

## STAFF REPORT FOR PLANNING COMMISSION MEETING OF OCTOBER 25, 2017

**FILE NO:** ZCA-16-199(a) REVISED

**AGENDA ITEM:** E-4

**STAFF AUTHOR:** Hope Sullivan, Planning Manager

**REQUEST:** To make a recommendation to the Board of Supervisors regarding an ordinance amending Title 18, Chapter 18.03: Definitions, Section 18.03.010 Words and Terms Defined, to modify the definition of Dwelling, Single Family and the definition of Single Family Dwelling, and addressing other matters properly relating thereto.

**APPLICANT:** Carson City Planning Division

**RECOMMENDED MOTION:** "I move to recommend to the Board of Supervisors approval of ZCA-16-199(a), an ordinance amending Title 18, Chapter 18.03: Definitions, Section 18.03.010 Words and Terms Defined, to modify the definition of Dwelling, Single Family and the definition of Single Family Dwelling" and other matters properly related thereto."

**LEGAL REQUIREMENTS:** CCMC 18.02.050 (Review); 18.02.075 (Zoning Map Amendments and Zoning Code Amendments); NRS 278.260.

**KEY ISSUES:**

The proposed ordinance would create consistency with State law.

**BACKGROUND / DISCUSSION:**

The definitions of "Dwelling, Single Family" and "Single Family Dwelling" currently include group homes, residential care facilities and halfway houses. The current definition was expanded to include these types of facilities in 2005. The intent of including these facilities in the definition of Single Family Dwelling was to create consistency with Nevada Revised Statute (NRS) 278.021 by the Nevada Legislature.

A 2008 federal court case found that the mandated inclusion of these non-residential facilities in the definition of Single Family Dwelling to be unlawful. NRS 278.021 was repealed.

On January 25, 2017, the Carson City Planning Commission considered a zoning code amendment to amend the subject definitions to eliminate group homes, residential care facilities, and halfway houses from the definition of single family dwelling as it was no longer required by NRS. The Planning Commission recommended approval, but requested that the staff prepare a text amendment that addressed provisions for reasonable accommodation consistent with the Federal Fair Housing Act. That proposed amendment was considered by the Planning Commission at its meeting of March 29, 2017, and recommended for approval to the Board of Supervisors.

Neither code amendment has been forwarded to the Board of Supervisors as, in the meantime, the State Legislature put forward a bill to mandate the inclusion of certain facilities within the definition of a single family dwelling. Senate Bill 477, signed by the Governor on June 3, 2017, mandates the inclusion of halfway houses, a home for individual residential care, and residential facilities for groups be included in the definition of single family residence within any ordinance adopted by a City or County.

Although Carson City's Municipal Code still includes these facilities in the definition of single family dwelling, modifications to the code are still proposed to create consistency with the definitions and limitations identified in the State law.

The existing definition with revision marks showing proposed changes is as follows.

**Single Family Dwelling means:**

A building used to house not more than 1 family or a group of not more than 4 unrelated persons living together sharing a noncommercial single dwelling unit and common house keeping facilities; or

~~As provided for in NRS 278.021, a~~ **A** residential facility for groups in which 10 or fewer unrelated persons with disabilities reside with house parents or guardians who need not be related to any of the persons with disabilities; and if applicable, additional persons who are related to the house parents or guardians within the third degree of consanguinity or affinity. "Residential facility for groups," has the meaning ascribed to it in NRS 449.017, which means an establishment that furnishes food, shelter, assistance and limited supervision to ~~an aged, infirm, mentally retarded or handicapped~~ **a person with an intellectual disability or with a physical disability or a person who is aged or infirm.** The term includes, without limitation, an assisted living facility. The term does not include an establishment which provides care only during the day; a natural person who provides care for not more than 2 persons in his own home; a natural person who provides care for 1 or more persons related to him within the third degree of consanguinity or affinity; a halfway house for recovering alcohol and drug abusers; or a facility funded by a division or program of the department of **Health and Human Services** ~~human resources~~; or

