

**ALPINE CITY
ORDINANCE 2023-12**

**AN ORDINANCE AMENDING ARTICLE 3.19.070 REGULATING THE DENSITY
AND OWNERSHIP IN THE ASSISTED LIVING AND NURSING CARE OVERLAY
ZONE**

WHEREAS, The Planning Commission held a public hearing on March 21st, 2023, regarding proposed amendments to Article 3.19 of the Alpine City Development Code; and

WHEREAS, on May 2nd, 2023, the Planning Commission recommended approval of proposed amendments to Article 3.19 of the Alpine City Development Code; and

WHEREAS, on June 27th, 2023, the Alpine City Council has deemed it in the best interest of Alpine City to amend Article 3.19 of the Alpine City Development Code; and

WHEREAS, the Alpine City Planning Commission has reviewed the proposed amendments to Article 3.19 of the Alpine City Development Code, held a public hearing, and forwarded a recommendation to the City Council; and

WHEREAS, the Alpine City Council has reviewed the proposed amendments to Article 3.19 of the Alpine City Development Code

NOW THEREFORE, be it ordained by the Council of the Alpine City, in the State of Utah, as follows: The amendments to Article 3.19 of the Alpine City Development Code will supersede previous sections of 3.19 the Alpine City Development Code as previously adopted.

SECTION 1: AMENDMENT “3.19.070 Overlay Zone Development Standards And Regulations” of the Alpine City Development Code is hereby *amended* as follows:

AMENDMENT

3.19.070 Overlay Zone Development Standards And Regulations

The following development standards and regulations shall apply to all developments within the Assisted Living and Nursing Care Overlay Zone.

1. **Management Plan.** Each applicant shall submit a management plan for the operation of the project, which plan shall include provisions to limit occupancy to elderly persons. Each project shall be under one (same) management.
2. **Restrictive Covenants.** The developer of a development within the Assisted Living and Nursing Care Overlay Zone shall be required to establish restrictive covenants to

assure that the uses approved for the development will be maintained. Such covenants shall be recorded to run with the land to insure against conversion to less desirable land uses.

3. Occupancy Restrictions

- a. Occupancy of each unit shall be limited to individuals who qualify as elderly persons provided that occupancy by individuals who do not qualify as an elderly person may be permitted, where the non-qualified person is the spouse of an qualified elderly person, or the non-qualified person is required in order to provide essential assistance to the resident elderly person.
- b. Not more than one (1) non-qualified person shall be permitted to occupy a unit.
- c. Each project shall be under single ownership. No dwelling units within a project shall be separately owned or transferred.
- d.

4. Architectural Character. The Planning Commission may, during the process of Site Plan Review, request the use of an architectural style, exterior color or material that would be most compatible with the purpose of the underlying zone district, assure greater compatibility with surrounding development, or create an aesthetically pleasing visual theme for the project. In the Gateway-Historic Zone the Architectural Guidelines shall be followed.

5. Landscaping. Adequate landscaping shall be designed. Landscaping shall be of the same general character as yards in the neighborhood. Not less than 30% of the project shall be landscaped for the use and benefit of the residents. Land proposed to be used for parking, pedestrian walkways, and driveways shall not be included in meeting this landscaping requirement.

6. Parking. Minimum primary parking standards shall be as follows:

- a. Assisted Living Facilities: one (1) parking spot per three (3) residents
- b. Congregate Living Units: 1.3 spaces per dwelling unit
- c. Nursing Care Facilities: one (1) parking spot per three (3) residents

7. Private Travel Ways. Private travel ways shall provide safe and convenient vehicular movement to and from all off- street parking spaces. Private travel ways shall be not less than 20 feet width of asphalt.

8. Licensure. Prior to occupancy of an assisted living or nursing care facility, the person or entity licensed or certified by the Department of Human Services or Department of Health to establish and operate the facility shall:

- a. Provide a copy of such license or certification to the City and;
- b. Certify in a sworn affidavit to the City that no person will reside or remain in the facility whose tenancy would likely:
 - i. Constitute a direct threat to the health or safety of other individuals, or
 - ii. Result in substantial physical damage to the property of others.

9. Compliance with Applicable Laws. Each facility shall comply with all health and safety codes applicable to that type of building and use.

