

**TOWN OF JOHNSTOWN, COLORADO
ORDINANCE NO. 2023-263**

AN ORDINANCE AMENDING SECTION 17-4-3, SECTION 17-11-1 AND SECTION 17-11-2 OF AND ADDING SECTION 17-4-6 TO THE TOWN OF JOHNSTOWN LAND USE AND DEVELOPMENT CODE CONCERNING GROUP HOMES, HOUSEHOLDS AND FAIR HOUSING ACT ACCOMMODATIONS; AND DECLARING AN EMERGENCY.

WHEREAS, the Town of Johnstown, Colorado (the “Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

WHEREAS, the Town Council is vested with the authority to administer the affairs of the Town; and

WHEREAS, on or about May 11, 2023, the Town Council adopted the Town of Johnstown Land Use and Development Code (“LUDC”), referenced in Chapter 17 of the Johnstown Municipal Code; and

WHEREAS, the Town Council desires to amend the LUDC to clarify, among other revisions, that “group homes” are limited to those contemplated by § 31-23-303, C.R.S., to require that, except for group homes or for other good cause, residential dwelling units may only consist of up to three (3) unrelated persons and to provide standards and procedures to allow the Town to grant reasonable accommodations to persons with disabilities seeking equal access to housing under the federal Fair Housing Act, 42 U.S.C. § 3601, et seq., as amended; and

WHEREAS, Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of the immediate public health, welfare, peace, safety and property and that this Ordinance is in the best interests of the citizens of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, THAT:

Section 1. Section 17-4-3(C): Section 17-4-3(C) of the Town of Johnstown Land Use and Development Code shall be repealed in full and readopted to read as follows:

17-4-3 Specific Use Standards

...

C. **Group Home - Small.** In districts where group homes are enabled, they shall meet the following standards and conditions to ensure they are integrated into neighborhoods, have a non-institutional nature, and maintain the residential character of neighborhoods.

1. Group homes shall consist solely of those set forth in § 31-23-303, C.R.S., as amended, and shall comply with the requirements contained therein.

2. Group homes shall meet all of the residential design standards applicable in the particular district, and any alterations to support the group living shall be done in a discrete way in accordance with those standards.
3. No group home shall be located less than 750 from another existing group home, except that the Director may waive this requirement if separated streets, parks, civic spaces or other transitions establish different neighborhoods or for other good cause.
3. When required pursuant to § 31-23-303, C.R.S., as amended, group homes shall be state-licensed.
4. Group homes shall be supervised at all times and may include up to two (2) resident care givers.
5. Group homes shall be operated or owned by a governmental agency or non-profit entity qualified to provide care and supervision.
6. Group homes shall comply with state, county or municipal health, safety and fire codes.
7. Group homes shall not include alcoholism or drug treatment centers, work release facilities or other housing facilities qualifying as residential care – institutional nor shall they include interim care treatment or rehabilitation facilities, or other housing facilities serving as an alternative to incarceration.

Section 2. Section 17-4-3(H): Section 17-4-3(H) shall be added to the Town of Johnstown Land Use and Development Code and shall read as follows:

17-4-3 Specific Use Standards

...

- H. **Occupancy Limits.** A household living together in a dwelling unit shall consist of an individual; two or more individuals related by blood, marriage, or legal adoption or guardianship; or a group of not more than three (3) individuals not related by blood living together in a dwelling unit. Upon receipt of a written request and upon a finding of good cause, that the dwelling unit may reasonably accommodate additional persons and that all applicable criteria of these regulations have been satisfied, the Director may, at the Director's discretion, increase the number of unrelated persons who may reside in a dwelling unit to five (5) unrelated persons. Group homes shall be exempt from the occupancy limits set forth herein.

Section 3. Section 17-4-6: Section 17-4-6 shall be added to the Town of Johnstown Land Use and Development Code and shall read as follows:

Sec. 17-4-6. Fair Housing Act Reasonable Accommodations

- A. **Purpose.** Pursuant to this section, the Town Manager may grant reasonable accommodations in the application of this land use code to persons with disabilities or handicaps seeking equal access to housing under the federal Fair Housing Act, 42 U.S.C. § 3601, et seq., as amended (collectively, "FHA").
- B. **Applicant.** An individual with a disability or handicap, his or her representative, the owner or provider of housing for individuals with disabilities or handicaps or any other person with a valid interest may request relief from any land use regulation or procedure contained in this land use code to obtain equal access to housing. The request shall be submitted on a form provided by the Town

or in another manner deemed acceptable by the Town Manager, along with any additional information required by the Town.