~~As provided for in NRS 278.021, a~~ **A** home for individual residential care has the meaning ascribed to it in NRS 449.0105, which means a home in which a natural person furnishes food, shelter, assistance and limited supervision, for compensation, to not more than 2 persons **with intellectual disabilities or with physical disabilities or** who are aged ~~or~~ **or** infirm, ~~mentally retarded or handicapped~~, unless the persons receiving those services are related within the third degree of consanguinity or affinity to the person providing those services. The term does not include a halfway house for recovering alcohol and drug abusers; **or a home in which supported living arrangement services are provided by a provider of supported living arrangement services during any period in which the provider of supported living arrangement services is engaged in providing supported living arrangement services;** or

~~As provided for in NRS 278.021, a~~ **A** halfway house for recovering alcohol and drug abusers **in which ten or fewer persons reside** has the meaning ascribed to it in NRS 449.008, which means a residence that provides housing and a living environment for **recovering** alcohol and drug abusers and is operated to facilitate their reintegration into the community, but does not provide any treatment for alcohol or drug abuse. **The term does not include a facility for transitional living for released offenders;** or

As provided for in NRS 278.0209, includes factory built housing that has been built in compliance with the standards for single-family residential dwellings of the **Uniform Building Code** most recently adopted by the International Conference of Building Officials and is further defined at NRS 461.080 as a residential building, dwelling unit or habitable room thereof which is either wholly manufactured or is in substantial part manufactured at an off-site

*location to be wholly or partially assembled on-site in accordance with regulations adopted by the division, but does not include a mobilehome or recreational vehicle park trailer; or*

*As provided for in NRS 278.02095, includes a manufactured home, defined at NRS 489.113, as a structure which is built on a permanent chassis and designed to be used with or without a permanent foundation as a dwelling when connected to utilities and transportable in 1 or more sections and 8 feet or more in body width or 40 feet or more in body length when transported, or when erected on site, contains 320 square feet or more and the term includes the plumbing, heating, air-conditioning and electrical systems of the structure. The term includes any structure which meets the requirements of NRS 489.113 with a certification required by the Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §§ 5401 et seq, or was built in compliance with the requirements of Chapter 461 of NRS. The term does not include a recreational park trailer.*

**PUBLIC COMMENTS:**

Public notice of this proposed Zoning Code Amendment was published in the newspaper and posted on the City's website pursuant to the provisions of NRS and CCMC. As of the writing of this staff report, no public comments were received. Any comments that are received after this report is complete will be submitted prior to or at the Planning Commission meeting, depending on their submittal date to the Planning Division.

**FINDINGS:**

The Commission, in forwarding a recommendation to the Board for approval of a Zoning Code Amendment, shall make the findings of fact found in CCMC 18.02.075(5). The following findings are recommended by staff:

- 1. That the proposed amendment is in substantial compliance with and supports the goals and policies of the Master Plan.**

*The Land Use Plan of the Master Plan identifies five residential use designations. Per the Master Plan, "Residential land use categories are intended to protect the character of established neighborhoods and provide opportunities for new residential neighborhoods. While some complementary uses within the residential land use designations are allowed, and mix of housing types are encouraged in medium and high density residential neighborhoods, these uses are intended to be predominantly residential." The existing City regulations treat group care facilities, residential care facilities, and halfway houses as single family dwellings. The proposed text amendment is intended to create consistency with the definitions and limitations identified in State law.*

- 2. That the proposed amendment will provide for land uses compatible with existing adjacent land uses and will not have detrimental impacts to other properties in the vicinity.**

*The existing City regulations treat group care facilities, residential care facilities, and halfway houses as single family dwellings. The proposed text amendment is intended to create consistency with the definitions and limitations identified in State law.*

- 3. That the proposed amendment will not negatively impact existing or planned public services or facilities and will not adversely impact the public health, safety and welfare.**

*The proposed ordinance will create consistency with State law. The City is required to include group care homes, residential care facilities, and halfway houses subject to the State's definitions and limitations as single family dwellings. These uses are already included in the definition of single family dwelling. The proposed modified wording is intended to utilize the State's current definitions and limitations.*

Attachments:

- 1) Draft ordinance

Summary: An ordinance modifying the definition of Dwelling, Single Family so as to create consistency with Senate Bill 477.

