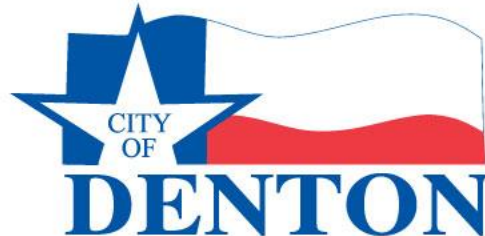


DCA23-0001b: Reasonable Accommodation/Group Homes/Community Homes/Elderly Housing

Julie Wyatt

Principal Planner

September 26, 2023



Summary

Proposal: Update DDC regulations related to Reasonable Accommodation, Group Homes, Community Homes, and Elderly Housing:

- **Subchapter 2: Administration and Procedures**
- **Subchapter 5: Use Regulations**
 - **Section 5.3.1D: Maximum persons occupying a dwelling**
- **Subchapter 7: Parking**
- **Subchapter 9: Definitions**

Presented to the DCRC as a series after a review of regulations determined updates were needed: February 13, 2023, February 27, 2023, April 10, 2023, April 24, 2023, May 8, 2023

Key Concepts

How does the law generally define a disability?

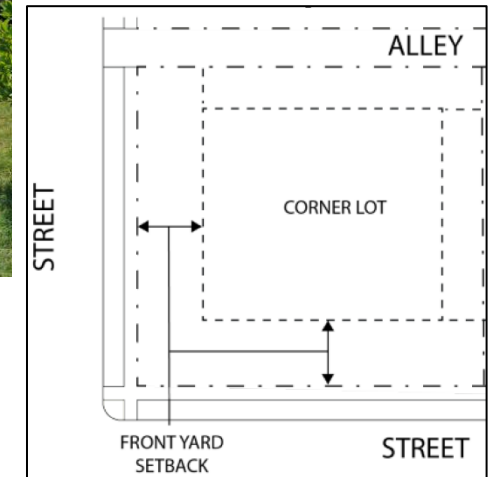
Each law/entity defines slightly differently, but generally includes the following:

- A physical or mental **impairment that substantially limits one or more major life activities.**
- A **record of having such an impairment** or being regarded as having such impairment.
- Disability **does not include *current* use of, or addiction to,** drugs or alcohol. However, individuals in recovery may be considered disabled.

What is a **reasonable accommodation**?

A change, exception, or adjustment to a rule, policy, or practice that is **necessary to remove barriers** that keep persons with disabilities from enjoying housing in a similar capacity as persons without disabilities.

- ***Courts have determined it must be necessary AND reasonable.***



Review of DDC determined needed improvements

1. Reasonable Accommodation

- **Section 2.8.2:** Regulations difficult to find under the “Minor Modification” procedure
- Options limited
- Review and approval lacks a clear procedure

2. Use Regulations

- **Section 5.3.3:** Use-Specific Standards confusing, redundant

3. **Section 5.3.1D:** No exception for Community Homes, Group Homes, and Elderly Housing under Maximum persons occupying a dwelling

4. **Subchapter 7: Parking**

Parking regulations difficult to apply

5. **Subchapter 9: Definitions** Current definitions are either too narrow to be useful or are extraneous and not otherwise used in the DDC.

Reasonable Accommodation

- Create a **separate Flexibility & Relief Procedure**
- **Remove barriers for persons with disabilities**, but shouldn't result in undue financial or administrative burden on the City; or fundamentally alter the nature of the City's land use and zoning regulations
- Application needed with **owner authorization**, but **no fee**
- **30-day process** (with opportunity to stop the clock if additional information is needed)
- Approvals/denials/alternative by **City Manager or designee**
- Appeals follow Administrative Appeal procedure to City Council*
- Accommodations subject to **DDC 1.5, Nonconformities**

Subchapter 2: Administration and Procedures

2.2 Summary Table of Review Procedures

2.1.2 Organization of this Subchapter

Table 2.2-A Summary of Development Review Procedures

R = Review/recommendation D = Decision A = Appeal [R/D/A] = Public hearing required

<R/D/A> = Public meeting required ◇ = Recommended ✓ = Required

Procedure	DDC Reference	Public Notice				Pre-Application Activities		Review and Decision-Making Bodies				
		Online	Mailed	Published	Posted Sign	Pre-App. Conference	Citizen Participation	Development Assistance Team	Director	Planning and Zoning Commission	City Council	Zoning Board of Adjustment

