



CITY OF HARRISONBURG CITY MANAGER

409 SOUTH MAIN STREET, HARRISONBURG, VA 22801

OFFICE (540) 432-7701 • FAX (540) 432-7778

TO: Ande Banks, Interim City Manager
FROM: Wesley Russ, Assistant City Attorney
DATE: September 2, 2022
RE: Request for direction regarding group homes.

Summary: Staff are requesting City Council's input on different options for zoning ordinance amendments to ensure compliance with federal fair housing laws.

Background: Multiple group homes affiliated with Oxford House currently exist in the City of Harrisonburg, although they do not necessarily comply with the Zoning Ordinance.

Key Issues: The federal Fair Housing Act requires municipalities to make "reasonable accommodations" to their rules, policies, practices, or services, when the accommodation is necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling. Under federal law, addiction is considered a disability; therefore, accommodation requests to the zoning ordinance that would facilitate recovery from addiction must be considered and, if reasonable, granted. These often take the form of "group homes."

While there is no precise definition, "group home" in this context often refers to housing for individuals recovering from alcohol or drug addiction that provides an alcohol- and drug-free living environment and peer support, with more unrelated occupants than otherwise permitted.

Virginia law requires localities to treat as a "single family" the residents of any group home or other residential facility that is subject to licensing requirements from the Department of Behavioral Health and Developmental Services with eight or fewer residents. In addition to state licensing requirements, these group homes have one or more counselors or other staff members.

Group homes affiliated with Oxford House and other similar organizations are not subject to the same state licensing requirements and are resident-operated—in other words, there is no outside counselor or staff member who operates the home. Localities are often asked to accommodate these group homes by treating them no differently than state-licensed group homes. At times, accommodation requests also include exceeding the limit of eight residents.

Currently, the only process to request a reasonable accommodation for a group home requires the applicant to request an amendment to the zoning ordinance. Staff recommend a City-initiated



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amendment related to group homes, to ensure consistency, enforceability, and alignment with City Council's priorities and preferences.

Staff believe either of two options would adequately address the City's needs:

1. Creation of a "group home" use, permitted by special use permit in any residential district. This option would allow Planning Commission and City Council to consider each request individually and tailor appropriate conditions to the specific site after hearing any relevant concerns expressed at the public hearings. For example, there may be valid concerns related to availability of parking, depending on-street parking availability in the area, where conditions related to on-site parking or limited occupancy would be appropriate.
2. Creation of a "group home" use, permitted after review and approval of a request for a reasonable accommodation by staff. This option would not allow for public hearings prior to the approval of a group home. Staff's decision would be appealable to the Board of Zoning Appeals.

Staff would like guidance regarding City Council's preferred method of processing accommodation requests for group homes prior to preparing amendments to be heard by Planning Commission.

Environmental Impact: N/A

Fiscal Impact: N/A

Prior Actions:

Alternatives:

- (a) Recommend a special use permit process
- (b) Recommend a process for administrative review by staff

Community Engagement:

Recommendation:

Attachments:

Review:

The initiating Department Director will place in Legistar, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The completion of



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review only addresses the readiness of the issue for Council consideration. This does not address the recommendation for approval or denial of the issue.