BILL NO. \_\_\_\_\_

ORDINANCE NO. 2017 - \_\_\_\_\_

AN ORDINANCE AMENDING TITLE 18, ZONING, CHAPTER 18.03, DEFINITIONS, SECTION 18.03.010 WORDS AND TERMS DEFINED, TO MODIFY THE DEFINITION OF DWELLING, SINGLE FAMILY AND THE DEFINITION OF SINGLE FAMILY DWELLING, AND OTHER MATTERS PROPERLY RELATED THERETO.

The Board of Supervisors of Carson City do ordain:

SECTION I:

That Title 18 (Zoning), Chapter 18.03 (Definitions), Section 18.03.010 (Words and Terms Defined) is hereby amended, in part, as follows (**bold, underlined** text is added, ~~stricken~~ text is deleted:

**18.03.010 Words and Terms Defined.**

"Abandoned" means concerning a building or use, not having been developed or maintained for a stated period of time.

"Abutting commercial and industrial corridors to Carson City" means all portions of property within 200 feet from U.S. Highway 50 East; William Street; U.S. Highway 395 or Carson Street lying between the Carson City county lines and the designated Carson City redevelopment area boundary.

"Access" means a clear and unobstructed usable approach of not less than 12 foot width (residential), 15 foot width (one way commercial), or 24 foot minimum width (two-way) to a legally dedicated public way.

"Accessory building" or "accessory structure" means a detached usual and customary building or structure associated with a permitted or conditional use, subordinate to the primary use on the same lot, including but not limited to storage, tool shop, children's playhouse, guest building, greenhouse, garage, swimming pools or similar structures 30 inches or more above ground. In calculating the size of an accessory structure, any space with a ceiling 7 feet 6 inches or higher shall be considered habitable space and used in determining total size. An accessory building connected to a main building by a roof, breezeway or other means which is not habitable space is considered an accessory structure attached to a primary building. Each structure must meet standard setback requirements.

**Pages of CCMC 18.03.010, Definitions, Words and Terms Defined that do not include  
Modifications to any definitions are intentionally omitted to save printing.**

"Dwelling, single-family" means:

A building used to house not more than 1 family or a group of not more than 4 unrelated persons living together sharing a noncommercial single dwelling unit and common house keeping facilities: or

~~As provided for in NRS 278.021, a~~ **A** residential facility for groups in which 10 or fewer unrelated persons with disabilities reside with house parents or guardians who need not be related to any of the persons with disabilities; and if applicable, additional persons who are related to the house parents or guardians within the third degree of consanguinity or affinity. "Residential facility for groups," has the meaning ascribed to it in NRS 449.017, which means an establishment that furnishes food, shelter, assistance and limited supervision to ~~an aged, infirm, mentally retarded or handicapped~~ **a person with an intellectual disability or with a physical disability or a person who is aged or infirm.** The term includes, without limitation, an assisted living facility. The term does not include an establishment which provides care only during the day; a natural person who provides care for not more than 2 persons in his own home; a natural person who provides care for 1 or more persons related to him within the third degree of consanguinity or affinity; a halfway house for recovering alcohol and drug abusers; or a facility funded by a division or program of the department of **Health and Human Services** ~~human resources~~; or

