

## STAFF COMMENT

This proposed Zoning Ordinance amendment is on the 2002 Priority 1 Zoning Ordinance Amendment Work Program. The amendment will update the current provisions governing the special exception use of housing for the elderly to better reflect current practices and trends in the elderly housing industry. The proposed amendment, among other things, renames and defines the housing for the elderly special exception use, expands such use to include persons with disabilities, addresses the age limitation of 62 years for elderly persons, revises the affordability provisions, and strengthens the provisions concerning compatibility with the surrounding neighborhood. In addition, the proposed amendment includes a definition of assisted living facilities, a type of medical care facility, and proposes to rename and define institutions providing housing and general care to the indigent, orphans and the like (institutions providing housing and general care).

### Background

Since its introduction in 1972, housing for the elderly has been allowed as an institutional use in single family residential districts to provide housing, particularly affordable housing, for elderly persons. In an effort to encourage the provision of affordable housing for the elderly, the County has continuously allowed housing for the elderly to locate in the low density residential districts where land costs have historically been lower than those in higher density residential and in commercial districts. From its inception, housing for the elderly has provided individual dwelling units, including complete kitchen facilities, for able-bodied, independent persons who are at least 62 years of age and for couples when at least one of whom is 62 years or older. These developments usually include congregate areas, such as communal dining rooms and gathering spaces, for use by the residents and provide a variety of transportation services and recreation activities. In addition, a nursing facility may be located on site for the sole use of the residents on an as-needed basis.

In February 1972, specific provisions were added to the Zoning Ordinance special permit use of eleemosynary institutions, the predecessor of the special exception use of housing and general care, to allow housing for the elderly. This use was established in response to a request to accommodate an elderly housing development proposed by St. Mary's Housing Corporation, a non-profit corporation, as a special permit use. The major provisions of that amendment included: 1) allowing multiple-family housing for occupancy by the elderly in low density residential districts; 2) requiring that 60 percent of the units be allocated for low/moderate income (LMI) elderly residents; and 3) establishing a minimum age for occupancy of 62 years for one person or one person of a couple. In addition, these provisions included many provisions that are the same or similar to those that remain in place today including requiring that consideration be given to the transportation, shopping, health care and recreation needs of elderly; ensuring that there is no adverse health or safety impact on existing development and no detrimental impact on existing neighborhoods; requiring direct access to a public transportation route and being within walking distance of neighborhood commercial facilities; providing facilities that are for the sole use of residents; allowing a maximum height of 50 feet, and requiring off-street parking at a rate of one space/four units plus one space/two employees.

In December 1977, the Zoning Ordinance was amended to establish a new special permit use of establishments providing housing and general care for the elderly. This amendment was approved to facilitate the development of elderly housing by churches and other non-profit sponsors, the primary developers of affordable elderly housing at the time. The provisions outlined above were transferred to this new special permit use with the exception of the requirement that 60 percent of the units be allocated to LMI residents. To replace the 60 percent LMI requirement, the amendment introduced a multiplier based on the Comprehensive Plan density range to allow a density bonus for the provision of housing for the elderly. Prior to the multiplier, there was no standard method for determining the allowable density for housing for the elderly developments. The purpose of the multiplier was to provide a framework for controlling the amount of density that would be allowed for housing for the elderly developments to help ensure that such developments would be compatible with the Comprehensive Plan recommendation for the area. This formula provided that the residential density set forth in the adopted Comprehensive Plan for the property could be increased by a multiplier of up to four or five times the number of units per acre provided that the open space requirements could be satisfied. At the time it was believed that the multiplier coupled with the open space requirement would control the density and, by extension, the impact of the housing for the elderly development on the surrounding low density residential neighborhood. Further, the formula provided that the multiplier would be applicable to the low end of the Plan density range unless up to 15 percent of the units were reserved for LMI residents in which case the multiplier would be applicable to the high end of the density range.

With the adoption of the current Zoning Ordinance in 1978, housing for the elderly became a Category 3 special exception use and the provisions approved in 1977 were retained as special exception additional standards. These provisions continue to be applicable with the exception of the 15 percent provision for LMI residents which was replaced in July 1990 with the Affordable Dwelling Unit (ADU) Program provisions. The housing for the elderly special exception use is allowed in the R-E through R-MHP Residential Districts and the C-1 through C-4 Commercial Districts. As described above, the additional standards associated with this special exception use address issues such as density, affordability, the needs of the elderly residents for transportation, health care, shopping, and the potential impact of the use on the surrounding neighborhood. While the housing for the elderly special exception is allowed in the C-1 through C-4 Commercial Districts, only one housing for the elderly special exception, which was approved in 1984, has been approved for a development in the commercial districts. For this reason, this staff report focuses on the housing for the elderly special exception use in the residential districts.

With the exception of the affordability component, the Zoning Ordinance regulations relative to housing for the elderly have changed little since 1972. However, there have been changes in the elderly housing industry, which has evolved from an industry of generally non-profit providers serving LMI elderly persons to a for profit industry serving all income levels. Principal among these changes are the emergence of new housing choices, including assisted living facilities, and, most recently, age-restricted housing to serve younger, able-bodied independent older persons, neither of which was contemplated when the current provisions were adopted. Further, housing for persons with disabilities, which has characteristics similar to

elderly housing, has been identified as a needed housing type. In addition to a broadened client base, the physical characteristics of housing for the elderly have changed as a result of unit size increases and the increase in non-dwelling floor area devoted to resident services and facilities and administrative offices. The proposed amendment seeks to address these changes to better address the housing market for the elderly and persons with disabilities.

