

Town Council Regular Session

Meeting Date: 01/07/2015

Submitted By: Chad Daines, Development Infrastructure Services

Department: Development Infrastructure Services

---

#### Information

#### SUBJECT:

PUBLIC HEARING: ORDINANCE NO. (O)15-01, AMENDING VARIOUS SECTIONS OF THE ORO VALLEY ZONING CODE REVISED (OVZCR) RELATED TO SENIOR CARE USES INCLUDING AMENDMENTS TO DEFINITIONS, ALLOWABLE ZONING DISTRICTS AND DEVELOPMENT STANDARDS

#### RECOMMENDATION:

The Planning and Zoning Commission recommends approval of the proposed amendment.

#### EXECUTIVE 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 definition used in the Zoning Code and those used by the State
- Update the Zoning Code to reflect federal and state laws, 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 (Exhibit A within the attached ordinance) provides for an update to senior care requirements as follows:

- Establishes a single definition for "Senior Care Facility" which includes 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- Deletes outdated terms and definitions for senior care uses and adds/amends definitions for consistency with State licensing terms and definitions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

The proposed code amendment was considered by the Planning and Zoning Commission on December 2<sup>nd</sup>. At the conclusion of the public hearing, the Commission voted to recommend approval of the amendment as provided in Exhibit A within the attached ordinance.

#### BACKGROUND OR DETAILED INFORMATION:

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

#### Definitions

The Town of Oro Valley Zoning Code currently defines 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. From a land use standpoint, there is little external difference between the various levels of senior care and therefore a single definition of Senior Care Facility is proposed, which combines all levels of senior care for clarity and simplicity in regulation. The new definition of “Senior Care” incorporates terms consistent with State licensing regulations, including Assisted Living Facility, Hospice In-Patient Facility and Nursing Care Institutions and Independent Living Facilities.

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.

The amendment deletes outdated terms for senior care uses and updates references throughout the Zoning Code.

### Zoning Districts

The proposal also involves an amendment to the Table of Permitted Uses as provided in Exhibit A within the attached ordinance. In summary, Senior Care Facility is proposed 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. Furthermore, the amendment deletes the requirement for a Conditional Use Permit since these zones are intended for this character of development. The table has been amended to allow Assisted Living Homes in all single-family residential zones, consistent with State and Federal law.

### Development Standards

In initiating the amendment, Town Council directed staff to evaluate and recommend additional development standards, if any, which are appropriate for senior care uses.

Senior care uses are currently permitted in zoning districts where multi-family development is allowed, which 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 be similarly regulated as apartments or town homes 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 researching best practices, some studies supported enhanced external recreational amenities for senior care uses. The Town currently has a recreational area requirement for single-family developments, which was used as a basis for senior care uses. The existing Recreational Area Code is provided as Attachment 2 and in summary, requires 1 acre of recreational area for every 85 units.

The amendment requires active and passive amenities within these areas and allows for credits to be received for indoor amenities. Comments from industry representatives focused on reducing the amount of recreational area for assisted living and nursing care facilities. Comments from one resident focused on providing more recreational area and not permitting credits for indoor amenities.

Additional comments were received relative to operational and building aspects of these facilities, which were outside the scope of the amendment. Furthermore, the operational and building aspects are comprehensively regulated by the State, and by the Town and Fire Marshall through the International Building and Fire Codes.

### General Plan Compliance

The Zoning Code Amendment was reviewed for conformance with the Vision, Goals and Policies of the General Plan. The amendment is supported by a number of General Plan policies, as provided in the Planning and Zoning Commission staff report (Attachment 3).

Public Participation

Public notice has been provided as follows:

- All HOAs in the Town were notified of this hearing
- 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 addressed in Attachment 3 and included as Attachment 4.

Planning and Zoning Commission Review / Action

The request was considered by the Planning and Zoning Commission on December 2<sup>nd</sup>. Comments at the public hearing focused on clarification that the amendment would not restrict a hospital from offering senior care services. The proposed language was modified to provide that clarification. At the conclusion of the public hearing, the Commission voted to recommend approval of the proposed amendment. The draft Commission minutes are provided as Attachment 5.

FISCAL IMPACT:

N/A

SUGGESTED MOTION:

I MOVE to adopt Ordinance No. (O)15-01, providing for amendments to the Zoning Code to modernize definitions, modify zoning districts and improve development standards.

OR

I MOVE to deny Ordinance No. (O)15-01, providing for an amendment to the Zoning Code, based on the finding that \_\_\_\_\_.

