

Group Home FAQs

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Introduction: The trend of group homes in residential neighborhoods is growing across the country. Community care homes began appearing in greater numbers in the 1970s as federal and state governments moved to de-institutionalize people with disabilities and encourage their placement in residential settings. Today, there are hundreds of licensed care facilities in Denver neighborhoods.

- 1. What is a group home?** There is not a specific legal definition but generally the term “group home” refers to housing occupied by groups of unrelated individuals with disabilities, a federally protected class of people. Persons with disabilities include anyone with a condition that substantially limits major life activities including blindness, hearing and mobility impairment, developmentally disabled, elderly, HIV infection, alcoholism, drug addiction, chronic fatigue, learning disability, head injury, and mental illness.

In Denver, a small group home is permitted as a “Residential Care Use, Small” (hereinafter referred to as “group home” or “Residential Care Use, Small”) and allows up to eight people per residence, plus care and supervision providers. These facilities provide housing, personal care and rehabilitation services, affording individuals with disabilities the same right to use and enjoy this type of residence as individuals without disabilities.
- 2. What types of housing are NOT permitted under Residential Care Use, Small?** Community correction (jails or halfway houses run by the City’s corrections department), homeless shelter, nursing home, safe house, rooming and boarding, or student housing.
- 3. Why are group homes allowed in my neighborhood?** The City is legally obligated to provide “reasonable accommodations” in accordance with local, state and federal law. Group homes are located across the city and are allowed in all zone districts including single-family residential.
 - a. Federal:** The Federal Fair Housing Act (FFHA) and the Americans with Disabilities Act (ADA) prohibits discrimination against individuals with disabilities and prohibits local governments from enacting zoning or land use decisions that discriminate against protected persons.
 - b. State:** The Colorado legislature declared that group living (for not more than eight (8) persons) is a residential use and a matter of statewide concern. State law requires local governments with zoning codes to recognize group homes as a residential land use and to include them in normal residential surroundings, including single-family residential units.
 - c. Local:** Denver Municipal Code: Denver Zoning Code, Section 11.12.2.2.A.5.e., Definition of “Residential Care Use, Small.” www.denvergov.org/zoning.
- 4. What does “reasonable accommodation” mean?** The FFHA and ADA prohibit discrimination by requiring local governments to make “reasonable accommodations” in their rules, policies, practices, or services when necessary to give people with disabilities equal housing opportunities. Courts have consistently ruled that this requirement applies to zoning and other land use regulations, including variance and conditional permit requirements. Like discrimination cases, group homes have used the reasonable accommodation rule to successfully challenge cities’ occupancy limits and minimum spacing requirements.
- 5. Are people considered to be dangerous allowed in group homes? Will they pose a threat to my family’s safety?** No more than residents in any other home in the community. However, group homes (not sober homes) are licensed and inspected regularly by the State for health and safety safeguards of residents and neighbors, unlike homes occupied by a regular household.

- 6. Do group homes require a rezoning?** No, group homes are allowed in all residential zone districts, with the appropriate zoning use permit, obtained from Community Planning and Development. There is no action required by City Council.
- 7. Is the applicant required to have a public hearing?** No.
- 8. Can group homes participate in a Good Neighbor Agreement (GNA)?** Yes, they may. Neighbors and group home operators/owners are encouraged to work together to set reasonable expectations. GNAs are private voluntary agreements, outside of city regulations or enforcement. Examples of GNA provisions may include: house and yard maintenance, staff parking, outdoor smoking, 24/7 contact information, or participation in HOA. When all parties respect each other's right to reside in a community, residential care use facilities can live in harmony with the neighborhood.
- 9. The homes in my neighborhood are small and cannot accommodate 8 people. What are the layout requirements?** There are no restrictions in the Zoning Code for the number of persons per bedroom, similar to how a regular home's bedroom occupancy is treated. The house will need to be able to accommodate each resident, so smaller homes may have fewer residents. The Building Code specifies that "habitable rooms" must be at least 70 square feet in area and no less than 7 feet in one dimension. Also, per definition, the amount of care (e.g. supervised medical, psychological, or developmental care or treatment) group home residents receive cannot exceed 12 hours per day.
- 10. How can neighbors oppose a group home?** Registered neighborhood organizations (RNO) and community members are notified (RNOs will receive an email, and a sign will be posted on the subject property), and invited to comment when change of use permit applications are received, but objections must be relevant to the zoning use permit review criteria. The review criteria are listed in the Denver Zoning Code, Section 12.4.2.5 (www.denvergov.org/zoning), and summarized below:
- A. The zoning permit is consistent with all prior approvals that are regulatory and controlling for the subject property, as applicable. For example, all zoning permits shall be consistent with a previously approved General Development Plan, Regulating Plan, or Site Development Plan.
 - B. The zoning permit complies with all applicable regulations in the code, including the use-specific standards for all residential care uses found in the Denver Zoning Code, Section 11.2.7.
 - C. The proposal will not substantially or permanently injure the appropriate use of adjacent conforming properties, taking into consideration all proposals for mitigation of such impacts.

Neighbors may submit comments that are relevant to the review criteria to zoning.review@denvergov.org or 201 W. Colfax Ave, Dept. 205, Denver, CO 80202. Note that the zoning permit process is **not** like a Needs & Desires hearing for a liquor license when neighbors' objections based on a lack of "need" and "desire" are taken into consideration. Nor is it like a rezoning when a public hearing is held to seek input as to whether the new uses allowed in the proposed zone district meet the applicable rezoning criteria.