#### Consideration of Age Limitation Reduction to 55 Years

One of the major changes in the elderly housing industry has been the emergence of housing to serve active adults who are at least 55 years of age in age restricted communities. These communities have characteristics that differ significantly from the characteristics of traditional elderly housing. First, unlike traditional elderly housing which is designed for independent persons who are on the threshold of needing some level of assistance, age-restricted communities are designed to serve able-bodied adults, who are perhaps choosing a lifestyle change. Second, the dwelling units are significantly larger with more and/or larger rooms than those found in the typical efficiency or one bedroom unit offered as housing for the elderly and may include more than two bedrooms as well as a den. Third, these developments offer a variety of recreational facilities, such as tennis courts, swimming pools and fitness centers. Finally, when proposed, these developments generally request off-street parking at the multiple family rate of 1.6 spaces per dwelling unit instead of the lesser housing for the elderly rate of 1.0 space per four dwelling units or 0.25 spaces per dwelling unit plus 1.0 space per employee. All of these factors result in developments that are more similar to multiple family dwelling developments than to the institutional use of housing for the elderly. Given the larger unit size and the provision of extensive facilities and services for residents, these developments typically have more total floor area or bulk than traditional elderly housing developments. As such, these developments may be less compatible with surrounding low density residential neighborhoods, in which most housing for the elderly developments are located.

In recognition of the emergence of age restricted communities, on November 19, 2001, the Board requested that staff consider whether the housing for the elderly special exception use should be revised to lower the age limitation from 62 years to 55 years of age. At that time, it was noted that Loudoun and Prince William Counties and the City of Alexandria have established an age limitation of 55 years for elderly housing. While these neighboring jurisdictions have provisions which allow housing limited to persons age 55 or older, such housing is provided through approval of a special use permit in higher density residential districts and in planned development mixed use districts or, in the case of Loudoun County, in a designated district, the PD-AAAR, Active Adult/Age Restricted, District. Significantly, these jurisdictions do not allow housing for the elderly in lower density residential districts and they do not provide for increased density through the application of a Comprehensive Plan multiplier or other similar means. Given these differences, staff does not believe that the provisions among the jurisdictions are comparable and, thus, the Fairfax County provisions should be assessed based on an evaluation of the current situation in the County.

In assessing the appropriateness of reducing the age limitation, staff considered the historic basis of the age limitation of 62 years, assessed the current need to serve elderly persons age 62 and above and assessed the potential impact on adjacent neighborhoods. First, with

regard to the age limitation, when housing for the elderly was introduced as a special permit use, it was intended that the resultant housing would be eligible to participate in Federal housing programs that established a minimum age of 62 years and promoted the development of housing for LMI elderly persons. Generally, the elderly housing programs of the Department of Housing and Urban Development (HUD) continue to use 62 years as the age limit and continue to emphasize the provision of affordable housing. In addition to housing occupied solely by persons who are 62 and over, the Federal Fair Housing Act also provides for housing for older persons when at least 80 percent of the housing is occupied by persons who are at least 55 years or older. It is under this second category that the age-restricted communities are being developed. Unlike the traditional HUD programs, there is no requirement, other than local ordinances, that age restricted developments provide affordable units. Therefore, the age restricted communities represent a different type of housing since the provision of affordable units is not a primary objective and, further, only 80 percent of the residents are required to be age 55 or older.

Second, staff considered the need for housing for the elderly, particularly affordable housing. In 1977, when the housing for the elderly special permit was established, project sponsors in Fairfax County anticipated that the average resident in an elderly housing development would be age 70 or more based on the residency of similar existing institutions in the area. According to staff of the Fairfax County Department of Housing and Community Development (HCD), the current residents of elderly housing developments are generally in their seventies. In addition, a study prepared for the Fairfax County Housing and Redevelopment Authority (FCHRA) in 2000 indicated that within Fairfax County there were approximately 49,000 households comprised of persons 65 and over and that this number was expected to increase to approximately 55,000, a 17 percent increase, by 2005. A second component of need has been the provision of affordable housing for elderly persons. The number of affordable units that are required by the Zoning Ordinance for the housing for the elderly special exception has declined over time from 60 percent of the units required in the 1970s to a maximum of 12.5 percent currently. This decline reflects the reduction in the availability of Federal assistance programs for either construction or rental assistance to serve elderly persons and an increased reliance on the County's ADU Program to address the need for affordable elderly housing. While the required number of affordable units to be provided has declined, the provision of affordable units remains a basic feature of the housing for the elderly special exception. The 2000 FCRHA study suggested that there is an unmet need of between 725 and 1,085 units of affordable housing for the over 65 population. The same study reported that existing elderly housing developments have an occupancy rate of approximately 95 percent, another indicator of the need for affordable elderly housing. In addition, HCD staff have reported that at the end of June 2002 approximately 290 people were on the waiting list for Fairfax County owned elderly housing units, all of which are affordable units. The number of persons on the waiting lists of private sector elderly housing facilities is not available. Taken together, the increasing population of persons over 65, the estimate of needed units, the high occupancy rates and the waiting lists, suggest that there is a significant unmet need for additional affordable housing units to serve low and moderate income elderly households headed by persons 65 years or older. By reducing the age to 55 years, the older, needier population group for whom the housing for the elderly special exception was designed to serve may no longer be the principal beneficiaries of this housing and, as such, may be negatively impacted.

