

TOWN OF SUPERIOR
ORDINANCE NO. O-2
SERIES 2017

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF
SUPERIOR AMENDING CHAPTER 16 OF THE SUPERIOR MUNICIPAL
CODE BY AMENDING SECTION 16-1-70 AND BY THE ADDITION
OF A NEW ARTICLE XXXVI CONCERNING GROUP HOMES

WHEREAS, the Fair Housing Act, 42 U.S.C. § 3601, et seq. (the "FHA"), prohibits housing discrimination;

WHEREAS, pursuant to the FHA, a local government must make reasonable accommodations for persons with disabilities where such accommodations may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing;

WHEREAS, pursuant to C.R.S. §§ 30-28-115(2), 31-23-301 and 31-23-303(2), group homes are considered residential uses as a matter of law; and

WHEREAS, pursuant to the FHA and state law, the Board of Trustees wish to amend Chapter 16 of the Superior Municipal Code to provide a mechanism to request reasonable accommodations for group homes.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, THAT:

Section 1. The definition of "Group Home" in Section 16-1-70 of the Superior Municipal Code is hereby amended as follows:

Group home means a one-household dwelling or duplex licensed by the State in which unrelated individuals or related and unrelated individuals ***who have, or have a record of having, a physical or mental impairment limiting one or more major life activities*** live, where physical assistance or supervision is provided by resident or nonresident professional support personnel for compensation as a continual benefit, excluding hotels and detention facilities housing juvenile or adult offenders or facilities for treatment of ***current, illegal use of a controlled substance-abuse problems.***

Section 2. Chapter 16 of the Superior Municipal Code is hereby amended by the addition of a new Article XXXVI, entitled "Group Homes", to read as follows:

ARTICLE XXXVI GROUP HOMES

Sec. 16-36-10. Purpose.

The purpose of this Article is to provide a procedure for individuals with disabilities to request accommodations, where such accommodations are necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing as part of a group home in the Town.

Sec. 16-36-20. Special use permit required.

(a) Group homes may be established in any residential district by special use permit.

(b) Section 16-16-40 shall govern applications for special use permits for group homes. In addition to all other applicable criteria contained in Section 16-16-40, in considering a special use permit application for a group home, the Planning Commission and Board of Trustees shall consider whether: (1) the location of the proposed group home is necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing as part of a group home in the Town; (2) the location of the proposed group home would impose an undue burden or expense on the Town; and (3) the proposed group home would create a fundamental alteration in the Town's overall zoning scheme.

(c) The Board of Trustees may subject a special use permit for a group home to reasonable conditions or requirements deemed necessary or applicable to similar uses in the underlying zone district, or to minimize any adverse impacts of the group home on the surrounding neighborhood.

Section 3. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

Section 4. Safety. This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

INTRODUCED, READ, PASSED AND ORDERED PUBLISHED this 10th day
of April, 2017.

Clint Folsom, Mayor

ATTEST:

Phyllis L. Hardin, Town Clerk-Treasurer