- 11. Why are group homes allowed to house more than 3 unrelated people when the zoning code prohibits it in my own home?** The City does limit the number of unrelated persons living together in a single household under what the zoning code calls "household living", but "group living" uses, including assisted living facilities, nursing homes/hospices, and group homes, are treated differently. For example, the definition of "Residential Care Use, Small," specifically authorizes a number of unrelated persons in excess of the number of unrelated persons permitted per household in a dwelling unit. This is in keeping with providing the mandated "reasonable accommodation" under the FFHA and Colorado State law (as to the number of residents occupying a residential structure in a single family residential zone district).

- 12. Can you operate a business in a residential neighborhood?** Colorado Courts have ruled that a group home is a residential use, not a commercial business use.
- 13. Can local government limit the number of group homes that can locate to a certain area?** It's complicated. Although state law permits spacing of group homes, this spacing requirement may potentially conflict with federal court decisions.
- Some communities require group homes to be spaced a certain distance from one another. Generally, federal courts have found spacing requirements to be a discriminatory practice and violating the FFHA because similar requirements are not imposed on other residential uses and users.
 - State law also expressly requires the spacing of group homes for the elderly and mentally ill at 750-feet from the same type of group home, unless the municipality or county establishes a different spacing requirement. This requirement does not apply to group homes for the developmentally disabled. The intent of this state law is to assist group homes in finding locations within residential neighborhoods and increasing the opportunities for their integration.
- 14. Can a local government consider the feelings of neighbors in making a decision about granting a permit to a group home to locate in a residential neighborhood?** In the same way a local government would break the law if it rejected low-income housing in a community because of the neighbors' fears that such housing would be occupied by racial minorities, a local government can violate the Fair Housing Act if it blocks a group home or denies a requested reasonable accommodation in response to neighbors' stereotypical fears or prejudices about persons with disabilities. This is the case even if the individual government decision-makers are not themselves prejudiced against persons with disabilities. If the evidence shows that the decision-makers were responding to the wishes of their constituents, and that the constituents were motivated in substantial part by discriminatory concerns, the City could be liable if sued.
- 15. Will my property values decrease?** There is an overwhelming volume of evidence that group homes do not significantly impact property values. In a review of 47 studies from 1973 – 1993, researchers found that property values remain unaffected by the proximity of homes for people with disabilities. The studies also revealed that group homes do not make properties close to the homes harder to sell. Read more about the studies at <https://www.hudexchange.info/resources/documents/TheQuestionofPropertyValues.pdf>.
- 16. Why can the owner charge so much for rent?** Owners are allowed to charge rent and fees that they feel are appropriate for the services provided. Often, group homes are a less expensive option for residents versus a larger assisted living facility and have the added bonus of supervision in a more intimate, family-like setting. Moreover, the State regularly inspects licensed group homes to ensure the health and safety of residents.
- 17. What can neighbors do if they have concerns once a group home is in operation?**
- For concerns outside of the home, (trash, unmaintained yard, snow shoveling), call 3-1-1 or visit pocketgov.org.
 - For concerns inside the home (quality of care, patient rights, operating without a license), you may file a complaint with the Colorado Department of Public Health and Environment online (www.colorado.gov/cdphe), through email cdphe.hrdintake@state.co.us or by calling 303-691-4045.
- 18. What does oversight look like at the State level?**
- The Colorado Department of Public Health and Environment oversee and license residents, employees and owners of assisted living facilities. Examples of assisted living facilities include nursing homes, residential treatment facility for the mentally ill, facilities for persons with developmental disabilities. Visit <https://www.colorado.gov/pacific/cdphe/categories/services-and-information/health/health-facilities> to learn more on

- File a complaint & learn about the process
- Policies, guidelines and publications
- Current and proposed regulations
- Find and compare facilities
- Licenses, registration and certificates
- The Colorado Department of Human Services, Office of Behavioral Health (OBH) is responsible for licensing substance use disorder treatment programs and designating mental health treatment programs that receive public funding. Currently, private substance use treatment programs that do not accept public funding including sober living homes, recovery services, etc. do not require licensure. However, if the home is dispensing or administering a controlled substance in order to treat an addiction or treat withdrawal systems, a controlled substance license is required. More information is available at <https://www.colorado.gov/pacific/cdhs/behavioral-health-designation-and-licensing>.

19. What building codes are applicable to group homes? All group homes must comply with Denver Building and Fire Code. Depending on the number of occupants and level of care, the group home may need to install or establish the following: 1) a sprinkler system; 2) two independent exits; 3) a facility personal care plan; 4) an evacuation policy; 5) a smoke alarm system; 6) emergency escape and rescue openings; and 7) fire-resistive-rated walls and floors. For reference when examining building code requirements, a group home is classified as both an Institutional Group I-1 occupancy and Residential Groups R-3 and R-4 occupancies per the International Building Code (IBC). Denver’s building codes and policies can be accessed at www.denvergov.org/buildingcode.

20. Where can I find more resources on living in a group home? Licensed residential care facilities with contact information and types of homes are listed at <https://www.colorado.gov/pacific/cdphe/categories/services-and-information/health/health-facilities>.

References

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“Standards for Hospitals and Health Facilities: Chapter 07 – Assisting Living Residences.” *Department of Public Health and Environment*.
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