

ORDINANCE NO. 4844

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, RELATING TO TITLE 5, CHAPTER 2, GROUP HOMES FOR THE HANDICAPPED AND SUPERVISED LIVING FACILITIES; REPEALING TITLE 5, CHAPTER 2; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESA, COUNTY OF MARICOPA, STATE OF ARIZONA, AS FOLLOWS:

SECTION 1: That Title 5, Chapter 2, of the Mesa City Code, currently designated as the "GROUP HOME FOR THE HANDICAPPED AND SUPERVISED LIVING FACILITY LICENSE" code, is hereby repealed in its entirety. The effect of said repeal is shown in Exhibit A to this Ordinance, which is hereby incorporated by this reference.

SECTION 2: Penalties. Any person found guilty of violating this ordinance shall be guilty of a class one misdemeanor. Each day that a violation continues shall be a separate offense punishable as herein above described.

SECTION 5: The provisions of this ordinance shall be effective 6-18-08.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 19th day of May, 2008.

APPROVED: Reno Hawker
Mayor

ATTEST: Sinda Crocker
City Clerk



EXHIBIT A

CHAPTER 2

(1007,1027,1706,1934,2181,2430,2658,3394)

~~GROUP HOME FOR THE HANDICAPPED AND SUPERVISED LIVING FACILITY LICENSE (3746)~~

SECTION:

- ~~5-2-1: PURPOSE AND INTENT~~
~~5-2-2: DEFINITIONS~~
~~5-2-3: LICENSE REQUIRED~~
~~5-2-4: LICENSE PROVISIONS~~
~~5-2-5: LICENSE PROVISIONS APPLICABLE TO BOTH GROUP HOMES FOR THE HANDICAPPED AND SUPERVISED LIVING FACILITIES (3746)~~
~~5-2-6: REFUSAL TO ISSUE OR REVOCATION OF LICENSE (3746)~~
~~5-2-7: APPEAL (3746)~~
~~5-2-8: LOCATION OF A GROUP HOME FOR THE HANDICAPPED AND SUPERVISED LIVING FACILITY (3746)~~
~~5-2-9: EXEMPTION FROM LOCATION RESTRICTIONS (3746)~~

~~5-2-1: PURPOSE AND INTENT:~~

~~The purpose of this Chapter is to establish a process for permitting and regulating group homes for the handicapped not otherwise licensed by the state or federal government and for permitting and regulating supervised living facilities. This Chapter is intended to provide fair and reasonable regulations governing the operation of such facilities. (3394,3746)~~

~~5-2-2: DEFINITIONS:~~

~~**GROUP HOME FOR THE HANDICAPPED:** A dwelling shared as their residence by handicapped persons who reside together as a single housekeeping unit, in which staff persons may provide supervision, counseling, treatment, or therapy for the residents therein, and which is not licensed by an agency of the state or federal government. The term shall include adult care homes, homes for the chronically mentally ill, group care agencies, and similar residential living arrangements for handicapped persons, but shall not include boarding houses, homes for the developmentally disabled, nursing homes, substance abuse treatment facilities, or any facility providing treatment or therapy to patients or clients who do not reside on the premises. (3394,3746)~~

~~**PERSON:** An individual, firm, partnership, joint venture, association, corporation, or any other group or combination acting as a unit in the plural as well as the singular number. (3394)~~

~~**SUPERVISED LIVING FACILITY:** A residential living facility which provides supervision or regulation of the behavior, living conditions, or the monitoring of the times residents leave, return, or are absent from the facility for persons on probation, parole, pretrial release, or pursuant to the terms of a conditional release or prerelease from a jail, prison, or correctional facility. Such facility may also provide on-site or off-site supportive services such as food, transportation, or employment counseling. The term shall include any boarding house, dormitory, apartment building, or other dwelling when developed, promoted, advertised, or operated as a supervised living facility as defined herein, but shall not include group homes for the handicapped, recovery homes, facilities subject to the transient occupancy tax as provided in Title 5, Chapter 10 of the Mesa City Code, or any facility providing counseling or other services to individuals who do not reside on the premises. (3394)~~

~~5-2-3: LICENSE REQUIRED:~~

~~1, whether as a member, agent, or employer, either for themselves or for any (shall operate a group home for the handicapped or supervised living facility as specified in this Chapter, shall first obtain a license from the Tax and Licensing Administrator. (3394,3746)~~

