

BOROUGH OF KENNETT SQUARE

Chester County, Pennsylvania

ORDINANCE NO. 913

**AN ORDINANCE AMENDING THE KENNETT SQUARE
BOROUGH CODE, CHAPTER 23 ZONING -- ADDING
PROVISIONS PERMITTING GROUP HOMES BY RIGHT
IN RESIDENTIAL DISTRICTS AND PROVIDING
PROVISIONS FOR REASONABLE ACCOMMODATIONS
FOR PERSONS WITH DISABILITIES**

- **ARTICLE II *DEFINITIONS*, SECTION 23-7**
- **ARTICLE III *ZONING DISTRICTS AND USE REGULATIONS*, SECTIONS 23-12(b), (e), and (f); 23-13(b), (e), and (f); 23-15(b), (f), and (g); 23-16 (b), (c), (f), and (g); 23-19 (b) and (f); 23-27(b); 23-29(c)(15); and TABLES 1-4, 6-9, 12, and 16**
- **ARTICLE VIII *ADMINISTRATION*, SECTION 23-72(e)**

WHEREAS, the Borough Council for the Borough of Kennett Square has the authority pursuant to the Pennsylvania Human Relations Act, Act of 1955, P.L. 744, No. 222, as amended June 25, 1997 by Act 34 of 1997, 43 P.S. sections 951-963, the Americans With Disabilities Act, 42 U.S.C. section 12101 et seq., and the Fair Housing Act, 42 U.S.C. 3601 et seq., to establish regulations and ordinances providing reasonable accommodations for persons with disabilities necessary for the health, safety, morals, general welfare, comfort, and safety of persons with disabilities within the Borough; and

WHEREAS, the Borough Council for the Borough of Kennett Square has the authority, pursuant to section 601 of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10601, and section 46006(3) of The Borough Code, 53 P.S. §46006(3), to amend ordinances as the Borough shall deem beneficial to the Borough and to promote the health, safety, and general welfare; and

WHEREAS, the Borough Council for the Borough of Kennett Square has determined that certain existing Borough Zoning Code provisions must be

amended to comply with the Pennsylvania Human Relations Act, the Americans With Disabilities Act, and the Fair Housing Act, to provide for reasonable accommodations for persons with disabilities; and

WHEREAS, the Borough Council deems it appropriate and in furtherance of these objectives to amend certain sections of the Kennett Square Borough Code containing zoning regulations.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Borough Council of the Borough of Kennett Square, as follows:

Section 1. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article II, *Definitions*, section 23-7, is amended as follows:

“Family” means:

...

- (3) Not more than four unrelated persons occupying a dwelling unit and living together, excluding a dormitory, boarding house, or similar living arrangement.

...

“Group home” means:

- (1) The use of a permitted dwelling unit in such a way that it meets all of the following criteria:

- (A) Involves the care of not more than 4 persons at any one time.

...

“Reasonable accommodations” means modifications or exceptions to rules, policies, practices, or services when necessary to afford persons with disabilities an equal opportunity to the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.

Section 2. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-12(b), “R-1 Residential district – Uses Permitted by Right”, is amended by adding a new subsection (3) as follows:

- (3) Group home.

Section 3. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-12(e), “R-1 Residential district –

Lot Area, Width, Building Coverage, Impervious Surface Coverage and Height Regulations", is amended by adding "Group Home" to the column "Principal Use" row "Single-Family Detached" of Table 1 – Dimensional Requirements – R-1 District.

Section 4. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-12(f), "R-1 Residential district- Minimum Yard Requirements", is amended by adding "Group Home" to the column "Principal Use" row "Single-Family Detached" of Table 2 – Minimum Yard Requirements – R-1 District.

Section 5. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-13(b), "R-2 Residential district – Uses Permitted by Right", is amended by adding a new subsection (3) as follows:

- (3) Group home.

Section 6. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-13(e), "R-2 Residential district – Lot Area, Width, Building Coverage, Impervious Surface Coverage and Height Regulations", is amended by adding "Group Home" to the column "Principal Use" row "Single-Family Detached" of Table 3 – Dimensional Requirements – R-2 District.

Section 7. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-13(f), "R-2 Residential district – Minimum Yard Requirements", is amended by adding "Group Home" to the column "Principal Use" row "Single-Family Detached" of Table 4 – Minimum Yard Requirements – R-2 District.

Section 8. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-15(b)(2), "R-3 Residential district – Uses Permitted by Right", is amended by deleting "..., only within a permitted single family detached dwelling unit not exceeding six people".

Section 9. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-15(f), "R-3 Residential district – Lot Area, Lot Width, Building Coverage, Building Height, and Impervious Surface Coverage and Regulations", is amended by adding "Group Home" to the column "Principal Use" row "Single-Family Detached" of Table 6 – Dimensional Requirements – R-3 District.

Section 10. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-15(g), "R-3 Residential district – Minimum Yard Requirements", is amended by adding "Group Home" to the

column "Principal Use" row "Single-Family Detached" of Table 7 – Minimum Yard Requirements – R-3 District.

