

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Planning and Economic Development Department

AGENDA DATE: Introduction: May 10, 2011
Public Hearing: May 31, 2011

CONTACT PERSON/PHONE: Kimberly Forsyth, (915) 541-4668

DISTRICT(S) AFFECTED: City-wide

SUBJECT:

An Ordinance amending Title 20 (Zoning), Chapter 20.02 (General Provisions and Definitions), Chapter 20.10 (Supplemental Use Regulations), Appendix A (Table of Permissible Uses) and Table C (Minimum Parking) of the El Paso City Code to add a definition for boarding home facilities and add standards for boarding home facilities and amend definitions for certain personal care facilities and clarify standards for personal care facilities. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

BACKGROUND / DISCUSSION:

N/A

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

Development Coordinating Committee (DCC) – pending review on May 11, 2011
City Plan Commission (CPC) – pending review on May 19, 2011

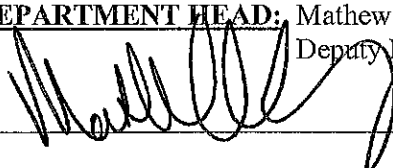
*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Mathew S. McElroy

Deputy Director-Planning and Economic Development



APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 20 (ZONING), CHAPTER 20.02 (GENERAL PROVISIONS AND DEFINITIONS), CHAPTER 20.10 (SUPPLEMENTAL USE REGULATIONS), APPENDIX A (TABLE OF PERMISSIBLE USES) AND TABLE C (MINIMUM PARKING) OF THE EL PASO CITY CODE TO ADD A DEFINITION FOR BOARDING HOME FACILITIES AND ADD STANDARDS FOR BOARDING HOME FACILITIES AND AMEND DEFINITIONS FOR CERTAIN PERSONAL CARE FACILITIES AND CLARIFY STANDARDS FOR PERSONAL CARE FACILITIES. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, during the 2009 Texas Legislative Session, an amendment was made to Chapter 254 of the Health and Safety Code to allow local regulation of boarding home facilities by municipalities; and,

WHEREAS, Title 20 (Zoning) of the El Paso City Code does not have a definition of boarding home facilities or designate zoning districts where they may operate; and,

WHEREAS, a public hearing regarding the proposed amendment was held before the City Plan Commission, and the Commission recommended approval of the amendment; and,

WHEREAS, the El Paso City Council has determined that the regulation of boarding home facilities within the City of El Paso is in the best interest of the public and will promote the public health, safety and welfare of the City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. That Title 20, Zoning, Chapter 20.02, General Provisions and Definitions, of the El Paso City Code be amended to revise the following definitions:

20.02.040 Adult foster care

"Adult foster care" means a personal care facility operated in accordance with the regulations of the Texas Administrative Code, Chapter 48, Subchapter K.

20.02.704 Personal care facility.

"Personal care facility" means a facility where personal care services are furnished for twenty-four hours a day to any person who is unable to provide for his own personal needs without such assistance. (See adult foster care, assisted living facility, convalescent, nursing or rest home.)

20.02.706 Personal care services

"Personal care services" means:

- a. assistance with meals, dressing, movement, bathing, or other personal needs or maintenance;
- b. the administration of medication by a person licensed to administer medication or the assistance with or supervision of medication; or

c. . general supervision or oversight of the physical and mental well-being of a person who needs assistance to maintain a private and independent residence in an assisted living facility or who needs assistance to manage the person's personal life, regardless of whether a guardian has been appointed for the person

SECTION 2. That Title 20, Zoning, Chapter 20.02, General Provisions and Definitions of the El Paso City Code be amended to add the following definitions:

20.02.135 Boarding home facility

"Boarding home facility" means an establishment that:

- a. furnishes, in one or more buildings, lodging to three or more persons with disabilities or elderly persons who are unrelated to the owner of the establishment by blood or marriage; and
- b. provides community meals, light housework, meal preparation, transportation, grocery shopping, money management, laundry services, or assistance with self-administration of medication but does not provide personal care services to those persons.

SECTION 3. That Title 20, Zoning, Chapter 20.02, General Provisions and Definitions of the El Paso City Code be amended to delete the following definitions:

20.02.254 Congregate home

20.10.150 Congregate housing.

SECTION 4. That Title 20, Zoning, Chapter 20.10, Supplemental Use Regulations, Section 20.10.270, Home Occupation Uses, of the El Paso City Code be amended to add the following section:

20.10.115 Boarding Home facilities.

Boarding home facilities that provide housing to four or fewer adults are permitted as an accessory use in residential (R) districts. Facilities with more than four recipients shall require a special permit in residential (R) districts. A minimum of one off-street parking space shall be provided for every two bedrooms or portion thereof, and for every two employees or portion thereof. All boarding home facilities shall be require a permit and shall comply with applicable provisions of Title 5.