Finally, staff considered the impact of an elderly housing development on the surrounding residential neighborhood. The Zoning Ordinance has consistently supported consideration of housing for the elderly in the low density residential districts because the lower land costs in these districts could enable the provision of affordable units. In fact, in 1977, when the Comprehensive Plan multiplier was introduced, the size of the multiplier was determined based on trip generation research which indicated that three times as many trips were generated by a single family detached dwelling as by a housing for the elderly dwelling. It was felt that the multiplier coupled with the additional control of required open space would control the density/intensity of housing for the elderly developments and would result in basically the same density/intensity as would be permitted for development of the site in conformance with the Comprehensive Plan recommendation. In addition, the reduced traffic impact is reflected in the lower parking rate, one space per four units plus one space per employee, for housing for the elderly compared to two spaces per dwelling unit for single family detached dwellings. Although the multiplier has been in place since the late 1970s, staff believes that the underlying premise remains valid for traditional housing for the elderly developments that generally serve persons over 70 years old. However, as described above, age restricted communities are characterized by larger units and the provision of more extensive facilities than those customarily associated with that of traditional elderly housing. In addition, residents of age-restricted communities are younger, may not be retired and have a more active life style that would suggest a higher trip generation rate, though statistics are not yet available for this relatively new use. In addition, these characteristics of the residents would also support the provision of parking in excess of that required for housing for the elderly developments. Therefore, the larger unit size, increased amenities, and increased trip generation and parking demand result in age-restricted communities that may be less compatible with the surrounding single family detached neighborhood than traditional elderly housing.

Based on the foregoing, it appears that there are significant reasons for concluding that reducing the age limitation from 62 years to 55 years would not be appropriate. First, there is evidence that a significant unmet demand continues to exist for traditional elderly housing to serve the needs of elderly persons, particularly moderate income elderly persons, age 62 and over. Second, the characteristics of age-restricted communities based on unit size, development amenities and trip generation and parking are likely to be incompatible with the low density residential districts in which most housing for the elderly developments are located. Further, it appears that the age-restricted developments have characteristics that are more consistent with the characteristics of multiple family developments and, therefore, are more appropriately located in the multiple family residential districts. Therefore, staff does not believe that reducing the minimum age from 62 years to 55 years would be appropriate and is not recommending this change to the Zoning Ordinance. However, it is noted that the special exception additional standard relative to the age limitation could be modified by the Board in those instances where a proposed age restricted community conforms to the objectives of the housing for the elderly special exception.

Renaming of the Housing for the Elderly Special Exception Use to Independent Living Facilities

Staff is proposing to change the name of the housing for the elderly special exception use to “independent living facility” to allow expansion of the use to include persons with disabilities of any age. In addition, a new definition of this use is proposed to clarify the intent of this housing type in terms of facilities and/or services and to help distinguish this use from assisted living facilities and from age restricted housing that is more appropriately developed as multiple family housing. The renamed and defined use of independent living facility would retain the long-standing purpose and intent of the housing for the elderly special exception use which is to provide housing and general care for individuals who are fairly independent, but require a limited level of service. The definition of an independent living facility would specify that this use would include complete dwelling units, supportive services, including meals, personal emergency response systems, recreation and transportation services, and that the use would incorporate design features that include elements of accessibility, such as wider doors and accessible-ready bathrooms.

With regard to the inclusion of persons with disabilities, the Zoning Ordinance currently does not provide for a housing type with complete dwelling units and supportive services, similar to housing for the elderly, for persons with disabilities, who can live independently but may need special accommodation. Based on staff discussions with County housing and disabilities services staff, it appears that the demand for housing to serve persons with disabilities has increased over the last few years and needs to be addressed. In accordance with the Federal Fair Housing Amendments Act (FHAA), a disability is defined as a physical or mental impairment that substantially limits one or more major life activities, a medical or psychological record of having such an impairment, or being regarded as having such an impairment. It is noted that by longstanding Zoning Ordinance interpretation persons with disabilities under the age of 62 may reside in housing for the elderly units as an accessory component to the housing of elderly persons. This interpretation does not provide for independent living facilities that are designed solely for occupancy by persons with disabilities and staff believes it is appropriate to revise this special exception use to accommodate persons with disabilities, as defined in the FHAA, regardless of age.

#### Revisions to Affordability Provisions

Staff is also recommending a change to the affordability provisions associated with the housing for the elderly/independent living use. Currently, as noted above, the density for this use is based on the applicable Comprehensive Plan density range for the property with generally a multiplier of four times the number of units per acre. Under the ADU Program, a housing for the elderly development is exempt if the building is four or more stories and has an elevator. If the ADU provisions are not applicable, and the developer elects not to provide affordable units, then the Comprehensive Plan multiplier is applied to the low end of the density range to determine the allowable density. However, if the developer chooses to participate in the ADU Program or if the ADU Program is applicable, the high end of the Comprehensive Plan density range governs, with a 10 percent density bonus and a further increase of the Comprehensive Plan multiplier provided up to 6.25 percent of the resultant units are ADUs. Further, the developer has the option of calculating a 20 percent ADU bonus followed by the application of the Comprehensive Plan multiplier provided up to 12.5 percent of the resultant units are ADUs. The continued use of this method is questionable for two reasons. First, the number of ADUs to be provided has

been reduced from 15 percent, the pre-1990 ADU requirement to take advantage of the high end of the density range, to a maximum of 12.5 percent. And, second, the current ADU Program provides that the ADU units are calculated after an additional 10 percent density bonus is added to the multiplier even though the high end of the multiplier was designed for use when affordable units were proposed for inclusion in a development. In effect, two bonuses are being provided for the same purpose.

