

City Council – Action Request Form

Date: January 12, 2021

To: Mayor, Mayor Pro Tempore, and Members of the City Council

From: Damon Dequenne, Assistant City Manager
Aaron King, Director of Planning and Development Services

Council Action Requested:

Request for public hearing on an ordinance amendment proposed by Planning and Development Services staff modifying Sections 5.2.30, 5.2.31, and 11.2 of the *Unified Development Ordinances*, pertaining to use standards and definitions for Family Group Homes (UDO-CC9).

Strategic Focus Area: Livable Neighborhoods

Strategic Objective: No

Strategic Plan Action Item: No

Key Work Item: No



Summary of Information:

Planning and Development Services staff is proposing this text amendment to clarify UDO standards for the Family Group Home A, B, and C uses. Specifically, this amendment adds definitions for supervisory personnel and provides an alternative definition for Family Group Homes without supervisory personnel. The UDO does not currently define supervisory personnel or address group homes where residents are self-supporting. This amendment will promote successful operation of Family Group Homes while ensuring they do not exceed intended resident maximums.

Committee Action:

Committee _____	Action _____
For _____	Against _____

Remarks: _____

UDO-CC9
AN ORDINANCE AMENDING SECTIONS 5.2.30, 5.2.31, AND 11.2 OF THE UNIFIED DEVELOPMENT ORDINANCES (UDO), PERTAINING TO THE USE-SPECIFIC STANDARDS AND DEFINITIONS OF THE FAMILY GROUP HOME A, FAMILY GROUP HOME B, AND FAMILY GROUP HOME C USES

Be it ordained by the _____, North Carolina, that the *Unified Development Ordinances* is hereby amended as follows:

Section 1. Section 5.2.30: Family Group Home A, Family Group Home B is amended to read as follows:

5.2.30 FAMILY GROUP HOME A, FAMILY GROUP HOME B

A. MANAGEMENT ~~RESERVED~~

~~If not State licensed, the family group home A or B shall have written operating procedures or manuals, established goals and objectives for persons receiving therapy or treatment, a structured system of management with a Board of Directors, and on-premises management/supervisory personnel.~~

B. MINIMUM LOT AREA

In RM Districts, the minimum lot area of a ~~family group home~~ **Family Group Home B** shall be determined based on the minimum lot area required for a two unit dwelling in the district, as shown in **Table 4.5.18**.

C. SPACING REQUIREMENT (W)

1. ~~A family group home~~ **Family Group Home A** may not be located within a distance of one thousand two hundred (1,200) feet from another ~~family group home~~ **Family Group Home A**; provided, that this restriction shall be waived by the Director of Inspections when the homes would be separated by a limited access thoroughfare or a natural barrier such as an unbridged stream which serves an equivalent function of avoiding concentration of these uses in close proximity within a contiguous area otherwise restricted to low-density residential use.
2. All measurements of the one thousand two hundred (1,200) foot distance shall be made by drawing a straight line from the nearest point of the lot line where the proposed ~~family group home~~ **Family Group Home A** is located to the nearest point of the lot line of another ~~family group home~~ **Family Group Home A**.

Section 2. Section 5.2.31: Family Group Home C is amended to read as follows:

5.2.31 FAMILY GROUP HOME C

A. MANAGEMENT ~~RESERVED~~

~~If not State licensed, the family group home C shall have written operating procedures or manuals, established goals and objectives for persons receiving treatment or therapy, a structured system of management with a board of directors, and on-premises management/supervisory personnel.~~

B. MINIMUM LOT AREA

NOTE: Items to be removed are indicated with a ~~strike through~~; items to be added are shown as **highlighted**. Items with a single underline are applicable to Forsyth County only, and *italicized* items are applicable to Winston-Salem only.

1. In RM-12, RM-18, and RM-U Districts, the minimum lot area shall be based on **Table 4.5.18** with four (4) residents equal to one dwelling unit.
2. In the IP District, the minimum lot area shall be calculated in the same manner based on the requirements of the RM-8 District.

C. HEATED BUILDING AREA

One hundred (100) square feet of heated building shall be provided per resident.

D. SPACING REQUIREMENT

1. A ~~family group home~~ **Family Group Home** C may not be located within a distance of two thousand five hundred (2,500) feet from any other ~~family group home~~ **Family Group Home** C.
2. All measurements shall be made by drawing straight lines from the nearest point of the lot line where the proposed ~~family group home~~ **Family Group Home** is to be located to the nearest point of the lot line of another ~~family group home~~ **Family Group Home**.

