

ORDINANCE NO. 2018-

AN ORDINANCE AMENDING TITLE 17 OF THE CASTLE ROCK MUNICIPAL CODE BY THE ADDITION OF A NEW CHAPTER 17.62 ENTITLED GROUP HOMES AND OTHER CONFORMING AMENDMENTS TO SECTIONS 17.01.020, 17.14.010, 17.18.020 AND 17.18.030

WHEREAS, the Town acknowledges the important role group homes play in providing individuals with disabilities the opportunity to live in normal residential surroundings; and

WHEREAS, the Town desires to ensure proper and effective treatment and care of individuals with disabilities in the Town; and

WHEREAS, the Town recognizes the vital importance of ensuring equal housing opportunities for those with disabilities; and

WHEREAS, the Town seeks to continue to provide a broad range of housing opportunities to those with disabilities and to better ensure those with disabilities have the opportunity to live in normal residential surroundings and to use and enjoy a dwelling in a manner similar to the way a dwelling is enjoyed by those without disabilities; and

WHEREAS, the Town understands that in order to fulfil the purposes of the Fair Housing Act, the Americans with Disabilities Act, Religious Land Use and Institutionalized Persons Act, and other state or federal requirements, reasonable accommodations might be necessary to afford those with disabilities an equal opportunity to use and enjoy a dwelling; and

WHEREAS, the Town will treat state licensed group homes serving nine or fewer persons with disabilities as a residential use; and

WHEREAS, in enacting this Ordinance, the Town is endeavoring to strike a balance between the Town's and residents' interests in preserving the characteristics of residential neighborhoods and providing opportunities for those with disabilities to reside in such neighborhoods that are enjoyed by those without disabilities; and

WHEREAS, the Town wishes to ensure and maintain the safety, character, and public welfare of the residential neighborhoods within the Town; and

WHEREAS, over the past several years, the Town has seen an increase in the number of single-family homes being utilized as group homes; and

WHEREAS, the definition of persons who are disabled or handicapped shall not include current illegal use of or addiction to a controlled substance, nor shall such definition include persons whose residency would pose a direct threat to the health, safety and welfare of other individuals; and

WHEREAS, housing inordinately large numbers of unrelated adults in a single dwelling or congregating group homes in close proximity to each other does not provide those with disabilities an opportunity to "live in normal residential surroundings," but rather places them into living environments bearing more in common with the types of institutional, campus or, dormitory living; and

WHEREAS, the Town Council recognizes that group homes and group residential facilities, when operated professionally to minimize impacts to the surrounding neighborhoods, including the secondary impacts from over concentration of such homes and facilities in neighborhoods, provide a benefit to the Town and its residents.

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO:

Section 1. Amendment. Title 17 of the Castle Rock Municipal Code is amended to add a new Chapter 17.62, entitled Group Homes, to read as follows:

**Chapter 17.62
Group Homes**

- 17.62.010 Definitions**
- 17.62.020 Policy statement**
- 17.62.030 General provisions**

17.62.010 Definitions.

For the purpose of this Chapter, the following terms shall have the meaning as ascribed to them below:

Group Home means any residential structure which provides housing for persons with one or more disabilities, as that term is defined in Chapter 17.14, acting as a single dwelling unit.

Group Residential Facility means a residence, except any Group Home, that provides a community living environment for individuals requiring custodial care, medical treatment, or specialized social services. This term includes, but is not limited to: specialized group child care home facility or center; residential child care facility; residential treatment facility; shelter for the homeless; shelter for domestic violence; or residential treatment facility for those living together as a result of criminal offenses.

17.62.020 Policy statement.

A. To acknowledge the role of the group home as a means of providing individuals with disabilities the opportunity to live in normal residential surroundings.

B. To ensure proper and effective treatment and care of individuals with disabilities in the Town.

C. To ensure and maintain the safety, character, and public welfare of the residential neighborhoods of the Town.

17.62.030 General provisions.

A. Group Home

1. Group homes in this category are to be considered a “principal permitted use” in all residential zone districts or Residential Planned Developments (PD). Every Group Home must:

a. Conform to the provisions of the governing zone district.

b. Comply with any and all applicable federal, state and county rules, regulations and/or requirements.

