



## Zoning Code Amendment Planning and Zoning Commission Staff Report

---

**CASE NUMBER:** OV714-009

**MEETING DATE:** December 2, 2014

**AGENDA ITEM:** 2

**STAFF CONTACT:** Chad Daines, AICP, Principal Planner  
[cdaines@orovalleyaz.gov](mailto:cdaines@orovalleyaz.gov) (520) 229-4896

---

**Request:** Zoning Code amendment to update regulations relative to senior care uses including definitions, allowable zoning districts and applicable development standards.

**Recommendation:** Recommend approval as provided on Attachments 1 and 2.

---

### SUMMARY:

Town Council initiated this Zoning Code amendment last year to update and clarify definitions, locations and land use standards for senior care uses. Specifically, the amendment was intended to address the following zoning regulations related to senior care uses:

- Resolve differences between terms and definitions used in the Town of Oro Valley and those used by the State.
- Update the Zoning Code to reflect federal and state law which provides for small in-home senior care uses within all residential neighborhoods.
- Determine which zoning districts are appropriate.
- Evaluate appropriate special land use standards as warranted

In summary, the proposed amendment (Attachments 1 and 2) provides for an update to senior care requirements as follows:

- Establishes a single definition for “Senior Care Facility” which encompasses all levels of care.
  - Deletes outdated terms and definitions for senior care uses and adds/amends definitions for consistency with State licensing terms and definitions.
  - Updates the Table of Permitted Uses to provide for senior care uses in appropriate commercial and residential zoning districts.
  - Establishes a requirement for senior care uses to provide recreational area(s) with amenities to serve residents of the facility.
-

---

**BACKGROUND:**

The Town of Oro Valley Zoning Code currently allows various types of senior care uses including independent living, skilled nursing and rehabilitative care. Over time, the terms and definitions used by the State in licensing senior care uses have changed, but the Zoning Code has not been amended to remain current. As a result, the Zoning Code does not address all potential senior care uses and contains outdated terms and definitions no longer used by the State. This has resulted in the need for administrative decisions to resolve areas where the Zoning Code is in conflict with State licensing terms. The amendment resolves such differences in terms and definitions, updates zoning district allowances and includes recreational area standards for senior care uses.

Research of other towns and cities reveals that many local governments still contain outdated references to senior care uses. Additionally, there is a wide range in allowable zoning districts, open space, parking and whether conditional use permits are required. Finally, development standards for senior care uses vary significant between jurisdictions. Attachment 3 provides a summary of other jurisdictions regulations in regard to senior care uses.

**DISCUSSION/ANALYSIS:**

This section of the report is divided into the main areas of the amendment; Definitions, Zoning Districts and Development Standards.

Definitions

From a land use standpoint, there is little external difference between the various levels of senior care in terms of site function, design, parking, landscaping and impact of adjoining areas. Additionally, trends in senior care utilize a model wherein multiple levels of care are provided within a single development and a resident advances to a higher level of care based on their changing needs. Based on these factors, the main elements of the amendment can be summarized as follows:

- A single definition of “Senior Care Facility” combining all levels of senior care is recommended for clarity and simplicity in regulation.
- The new definition encompasses facilities providing for single or multiple levels of care within a single development and is intended to accommodate small to moderate sized facilities.
- Larger senior care developments (e.g. Splendito) typically utilize a Planned Area Development zoning to establish tailored development standards to accommodate the unique scale and size of the facility.
- The new definition “Senior Care” incorporates terms consistent with State licensing regulations, including Assisted Living Facility, Hospice In-Patient Facility and Nursing Care Institutions.

- The definition also incorporates independent living facilities, which are not licensed by the State. The definition of Independent Living Facility has been amended for consistency with the balance of the amendment.
- The existing definitions for Skilled Nursing, Rehabilitative Care and Convalescent Home or Nursing Home have been deleted as these uses are all encompassed within the updated term “Nursing Care Institution”.
- The term Community Residence has been amended to the updated term used by the State “Assisted Living Home”. These are small in home senior care uses typically found in single family homes in residential neighborhoods.