Section 3. Table 11.2.2: Definitions is amended to read as follows:

<p style="text-align: center;">FAMILY GROUP HOME A</p>	<p>(1) A transitional housing facility with support and supervisory personnel licensed by the State of North Carolina or operated by a nonprofit corporation chartered pursuant to Chapter 55A, North Carolina General Statutes, which provides room and board, personal care and rehabilitation services in a supportive family environment for not more than six (6) residents, exclusive of supervisory personnel, including but not limited to, handicapped persons, older adults, foster children, abused individuals, homeless persons, and those recovering from drug or alcohol abuse; or</p> <p>(2) A home in which no more than six (6) disabled persons live together as a self-supporting and self-sufficient household unit, without any in-home services, supervisory personnel, or outside assistance. "Disabled persons" means individuals with disabilities, including individuals recovering from alcoholism and/or drug addiction, who are protected by either the provisions of the Americans with Disabilities Act of 1990, 42 USC 12101, The Fair Housing Act, 42 USC 3601 et. seq., or G.S. Chapter 168, Article 3, as each may be amended.</p> <p>"Supervisory personnel" shall mean a person with any adequate licensing, such as a CNA, LPN, RN, MD or similar medical/healthcare certification, who is employed by the transitional housing facility to provide for or supervise the needs of the residents and receives compensation for said care and supervision. In no case shall a resident of the facility undergoing treatment or receiving care be classified as supervisory personnel. Residents include but are not limited to, handicapped persons, older adults, foster children, abused individuals, homeless persons, and those recovering from drug or alcohol abuse.</p> <p>This use shall include Family Care Homes, as defined in G.S. 168-21. This use shall not serve primarily as an alternative to incarceration, shall not include individuals who are dangerous to others, as defined in G.S. 122C3-(11)b, and shall not include persons living together as a fraternal, sororal, social, honorary, or professional organization.</p>
<p style="text-align: center;">FAMILY GROUP HOME B</p>	<p>(1) A transitional housing facility with support and supervisory personnel licensed by the State of North Carolina or operated by a nonprofit corporation chartered pursuant to Chapter 55A, North Carolina General Statutes, which provides room and board, personal care and rehabilitation services in a supportive family environment for not more than twelve (12) residents, exclusive of supervisory personnel, including but not limited to, handicapped</p>

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	<p>persons, older adults, foster children, abused individuals, homeless persons, and those recovering from drug or alcohol abuse; or</p> <p>(2) A home in which no more than twelve (12) disabled persons live together as a self-supporting and self-sufficient household unit, without any in-home services, supervisory personnel, or outside assistance. "Disabled persons" means individuals with disabilities, including individuals recovering from alcoholism and/or drug addiction, who are protected by either the provisions of the Americans with Disabilities Act of 1990, 42 USC 12101, The Fair Housing Act, 42 USC 3601 et. seq., or G.S. Chapter 168, Article 3, as each may be amended.</p> <p>"Supervisory personnel" shall mean a person with any adequate licensing, such as a CNA, LPN, RN, MD or similar medical/healthcare certification, who is employed by the transitional housing facility to provide for or supervise the needs of the residents and receives compensation for said care and supervision. In no case shall a resident of the facility undergoing treatment or receiving care be classified as supervisory personnel. Residents include but are not limited to, handicapped persons, older adults, foster children, abused individuals, homeless persons, and those recovering from drug or alcohol abuse.</p> <p>This use shall not serve primarily as an alternative to incarceration, shall not include individuals who are dangerous to others, as defined in G.S. 122C3-(11)b, and shall not include persons living together as a fraternal, sororal, social, honorary, or professional organization.</p>
<p>FAMILY GROUP HOME C</p>	<p>(1) A transitional housing facility with support and supervisory personnel licensed by the State of North Carolina or operated by a nonprofit corporation chartered pursuant to Chapter 55A, North Carolina General Statutes, which provides room and board, personal care and rehabilitation services in a supportive family environment for not more than twenty (20) residents, exclusive of supervisory personnel, including but not limited to, handicapped persons, older adults, foster children, abused individuals, homeless persons, and those recovering from drug or alcohol abuse; or</p> <p>(2) A home in which no more than twenty (20) disabled persons live together as a self-supporting and self-sufficient household unit, without any in-home services, supervisory personnel, or outside assistance. "Disabled persons" means individuals with disabilities, including individuals recovering from alcoholism and/or drug addiction, who are protected by either the provisions of the Americans with Disabilities Act of 1990, 42 USC 12101, The Fair Housing Act, 42 USC 3601 et. seq., or G.S. Chapter 168, Article 3, as each may be amended.</p> <p>"Supervisory personnel" shall mean a person with any adequate licensing, such as a CNA, LPN, RN, MD or similar medical/healthcare certification, who is employed by the transitional housing facility to provide for or supervise the needs of the residents and receives compensation for said care and supervision. In no case shall a resident of the facility undergoing treatment or receiving care be classified as supervisory personnel. Residents include but are not limited to, handicapped persons, older adults, foster children, abused individuals, homeless persons, and those recovering from drug or alcohol abuse.</p> <p>This use shall not serve primarily as an alternative to incarceration, shall not include individuals who are dangerous to others, as defined in G.S. 122C3-(11)b, and shall not include persons living together as a fraternal, sororal, social, honorary, or professional organization.</p>

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Section 4. This ordinance shall be effective upon adoption.

