

**AGENDA ITEM**  
August 20, 2015

Subject: Amending Section 37-15(l) of the Nevada City Code

Department: Planning and Zoning

This ordinance will amend Section 37-15(l) of the Nevada City Code concerning Group Homes making the code consistent with federal court decisions.

The Planning Commission held their regular meeting on August 11, 2015 and voted unanimously to send a positive recommendation to amend Section 37-15(l) of the Nevada City Code.

**BILL NO. 2015-042**

**ORDINANCE NO.**

**A GENERAL ORDINANCE OF THE CITY OF NEVADA, MISSOURI, AMENDING SECTION 37-15(I), (USE REGULATIONS) OF THE CODE OF THE CITY OF NEVADA, MISSOURI.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEVADA, MISSOURI THAT:**

**Section 1.** Section 37-15(I) of the Code of the City of Nevada, Missouri, is amended as hereafter provided.

**Section 2.** The following provisions are hereby adopted as amendments to Section 37-15(I) of the Code of the City of Nevada, Missouri and are to be applied in conformity with all applicable federal and state laws and regulations, it being recognized that the Missouri or federal law that imposes the higher standard applies and controls:

Section 37-15(I)(1). Group Homes are limited in density in areas of the city zoned R-1 single-family by physical separation in all directions by a distance of not less than 500 linear feet from property line to property line or 500 linear feet along the shortest legal pedestrian path from the proposed home to an existing group home, whichever is shortest. This provision is intended to avoid over-concentration of group homes in one location which would adversely affect individuals with disabilities and be inconsistent with the objection of integrating persons with disabilities into the community.

Section 37-15(I)(7). Group Homes shall be permitted and municipal rules, policies, practices and services will be provided within the City of Nevada in complete conformity will all federal and state laws and regulations, which if inconsistent with any provision of the municipal code shall preempt and control.

Section 37-15(I)(8). In all proceedings related to a group home, the city will make "reasonable accommodations" in rules, policies, practices and services when such accommodations may be necessary to afford persons entitled to privileges under the Fair Housing Act, as amended, and any other federal or state law or regulation, the equal opportunity to use and enjoy a dwelling. The concept of "reasonable accommodation" has a long history in regulations and case law dealing with discrimination on the basis of handicap, need not further be defined herein, and will be applied in a manner consistent with said regulations and case law. See e.g.: 24 CFR 100.204 and citations.

Section 37-15(I)(9). The definition of Group home in Section 37-1 of the code of the city of Nevada, Missouri, is amended to add the following provision: "Handicap" means, with respect to a person a physical or mental impairment which substantially limits one or more of such person's major life activities, or a person who has a record of having such an impairment, or being regarded as having such an impairment, but such term will not include current, illegal use of or current addiction to a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802, as amended. This exclusion does not eliminate protection for individuals who take drugs defined in the

Controlled Substances Act for a medical condition under the care of, or by prescription from, a licensed physician. Individuals demonstrating they are not currently using an illegal drug, are not to be deprived of housing, all as required under the definition of handicap in the Fair Housing Act Amendments.

Section 37-15(l)(10). Nothing in the Group Home provisions of the City of Nevada will require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals, unless such threat can be eliminated by reasonable accommodation.

**Section 3.** This Ordinance shall be in full force and effect from and after its passage, approval and adoption.

**PASSED, APPROVED and ADOPTED** by the City Council of the City of Nevada, Missouri, this 1<sup>st</sup> day of September, 2015.

**CITY OF NEVADA, MISSOURI**

**(SEAL)**

**By:** \_\_\_\_\_  
**Brian L. Leonard, Mayor**

**Attest:**

\_\_\_\_\_  
**Bev Baker, City Clerk**