While the Comprehensive Plan generally contains recommendations for the density range for housing to be provided in residential areas, there are instances, such as in the commercial revitalization areas, where a density range for housing to be provided is recommended for commercial areas or for mixed use developments. In these instances, a conversion factor from non-residential intensity to residential density is typically specified in the Plan. Therefore, the number of dwelling units to be provided in a housing for the elderly development can be calculated on the same basis in residential and commercial areas.

Since the number of ADUs to be provided has been reduced and not all developments are required to provide ADUs, it is proposed that the affordability provisions of the housing for the elderly special exception be modified. The Comprehensive Plan multiplier has functioned since the late 1970s as a mechanism to allow increased densities for housing for the elderly in the lower density residential districts in exchange for providing affordable units. To return to one of the original purposes and intents and to ensure that all housing for the elderly developments provide ADUs, it is proposed that each development be required to provide 15 percent of its total units as ADUs, as calculated using the Comprehensive Plan multiplier. Relying on a flat percentage ties the multiplier to the provision of ADUs and ensures that all developments participate equitably in the ADU Program whether the developer is using the low or high end of the Comprehensive Plan density range with the multiplier. In addition, as a further incentive, it is proposed that for developments that propose to provide 100 percent affordable units, the total number of units, plus an additional 20 percent bonus, may be calculated using the high end of the Comprehensive Plan density range. This additional bonus would accommodate projects developed by the Fairfax County Redevelopment and Housing Authority, whose projects are 100 percent affordable, as well as other developers proposing 100 percent affordable units. The ADUs provided under the independent living special exception use would be administered in accordance with the ADU Program.

#### Revision to Address Neighborhood Compatibility

The proposed amendment also addresses the concern that recent increases in the scale and bulk or total building area of independent living facility developments may reduce the compatibility of these developments with the surrounding neighborhood. The increased scale and bulk has occurred as a result of increases in the size of the dwelling units and in the amount of non-dwelling area. The increases in non-dwelling area represent the provision of additional amenities and services. Because this use is based on a dwelling unit per acre basis, typically only the number of units and not the total square footage is provided making it difficult to assess the total bulk and scale of the development and its impact on the surrounding neighborhood. To rectify this situation, it is proposed that a new additional standard be added to require that the total gross floor area (GFA) and the floor area ratio (FAR) be provided as part of the housing for

the elderly special exception application. This additional information would facilitate evaluating the impact of the proposed development on the surrounding neighborhood. Although the GFA and FAR calculations would be provided, the independent living facility special exception would continue to be limited on a maximum density basis and would not be subject to the maximum allowable FAR specified for all other structures in the respective residential zoning district or the maximum FAR limitation in the respective commercial districts in which the development is located.

#### Other Revisions to Independent Living Facilities (Housing for the Elderly) Special Exception Uses

Staff is also recommending three changes to the special exception additional standards for this use. First, it is recommended that the provision requiring that, when located in a low density residential district, elderly housing in the form of multiple family housing shall be sponsored by a HUD defined nonprofit or limited distribution entity unless waived by the Board be deleted. HUD no longer defines these terms and it is believed that the special exception process will allow the appropriateness of the use to be addressed. Second, with regard to general nursing facilities, the current provision requires that general nursing facilities be allowed only when these facilities are designed solely for the use of the residents as an accessory use. It is recommended that this provision be expanded to also allow an accessory assisted living component and that the term skilled nursing replace general nursing to reflect current market terminology. Third, the maximum height limitation currently limits the building height to 50 feet without regard for the zoning district in which the development is located. While staff believes that this maximum height limitation is appropriate in the residential districts, it is suggested that in the commercial office districts, in which this use is also allowed by special exception, the zoning district maximum height limitation should apply. This would allow a maximum height of 35 feet in the C-1 District up to 120 feet in the C-4 District. It is also noted that in all these districts, an increase in the building height may be approved by the Board as a Category 6 special exception use.

#### Revisions to Medical Care Facilities and Housing and General Care

In addition to revising the independent living facility (housing for the elderly) special exception use, it is also proposed that assisted living facilities be defined to clarify the meaning of this use and to better differentiate it from the proposed independent living facility. An assisted living facility, which is currently allowed as a Category 3 special exception use of medical care facility, is intended to serve elderly persons who are no longer able to live independently and require assistance with activities of daily living. Generally, assisted living facilities offer individual living units, which may or may not include some limited kitchen facilities, such as a sink, a refrigerator and a microwave; congregate areas, such as communal dining rooms and gathering spaces; personal assistance with daily activities and health and medical services as well as transportation and recreational services to the residents. Given the more extensive level of care provided, assisted living facilities are included as part of the medical care facility special exception use and, as such, are regulated under the applicable FAR provisions of the zoning district in which the use is located. It is noted that this is an appreciably different use than a housing for the elderly development which provides complete dwelling units

and fewer support services and, as such, is regulated on a dwelling unit per acre basis. The proposed definition of an assisted living facility reflects such characteristics, and states that an assisted living facility is a medical care facility. As a medical care facility, assisted living facilities are allowed with special exception approval in the R-E through the R-MHP Residential Districts, the C-1 through the C-9 Commercial Districts, the I-1 through the I-6 Industrial Districts and by right in the planned development districts when shown on an approved development plan. It is noted that, aside from defining an assisted living facility, there are no proposed changes to the additional standards for the special exception use of medical care facility or to the districts in which this special exception use is allowed.