2. Group homes may not house more than nine (9) resident individuals (excluding resident staff), except in accordance with the provisions of Section 17.01.020.C.

3. Group homes may not be located within seven hundred fifty feet (750') of any other group home. This separation requirement shall only apply to a group home within the area of the Town of Castle Rock and shall be measured from the property lines of the subject group homes, except in accordance with the provisions of Section 17.01.020.C.

4. Group homes must be licensed by the State of Colorado.

B. Group Residential Facility.

1. A Public Hearing (Use By Special Review) as set forth in Section 17.38.050 is required prior to establishing all Group Residential Facilities in this category.

2. Each Group Residential Facility must comply with any and all applicable federal, state and county rules, regulations and/or requirements.

3. The Development Services Director is authorized, upon request of the applicant and after written notification to the Town Council, to waive public hearing requirements and to make any necessary modifications to the public notification requirements for applications for shelters for victims of domestic violence. The Director may waive such requirements only to the extent the Director determines that such waiver or modifications will substantially reduce the risk of harm to the occupants of the proposed facility.

Section 2. Amendment. Section 17.01.020 of the Castle Rock Municipal Code, entitled Interpretation; conflict with other laws, is amended to add a new subsection C to read as follows:

C. To the extent any provision of this Title or any provision of a planned development is inconsistent with any federal or state legal requirement (a “Controlling Legal Requirement”), then this Title, and any provision of any planned development, are intended to be and shall be interpreted to be consistent with such Controlling Legal Requirement. To the extent any Controlling Legal Requirement, when properly interpreted, would create additional requirements (e.g. reasonable accommodations or waiver of otherwise valid provisions), then this Title, and any provision of any planned development, are intended to be and shall be interpreted to be consistent with such Controlling Legal Requirement. Such Controlling Legal Requirements may include, but are not limited to, the Fair Housing Act, the Americans with Disabilities Act, Religious Land Use and Institutionalized Persons Act, Telecommunications Act, and any amendments or regulations related thereto. The Director has the authority to interpret provisions of this Title and planned developments to be consistent with all Controlling Legal Requirements by administrative decision. The Director also has the authority to determine and grant reasonable accommodation requests, pursuant to the Americans with Disabilities Act.

Section 3. Amendment. Section 17.14.010 of the Castle Rock Municipal Code, entitled Defined terms is amended to add a new definition of “Disability,” to read as follows:

Disability is defined as one or more of the following:

a. The term “handicap” as set forth in 42 U.S.C. § 3602(h) or, with respect to a person, (1) a physical or mental impairment which substantially limits one or more of such person’s major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance.

b. Intellectual and developmental disabilities as such term is used in C.R.S. § 31-23-303(2)(a).

c. Age of sixty (60) years or older, or as otherwise described in C.R.S. § 31-23-303(2)(b)(II).

d. Behavioral or mental health disorders, including one or more substantial disorders of the cognitive, volitional, or emotional processes that grossly impairs judgment or capacity to recognize reality or to control behavior, or as otherwise described in C.R.S. § 31-23-303(2)(b.5).

Section 4. Amendment. The definition of “Family” set forth in Section 17.14.010 of the Castle Rock Municipal Code is amended to read as follows:

Family is defined as one of the following:

a. One or more persons who are related by blood, marriage or adoption, including any foster children; or

b. A group of not more than five unrelated persons living together as a single housekeeping unit by joint agreement on a nonprofit cost-sharing basis; or

c. A combination of persons related by blood, marriage or adoption, including any foster children and unrelated adults, not to exceed five persons living together and occupying a single dwelling unit. ~~;~~ ~~or~~

~~d. A group of persons with a disability or handicap and associated resident staff, subject to the occupancy and licensing requirements of the State.~~

~~For the purpose of this definition, persons with a disability or handicap are defined as the commonly accepted definitions as defined in federal law. The terms handicapped and disabled shall not include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. This definition is also meant to supersede any State mandated spacing requirements for licensed homes for disabled or handicapped persons as allowed by state law.~~

Section 5. Amendment. The definition of “Group home” set forth in Section 17.14.010 of the Castle Rock Municipal Code is hereby repealed.