SECTION 5. That Title 20, Zoning, Chapter 20.10, Supplemental Use Regulations, Section 20.10.270, Home Occupation Uses, Paragraph A, of the El Paso City Code be amended as follows:

20.10.270 Home occupation uses

A. Where permitted as an accessory use in a district, a home occupation shall meet the following requirements:

1. Home occupations shall be secondary and incidental to the use of the premises as a dwelling, and may only be conducted by the owner or tenant of the residence, or a family member of the owner or tenant;

2. A home occupation may not produce noise, vibration, smoke, dust, odor, heat, glare, fumes, electrical interference, or waste run-off outside the dwelling unit or garage;

3. Shall typically operate during the hours of seven a.m. to seven p.m. for outdoor activities and seven a.m. to ten p.m. for indoor activities; except that certain residential uses may be operated on a 24-hour basis.

4. Instructional classes may be held outside of the main building, a maximum of six students shall be allowed in each session;

5. Shall not conduct outdoor activities unless the activities are screened from the neighboring property by a solid fence of at least six feet in height;

6. Home occupation uses shall minimize negative impacts on adjoining properties and the residential character of the lot and dwelling shall be maintained. A home occupation that requires a structural alteration of the dwelling to comply with the nonresidential construction code is prohibited, except for modifications to comply with accessibility requirements;

7. No more than normal household vehicular traffic shall be generated by the home occupation;

8. No home occupation shall generate delivery or pick-up by commercial vehicles more frequently than normal household traffic;

9. No more than two persons who are not residents may be employed on the site at any one time per home occupation; provided, however, the number of employees permitted for child and adult care facilities may exceed two when required by license or state law;

10. No more than twenty-five percent of the gross floor area of the dwelling shall be used in accommodation of the home occupation, except for licensed boarding home, child and adult personal care facilities;

11. No equipment, materials, or merchandise associated with the home occupation shall be displayed or stored where visible from any street or public right-of-way;

12. One sign, not exceeding one square foot in sign area and not internally illuminated shall be permitted for a home occupation. A sign permit shall not be required for a sign complying with this section;

13. Only products made on the premises or incidental to the permitted home occupation may be sold on the premises.

SECTION 6. That Title 20, Zoning, Chapter 20.10, Supplemental Use Regulations, Section 20.10.270, Home Occupation Uses, Paragraph B, of the El Paso City Code be amended to add the following:

14. Adult Foster Care facilities with no more than four care recipients.

SECTION 7. That Title 20, Zoning, Chapter 20.10, Supplemental Use Regulations, Section 20.10.270, Home Occupation Uses, of the El Paso City Code be amended to delete Paragraph C in its entirety.

SECTION 8. That Title 20, Zoning, Chapter 20.10, Supplemental Use Regulations, Section 20.10.450, Personal Care Facilities, of the El Paso City Code be amended as follows:

20.10.450 Personal Care Facilities

Personal care facilities operated in a residential zoning district shall comply with the following:

1. Be licensed in accordance with state and/or city regulations;
2. Permitted signs shall be limited to a one square foot nameplate attached to and not projecting more than one inch beyond the face of the building. The nameplate shall contain only the name and occupation of the provider;
3. The exterior of the building or grounds shall not be altered, decorated or painted in any way to distract from the residential character of the neighborhood;
4. A minimum of one off-street parking space shall be provided for every two bedrooms or portion thereof, and for every two employees or portion thereof.

SECTION 9. That Title 20, Zoning, Appendix A, Table of Permissible Uses, Line 13.06 of the El Paso City Code be amended as follows:

Appendix A

13.06 Boarding home facility

- | | |
|---------------------|---|
| 4 residents or less | "A" in R-1, R-2, R-2A, R-3, R-3A, R-4, R-5, and RF,
"P" in A-1, A-2, A-3, A-4, A-O, A-3/O, C-OP, C-1, C-2 C-3 C-4 C-5
"D" in S-D, PMD, U-P, P-RI, PR-II, P-C, SRR, R-MU, AND G-MU |
| 5 residents or more | (S) in R-1, R-2, R-2A, R-3, R-3A, R-4, R-5, and RF
"P" in A-1, A-2, A-3, A-4, A-O, A-3/O, C-OP, C-1, C-2 C-3 C-4 C-5
"D" in S-D, PMD, U-P, P-RI, PR-II, P-C, SRR, R-MU, AND G-MU |

Supplemental standards 20.010.10, 20.010.20 and 20.010.115.

SECTION 10. That Title 20, Zoning, Appendix C, Minimum Parking, of the El Paso City Code be amended as follows:

Appendix C

13.06 Boarding home facility	1 space per every 2 bedrooms or portion thereof, and 1 space per every 2 employees or portion thereof".	NOTE 3	None	Allowed	Allowed	2H
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SECTION 11. Except as expressly herein amended, Title 20 (Zoning) of the El Paso City Code shall remain in full force and effect.

ADOPTED THIS _____ day of _____ 2011.

CITY OF EL PASO

ATTEST:

John F. Cook, Mayor

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Lupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:



Mathew S. McElroy, Deputy Director
Planning and Economic Development Dept.