

Planning Commission Staff Report

October 13, 2016

Item 3

Applicant: Mapleton City

Location: N/A

Prepared by: Sean Conroy,
Community Development
Director

Public Hearing: Yes

Zone: All residential zones.

Attachments:

1. Proposed ordinance amendments.

REQUEST

Consideration of an ordinance amending Mapleton City Code Chapter 18.84.370.B related to requirements for residential facilities for persons with a disability.

BACKGROUND AND PROJECT DESCRIPTION

Mapleton City Code Chapter 18.84.370.B outlines the City's requirements for residential facilities for persons with a disability. The Federal Fair Housing Amendments Act of 1988 (FHA) prohibits discrimination based on race, color, religion, sex, national origin, disability or family status. Under the FHA, a person with a disability is "*any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment.*" A physical or mental impairment includes drug addiction and alcoholism.

Rules and regulations that are applied by municipalities to residential facilities have been the subject of numerous lawsuits throughout the country. In an effort to ensure that the City's requirements are consistent with state and federal statutes, the city attorney has reviewed the City's ordinance and is recommending the following change:

- Remove the requirement that any person with a criminal conviction cannot be admitted into a residential care facility as shown in attachment "1".

EVALUATION

The requirement that any person with a criminal conviction cannot be admitted into a residential facility can be seen as discriminatory because the City does not have any similar requirements for individuals not part of a residential facility to purchase or rent property. Therefore, staff is recommending adoption of the attached ordinance.

RECOMMENDATION

Recommend approval of the proposed ordinance to the City Council.

Attachment “1”
Proposed Amendments Shown in Strikeout & Underline

18.84.370.B

(4) No individual shall be admitted to the facility as a resident who ~~has a history of criminal conviction~~, is a convicted sex offender, has been convicted of selling or manufacturing illegal drugs, is currently using drugs or alcohol, and/or who is a direct threat to the health and safety of other individuals and/or of causing substantial physical damage to the property of others. In determining whether proposed residents are likely to represent a direct threat as outlined above, the planning commission and city council shall consider, on the basis of objective evidence:

(A) The nature, duration, and severity of the risk;

(B) The probability that potential injury will actually occur; and

(C) Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk; and