



CITY OF GILLETTE

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For: City of Gillette
Planning Commission and City Council

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A Brief Analysis on Group Care Facilities and Their Allowance in All Residential Zoning Districts

Current regulations within the City of Gillette Zoning Ordinance specify the business model of a Group Care Facility must be operating as a not-for-profit (nonprofit) center. Furthermore, current regulations only allow Group Care Facilities to operate as a Permitted Use in two (2) of the nine (9) residential zoning districts.

Staff’s recommendation is to amend the business model requirement to include those programs that participate in the State of Wyoming Development Disability Waiver Program and are in good standing within the program as well as allow Group Care Facilities to operate as a Permitted Use within all residential zoning districts. By adopting both staff recommendations for edits to the definition of Group Care Facility and their legal operation within zoning districts, City Council is opening up more housing opportunities for our community members with disabilities. “According to the United Nations’ definition, disability is grounded in the inability to perform personal, social, or occupational activities, and it can result from genetic defects, accidents, or the sequelae of chronic illness (Albrecht 1992; Wendell 1996; Williams 1998).¹ By recognizing that disability within the scope of above reference UN definitions is something that occurs to a person not by active or passive choice by outside of their control, then we can begin to analysis the additional restrictions placed on disabled persons and their housing options based on the Zoning Ordinance.

Table 1. Disability Types for the U.S. Population

Disability Type	Percentage of U.S. Population with the Given Disability	Estimated Population Numbers
Ambulatory Difficulty	6.60%	20,435,576
Independent Living Difficulty	5.80%	14,739,809
Cognitive Difficulty	5.40%	16,529,501
Hearing Difficulty	3.60%	11,642,464
Vision Difficulty	2.50%	8,054,084
Self-Care Difficulty	2.50%	7,852,976

Source: U.S. Census Bureau 2021

¹ Chronic Illness and Educational Equity, *The Politics of Visibility*, Karen Elizabeth Jung



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Historic practice was to have disabled persons all live within the same facility and away from the general public. This was believed to be a safer environment for both the disabled and abled population as well as providing superior care than what could be received at home with family members that were not prepared to or qualified to be caregivers. While this is still a meaningful way to provide care, more modern studies have shown that living in an environment that is more familial and less clinical reflects positively in rehabilitation, psyche, and overall more satisfaction in daily life. The primary purpose of a Group Care Facility (or Group Home) is to provide a family-like setting with ongoing supervision and support for persons unable to live independently in the community. Overwhelming evidence showed that allowing individuals with disabilities to live in a family-like setting in the community in a community residence was not only much less expensive than consigning them to institutions, but also substantially more effective. Living in a group home allows these individuals to learn to lead as normal a life as possible. As the courts have noted time and again, group homes are the very opposite of an institution in terms of how they function and perform, and in terms of how they use the land. To achieve a family-like setting, these community residences need to be located in the same residential zoning districts as dwellings occupied by biological families. Use of these zoning districts presents the question of where to draw the boundary between a “single family” residence and a “group” residence, This question is particularly important in determining how to treat small group homes for persons with disabilities, facilities that are designed to provide housing, personal care, and habilitation services in the quiet residential setting of a single-family zoning district.

The City of Gillette Zoning Ordinance defines family as “one (1) or more persons, related by blood, adoption or marriage, occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, fraternity or sorority house, lodging house, hotel or motel”. While Staff upholds that a boarding house, fraternity/sorority, lodging house, hotel, and motel are not considered familial units as the premise of these institutions is transient occupation, Staff does question why the Zoning Ordinance defines family in such a legal, narrow scope. Planning Staff does not currently impose fines for violating the zoning ordinance to those that rent out their homes to nonfamily (family as defined in the Zoning Ordinance) and we do not wish to do so. Staff recognizes that not all people that reside in a single-family dwelling are related by blood, adoption, or marriage. As long as they are law-abiding citizens not causing harm to their housemates and neighbors, then why restrict many of the zoning districts to house only those that meet the existing definition of family. Furthermore, a deeper analysis could be done to examine the economic and socioeconomic implications single-family zoning as it related to multi-family zoning and the cultural practice of exclusionary zoning.

Unless posed as a threat or harmful to others, disabled persons should have the opportunity to reside in the same zoning districts as able-bodied persons. “Living with the fundamental conditions of an ill body does not merely involve the experience of contingency, lack, and limitation in activity and role performance; it also inaugurates consignment to an identity category that signifies disadvantage and



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oppression (Garland-Thomson 1998): those who are *disabled*.² The Zoning Ordinance should be amended to allow single-family group homes that comply with the local definition of family by right and group care facilities wherever single-family structures are otherwise allowed by right, and to allow larger group homes or multifamily structures housing protected classes by right wherever similar multifamily structures are otherwise allowed by right. For this reason, staff recommends modify the definition of Group Care Facility to allow those within the State of Wyoming Development Disability Waiver Program to operate legally as a Group Care Facility and allow Group Care Facilities to operate as a Permitted Use within all zoning districts where the primary use is residential.

City Council may impose additional safety and development standards on group care facilities such as required city licensing or distancing requirements through zoning (which are controversial). Courts have upheld distancing requirements where the stated and clear intent is to avoid overconcentration of group homes to support the normalization of the group home population. The U.S. Department of Justice supports this, though they make clear that if the intent of distancing requirements is to generally restrict the number and location of group homes in a single-family neighborhood, these ordinances will be struck down. City Planning Staff can support a distancing requirement specific to group care facilities with the intent to uphold the residential integrity of the neighborhood that they operate within. Further research and study would be required of staff before making a specific distancing recommendation.

² Chronic Illness and Educational Equity, *The Politics of Visibility*, Karen Elizabeth Jung