# EXHIBIT “A”

---

## **ADD The following NEW Definitions to Chapter 31**

### **SENIOR CARE FACILITY**

SHALL MEAN A HEALTH CARE FACILITY PROVIDING SINGLE OR MULTIPLE TYPES OF SENIOR CARE, INCLUDING INDEPENDENT LIVING FACILITIES OR FACILITIES DEFINED AND LICENSED BY THE STATE OF ARIZONA AS AN ASSISTED LIVING FACILITY, HOSPICE IN-PATIENT FACILITY, NURSING CARE INSTITUTION OR SIMILARLY LICENSED FACILITIES.

### **ASSISTED LIVING HOME**

SHALL MEAN A DWELLING UNIT USED AS A PRIMARY RESIDENCE FOR TEN (10) OR FEWER RESIDENTS WHO RECEIVE SUPERVISORY CARE SERVICES, PERSONAL CARE SERVICES OR DIRECTED CARE SERVICES ON A CONTINUAL BASIS.

---

## **AMEND the following existing definitions in Chapter 31**

### **Additions shown in ALL CAPS, Deletions shown in strikethrough**

#### **Independent Living Facility**

Shall mean A SENIOR CARE FACILITY WHICH PROVIDES RESIDENT BEDS OR RESIDENTIAL LIVING UNITS FOR ~~one (1) or more residential buildings containing multiple dwelling units, each of which has sleeping quarters, a full kitchen and bath, and/or sleeping units.~~ Independent living facilities are intended for, and shall be limited to, occupancy by adults who are able to live independently and do not require routine/ongoing assistance with the activities of daily living. An independent living facility must include areas for ~~full-service communal~~ dining and group activities FOR THE

~~RESIDENTS. The project must include common open space for passive recreation, including walkways, benches, and shade structures.~~

### **Hospital**

~~Shall mean a facility for the general and emergency treatment of human ailments with bed care. and shall include sanitarium and clinic, but shall not include convalescent or nursing home.~~

---

## **DELETE the following EXISTING DEFINITIONS in Chapter 31**

### **Skilled Nursing Care Facility**

~~Shall mean a LONG TERM CARE health care facility which provides skilled nursing and supportive care (excluding substance abuse treatment) on a 24 hour a day basis to inpatients requiring such services for extended periods (see criteria/specific development standards in Section [25.1.W.](#)).~~

### **Rehabilitative Care Facility**

~~Shall mean a health care long term care facility that provides twenty four (24) hour personal care, rehabilitation, and supportive care services, including medical supervision, for inpatients. Skilled nursing care and ongoing therapeutic treatment (excluding treatment for substance abuse), as necessary, may be~~

~~provided for patients only inhabiting the premises for a finite period (see criteria/specific development standards in Section 25.1.W.).~~

### **Convalescent Home or Nursing Home**

~~Shall mean any place or institution which makes provisions for bed care or for chronic or convalescent care for one (1) or more persons exclusive of relatives who, by reason of illness or physical infirmity, are unable to properly care for themselves. Alcoholics, drug~~

~~addicts, persons with mental diseases and persons with communicable diseases including contagious tuberculosis, shall not be admitted or cared for in these homes licensed under the State of Arizona as a convalescent and nursing home.~~

## **Community Residence**

~~A dwelling unit shared as a primary residence by the disabled, or disabled elderly person, living together as a single housekeeping unit in which staff provides on-site care, training and support for the residents. Such residence or services provided therein shall be licensed by, certified by, approved by, registered with, funded by or through, or under contract with the State of Arizona. Community residence does not include a residence which serves persons as an alternative to incarceration for a criminal offense, or a residence for a criminal offense, or a residence which provides drug and/or alcohol rehabilitation.~~

---

### **AMEND the following Section in Chapter 25:**

#### **Additions shown in ALL CAPS, Deletions shown in strikethrough**

#### **Section 25.1.E      ~~COMMUNITY RESIDENCES ASSISTED LIVING HOME~~**

~~Community Residences ASSISTED LIVING HOMES shall be permitted provided that:~~

- ~~1. No residence is located on a lot with a property line within 1,000 feet, measured in a straight line in any direction, of the lot line of another such Community Residences ; and~~
  
- 1. NO ASSISTED LIVING HOME SHALL BE LOCATED CLOSER THAN 1,000 FEET TO ANOTHER ASSISTED LIVING HOME. THE MINIMUM 1,000 FOOT SEPARATION SHALL BE MAINTAINED BETWEEN PROPERTY LINES, MEASURED ON A STRAIGHT LINE.**

2. Such ASSISTED LIVING HOME residence contains no more than 6 10 residents AND AN APPROPRIATE NUMBER OF SUPPORT STAFF, ~~or 8 residents, including staff;~~ and
3. ~~Such residence is registered with, and is approved by, the Planning and Zoning Administrator as to compliance with the standards of this Section.~~
4. ~~Such residence or services provided therein shall be licensed by, certified by, approved by, registered with, funded by or through, or under contract with the State of Arizona.~~