Section 11. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-16(b)(3), "R-3/PAO Residential/professional office district – Uses Permitted by Right", is amended by deleting "..., only within a permitted single-family detached dwelling unit not exceeding six people".

Section 12. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-16(c)(2), "R-3/PAO Residential/professional office district – Special Exception Uses", is amended by deleting "Group home" and replacing it with "Reserved".

Section 13. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-16(f), "R-3/PAO Residential/professional office district – Lot Area, Width Building Coverage, Impervious Surface Coverage and Height Regulations", is amended by adding "Group Home" to row "3. Single-Family Detached Dwelling" of Table 8 – Dimensional Requirements – R-3 PAO District.

Section 14. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-16(g), "R-3/PAO Residential/professional office district – Minimum Yard Requirements", is amended by adding "Group Home" to column "Principal Use" row "3. Single-Family Detached Dwelling" of Table 9 – Minimum Yard Requirements – R-3 PAO District.

Section 15. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-19(b)(6), "C-2 Secondary commercial district – Uses Permitted by Right", is amended by deleting "..., only within a permitted dwelling unit".

Section 16. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-19(f), "C-2 Secondary commercial district – Lot area, width, building coverage, impervious surface coverage and height regulations", is amended by adding "Group Home" to row "Residential Uses" of Table 12 – Dimensional Requirements – C-2 District.

Section 17. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-27(b), "Uses allowable as special exception, conditional use, or expressly prohibited", is amended by revising Table 16 – Uses Allowable as Special Exception, Conditional Use, or Expressly Prohibited, by removing the "a" from "R-2a", and by deleting "Group Home" from Table 16.

Section 18. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-29(c)(15), "Group Home" is amended as follows:

...

- (E) Two off-street parking spaces shall be provided, plus one additional off-street parking space shall be provided for each employee on duty at any one time.

...

- (H) The group home shall register its location, maximum number of residents, and sponsoring agency with the borough.

...

- (J) Maximum number of residents at any one time is 4 persons.
 - (K) The required amount of square footage of living area and sleeping area per resident shall be provided in accordance with the requirements of the 2009 International Building Code, or such other code as may be adopted by the Borough from time to time.
 - (L) Deleted in its entirety and replaced with "Reserved".
- ...
- (O) Reasonable accommodations. In any case where an applicant seeks a reasonable accommodation of any of the standards and conditions listed in subsections (A) through (N) pursuant to provisions of the Federal Fair Housing Act, a written application shall be filed with the Zoning Hearing Board. See also provisions for modifications to comply with federal law in section 23-72(e)(9).

Section 19. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article VIII, *Zoning Districts and Use Regulations*, section 23-72(e), "Zoning Hearing Board Functions", is amended by adding a new subsection (9) as follows:

- (9) Reasonable accommodations. After having received a complete written application, the Zoning Hearing Board may grant a variance to specific section(s) of this chapter if the applicant proves to the clear satisfaction of the Zoning Hearing Board that such modifications are necessary to provide a reasonable accommodation under the Americans With Disabilities Act, 42 U.S.C section 12101 et seq., and/or the Federal Fair Housing Act

and/or applicable state and federal law, as amended, to serve persons who the applicant proves have disabilities as defined in and protected by such laws.

Section 20. All other sections, parts, and provisions of Chapter 23, *Zoning*, shall remain in full force and effect as previously enacted and amended.

Section 21. The terms hereof supersede the terms of all other ordinances or resolutions of the Borough inconsistent herewith.

Section 22. The provisions of this ordinance are severable. If any provision, section, sentence, clause or part shall be held to be invalid, illegal, or unconstitutional by any court of competent jurisdiction, such invalidity, illegality or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses or parts of the ordinance. It is hereby declared to be the intent that this ordinance would have been adopted as if such illegal, invalid, or unconstitutional provision, section, sentence, clause or part had not been included herein.

Section 23. This amendatory ordinance shall take effect and be in force from and after its enactment. The enactment date of this amendatory ordinance is the date when the Mayor shall approve it, or the date of passage by the Borough Council over the veto of the Mayor. If the amendatory ordinance is not returned by the Mayor at the regular meeting of Borough Council, occurring at least ten days after the meeting at which the amendatory ordinance was passed by the Borough Council, the date of enactment shall be the date of the succeeding regular meeting of Borough Council.

DULY ORDAINED AND ENACTED this 3rd day of November, 2014, by the Borough Council of the Borough of Kennett Square, Chester County, Pennsylvania, in lawful session duly assembled.

BOROUGH OF KENNETT SQUARE
Chester County, Pennsylvania

By: 

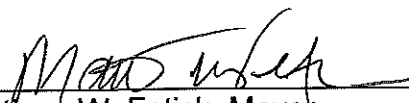
Leon R. Spencer, Jr.
Borough Council President

Attest: 

Karen L. Scherer
Borough Secretary

[BOROUGH SEAL]

Approved this 3rd day of November, 2014



Matthew W. Fetick, Mayor
Borough of Kennett Square