~~As provided for in NRS 278.021, a~~ **A** home for individual residential care ~~[and]~~ has the meaning ascribed to it in NRS 449.0105, which means a home in which a natural person furnishes food, shelter, assistance and limited supervision, for compensation, to not more than 2 persons **with intellectual disabilities or with physical disabilities or** who are aged ~~or~~ **or**, infirm, ~~mentally retarded or handicapped~~, unless the persons receiving those services are related within the third degree of consanguinity or affinity to the person providing those services. The term does not include a halfway house for recovering alcohol and drug abusers; **or a home in which supported living arrangement services are provided by a provider of supported living arrangement services during any period in which the provider of supported living arrangement services is engaged in providing supported living arrangement services;** or

~~As provided for in NRS 278.021, a~~ **A** halfway house for recovering alcohol and drug abusers **in which ten or fewer persons reside** ~~[and]~~ has the meaning ascribed to it in NRS 449.008, which means a residence that provides housing and a living environment for **recovering** alcohol and drug abusers and is operated to facilitate their reintegration into the community, but does not provide any treatment for alcohol or drug abuse. **The term does not include a facility for transitional living for released offenders;** or

As provided for in NRS 278.0209, includes factory built housing that has been built in compliance with the standards for single-family residential dwellings of the **Uniform** Building Code most recently adopted by the International Conference of Building Officials and is further defined at NRS 461.080 as a residential building,

dwelling unit or habitable room thereof which is either wholly manufactured or is in substantial part manufactured at an off-site location to be wholly or partially assembled on-site in accordance with regulations adopted by the division, but does not include a mobilehome or recreational vehicle park trailer; or

As provided for in NRS 278.02095, includes a manufactured home, defined at NRS 489.113, as a structure which is built on a permanent chassis and designed to be used with or without a permanent foundation as a dwelling when connected to utilities and transportable in 1 or more sections and 8 feet or more in body width or 40 feet or more in body length when transported, or when erected on site, contains 320 square feet or more and the term includes the plumbing, heating, air-conditioning and electrical systems of the structure. The term includes any structure which meets the requirements of NRS 489.113 with a certification required by the Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §§ 5401 et seq, or was built in compliance with the requirements of Chapter 461 of NRS. The term does not include a recreational park trailer.

"Dwelling, townhouse" means a row or cluster of at least 3 attached dwellings in which each dwelling is located on separately owned lot; each unit is separated by 1 or more common vertical walls; each unit has its own front and rear yard access; and no unit is located over another unit. A townhouse complex may include common open space and recreational areas and facilities which are owned by all owners on a proportional, undivided basis.

"Dwelling, two-family" means a building containing not more than 2 kitchens, designed for and occupied exclusively by 2 families living independently of each other. Commonly referred to as a duplex living unit.

"Excavation" means the mechanical removal of earth materials.

"Embroidery shop" means an establishment in which the act or art of ornamentation of fabric with needlework is practiced.

"Employment agency" means an agency whose business is to find jobs for people and find people qualified to fill jobs.

"Engraver" means one whom practices the art or technique of one that engraves from a plate or block.

"Entitlement certificate" means a document issued by the city to allow a property owner to apply for a building permit for a residential structure that is subject to the provisions of this chapter.

"Equestrian center" means the use of lands buildings, or structures for the boarding of horses, the training of horses and riders, and the staging of equestrian events, but does not include the racing of horses.



"Setback area, required" means that portion of a lot which is required to be unoccupied and unobstructed from the ground to the sky between a required setback line and the property line, except as otherwise provided in this title.

"Setback area, side" means a yard area of which the width is measured between the side property line and the required side yard setback line and the depth is measured between the front yard setback line and the rear yard setback line.

"Sewage works facility" means any facility designed for the treatment of sewage, which is operated at a municipality, government agency, or utility for collection, treatment, and disposal of waste and the furnishing of potable water.

"Sheriff's office and jail" means a secure place for keeping people found guilty of minor crimes or awaiting legal judgment.

"Shoeshine stand" means a place where the act of giving a clean or shiny finish to shoes by polishing them is done.

"Shopping center" means a group of 5 or more commercial establishments planned and developed as a unit on a single parcel or commonly managed parcels of land.