- ~~(B) It shall be unlawful for any person to operate a group home for the handicapped as defined in Section 5-2-2 above not otherwise licensed by the state or federal government or supervised living facility within the corporate limits of the City without first having obtained a license as provided in this Chapter. (3394,3746)~~
- ~~(C) Any group home for the handicapped or supervised living facility lawfully operating before this Chapter took effect* shall obtain a license as specified herein within ninety (90) days of the effective date of this Chapter.* (3394,3746)~~
- ~~(D) A license shall be required for each specific location. (3394)~~

~~5-2-4: LICENSE PROVISIONS:~~

- ~~(A) Supervised Living Facilities: License Fee and Conditions. Applications for a supervised living facility license shall be made in the office of the Tax and Licensing Administrator on a form provided therefor. Any person who submits an application for a supervised living facility shall include the following: (3394,3746)~~
- ~~1. A nonrefundable fee of two hundred dollars (\$200.00). (3394,3746)~~
 - ~~2. A sketch, design, or site plan showing the configuration and dimensions of the premises, including the location of all existing or proposed buildings or structures, driveways, parking spaces, walls, fences, and landscaping. (3394)~~
 - ~~3. Documentation that the proposed supervised living facility complies with all of the standards and requirements necessary to obtain a license from the Arizona Department of Health Services or Arizona Department of Economic Security, if applicable. (3394,3746)~~
 - ~~4. A plan of operation in narrative form including, but not limited to: (3394)~~
 - ~~(a) The total number of residents; (3394)~~
 - ~~(b) Approximate duration of stay; (3394)~~
 - ~~(c) Background of residents; (3394)~~
 - ~~(d) Resident screening and acceptance procedures; (3394)~~
 - ~~(e) Rules for personal behavior; (3394)~~
 - ~~(f) A list of services provided; (3394)~~
 - ~~(g) Security measures; (3394)~~
 - ~~(h) Number, training, and availability of staff; (3394)~~
 - ~~(i) Evidence of compliance with all building and fire safety regulations; (3394)~~
 - ~~(j) Any other measures determined necessary and appropriate to ensure compatibility of the proposed recovery home or supervised living facility with the surrounding area as determined by the Planning~~

* Ordinance No. 3394 was adopted on October 6, 1997, with an effective date of November 6, 1997.

~~5. (3394,3766)~~

~~5. A "good neighbor policy" in narrative form describing proposed measures to ensure ongoing compatibility with existing residential uses, including but not limited to: (3394)~~

~~(a) The name and telephone number of the on-site manager or person responsible for the operation of the facility; (3394)~~

~~(b) Complaint response procedures, including investigation, remedial action, and follow up; (3394)~~

~~(c) Litter control and noise attenuation measures; (3394)~~

~~(d) Rules of behavior for residents when off site of the facility and the method of conveying these rules to the residents. (3394)~~

~~(B) Group Homes for the Handicapped Not Otherwise Licensed by an Agency of the State or Federal Government: License Fee and Conditions. Applications for a group home for the handicapped license shall be made in the office of the Tax and Licensing Administrator on a form provided therefor. Any person who submits an application for a group home for the handicapped license not otherwise licensed by the state or federal government shall include the following: (3746)~~

~~1. A nonrefundable fee of two hundred dollars (\$200.00). (3746)~~

~~2. Certification that the residents of the group home are handicapped under state and federal law, including a concise description of the nature of the handicap. (3746)~~

~~3. A copy of written documentation maintained by the group home that contains programmatic information. Such information shall include: (3746,4045)~~

~~(a) Resident screening and acceptance procedures. (3746)~~

~~(b) Resident discharge procedures (voluntary or involuntary termination). (3746)~~

~~(c) Rules of personal behavior. (3746)~~

~~(d) A list of services provided, such as 12-step, Alcoholics Anonymous, outside counseling, job placement, transportation, etc. (3746)~~

~~(e) Security measures. (3746)~~

~~(f) Number, training, and availability of staff. (3746)~~

~~By signing the license application, applicant/s affirm that they will comply with such written programmatic documentation in the operation of their group home. (3746)~~

~~4. Upon request, any other information reasonably necessary to determine compliance with federal, state, or local laws. (3746,4045)~~