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**CITY-COUNTY PLANNING BOARD
STAFF REPORT**

DOCKET: UDO-CC9
STAFF: [Samuel Hunter](#)

REQUEST

This text amendment is proposed by Planning and Development Services staff to modify Sections 5.2.30, 5.2.31, and 11.2 of the *Unified Development Ordinances* (UDO), pertaining to the use-specific standards and definitions of the Family Group Home A, Family Group B, and Family Group Home C uses.

BACKGROUND

Family Group Homes are transitional housing facilities that provide room and board, personal care, and rehabilitation services in a supportive family environment. These facilities generally include supervisory personnel that are exclusive of the resident count. However, the UDO does not adequately explain what is meant by the term *supervisory personnel*. As a result, Family Group Home operators have been allowed to self-define what constitutes supervisory personnel; this can lead to confusion regarding the appropriate number of occupants residing within these homes.

UDO-79 established the uses Family Group Home A, Family Group Home B, and Family Group Home C in 2001. The definition and use-specific standards for each use provided that supervisory personnel would not be counted towards the overall number of occupants. The intent behind this exception was to provide supervision for individuals not able to adequately care for themselves (i.e., residents with a mental or physical disability that would require assistance with day-to-day activities). Without better defining the term, some Family Group Home operators have utilized this language to increase their occupancy over the intended maximums. Under the current definitions for Family Group Home uses, some of the facilities have designated “senior house members” acting as supervisory personnel. While these individuals have lived in the homes longer than the other members, they are still participants in the program. Properly defining this term will allow facilities to operate in neighborhoods with fewer unintended consequences.

ANALYSIS

In comparing our peer communities’ regulation of these uses, we found no readily available definition for supervisory personnel. As a result, we worked with the City Attorney’s office to craft language that defines what constitutes supervisory personnel and provides an alternative definition for Family Group Home uses without supervisory personnel (for residents classified as “disabled persons” who are self-supporting and do not require any outside assistance). The new language clearly indicates that program participants may not be designated as supervisors. Staff believes clarification of the local standards for Family Group Home A, Family Group Home B, and Family Group Home C will foster appropriate operation of these uses while closing a possible loophole that allows group homes to exceed intended resident numbers.

RECOMMENDATION: Approval

CITY-COUNTY PLANNING BOARD PUBLIC HEARING MINUTES FOR UDO-CC9 DECEMBER 10, 2020

Samuel Hunter presented the staff report.

Jack asked if the intent of the definition will also include special needs teachers and mental health counselors.

Samuel stated that the definition is limited to those with medical or health care certifications. Those with certification will be qualified as supervisory personnel.

Chris Murphy added that supervisory personnel are those who will actually be living onsite. A special needs teacher can come in and teach and help with everyday living activities but would not be a resident.

Brenda asked staff to clarify the difference between support personnel and supervisory personnel and asked how a support person for someone with a physical disability would be considered.

Samuel explained that there would not be a problem with support personnel coming into the facility to help but that they would not stay as a resident. The ordinance amendment was necessary to stop some family group homes from taking advantage of the language regarding supervisory personnel by including them in the resident count.

Chris Murphy added that this definition will only apply to family group homes. There were several scenarios discussed, as well as the reasonable accommodation provision.

George asked where peer counselors would fit into the count. Chris Murphy stated that if they did not have a medical health care certification, then they would count against the cap.

Aaron mentioned that there is some flexibility built into the definition knowing that every certification would not be captured and that new certifications may arise. If a person could show they have some expertise in a certain position, they could fit into the definition.

George noted that, as a former administrator of such programs, it was always very clear whether he was dealing with someone who was certified or someone who was licensed. He added that that subject could arise in the future.

PUBLIC HEARING

FOR: None

AGAINST: None

WORK SESSION

MOTION: Melynda Dunigan recommended approval of the ordinance amendment.

SECOND: Clarence Lambe

VOTE:

FOR: George Bryan, Melynda Dunigan, Jason Grubbs, Tommy Hicks, Clarence Lambe, Chris Leak, Mo McRae, Brenda Smith, Jack Steelman

AGAINST: None

EXCUSED: None

Aaron King
Director of Planning and Development Services