"Sight distance area" means the area included within that triangular area between the property line and a diagonal line joining points of the edge of pavement line 40 feet from the point of their intersection, or, in the case of rounded corners, the triangular area between the tangents to the curve and a diagonal line joining points on the tangent 40 feet from the points of their intersection. The tangents referred to are those at the beginning and at the end of a curve at the corner.

"Sight-obscuring fence or wall" means a permanent 100 percent sight-obscuring solid barrier with height of all bulk or stacked items not exceeding the highest portion of the fence or wall.

"Sign painting and lettering" means an establishment which specializes in the production of signs.

"Silk-screening" means a method of printing on paper or fabric in which ink is forced through areas of a silk screen that are not blocked out with an impermeable substance.

"Similar use" means a use that has the same characteristics as the specifically cited uses in terms of the following: trip generation and type of traffic, parking, and circulation, utility demands, environmental impacts, physical space needs and clientele.

"Single-family dwelling" means:

A building used to house not more than 1 family or a group of not more than 4 unrelated persons living together sharing a noncommercial single dwelling unit and common house keeping facilities: or

~~As provided for in NRS 278.021, a~~ **A** residential facility for groups in which 10 or fewer unrelated persons with disabilities reside with house parents or guardians who need not be related to any of the persons with disabilities; and if applicable, additional persons who are related to the house parents or guardians within the third degree of consanguinity or affinity. "Residential facility for groups," has the meaning ascribed to it in NRS 449.017, which means an establishment that furnishes food, shelter, assistance and limited supervision to ~~an aged, infirm, mentally retarded or handicapped~~ **a person with an intellectual disability or with a physical disability or a person who is aged or infirm.** The term includes, without limitation, an assisted living facility. The term does not include an establishment which provides care only during the day; a natural person who provides care for not more than 2 persons in his own home; a natural person who provides care for 1 or more persons related to him within the third degree of consanguinity or affinity; a halfway house for recovering alcohol and drug abusers; or a facility funded by a division or program of the department of **Health and Human Services** ~~human resources~~; or

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As provided for in NRS 278.02095, includes a manufactured home, defined at NRS 489.113, as a structure which is built on a permanent chassis and designed to be used with or without a permanent foundation as a dwelling when connected to utilities and transportable in 1 or more sections and 8 feet or more in body width or 40 feet or more in body length when transported, or when erected on site, contains 320 square feet or more and the term includes the plumbing, heating, air-conditioning and electrical systems of the structure. The term includes any structure which meets the requirements of NRS 489.113 with a certification required by the Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §§ 5401 et seq, or was built in compliance with the requirements of Chapter 461 of NRS. The term does not include a recreational park trailer.

"Skating arena" means a building or structure where skating and/or uses associated with skating may be conducted.

"Skyline area" means an area at or near the highest points of a topographic feature and which area is designated as a skyline area on the skyline area map adopted pursuant to Division 7 (Hillside Development) of the development standards.

"Social services center/facility offices" means facilities providing social services directly to the community, such as food banks, blood banks, emergency shelters, crisis centers, etc.

"Softscape surface" means a level area covered with turf, clover, sand or a similar material acceptable for use by young children.

"Special use permit" means a specific discretionary approval for a use which has been determined to have unique circumstances, be more intense or to have a potentially greater impact than a permitted use within the same zoning district.

"Sports arena" means an indoor or outdoor area, surrounded by seating for spectators, where shows or sports events take place.

"Stable" means a building in which horses or livestock are sheltered or fed.

"Stained glass" means glass that has been colored so that it can be used to make a mosaic picture, especially in a window. Stained glass may be made by enameling, burning pigments into the surface, or by fusing metallic oxides with it.

"Standard conditions" means conditions which have been approved by the commission or board, and which are designed to be imposed as a matter of course, where applicable, on the approval of development projects.

"Storage" means to keep or store an item(s) for a period of 24 hours or longer in a given location for future use.