~~5. Certification that the group home is in compliance with Mesa building and fire safety regulations, as verified by a Mesa Building and Fire Safety Inspection Report, relevant to the residents of the home. (3746,4045)~~

~~6. Certification that the group home is in compliance with Mesa nuisance regulations, as verified by a Mesa Code Compliance Inspection Report. (3746,4045)~~

~~APPEAL: (3746)~~

~~Within five (5) days, excluding weekends and legal holidays, an applicant for a license or licensee may appeal to the City Manager from either the refusal of the Tax and Licensing Administrator to issue a license under this Chapter or from the revocation of any license granted in accordance with this Chapter. The City Manager may designate a Hearing Officer to hear the appeal. If the appeal is denied by the City Manager, the applicant for a license or licensee may, within five (5) days, excluding weekends and holidays, appeal to the City Council. (3394,3746)~~

~~5-2-8: LOCATION OF A GROUP HOME FOR THE HANDICAPPED AND SUPERVISED LIVING FACILITY (3746)~~

- ~~(A) A person commits an offense if that person operates or causes to be operated a group home for the handicapped or supervised living facility in any zoning district other than those specifically prescribed for such use in the Mesa Zoning Ordinance. (3394,3746)~~
- ~~(B) A person commits an offense if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a supervised living facility within twelve hundred feet (1,200') of another supervised living facility, or a group home for the handicapped within twelve hundred feet (1,200') of another group home for the handicapped. (3394,3746)~~
- ~~(C) For purposes of Subsection (B) (above), the distance between any two (2) group homes for the handicapped or supervised living facilities may be less than twelve hundred feet (1,200') provided there exist significant intervening physical features between the proposed group home for the handicapped and an existing group home for the handicapped or the proposed supervised living facility and the existing supervised living facility such as arterial streets, canals, parks, or similar buffering features or developments. (3394,3746)~~
- ~~(D) Any recovery home or group home for the handicapped or supervised living facility that fails to comply with Subsection (A), (B), or (C) of this Section, but was lawfully operating before this Chapter took effect, shall not be deemed to be in violation of this Chapter. However, such group home for the handicapped or supervised living facility shall only be permitted to continue in noncompliance with Subsection (A), (B), or (C) (above) provided such facilities shall not be increased, enlarged, extended, or altered, except the facility may be changed so as to fully comply with this Chapter. (3394,3746)~~

~~5-2-9: EXEMPTION FROM LOCATION RESTRICTIONS: (3746)~~

- ~~(A) If the City denies the issuance of a license to an applicant because the location of the group home for the handicapped or supervised living facility is in violation of Section 8 of this Chapter, then the applicant may, not later than ten (10) calendar days after receiving notice of the denial, file with the City Clerk a written request for an exemption from the locational restrictions of Section 5-2-8. (3394,3746)~~
- ~~(B) If the written request is filed with the City Clerk within the ten (10) day limit, the City Council shall hear and consider the request. The City Council shall set a date for the hearing within sixty (60) days from the date the written request is received. (3394)~~
- ~~(C) The City Council may, in its discretion, grant an exemption from the locational restrictions of Section 5-2-8 if it makes all of the following findings: (3394,3746)~~
- ~~1. That the location of the proposed group home for the handicapped or supervised living facility will not have a detrimental effect on nearby properties or be contrary to the public safety or welfare; and (3394,3746)~~
 - ~~2. That the granting of the exemption will not violate the spirit and intent of this Chapter of the City Code; and (3394)~~
 - ~~3. That the proposed location is necessary to adequately serve the public in need of the group home for the handicapped or supervised living facility; and (3394,3746)~~
 - ~~4. That there are no feasible or reasonable alternative locations for the proposed group home for the~~

~~handicapped or supervised living facility that would otherwise comply with the locational restrictions; and (3394,3746)~~

~~5. That compliance with the locational restrictions will place an undue hardship on the group home for the handicapped or supervised living facility operator; and (3394,3746)~~

~~6. That all other applicable provisions of this Chapter and the Mesa City Code will be observed. (3394,3746)~~

~~(D) The granting of an exemption does not exempt the applicant from any provisions of this Chapter other than the locational restrictions of Section 5-2-8. (3394,3746)~~

¹ Ordinance No. 3394 was adopted on October 6, 1997, with an effective date of November 6, 1997.