10. Use Non-transferable. The use permitted by this section is non-transferable and shall

terminate if:

- a. The facility is devoted to a use other than permitted in the Assisted Living and Nursing Care Overlay Zone;
 - b. The license or certification issued has been terminated or revoked, or;
 - c. The facility fails to comply with these conditions;
11. **Dwelling Units and their Designation.** The maximum number of units permitted in an Assisted Living, Congregate Living, or Nursing Care project (maximum allowed) shall be determined by the primary use of the project as defined in DCA 3.19.020 Definitions. The following density standards shall apply to the uses allowed in this zone. .
- a. Assisted Living Facility: The maximum number of dwelling units per acre shall be 30 units not to exceed 120 total units.
 - b. Congregate Living: The maximum number of dwelling units per acre shall be ten (10) not to exceed 40 total units.
 - c. At least 60% of the dwelling units (not to exceed 120 total units) in a project within the Assisted Living and Nursing Care Overlay Zone shall be designated as assisted living units.
12. **Project Size.** The minimum project size shall be two (2) acres and the maximum project size shall be four (4) acres. The Planning Commission may recommend and the City Council may approve an exception to the maximum project size, not to exceed ten (10) acres.
13. **Maximum Height.** The maximum height of any structures shall be thirty-four (34) feet as measured from the ridge line.
14. **Setbacks.** Setback shall be thirty (30) feet in the front along a public street. The rear and side yard setbacks adjacent to residential properties shall be twenty (20) feet.
15. No person who is being treated for alcoholism or drug abuse or who is violent will be placed in a residential facility for elderly persons.
16. Placement in the facility is on a strictly voluntary basis and is not part of or in lieu of, confinement, rehabilitation, or treatment in a correctional facility.
17. The group home operator shall provide the city proof of adequate insurance for the program's vehicles, hazard insurance on the home, and liability insurance to cover residents and third party individuals.
18. A Developer's Agreement shall be executed between the City and the Developer outlining the conditions of approval of the overlay zone.

(Ord. No. 2003-13/11-25- 03; Ord. No. 2008-02/3-11-08)

SECTION 2: AMENDMENT "3.19.020 Definitions" of the Alpine City Development Code is hereby *amended* as follows:

AMENDMENT

3.19.020 Definitions

Elderly or Older: Age definition that meets the Fair Housing Act definition of housing for older persons including housing specifically designed for and occupied by elderly persons under a federal, state or local government program; or housing that is occupied solely by persons who are 62 or older; or housing that has at least one person who is 55 or older in a least 80 percent of the occupied units and adheres to a policy that demonstrates intent to house persons who are 55 or older.

Assisted Living Facility: A residential facility, conforming to the requirements of the State Division of Human Services or successor agency, as a Type I or Type II facility, occupied or intended to be occupied by two or more elderly persons and providing assistance with "Activities of Daily Living" and social care to residents.

Activities of Daily Living. The term shall include the following activities:

1. Dressing;
2. Eating;
3. Grooming;
4. Bathing;
5. Toileting;
6. Ambulation;
7. Transferring; and
8. Administration of medication.

Congregate Living Facility : A residential dwelling, occupied or intended to be occupied by elderly persons who may require assistance with one or more activities of daily living, in a multi-unit apartment or condominium setting, having common dining and social areas and having meals prepared by staff for the residents. Congregate living units may also include kitchenettes in the private areas. Kitchenettes are limited to the following:

1. Sink: A small sink for washing dishes and food preparation.
2. Countertop: A limited surface area for chopping, meal assembly, and other food-related tasks.
3. Refrigerator: A compact refrigerator for storing perishable items and beverages.
4. Microwave oven: A microwave for heating and reheating food quickly.
5. Cooktop or hot plate: A small electric cooktop or hot plate for basic stovetop cooking.
6. Cabinets and storage: Cabinets or shelves for storing cookware, utensils, and non-perishable food items.

Nursing care facility: Means a health care facility, other than a hospital, constructed, licensed and operated to provide patient living accommodations, twenty four (24) hour staff availability, and at least two (2) of the following patient services: A) a selection of patient care services, under the direction and supervision of a registered nurse, ranging from continuous medical, skilled nursing, psychological or other professional therapies to intermittent health-related or paraprofessional personal care services; B) a structured supportive social living environment based on a professionally designed and supervised treatment plan, oriented to the individual's habilitation or rehabilitation needs; or C) a supervised living environment that provides support, training or assistance with individual activities of daily living.

Dwelling unit or Unit. The living space occupied by one resident including bathroom facilities not to be less than 300 square feet.

Facility: An assisted living facility, congregate living facility, or nursing care facility.

Project: A development consisting of one or more facilities developed and managed as a whole.

(Ord. No. 2003-13/11-25- 03; Ord. No. 2008-02/3-11-08)

SECTION 3: **AMENDMENT** "3.19 Assisted Living And Nursing Care Overlay Zone" of the Alpine City Development Code is hereby *amended* as follows:

AMENDMENT

3.19 Assisted Living And Nursing Care Overlay Zone

PASSED AND ADOPTED BY THE ALPINE CITY COUNCIL

June 27, 2023

	AYE	NAY	ABSENT	ABSTAIN
Gregory Gordon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jason Thelin	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jessica Smuin	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lon Lott	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kelli Law	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Presiding Officer

Attest



Carla Merrill, Mayor, Alpine City



Bonnie Cooper, City Recorder, Alpine City