Finally, staff is proposing to rename and define the existing Category 3 special exception use of institutions providing housing and general care for the indigent, orphans and the like (institutions providing housing and general care). Institutions providing housing and general care have traditionally provided and continue to provide housing for a diverse range of specific groups. These groups can include persons with developmental disabilities, recovering addicts, persons with HIV, residential rehabilitation facilities for Federal prisoners and homeless shelters and in the past have included orphanages and sanitariums. It is recommended that this use be renamed to remove the negative connotation that is associated with the current name and defined to clarify what is intended by this use. It is proposed that this use be renamed a “congregate living facility” and defined as a facility for persons requiring supervision which provides group living quarters on a temporary or permanent basis. As such, the residents may need training and/or counseling services and/or may work during the day and return to the facility in the evening. In addition, congregate living facilities may provide supportive services such as special care, treatment and training in a supervised setting with on-site counselors and other staff. Congregate living facilities would not provide units with kitchen facilities. The definition would also specify that congregate living facilities would not include group housekeeping units, group residential facilities or assisted living facilities. It is noted that housing and general care facilities (congregate care facilities) are allowed as a special exception use in the R-C through the R-MHP Residential Districts, the C-1 through the C-4 Commercial Districts and by right in the planned development districts when shown on an approved development plan. It is noted that, aside from renaming and defining this special exception use, there are no proposed changes to the additional standards for the special exception use of congregate care facilities (currently institutions providing housing and general care) or to the districts in which it is allowed.

In summary, staff believes the proposed changes are appropriate since they recognize and accommodate trends in the elderly housing industry, offer a housing option for persons with disabilities, strengthen the provisions which address compatibility with the surrounding neighborhood, and further enhance the County goal of providing affordable housing. Further, by defining and renaming elderly and related housing types, the intent of these uses will be clarified. Staff recommends adoption of the proposed changes to the Zoning Ordinance, as advertised, with an effective date of 12:01 AM on the day following adoption.



**PROPOSED ZONING ORDINANCE AMENDMENT**

*This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of [authorization date] and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.*

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**Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions, by adding new definitions of Assisted Living Facility, Independent Living Facility and Congregate Living Facility in their proper alphabetical order and by revising the definitions of Group Residential Facility and Medical Care Facility, all to read as follows:**

ASSISTED LIVING FACILITY: A facility for persons who are unable to live independently that provides: (a) private living quarters, which may include kitchen facilities limited to a sink, refrigerator and/or microwave, (b) supervision and general care, including but not limited to the provision of meals, housekeeping, health care, and (c) assistance with activities of daily living. For purposes of this Ordinance, an assisted living facility shall be deemed a MEDICAL CARE FACILITY.

CONGREGATE LIVING FACILITY: A facility which provides housing and general care on a permanent or temporary basis including the provision of supportive services, such as special care, treatment and training, in a supervised setting with on-site counselors and/or other staff. This term shall not include a group housekeeping unit, GROUP RESIDENTIAL FACILITY or ASSISTED LIVING FACILITY.

INDEPENDENT LIVING FACILITY: A residential development that is limited to occupancy by elderly persons and/or by persons with disabilities, as defined in the Federal Fair Housing Act Amendments of 1988. Such a facility shall provide: (a) dwelling units with complete kitchen facilities, (b) supportive services, such as meals, personal emergency response systems, recreation and transportation services, and (c) design features, such as wider doorways and hallways, accessible-ready bathrooms and lower light switches.

GROUP RESIDENTIAL FACILITY: A group home or other residential facility, with one or more resident counselors or other staff persons, in which no more than: (a) eight (8) mentally ill, mentally retarded or developmentally disabled persons reside and such home is licensed by the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services; or (b) eight (8) mentally retarded persons reside and such

1 home is licensed by the Virginia Department of Social Services; or (c) eight (8)  
 2 handicapped persons reside, with handicapped defined in accordance with the Federal  
 3 Fair Housing Amendments Act of 1988. The terms handicapped, mental illness and  
 4 developmental disability shall not include current illegal use or addiction to a controlled  
 5 substance as defined in Sect. 54.1-3401 of the Code of Virginia or as defined in Sect. 102  
 6 of the Controlled Substance Act (21 U.S.C. 802).

7 For the purpose of this Ordinance, a group residential facility shall not be deemed  
 8 a group housekeeping unit, or ASSISTED LIVING FACILITY and a dwelling unit or  
 9 facility for more than four (4) persons who do not meet the criteria set forth above or for  
 10 more than eight (8) handicapped, mentally ill, mentally retarded or developmentally  
 11 disabled persons shall be deemed ~~an institution providing housing and general care for~~  
 12 ~~the indigent, orphans and the like~~ a CONGREGATE LIVING FACILITY.

