

STAFF REPORT TO: AMADOR COUNTY PLANNING COMMISSION FOR REGULAR MEETING OF MARCH 25, 2014

ITEM 2 – Review and recommendation to Planning Commission regarding proposal to amend Title 19 (Zoning) of the Amador Co. Code by adding definitions and provisions to allow and regulate child day care centers, child day care facilities, and special needs housing.

Environmental Document: Categorical Exemption

A. BACKGROUND: The Board of Supervisors adopted the 2009-2014 Housing Element along with a Housing Plan that consisted of several goals, policies, and implementation programs. Goal H-5, “Improve Access to Housing for All Residents,” includes Implementation Program H-5.3, “Encourage Community Care Facilities, Emergency and Transitional Housing, Group Care, Residential Care Facilities, and other Special Needs Housing.” The proposed amendments which create the definitions for Special Needs Housing (Section 19.08.537) and Transitional/Supportive Housing (Section 19.08.620) mirror the statutory definitions for these housing types. Proposed Section 19.48.190 establishes the zone district locations for Special Needs Housing.

Implementation Program H-5.4, “Pursue Amending the Child Care Provisions of the Zoning Code,” proposes that the County adopt zoning standards for day care types that are consistent with state law. Proposed Sections 19.08.155 and 19.08.200 mirror the statutory definitions for those land uses, and proposed Section 19.48.180 establishes the zone district locations and Use Permit requirements for day care facilities based on the number of children served.

Implementation Program H-5.5, “Amend the Zoning Code to Remove Constraints,” proposes allowing emergency shelters and transitional/supportive housing as a permitted use in the “C1,” Retail, Commercial, Office zone district. Proposed Sections 19.08.235 and 19.08.620 mirror the statutory definitions for those land uses, and Section 19.24.040 is amended to expand the “C1” permitted use list to include emergency shelters and transitional/supportive housing.

Implementation Program H-5.7, “Amend the County’s Definition of Family,” proposes that the definition of family include one or more persons living as a single household in a single dwelling unit, as well as 6 or fewer persons living together in licensed Community Care Facilities. Proposed Section 19.08.240 reflects this change as recommended by the General Plan.

B. PROPOSED ORDINANCE: The proposed ordinance provides the following changes to the existing County Code, Title 19, Zoning. Text shown in underline indicates new text; text shown in ~~strikeout~~ indicates deleted text. The following sections of the Amador County Code are amended to read:

19.08.155 Child Day Care Facility. “Child Day Care Facility” is defined by California Health and Safety Code Section 1596.750.

19.08.156 Small Family Day Care Home. Small Family Day Care Home is defined by California Health and Safety Code Section 1596.78(c).

19.08.157 Large Family Day Care Home. Large Family Day Care Home is defined by California Health and Safety Code Section 1596.78(b).

19.08.158 Day Care Center. “Day Care Center” is defined by California Health and Safety Code Section 1596.76.

19.08.235 Emergency Shelter. “Emergency Shelter” is defined by California Health and Safety Code Section 50801(e).

19.08.240 Family. “Family” means ~~one or more persons occupying a premises and living as a single nonprofit housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity or sorority house. A family shall be deemed to include necessary servants.~~ one (1) or more individuals living together as a single household in a single dwelling unit. Family shall also mean the persons living together in a licensed “community care facility” as that term is defined in the California Health and Safety Code Section 1502, as amended, which services six (6) or fewer persons.

19.08.537 Special Needs Housing. “Special Needs Housing” includes the following type of facilities:

- a. Intermediate Care Facilities as defined in Health and Safety Code Sections 1250(d)&(e), as amended;
- b. Residential Care Facilities as defined in Health and Safety Code Section 1502(a)(1), as amended;
- c. Community Care Facilities as defined in Health and Safety Code Section 1502(a), as amended;
- d. Family Day Care Home as defined in Health and Safety Code Section 1596.78, as amended;
- e. Alcoholism Recovery or Treatment Facilities and Drug Abuse Recovery Facilities as defined in Health and Safety Code Sections 11834.02, as amended;
- f. Facilities for the Mentally Disordered, Handicapped Persons, or Dependent and Neglected Children as defined in Welfare and Institutions Code Sections 5115-5116, as amended.

19.08.620 Transitional / Supportive Housing. “Transitional/Supportive Housing” is defined by California Health and Safety Code 50801(i), as amended.

19.24.040 District Regulations – Generally. C-1 (permitted uses): “Retail, office and business and personal service uses, conducted within a building, and mini-warehouses. Emergency Shelters and Transitional/Supportive Housing.”

19.48.180 Day Care Homes and Centers.

A. Purpose: This Section establishes standards for Large and Small Family Day Care Homes and Day Care Centers consistent with state law and in a manner that recognizes the needs of families and operators, as well as minimizing the effects on surrounding properties.

1. Permitted Use. Small Family Day Care Homes shall be allowed in the following zone districts as a permitted use: A, AG, R1, R1A, R2, R2A, R3, RE, and X.

2. Use Permit Required. Large Family Day Care Homes may be allowed subject to an approved Use Permit in the following zone districts: A, AG, R1, R1A, R2, R2A, R3, RE, X.

3. Day Care Centers shall be allowed in the following zone districts as a permitted use: C1, C2, and H.

19.48.190 Special Needs Housing.

A. Purpose: This Section establishes standards for Special Needs Housing consistent with state law and in a manner that recognizes the needs of Special Needs Housing operators and minimizes the effects on surrounding properties.