### Zoning Districts

The proposal also involves amendment to the Table of Permitted Uses as provided on Attachment 2 and summarized as follows:

- The table has been updated to reflect the new definition combining all senior care uses into a single use category.
- The table has been amended to delete outdated use category terms.
- “Senior Care Facility” is listed as a permitted use in R-4 (Townhouse), R-4R (Resort), R-S (Residential Service), R-6 (Multi-family) and C-N (Neighborhood Commercial) based on the similarity with multi-family residential, which is permitted in these zoning districts. The existing code allows senior care uses in these districts as illustrated on Attachment 2. The design standards (e.g. setbacks, building heights, open space) will apply to senior care uses and create compatibility with adjoining single-family areas.
- The amendment deletes the requirement for a Conditional Use Permit as these zones are intended for this character of development.
- Senior Care Uses are not permitted in higher intensity commercial or technology park zones to preserve these areas for retail, service and technology park uses.
- The table has been amended to allow Assisted Living Homes in all single-family residential zones, consistent with State and Federal law.

### Development Standards

As stated previously, senior care uses are externally analogous to multi-family development. Senior care uses are currently permitted in zoning districts where multi-family development is allowed and the amendment will continue to allow senior care uses in those same districts based on external similarity between these uses. As such, senior care uses will continue to be comprehensively regulated in terms of open space, landscaping, building heights, setbacks and design standards which have proven effective in creating compatibility with adjoining single family areas.

In initiating the amendment, Town Council directed staff to evaluate and recommend additional development standards, if any, which are appropriate for senior care uses. Staff conducted significant research to identify best zoning practices related to the external environment for senior care uses. Most of the best practice literature for senior

care uses relates to the internal environment for these uses. Some anecdotal research supports enhanced external recreational amenities for senior care uses, which became the focus of this portion of the amendment.

The Town currently has a recreational area requirement for single-family developments which was used as a basis for the recreational area requirement for senior care uses. The existing Recreational Area code is provided as Attachment 4 and summarized as follows:

- A recreational area is required equal to a ratio of 1 acre of recreational area for every 85 units. The amendment clarifies that a unit includes bed, bedrooms and other senior care living units.
- Passive and active amenities are required based on the size of the recreational area.
- The requirements are proportional to the size of the facility, leading to equity.
- Flexibility exists within the existing code to require amenities to be tailored for appropriateness to the anticipated needs of the development. This flexibility will enable senior care use to propose amenities that support senior living in relation to their specific development.
- A recreational area plan is required as part of the site plan to confirm the required area and amenities.
- Although the existing standards were originally drafted for single-family residential development, the standards are also appropriate for senior care uses given the flexibility of tailored amenities and credits for indoor or enhanced recreational facilities such as swimming pools, theaters or gymnasiums.
- Recreational areas, once improved, can count toward the open space requirements of the zoning code. For reference, the open space requirements for the applicable zoning districts is provided as Attachment 5.

Minor references: A number of amendments to update terms and references throughout the Zoning Code are included on Attachment 1. The Parking Code contains two conflicting parking standards for senior care uses. The more comprehensive parking standard has been retained and the other deleted.

## **GENERAL PLAN COMPLIANCE**

The Zoning Code Amendment was reviewed for conformance with the Vision, Goals and Policies of the General Plan. Listed below is a summary of the applicable Goals and Policies in italics, followed by staff commentary:

*Goal 1.3 To promote a compatible mix of land uses throughout the Oro Valley Planning Area.*

Staff Comment: The amendment addresses this goal through the inclusion of the range of senior care uses in appropriate locations.

*Policy 1.4.7 The Town shall ensure that increased densities approved for high density residential projects are based on reducing the negative impacts on adjacent*

---

*lower density residential projects and providing additional landscaping, open space and amenities.*

Staff Comment: Although this policy is written directly for high density uses, such as apartments, senior care uses have some analogous characteristics with multi-family development. As the amendment provides for these uses in zoning districts which allow townhouse/multi-family development, the site will be subject to many standards currently used to mitigate impacts on adjoining residential areas. Additionally, the requirement for recreational area and amenities to support senior care uses will reduce impact on adjoining areas, consistent with this General Plan policy.

*Policy 7.1.3 The Town shall continue to require apartment and condominium developments to incorporate recreational facilities and other amenities to serve residents...*

Staff Comment: Senior care uses have some analogous qualities with multi-family development. As such, the requirement for recreational area and amenities to support senior care uses is consistent with this General Plan policy.

---

## **PUBLIC PARTICIPATION:**

Public notice has been provided as follows:

- All HOAs in the Town were notified of this hearing
- Public hearing notice was posted:
  - In the Territorial newspaper
  - At Town hall
  - On the Town website

In addition to the above public notice, the amendment was distributed to industry representatives, senior care developers and interested residents. Comments received on the amendment are included as Attachment 6 and summarized in italics followed by staff comment, as follows:

- *Some industry representatives expressed concern with the amount of recreational area required, particularly with regard to assisted living and nursing care institutions. These comments were based on an opinion that residents within assisted living and nursing care institutions have less mobility and do not need as much recreational area as independent living facilities. It was requested that the recreational area for assisted living and nursing care institutions be reduced (see Attachment 6 and Attachment 7 LRS Architects Suggested Revisions).*

Staff Comment: The residents of these facilities have an equal need for recreational space and therefore the reduction is not supported by staff. The amendment includes flexibility allowing amenities to be tailored for a specific facility's needs. Additionally, the proposed amendment allows for credits at a 3:1 area ratio for indoor recreational areas.