DEVELOPMENT PERMITS AND PROCEDURES

Zoning Compliance Plan Review	2.5.1					◇		R	D			<A>
Specific Use Permit	2.5.2	✓	✓	✓	✓			[D]			[D]	<A>
Temporary Use Permit								[R]	[D]			<A>
Annexation	2.7.4	✓	✓	✓	✓			R	R	[R]	[D]	<A>

See Subsection 2.7.5: Annexation

FLEXIBILITY AND RELIEF PROCEDURES

Variance	2.8.1					◇		R	R			<D>
Minor Modification	2.8.2	Pursuant to application procedure warranting the request										
Appeal of Administrative Decision [3]	2.8.3	✓	✓	✓				R	Appeal authority determined by original application type and in accordance with this Table 2.2-A			
Alternative ESA Plan	2.8.4	✓	✓	✓	✓	◇	◇	R	R	[R]	[D]	
Alternative Tree Preservation Plan		See paragraph 7.7.4F: Alternative Tree Preservation/Replacement Plan										
Watershed Protection Permit Relief	2.8.5							R			<D>	
Interpretations	2.8.6							D [4]				<A>
Subdivision Variance	2.8.7					◇		R	R	<D>	<A>	
Alternative Landscape Plan		See paragraph 7.7.3C: Alternative Landscaping										
Tree Preservation Relief		See paragraph 7.7.4J: Tree Preservation Relief Provisions										
Alternative Water and Sewer Systems		See Subsection 7.6.16: Alternative Water and Sewer Facilities										

HISTORIC PRESERVATION PROCEDURES

Certificate of Appropriateness	See Subsection 2.9.2: Certificate of Appropriateness											
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Table of Allowed Uses

Table 5.2-A: Table of Allowed Uses

P = permitted S = specific use permit required Blank cell = use prohibited + = use-specific standards apply

	Residential							Mixed-Use			Corridor		Other Nonresidential				Use-Specific Standards
	RR	R1	R2	R3	R4	R6	R7	MN	MD	MR	SC	HC	GO	LI	HI	PF	
Residential Uses																	
GROUP LIVING																	
Chapter House							S	S								P	
Community Home	p+	p+	p+	p+	p+	p+	p+	p+	p+	p+							5.3.3I
Dormitory							S	S	P								
Elderly Housing						S+	S+	p+	p+	p+	S+	S+	P				5.3.3H
Group Home	S+	S+	S+	S+	S+	S+	S+	S+	S+	S+							5.3.3I

Use-Specific Standards

Elderly Housing

- Remove max SF for R6 & R7
- Clarify design standards

Community Homes

- Separate from Group Homes
- Add consistency with state law

Group Home

- Simplify Use-Specific Standards
- Remove redundancies and unnecessary modifications to standard DDC procedures
- Clarify specific application requirements

Subchapter 5: Use Regulations

5.3 Use-Specific Standards 5.3.3 Residential Uses

- An internal street or common access route shall be provided to each stand. All internal streets or common access routes shall be a minimum of 30 feet in width from back of curb to back of curb. The internal streets shall be continuous and connect with either outer streets in the development, public streets, or in the alternative, shall be provided with a cul-de-sac having a minimum radius of 40 feet. All other streets shall have a minimum radius at intersections of 30 feet. No internal street ending in a cul-de-sac shall exceed 1,000 feet in length.
- All streets shall be constructed of at least two inches of asphalt, six inches of lime subgrade and with standard or surmountable curbs. Alternative materials for street construction may be approved by the City Engineer as long as the alternative exceeds the standards in this section or those established in a city criteria manual.
- Internal streets shall be maintained free of excessive cracks, potholes, and other hazards at the expense of the licensee. Inspection of the streets shall occur at least yearly in conjunction with other city inspections of the manufactured home development. The inspections shall be made by the City Engineer and shall cover the hazards listed in this subsection.
- All streets within the development shall be numbered or named in an approved manner.
- Interior streets shall intersect adjoining public streets at 90 degrees and at locations that will eliminate or minimize interference with the traffic on those public streets. Design of the interior streets shall be approved by the traffic engineer with respect to horizontal and vertical alignment, access points to city streets, parking locations, and internal access for emergency vehicles.

7. Utilities and Services

- All utility lines shall be installed underground in manufactured home developments.
- Water and sewer connections shall be made to the public supply of water in accordance with city standards.
- All water piping, fixtures, and other equipment shall be constructed and maintained in accordance with state and city regulations and requirements.
- Individual water meters shall be provided for each manufactured home dwelling.
- All manufactured home developments shall comply with the city's residential solid waste regulations.