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 14 MEDICAL CARE FACILITY: Any institution, place, building, or agency, whether or  
 15 not licensed or required to be licensed by the State Board of Health or the State Hospital  
 16 Board, by or in which facilities are maintained, furnished, conducted, operated, or offered  
 17 for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or  
 18 physical condition, whether medical or surgical, of two (2) or more non-related mentally  
 19 or physically sick or injured persons, or for the care of two (2) or more non-related  
 20 persons requiring or receiving medical, surgical or nursing attention or service as acute,  
 21 chronic, convalescent, aged, physically disabled, or crippled; including but not limited to  
 22 general hospitals, sanatorium, sanitarium, assisted living facility, nursing home,  
 23 intermediate care facility, extended care facility, mental hospital, mental retardation  
 24 facility, medical schools and other related institutions and facilities, whether operated for  
 25 profit or nonprofit, and whether privately owned or operated by a local government unit.  
 26 This term shall not include a physician's office, first aid station for emergency medical or  
 27 surgical treatment, ~~housing for the elderly, or a~~ medical laboratory, CONGREGATE  
 28 LIVING FACILITY, GROUP RESIDENTIAL FACILITY, or INDEPENDENT LIVING  
 29 FACILITY.

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 32 **Amend Article 2, General Regulations, Part 8, Affordable Dwelling Unit Program, as**  
 33 **follows:**

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 35 *The revisions to Article 2 will be incorporated following a determination regarding the*  
 36 *timing of the ADU and Housing for the Elderly amendments.*

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 39 **Amend Article 3, Residential District Regulations, as follows:**

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 41 - **Amend the R-C District, Sect. 3-C04, Category 3, Quasi-Public Uses, by deleting**  
 42 **Par. 3E and by adding new Par. 3C, to read as follows, and by re-lettering the**  
 43 **subsequent paragraphs accordingly.**

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 45 3. Category 3 – Quasi-Public Uses, limited to:  
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E. ~~Institutions providing housing and general care for the indigent, orphans and the like~~

C. Congregate living facilities

- Amend the R-E, R-1, R-2, R-3, R-4, R-5, R-8, R-12, R-16, R-20, R-30, and the R-MHP Districts, Special Exception Uses Sections, as follows:

- By deleting Par. 3H of Sections 3-E04 and 3-104, Par. 3I of Sect. 3-204, Par. 2I of Sections 3-304, 3-404, 3-504, 3-804, 3-1204, 3-1604, 3-2004, 3-3004 and 3M04, and by adding new Par. 3E to Sections 3-E04 and 3-104, new Par. 3F to Sect. 3-204, new Par. 2F to Sections 3-304, 3-404, 3-504, 3-804, 3-1204, 3-1604, 3-2004, 3-3004 and 3M04, to read as follows, and by re-lettering the subsequent paragraphs accordingly.

2 or 3. Category 3 – Quasi-Public Uses, limited to:

~~2I., 3H.,~~ ~~Institutions providing housing and general care for the indigent, orphans and the like~~  
or 3I.

2F., 3E., Congregate living facilities  
or 3F.

- By revising re-lettered Par. 3H of Sections 3-E04 and 3-104, re-lettered Par. 3I of Sect. 3-204, and re-lettered Par. 2I of Sections 3-304, 3-404, 3-504, 3-804, 3-1204, 3-1604, 3-2004, 3-3004 and 3M04 to read as follows:

2 or 3. Category 3 – Quasi-Public Uses, limited to:

2I., 3H., ~~Housing for the elderly~~ Independent living  
or 3I. facilities

Amend Article 4, Commercial District Regulations, by revising the C-1, C-2, C-3 and C-4 Districts, Special Exception Uses Sections, as follows:

- By deleting Par. 2E of Sections 4-104 and 4-204, Par. 2D of Sect. 4-304 and Par. 2C of Sect. 4-404, by adding new Par. 2C to Sect. 4-104, 4-204, and 4-304, and new Par. 2B to Sect. 4-404, to read as follows, and by re-lettering the subsequent paragraphs accordingly.

2. Category 3 – Quasi-Public Uses, limited to:

~~C., D.,~~ ~~Institutions providing housing and general care for the indigent, orphans and the like~~  
or E.

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B. or C.      Congregate living facilities

- **By revising re-lettered Par. 2E of Sections 4-104 and 4-204, re-lettered Par. 2D of Sect. 4-304 and re-lettered Par. 2C of Sect. 4-404 to read as follows:**

2.      Category 3 – Quasi-Public Uses, limited to:

C., D.,      ~~Housing for the elderly~~ Independent living facilities  
or E.

**Amend Article 6, Planned Development District Regulations, by revising the PDH, PDC, and the PRM Districts, Secondary Uses Permitted Sections, as follows:**

- **By deleting Par. 17I of Sect. 6-103, Par. 12I of Sect. 6-203 and Par. 17F of Sect. 6-403, by adding new Par. 17F to Sect. 6-103, new Par. 12F to Sect. 6-203, and new Par. 17D to Sect. 6-403, to read as follows, and by re-lettering the subsequent paragraphs accordingly.**

12 or 17.      Quasi-Public Uses (Category 3), limited to:

~~12I., 17F.,~~      ~~Institutions providing housing and general care for the~~  
~~or 17I~~      ~~indigent, orphans and the like~~

12F., 17D.,      Congregate living facilities  
or 17F.

- **By revising re-lettered Par. 17I of Sect. 6-103, re-lettered Par. 12I of Sect. 6-203, and re-lettered Par. 17F of Sect. 6-403 to read as follows:**

12 or 17.      Quasi-Public Uses (Category 3), limited to:

12I., 17F.,      ~~Housing for the elderly~~ Independent living facilities  
or 17I.