1. Permitted Use. Special Needs Housing consisting of six (6) or fewer individuals may be allowed in the following zone districts with a staff issued permit: A, AG, R1, R1A, R2, R2A, R3, RE, and X.

2. Use Permit Required. Special Needs Housing consisting of seven (7) or more individuals may be allowed subject to an approved Use Permit in the following zone districts: R2, R3, C1, and C2.

C. PLANNING COMMISSION ACTION: After reviewing the proposed ordinance, and hearing from the public, the Planning Commission may take one of the following actions:

1. Recommend to the Board of Supervisors approval of the proposed ordinance as presented;
2. Recommend to the Board of Supervisors approval of the proposed ordinance with any changes the Commission may wish to propose; or
3. Recommend the Board of Supervisors **not** adopt an ordinance amending Title 19 (Zoning) thereby retaining the existing definitions and regulations.

D. FINDINGS: If the Planning Commission recommends approval of the proposed ordinances the following findings are also recommended for approval:

1. The proposed Zoning Code Amendment is consistent with the General Plan.
2. The proposed Zoning Code Amendment is consistent with other provisions of the Zoning Code and Municipal Code.
3. This text amendment to the Zoning Code is exempt from the California Environmental Quality Act pursuant to Section 15183, Projects Consistent with a Community Plan or Zoning.

1596.750. "Child day care facility" means a facility that provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. Child day care facility includes day care centers, employer-sponsored child care centers, and family day care homes.

1596.76. "Day care center" means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and schoolage child care centers.

50801(e) "Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

1250(d) "Intermediate care facility" means a health facility that provides inpatient care to ambulatory or nonambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

1250(e) "Intermediate care facility/developmentally disabled habilitative" means a facility with a capacity of 4 to 15 beds that provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer persons with developmental disabilities who have intermittent recurring needs for nursing services, but have been certified by a physician and surgeon as not requiring availability of continuous skilled nursing care.

1502(a) "Community care facility" means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

1502(a)(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day program" means any community-based facility or program that provides care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of these individuals on less than a 24-hour basis.

(3) "Therapeutic day services facility" means any facility that provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the

department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.

(4) "Foster family agency" means any organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian. It also means a foster family home described in Section 1505.2.

(6) "Small family home" means any residential facility, in the licensee's family residence, that provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions Code. In addition to placing children with special health care needs, the department may approve placement of children without special health care needs, up to the licensed capacity.

(7) "Social rehabilitation facility" means any residential facility that provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Article 1 (commencing with Section 5670) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code.

(8) "Community treatment facility" means any residential facility that provides mental health treatment services to children in a group setting and that has the capacity to provide secure containment. Program components shall be subject to program standards developed and enforced by the State Department of Health Care Services pursuant to Section 4094 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(9) "Full-service adoption agency" means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(B) Assesses the birth parents, prospective adoptive parents, or child.

(C) Places children for adoption.

(D) Supervises adoptive placements.

Private full-service adoption agencies shall be organized and operated on a nonprofit basis. As a condition of licensure to provide intercountry adoption services, a full-service adoption agency shall

be accredited and in good standing according to Part 96 of Title 22 of the Code of Federal Regulations, or supervised by an accredited primary provider, or acting as an exempted provider, in compliance with Subpart F (commencing with Section 96.29) of Part 96 of Title 22 of the Code of Federal Regulations.

(10) "Noncustodial adoption agency" means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assesses the prospective adoptive parents.

(B) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

(C) Cooperatively supervises adoptive placements with a full-service adoptive agency, but does not disrupt a placement or remove a child from a placement.

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis. As a condition of licensure to provide intercountry adoption services, a noncustodial adoption agency shall be accredited and in good standing according to Part 96 of Title 22 of the Code of Federal Regulations, or supervised by an accredited primary provider, or acting as an exempted provider, in compliance with Subpart F (commencing with Section 96.29) of Part 96 of Title 22 of the Code of Federal Regulations.

(11) "Transitional shelter care facility" means any group care facility that provides for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual. Program components shall be subject to program standards developed by the State Department of Social Services pursuant to Section 1502.3.

(12) "Transitional housing placement provider" means an organization licensed by the department pursuant to Section 1559.110 and Section 16522.1 of the Welfare and Institutions Code to provide transitional housing to foster children at least 16 years of age and not more than 18 years of age, and nonminor dependents, as defined in subdivision (v) of Section 11400 of the Welfare and Institutions Code, to promote their transition to adulthood. A transitional housing placement provider shall be privately operated and organized on a nonprofit basis.

(13) "Group home" means a residential facility that provides 24-hour care and supervision to children, delivered at least in part by staff employed by the licensee in a structured environment. The care and supervision provided by a group home shall be nonmedical, except as otherwise permitted by law.

(14) "Runaway and homeless youth shelter" means a group home licensed by the department to operate a program pursuant to Section 1502.35 to provide voluntary, short-term, shelter and personal services to runaway youth or homeless youth, as defined in paragraph (2) of subdivision (a) of Section 1502.35.

50801(i) "Transitional housing" means housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons. Transitional housing includes self-sufficiency development services, with the ultimate goal of moving recently homeless persons to permanent housing as quickly as possible, and limits rents and service fees to an ability-to-pay formula reasonably consistent with the United States Department of Housing and Urban Development's requirements for subsidized housing for low-income persons. Rents and service fees paid for transitional housing may be reserved, in whole or in part, to assist residents in moving to permanent housing.