- C. **State Certification.** Unless otherwise permitted by state law or federal law, the property shall be certified by the Colorado Agency of Recovery Residences and be and remain in compliance with Section 27-81-129, C.R.S., as amended.
- D. **Review Criteria.** The Town Manager shall not permit more than eight (8) unrelated persons with a disability or handicap to reside in a single dwelling unit and shall consider the following criteria when reviewing a request for reasonable accommodation under the FHA, and, in the Town Manager's discretion, determine the weight to place on each such criteria;
 - 1. Whether the dwelling unit will at all times be used by an individual or group of individuals with a qualifying disability or handicap;
 - 2. Whether the requested accommodation is necessary to afford persons with disabilities equal opportunities to use and enjoy housing;
 - 3. Whether the requested accommodation is reasonable under the factual circumstances;
 - 4. Whether the requested accommodation will impose an undue financial or administrative burden on the Town or will require a fundamental alteration of the Town's ordinances, rules, regulations, policies or practices;
 - 5. Whether adequate measures are in place to mitigate negative impacts to surrounding properties; and
 - 6. Whether there are alternative reasonable accommodations available that would provide an equivalent level of benefit to the applicant.
- E. **Decision.** The Town Manager may approve, conditionally approve or deny the request in accordance with federal law.
 - 1. If the request is approved or approved with conditions, the request shall not run with the land unless, at the Town Manager's discretion, the request requires a physical modification of a structure that cannot be easily removed or altered.
 - 2. If the request is approved or approved with conditions, the property shall be used and maintained only by an individual or individuals with a disability under the FHA.
 - 3. As a condition of approval, the applicant shall provide written certification on an annual basis of the following to the Town:
 - a. The property will not be used as temporary shelter for homeless persons during the term of the reasonable accommodation;
 - b. The property will not be used to provide treatment or care so as to qualify the property as a group living facility under this land use code;
 - c. The property will remain in compliance with all building code, fire code and health department requirements, nuisance laws and other generally applicable laws, ordinance, rules and regulations other than those that have been waived or modified as part of the approved request;
 - d. The property is designed and intended for persons with disabilities as defined by the FHA and best efforts will be utilized to ensure that all residents are persons with disabilities; and
 - e. The property will be covered by liability insurance.

4. If the Town Manager denies the application, the Town Manager shall provide written notice to the applicant containing the factual basis for the denial. Within sixty (60) days of receipt of the written notice of denial, the applicant may appeal the decision to the Town Council, who shall, as soon as reasonably practicable, hold a public hearing on the appeal.

F. **Termination of Reasonable Accommodation.** In the event that any condition placed upon the grant of reasonable accommodation is violated or the property is no longer used and maintained only by an individual or individuals with a disability under the FHA, the reasonable accommodation shall automatically terminate and the property shall be subject to the same land use regulations, policies, and procedures as any other similarly situated property in the Town.

Section 4. Section 17-11-1(2): The description of *Group Home – Small* set forth in Section 17-11-1 of the Town of Johnstown Land Use and Development Code shall be repealed in full and readopted to read as follows:

17-11-1 Description of Uses

2. . . .

Group Home - Small. The use of a residential building as a single primary dwelling as contemplated by and in compliance with § 31-23-303, C.R.S., as amended, providing permanent residence for up to eight (8) unrelated persons with intellectual and developmental disabilities, behavioral or mental health disorders, or who are over the age of 60 years old. When required pursuant to § 31-23-303, C.R.S., as amended, group homes shall be state-licensed. Group homes shall be supervised at all times and may include up to two (2) resident care givers. Group homes shall be operated or owned by a governmental agency or non-profit entity qualified to provide care and supervision. Group homes shall comply with state, county or municipal health, safety and fire codes. Group homes shall not include alcoholism or drug treatment centers, work release facilities or other housing facilities qualifying as residential care – institutional nor shall they include interim care treatment or rehabilitation facilities, or other housing facilities serving as an alternative to incarceration.

Section 5. Section 17-11-2: The definition of *Household* set forth in Section 17-11-2 of the Town of Johnstown Land Use and Development Code shall be repealed in full and readopted to read as follows:

17-11-2 Defined Terms

Household. An individual; two or more individuals related by blood, marriage, or legal adoption or guardianship; or a group of not more than three (3) individuals not related by blood living together in a dwelling unit, unless otherwise allowed by the Director as provided in these regulations.

Section 6. Repeal. Existing or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

Section 7. Emergency Declaration. The Town Council finds and declares that an emergency exists based on the facts contained in the recitals set forth above and that this Ordinance is necessary for the immediate preservation of the health, safety, welfare and peace of the public and the citizens of the Town and for the protection of citizens residing in residential districts in the Town.

Section 8. Effective Date and Publication. The procedures set forth in Section 4.6(A) of the Home Rule Charter and corresponding provisions of the Johnstown Municipal Code requiring a second reading of an ordinance prior to final adoption are hereby suspended. Pursuant to Section 4.7 of the Town’s Home Rule Charter, this Ordinance shall take effect immediately upon the affirmative vote of five (5) Councilmembers. This Ordinance, as adopted by the Town Council, shall be published and shall be numbered and recorded by the Town Clerk in the official records of the Town. The adoption and publication shall be authenticated by the signatures of the Mayor and the Town Clerk.

INTRODUCED, PASSED AND ADOPTED AS AN EMERGENCY MEASURE on first reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2023, by a vote of five (5) Councilmembers of the Town Council of the Town of Johnstown.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Troy D. Mellon, Mayor