---

**Add the following Additional Requirements in Chapter 25, Section 25.1 for Senior Care Facility**

X. SENIOR CARE FACILITY:

1. RECREATIONAL AREA: SENIOR CARE FACILITIES SHALL COMPLY WITH THE REQUIREMENTS OF SECTION 26.5.B, SECTION 26.5.C AND SECTION 26.5.D OF THE ZONING CODE.
  - a. THE TERM DWELLING UNIT IN SECTION 26.5.C. SHALL INCLUDE BEDS, BEDROOMS AND LIVING UNITS FOR THE PURPOSES OF CALCULATING THE AMOUNT OF RECREATIONAL AREA.
  - b. THE RECREATIONAL AREA SHALL PROVIDE AMENITIES TO MEET THE RECREATIONAL NEEDS RESIDENTS AND GUESTS OF THE FACILITY. THE MINIMUM RECREATIONAL AREA MAY BE DIVIDED BETWEEN MULTIPLE AREAS THROUGHOUT THE DEVELOPMENT.
  - c. SENIOR CARE FACILITIES ARE EXEMPT FROM PRIVATE OUTDOOR LIVING SPACE REQUIREMENTS OF THE APPLICABLE ZONING DISTRICT.

---

**Additional minor amendments throughout the Zoning Code to change references to deleted or modified uses have been incorporated as follows:**

**Additions shown in ALL CAPS, Deletions shown in strikethrough**

**Section 23.7.E.6.b. Recreational Facilities**

Wherever there is constructed a multiple dwelling which has twenty (20) or more dwelling units, there shall be provided on the lot site of said multiple dwellings a play area for children. Said play area shall be separated from any private access ways and public streets by a fence or wall. The tot lot requirement ~~may~~ SHALL be excluded from a ~~senior citizens development~~ SENIOR CARE FACILITIES.

---

**Section 23.8.B. C-N Neighborhood Commercial District**

1. Floor Area Limits

...

- c. The aforementioned square footage limits do not apply to buildings used for residential, public, institutional, civic, office, ~~rehabilitative and skilled nursing care~~ AND SENIOR CARE purposes.

---

**Section 27.7.D. Parking Lots – Required Number of Spaces for Type of Use**

1. Residential Parking Requirements: Residential uses shall provide a minimum number of parking spaces as defined by the standards below. Any increase or decrease in parking shall be in accordance with subsection C.2 of this section.

...

- e. Boarding Houses/Group Homes /Religious Quarters/~~Mature Adult Retirement Quarters/Rehabilitative/Skilled Nursing~~ SENIOR Care Facilities: One (1) per bedroom or bed plus one (1) for-each four (4) bedrooms or beds for guest parking, plus two (2) for every three (3)-employees.

---

## Table 27-14 Allowed Parking Spaces

Health Facilities

...

~~b. Long Term Care Facilities. 33/bed, 1 per employee based on maximum shift~~

---

### Design Standards Addendum "A", Section 2.1.P.1

P. ~~Senior Housing/Assisted Living~~ SENIOR CARE FACILITY Design

1. ~~Independent living, assisted living, and skilled nursing~~ SENIOR CARE Facilities, including ~~continuum of care facilities~~, shall provide the following features and amenities:

---

Section 27.10.D.3.f.vi.b).5.B).vii).(C).(5).(c)

(c) ~~Hospitals/extended~~ SENIOR Care Facilities exceeding two (2) stories or thirty (30) feet in height.

**Amend Table 23-1 as follows:**

<b>EXISTING</b>																			
<b>TABLE 23-1: Permitted Uses</b>																			
SPECIFIC USE TYPE	R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	POS	ADDL REGS
Community Residences	P	P	P	P	P				P	P									Section 25.1 E
Independent Living Facility									C		C	P	C						
Rehabilitative Care Facility											C	C	C						
Skilled Nursing Care Facility											C	C	C						

<b>PROPOSED (AREAS OF CHANGE SHADED)</b>																			
<b>TABLE 23-1: Permitted Uses</b>																			
SPECIFIC USE TYPE	R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	POS	ADDL REGS
Community Residences	P	P	P	P	P				P	P									
Assisted Living Home	P	P	P	P	P	P	P	P	P	P									Section 25.1 E
Independent Living Facility									C		C	P	C						Section 25.1 X
Rehabilitative Care Facility											C	C	C						
Skilled Nursing Care Facility											C	C	C						
Senior Care Facility									P	P	P	P	P						Section 25.1 X