirements are met except that individuals whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others shall not be allowed in such a home.*

(e) Fire Marshal approval. The fire marshal must approve the use of any structure proposed as a group home.

(f) State requirements. Group Homes shall be operated within any and all applicable licensing and procedural, and health requirements established by the State of Arkansas and Benton County.

Section 7. That all ordinances or parts of ordinances in conflict herewith should be and the same are hereby repealed.

Section 8. Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 9. This Ordinance shall be in full force and effect 30 days from the date of its passage and approval.

PASSED and APPROVED this 25 day of AUGUST, 2020.

Approved:

Stephanie Orman
Stephanie Orman, Mayor

ATTEST:

Kylea Romines
City Clerk