~~Group home means a residence operated as a single dwelling, licensed or approved by a governmental agency for the purpose of providing special care or rehabilitation due to homelessness, social, behavioral or disciplinary problems; provided that authorized supervisory personnel are present on the premises. This category would include, but not be limited to, the following types of facilities: juvenile group homes and halfway houses and alcohol and drug dependency residential facilities.~~

Section 6. Amendment. Section 17.18.020 of the Castle Rock Municipal Code is amended in its entirety to read as follows:

17.18.020 - Permitted uses.

Uses permitted in the R-1 District are:

- A. One-family dwellings, detached.
- B. Small in-home day care subject to the licensing requirements of the State.
- C. Indoor and Outdoor Recreation.
- D. Underground public utilities.
- E. Group home.

F. Accessory uses, including but not limited to:

- 1. Satellite dish antenna and solar energy collection devices as restricted (see Section 17.52.220 of this Title).
- 2. Home occupations as restricted (Section 17.52.230 below).
- 3. Garage/yard sale subject to the following restrictions:
 - a. Limited to the principal or accessory residential structure and the driveway of the dwelling.
 - b. Limited in duration to 48-hours and to two such sales per residential property per calendar year.
- 4. Parking of private vehicles as restricted (Section 17.54.070 of this Title).
- 5. Keeping of household pets as restricted (Chapter s 17.14 and ~~Chapter~~ 6.02, CRMC).

Section 7. Amendment. Section 17.18.030 of the Castle Rock Municipal Code is amended in its entirety to read as follows:

17.18.030 Uses by special review.

- A. Uses permitted by special review in the R-1 District are:
 - 1. Public facilities.

2. College/university/vo-tech and private school.
3. Places of worship.
4. Large in-home day care subject to the licensing requirements of the State.
5. Day care center, subject to the licensing requirements of the State.
6. ~~Assisted living/memory care subject to the licensing requirements of the State.~~ Group Residential Facility.
7. Group homes subject to the licensing requirements of the State and ~~not located~~ d less than within seven hundred fifty feet (750') ~~1500-feet~~ of another group home use.
8. Commercial amusement, outdoor.
9. Solar collectors which are not part of the primary structure.
10. Wind generators.
11. Above-ground public utilities.
12. Temporary uses as subject to the provisions of Chapter 17.16 of this Title.

B. All uses by special review shall meet the requirements of 17.38.

Section 8. Amendment. Table 64-1 set forth in Section 17.54.040 of the Castle Rock Municipal Code is amended to remove the “Group Home” from the Residential Dwelling category of the Table 64-1, Parking requirements for specific uses.

Residential dwellings		
Single-family	Single-family residence and attached townhome	2 spaces per dwelling unit
Multifamily	For: Studio unit 1-bedroom unit 2- and 3-bedroom units <i>Any 1-bedroom unit with den, office or loft shall be classified as a 2-bedroom unit.</i>	1.0 space for unit 1.5 spaces per unit 2.0 spaces per unit Plus 1 space per 4 dwelling units for visitor parking
—Group home	Facility for short term living for special care or other needs individuals	.5 space per bed plus 1 space per employee on maximum shift

Housing for senior citizens	Independent living facility for residents owning vehicles Nursing home, convalescent home or similar extended care facility	1 space per unit, plus 1 space per employee on maximum shift 1 space per 5 beds plus 1 space per employee on maximum shift
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Section 9. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect the remaining provisions of this ordinance.

Section 10. Safety Clause. The Town Council finds and declares that this ordinance is promulgated and adopted for the public health, safety and welfare and this ordinance bears a rational relation to the legislative object sought to be obtained.

APPROVED ON FIRST READING this ____ day of _____, 2018 by a vote of ____ for and ____ against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2018, by the Town Council of the Town of Castle Rock by a vote of ____ for and ____ against.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jennifer Green, Mayor

Approved as to form:

Approved as to content:

Robert J. Slentz, Town Attorney

Bill Detweiler, Director of Development Services