H. Elderly Housing

- In the R6, R7, and MN zoning districts, elderly housing shall be limited to a maximum of 55,000 square feet per lot.
- Assisted living facilities may be subject to additional standards in Subsection 5.3.3I.

I. Group Home and Community Home

1. Purpose

The city supports the rights of handicapped persons to live in stable, affordable housing in settings that maximize community integration and opportunities for acceptance. The city desires to make reasonable accommodations in rules, policies, and practices to afford handicapped persons equal opportunity to use and enjoy a dwelling. The city supports

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Parking

Current Regulations, Parking

Table 7.9-I: Minimum Required Off-Street Parking	
DU = dwelling unit sq ft = square feet GFA = gross floor area	
Use Type	Minimum Parking Requirement
Residential Uses	
HOUSEHOLD LIVING	
Single-Family Detached Dwelling	4 spaces per DU (not including tandem parking in garages)
Townhome	2 spaces per DU (not including tandem parking in garages)
Duplex	2 spaces per DU (not including tandem parking in garages)
Triplex	2 spaces per DU (not including tandem parking in garages)
Fourplex	2 spaces per DU (not including tandem parking in garages)
Multifamily Dwelling	One bedroom and efficiency units: 1.25 spaces per unit plus guest parking as required below.
	Two or more bedroom units: One space for each bedroom plus guest parking as required below.
	Developments with more than 10 units: guest parking shall be 10 percent of required number of parking spaces.
Tiny Home Development	1 space per DU Developments with more than 10 units: guest parking shall be 10 percent of required number of parking spaces.
Work/Live Dwelling	1.5 spaces per DU
Manufactured Home Development (HUD-Code)	2 spaces per DU
GROUP LIVING	
Chapter House	1 space per 2 persons design capacity
Community Home	1 space per 4 persons design capacity
Dormitory	1 space per 2 persons design capacity



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Group Living

Community Home

1 space per bedroom

Elderly Housing

Director determination, see Subsection 7.9.4E.1

Group Home

1 space per bedroom

Table 7.9-I: Minimum Required Off-Street Parking	
DU = dwelling unit sq ft = square feet GFA = gross floor area	
Use Type	Minimum Parking Requirement
Elderly Housing	Assisted Living: 1 space/ unit.
	Congregate Care Facility and Life Care Housing and Services: 1 space per 2 patient beds or 1 space per apartment unit.
	Continuing Care Retirement Center: 1 space per 3 patient beds.
Group Home	1 space per 4 persons design capacity



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Summary

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	Process	Use Table	Use-Specific Standards	Parking	Definitions
Reasonable Accommodation	Create separate Flexibility & Relief Procedure	Not applicable	Not applicable	Not applicable	Not applicable
Elderly Housing	Not applicable	Add Use-Specific Standards to MD and MR Districts; add to SC and HC Districts with an SUP; remove from GO District	Remove size limitation from R6 and R7; remove confusing “assisted living facility” reference; add clarification to which Subchapter 7 Design Standards will apply	Change to Director Determination	Add the following language for clarity: must include at least two of the following: common dining or meals, transportation, housekeeping, organized social activities, special safety and accessibility features, skilled nursing, memory care, and/or assistance with daily activities; remove the unnecessary categories
Community Home	Not applicable	No proposed changes	Separate the Use -Specific Standards from Group Home for clarity; update language for consistency with state law	Change to one space per bedroom	No proposed changes
Group Home	Not applicable	Add to R1 and R2 with an SUP and Use-Specific Standards	Separate the Use -Specific Standards from Community Home for clarity; remove redundancies and unnecessary modifications to standard DDC procedures; clarify specific application requirements	Change to one space per bedroom	Combine Group Home and Group Home for Disabled Persons into one definition; add language to describe protective care and watchful oversight
Other	None	None	Add exemption for Community Homes, Group Homes, and Elderly Housing to Maximum Persons Occupying a Dwelling	None	Add definition for Disability for consistency with federal and state law and to <u>include former use of controlled substances and/or alcohol</u>; remove definitions for Disabled Persons, Assisted Living Facility, Handicap, Impairment, Physical or Mental, Institution

Recommendation

The Planning and Zoning Commission recommended **approval** of this request [7-0]

Staff recommends **approval** with the amended Reasonable Accommodation appeal language noted in the backup as it is consistent with the criteria for approval outlined in Section 2.7.4D of the DDC.