**Amend Article 7, Overlay and Commercial Revitalization District Regulations, Part 4, Airport Noise Impact Overlay District, Noise Compatibility Table, by deleting the following two entries and adding two new entries in their proper alphabetical order, to read as follows:**

Uses	Noise Impact Areas (DNL dBA)		
	75+	70-75	65-70
Housing for the elderly	NP	P2	P3

1	<del>Institutions providing housing and general care</del>	NP	P2	P3
2				
3	<u>Congregate living facilities</u>	<u>NP</u>	<u>P2</u>	<u>P3</u>
4	<u>Independent living facilities</u>	<u>NP</u>	<u>P2</u>	<u>P3</u>
5				
6				

**Amend Article 9, Special Exception Uses, Part 3, Category 3 Quasi-Public Uses as follows:**

- **Amend Sect. 9-301, Category 3 Special Exception Uses, by revising Paragraphs 4 and 5 to read as follows:**

- 4. ~~Housing for the elderly~~ Independent living facilities.
- 5. ~~Institutions providing housing and general care for the indigent, orphans and the like~~ Congregate living facilities.

- **Amend Sect. 9-306 to read as follows:**

**9-306 Additional Standards for ~~Housing for the Elderly~~ Independent Living Facilities**

- 1. Housing and general care shall be provided only for persons who are sixty-two (62) years of age or over ~~and~~, couples where either the husband or wife is sixty-two (62) years of age or over and/or persons with disabilities, as defined in the Federal Fair Housing Act Amendments of 1988, who are eighteen (18) years of age or older and with a spouse and/or caregiver, if any.
- 32. The Board specifically shall find that applications under this Section adequately and satisfactorily take into account the needs of elderly persons and/or persons with disabilities for transportation, shopping, health, recreational and other similar such facilities and shall impose such reasonable conditions upon any exception granted as may be necessary or expedient to insure provisions of such facilities.
- 43. The Board shall find that such development shall be compatible with the surrounding neighborhood, shall not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use and shall not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
- 4. To assist in assessing whether the overall intensity of the proposed use is consistent with the scale of the surrounding neighborhood, the total gross floor area, including the dwelling unit area and all non-dwelling unit areas, the floor area ratio and the number of dwelling units shall be shown on the plat submitted with the application.

- 1           5. No such use shall be established except on a parcel of land fronting on, and  
2           with direct access to, ~~an existing or planned a collector street or arterial street~~  
3           ~~as defined in the adopted comprehensive plan major thoroughfare.~~
- 4
- 5           ~~86. The intensity and development of such use shall be in accordance with the~~  
6           ~~following paragraphs and as further modified by the corresponding multiplier~~  
7           ~~and open space requirements set forth in the following schedule:~~
- 8
- 9           A. ~~When the provisions of Part 8 of Article 2 are not applicable, the low~~  
10           ~~end of the residential density range adopted in the comprehensive plan~~  
11           ~~shall govern. However, when an applicant opts to participate in the~~  
12           ~~Affordable Dwelling Unit Program, as set forth in Part 8 of Article 2,~~  
13           ~~the residential density range adopted in the comprehensive plan shall be~~  
14           ~~increased by ten (10) percent when calculating the maximum potential~~  
15           ~~density which may be approved by the Board of Supervisors, however,~~  
16           ~~at the applicant's option, the residential density range shall be increased~~  
17           ~~by twenty (20) percent when calculating the maximum potential~~  
18           ~~density. The calculation of the required number of affordable dwelling~~  
19           ~~units shall be in accordance with the provisions of Sect. 2-804. Where~~  
20           ~~the adopted comprehensive plan does not specify a density range in~~  
21           ~~terms of dwelling units per acre, the density range shall be determined~~  
22           ~~and the calculation of the required number of affordable dwelling units~~  
23           ~~based upon the density increase provided for herein shall be in~~  
24           ~~accordance with Paragraphs 1 and 3 of Sect. 2-804.~~
- 25
- 26           B. ~~When the provisions of Part 8 of Article 2 are applicable, the residential~~  
27           ~~density range adopted in the comprehensive plan shall be increased by~~  
28           ~~ten (10) percent when calculating the maximum potential density which~~  
29           ~~may be approved by the Board of Supervisors, however, at the~~  
30           ~~applicant's option, residential density range shall be increased by twenty~~  
31           ~~(20) percent when calculating the maximum potential density. The~~  
32           ~~calculation of the required number of affordable dwelling units shall be~~  
33           ~~in accordance with the provisions of Sect. 2-804. Where the adopted~~  
34           ~~comprehensive plan does not specify a density range in terms of~~  
35           ~~dwelling units per acre, the density range shall be determined and the~~  
36           ~~calculation of the required number of affordable dwelling units based~~  
37           ~~upon the density increase provided for herein shall be in accordance~~  
38           ~~with Paragraphs 1 and 3 of Sect. 2-804.~~
- 39

40           The density of such use shall be based upon the density of the land use  
41           recommendation set forth in the adopted comprehensive plan and as further  
42           modified by the corresponding multiplier and open space requirements set  
43           forth in the schedule provided below. Where the adopted comprehensive  
44           plan does not specify a density range in terms of dwelling units per acre, the  
45           density range shall be determined in accordance with Par. 8 of Sect. 2-804.  
46           A minimum of fifteen (15) percent of the total number of dwelling units shall

be Affordable Dwelling Units (ADUs). When 100 percent of the dwelling units are ADUs, the total number of units should be calculated using the high end of the residential density range as set forth in the adopted comprehensive plan plus the addition of a twenty (20) percent density bonus. All ADUs shall be administered in accordance with the provisions of Part 8 of Article 2.