- Favorable comments have been received from some industry representatives.
- *A number of comments were received from one resident relative to internal building and safety concerns.*

Staff Comment: Internal building design and safety issues are outside the scope of zoning. With regard to building and fire codes, most of these uses are classified as Institutional occupancies which are highly regulated by the Town and Fire Marshall. The International Building Code and International Fire Code address primary life-safety issues such as tripping/falling hazards, ingress/egress, accessibility, emergency systems such as lighting, and fire protection (fire sprinklers) and warning systems. Building and fire codes establish minimum requirements, which are exceeded in many cases. Based on the extensive and comprehensive regulation of these uses by the International Building and Fire Codes, additional internal building code regulations are not recommended.

- *A number of comments were received from one resident relative to concerns with operational aspects of these uses.*

Staff Comment: Operational aspects related to senior care uses are outside the scope of zoning. The State Department of Health Services has extensive rules and regulations which comprehensively address all operational aspects of senior care uses including: service plans, medication services, behavioral health, environmental standards, staffing, training, resident rights, transport, medical records, nutrition, emergency and safety and physical plant requirements. Based on the extensive and comprehensive regulation of these uses by the State Department of Health, additional operational regulations are not recommended.

- A number of zoning related standards were suggested by one resident as follows:
  - *Requirement for a minimum property size of 20 acres to accommodate open space and serve the recreational needs of the facility.*

Staff Comment: This suggestion could be excessive for smaller facilities and is not supported by staff. The recreational area required by the Code proportionally increases as the facility size increases and in staff view provides an adequate amount of recreational area to serve residents based on the proportional size of the facility.

- *Allow senior care uses in C-1 and C-2 zoning districts.*

Staff Comment: The purpose statements for C-1 and C-2 indicate that these areas are intended for office and retail uses. C-2 indicates an emphasis on shopping centers and group commercial developments. As such, these districts should be retained for these purposes.

- 
- *Do not permit senior care immediately adjacent to single-family residential subdivisions.*

Staff Comment: Senior care uses are similar in character to a multi-family residential development, which in many cases is an appropriate transitional land use adjacent to single-family residential areas.

- *Do not permit small in home care of seniors.*

Staff Comment: State and federal law require the Town treat assisted living homes equivalent to single-family residences.

- *Require parking spaces in senior care developments be covered.*

Staff Comment: This would create a separate unique standard for senior care different than other permitted uses. If the Town were to pursue such a standard, staff would recommend this issue be approached comprehensively for all uses as part of a future amendment.

- *If swimming pools are provided, they should be located indoors only based on safety and climate concerns.*

Staff Comment: This standard is not supported by staff as it precludes outdoor swimming pools that can be appropriately designed to address safety and climate concerns.

---

## **RECOMMENDATION:**

Based on the following findings:

- The proposed amendment will resolve differences in terms and definitions between the Town Zoning Code and State Law
- The proposed amendment updates the Zoning Code and eliminates outdated terminology and definitions.
- The proposed amendment provides for recreational amenities to serve the needs of the residents within senior care facilities
- The proposal is consistent with the relevant Goals and Policies of the General Plan.

It is recommended that the Planning and Zoning Commission take the following action:

**Recommend approval to the Town Council of the requested Zoning Code Amendment OV714-009 as provided on Attachments 1 and 2.**

---

## **SUGGESTED MOTIONS:**

The Planning and Zoning Commission may wish to consider the following suggested motion:

I move to recommend approval of the Zoning Code Amendment in Attachments 1 and 2 related to senior care uses, based on the findings in the staff report.

OR

I move to recommend denial of the Zoning Code Amendment in Attachments 1 and 2 related to senior care uses, as the request does not meet the finding that

---

**ATTACHMENTS:**

1. Proposed Amendment – Definitions and Standards
2. Proposed Amendment – Table 23.1 Permitted Uses
3. Other Jurisdiction Research
4. Existing Recreational Area Code
5. Open Space Comparison
6. Industry and Resident Comments
7. LRS Architects Suggested Revisions

---

Bayer Vella, Interim Planning Manager