

By: Rhonda Boyles, Mayor
Referred to the Planning
Commission: 01/10/02
Introduced: 02/14/02
Advanced: 02/14/02
Postponed to the Call of
The Chair: 02/28/02
Substituted: 04/25/02
Adopted: 04/25/02
Immediate Reconsideration
Failed: 04/25/02
Adopted: 04/25/02

ORDINANCE NO. 2002-04

AN ORDINANCE AMENDING TITLE 18 OF THE FAIRBANKS NORTH STAR
BOROUGH CODE OF ORDINANCES RELATING TO GROUP HOMES AND OFF-
STREET PARKING, AMENDING DEFINITIONS, RESTRICTING STRUCTURAL
CHANGES IN RESIDENTIAL DISTRICTS, AND PROVIDING FOR REASONABLE
ACCOMMODATION

WHEREAS, zoning ordinances should allow the disabled an equal opportunity to use and enjoy a dwelling; and

WHEREAS, federal law, including the Fair Housing Act and the Americans with Disabilities Act require municipalities to reasonably accommodate the disabled in application of zoning ordinances; and

WHEREAS, federal law provides protection to individuals on the basis of disability and familial status:

NOW THEREFORE BE IT ORDAINED by the Assembly of the Fairbanks North Star Borough;

Section 1. Classification. This ordinance is of a general nature and shall be codified.

Section 2. Chapter 18.06.010 (B) of the Fairbanks North Star Borough Code of Ordinances is hereby amended as follows:

18.06.010 -- Definitions

B. For purposes of this title, the words and terms defined herein shall be defined and interpreted as follows:

...

48. "Dwelling" means a building or portion thereof designed or used exclusively for residential purposes, but not including hotels, motels, guest rooms, boarding homes, group homes, nursing homes, mobile homes or trailers.

...

57. "Family" means an individual or:

a. [AN INDIVIDUAL, OR TWO (2) OR MORE PERSONS] two or more persons living in a dwelling unit who are related to each other by blood, marriage, adoption or other means of legal custody [OR A GROUP OF NOT MORE THAN FOUR (4) PERSONS NOT ALL SO RELATED, TOGETHER WITH HIS OR THEIR DOMESTIC SERVANTS, LIVING IN A DWELLING UNIT. A FAMILY MAY INCLUDE, IN ADDITION, NOT MORE THAN TWO (2) BOARDERS, ROOMERS OR PERMANENT GUESTS, WHETHER OR NOT GRATUITOUS.];

b. a group of not more than two persons not all so related;

c. a group of not more than two persons not all so related living together as a single housekeeping unit, except that children with familial status within the meaning of the Fair Housing Act will not be counted as unrelated persons; or

d. a group of not more than two persons not all so related living together as a single housekeeping unit, except that, persons with disabilities within the meaning of the Fair Housing Act and the Americans with Disabilities Act will not be counted as unrelated persons.

However, the maximum occupancy shall be limited as follows: at least one bedroom for every four occupants, with at least 50 square feet per occupant in each multiple-person bedroom and at least 70 square feet in each single-person bedroom.

...

67. "Group home" means a residential facility located in a dwelling or other structure intended for human habitation, the principal use of which is to serve as a place for persons seeking assistance, rehabilitation, recovery or self-help, except for persons defined in this section as a family. [, IN A FAMILY SETTING, REHABILITATION OR RECOVERY FROM ANY PHYSICAL, MENTAL EMOTIONAL OR LEGAL INFIRMITY, AS PART OF A GROUP REHABILITATION AND/OR RECOVERY PROGRAM UTILIZING COUNSELING, SELF-HELP, OR OTHER TREATMENT OR ASSISTANCE.]

...

170. "Disability" means any individual with a qualifying disability as defined by the Americans with Disabilities Act 42 U.S.C.A. § 12101 et seq. and the Fair Housing Act, 42 U.S.C.A. § 3601 et seq. including any future amendments thereto. This definition includes:

- a. An individual with a physical or mental impairment that substantially limits one or more of such individual's major life activities; or
- b. An individual who has a record of having such an impairment; or
- c. An individual who is regarded as having such an impairment, but the term impairment does not include current, illegal use of or active addiction to a controlled substance.

The definitions in FNSB 18.06.010(B) shall be alphabetized and renumbered by the clerk to reflect these amendments.

Section 3. Chapter 18.04.030 of the Fairbanks North Star Borough Code of Ordinances is hereby amended as follows:

18.04.030 – Application of the zoning ordinance.

All property, except that property exempted by law, shall be governed according to the zoning district in which it is located.

Within each zoning district, the regulations and restrictions set forth in this ordinance shall be deemed the minimum regulations and restrictions and shall apply uniformly to each class or kind of use, building structure or land. However, any person claiming to have a disability, or someone acting on the disabled person's behalf, may request a reasonable accommodation with respect to any provision herein or other rules, policies, practices and services necessary to afford the disabled an equal opportunity to use and enjoy a dwelling. The request shall be made to the Director of the Department of Community Planning and shall be accompanied with verifiable documentation of the disability and need for accommodation. The Director shall act promptly on the request for accommodation. If the person requesting a reasonable accommodation has a disability, then the Director shall approve any reasonable accommodation necessary to afford the disabled person an equal opportunity to use and enjoy a dwelling including granting an exception to the provisions of this Code. The Director shall not charge any fee for responding to such a request. The Director's decision shall constitute final administrative action by the Fairbanks North Star Borough on a request for accommodation.

Except as otherwise provided herein, no building, structure or land shall be used or occupied and no building or structure or part thereof shall be erected, moved or altered unless in conformity with the regulations specified for the zone in which it is located. Structures and land use that becomes nonconforming as a result of implementation of this chapter shall have grandfather rights.

Section 4. Chapter 18.50.060(C) of the Fairbanks North Star Borough Code of Ordinances is hereby amended as follows:

18.50.060 Off-street parking and loading requirements.

C. Minimum Standards for Off-Street Parking Spaces. For every use, there shall be provided the following minimum number of off-street parking spaces.

...
7. Residential; one (1) space per dwelling unit and one (1) additional parking space per bedroom over four (4) bedrooms;

Section 5. FNSB 18.50.190 is enacted to read as follows:

Restriction on structural changes in residential districts.

A. In the single-family residential districts, no alteration, addition, or other structural change to the interior or the exterior of any single-family dwelling shall be made if such alteration, addition or other structural change would alter the essential single-family character of the dwelling.

B. In the two-family residential, rural residential, and rural estate districts, no alteration, addition, or other structural change to the interior or the exterior of any single-family or two-family dwelling shall be made if such alteration, addition or other structural change would alter the essential permitted residential character of the dwelling.

Section 6. In accordance with FNSB 18.56.020, only such uses which exist lawfully as of the effective date of this ordinance may be continued, subject to the restrictions in Chapter 18.56.

Section 7. Effective Date. This ordinance is effective at 5:00 PM of the first Borough business day following its adoption.

PASSED AND APPROVED THIS 25th DAY OF APRIL 2002.

Hank Bartos
Presiding Officer

ATTEST:

Mona Lisa Drexler, CMC
Municipal Borough Clerk

Ayes: Hutchison, Solie, Henry, Williams, Foote, Cummings, Sattley, Bartos
Noes: Webb, Beck