Comprehensive Plan Required Open Residential Density *		Maximum Number of Units Per Acre**	Space
0.2 unit per acre	not to exceed	5 times unit per acre	75%
0.5 unit per acre	"	4 times unit(s) per acre	70%
1 unit per acre	"	"	65%
2 units per acre	"	"	60%
3 units per acre	"	"	55%
4 units per acre	"	"	50%
5 units per acre	"	"	35%
8 units per acre	"	"	25%
12 units per acre or more	"	"	35%
PRC District		In accordance with an approved Development Plan	

\*When applicable, the unit per acre residential density may be increased by 10% or 20% for provision of affordable units

\*\*Excluding nursing facilities and assisted living facilities

6. ~~When located in an area where low density single family detached dwelling units are the predominant use, and the proposed establishment is in the form of a multiple family dwelling, such use shall be sponsored by a nonprofit or limited distribution entity as defined by the U. S. Department of Housing and Urban Development as of March 28, 1977, unless such requirement is waived by the Board based on its determination that the proposed use will otherwise meet the need for moderately priced housing for the elderly.~~

27. Housing for the elderly Independent living facilities may include general assisted living facilities and skilled nursing facilities designed solely for the residents as an accessory use.

78. All facilities of the development shall be solely for the use of the residents, employees and invited guests, but not for the general public.

9. In residential districts, the maximum building height shall be 50 feet; and in the commercial districts the maximum building height shall be as set forth in

1                    the district in which located, except that in all cases greater heights may be  
2 approved by the Board.

3  
4 10. The minimum front, side and rear yard requirements shall be as follows,  
5 except greater yards may be required by the Board:

6  
7            A. Where the yard abuts or is across a street from an area adopted in the  
8 comprehensive plan for 0.2 to 8 dwelling units per acre - 50 feet.

9  
10           B. Where the yard abuts or is across a street from an area adopted in the  
11 comprehensive plan for a residential use having a density greater than 8  
12 dwelling units per acre or any commercial, office or industrial use 30  
13 feet.

14  
15 11. Transitional screening shall be provided in accordance with the provisions of  
16 Article 13, and for the purpose of that Article, ~~housing for the elderly~~ an  
17 independent living facility shall be deemed a multiple family dwelling.  
18

19 **Amend Sect. 9-307 to read as follows:**

20  
21 **9-307 Additional Standards for ~~Institutions Providing Housing and General Care~~**  
22 **~~to the Indigent, Orphans and the Like~~ Congregate Living Facilities**

23  
24 1. ~~Institutional uses~~ Congregate living facilities located in a building, which but  
25 for its institutional use would be a single detached dwelling, shall comply  
26 with the applicable single family detached minimum yard requirements of the  
27 zoning district in which located. ~~Institutions~~ Facilities located in any other  
28 structure shall be located no closer than 45 feet to any street line or closer  
29 than 100 feet to any lot line which abuts an R-1 through R-4 District.  
30

31  
32 **Amend Article 11, Off-Street Parking and Loading, Private Streets, as follows:**

33  
34 - **Amend Part 1, Off-Street Parking, Sect. 11-103, Minimum Required Spaces for**  
35 **Residential and Lodging Uses, by revising Paragraphs 7 and 9 to read as follows:**

36  
37 7. ~~Housing for the Elderly~~ Independent Living Facility:

38  
39            One (1) space per four (4) dwelling units, plus one (1) space per one (1)  
40 employee or staff member on the major shift, or such greater number as the  
41 Board may require  
42

43 9. ~~Nursing, or Convalescent,~~ Assisted Living or Congregate Living Facility:  
44

1 One (1) space per three (3) residents, plus one additional space for each  
2 employee

3  
4 - **Amend Part 2, Off-Street Loading, Sect. 11-203, Minimum Required Spaces, by**  
5 **revising Par. 13 to read as follows:**

6  
7 Nursing, ~~or Convalescent, Assisting Living, Congregate Living or Independent Living~~  
8 ~~Facility, or Housing for the Elderly:~~ Standard F.

9  
10  
11 **Amend Article 12, Signs, Part 2, Sign Regulations by Use and District, Sect. 12-208, Special**  
12 **Permit, Special Exception Uses, by revising the lead-in paragraph to Par. 2D, to read as**  
13 **follows:**

14  
15 2D. Country clubs, colleges, universities, all medical care facilities which have a  
16 capacity of fifty (50) beds or more, except hospitals, cultural centers, museums,  
17 congregate living facilities and ~~housing for the elderly~~ independent living facilities  
18 may be permitted:

19  
20 (1) Building-mounted signs not to exceed a combined total sign area of fifty  
21 (50) square feet, and

22  
23 (2) One (1) freestanding sign not to exceed a sign area of forty (40) square  
24 feet or eight (8) feet in height. No such sign shall be located closer than  
25 ten (10) feet to any lot line.

26  
27  
28 **Amend Article 13, Landscaping and Screening, by revising the use entries of Par. 6 in the**  
29 **Transitional Screening and Barrier Matrix, to read as follows:**

30  
31 6. ~~Inst. providing housing, general~~  
32 ~~care for indigent, orphans & the like~~  
33 Congregate living facilities  
34 Medical care facilities  
35  
36