

Memorandum



DATE January 3, 2014

TO Housing Committee Members: Carolyn R. Davis, Chair, Scott Griggs, Vice-Chair, Monica Alonzo, Rick Callahan, Dwaine Caraway, and Phillip Kingston

SUBJECT Boarding Home Facilities Update

On Monday January 6, 2014, you will be briefed on the Boarding Home Facilities Update. A copy of the briefing is attached.

Please let me know if you have any questions.



Charles M. Cato

Interim Assistant City Manager

cc: The Honorable Mayor and Members of the City Council
A.C. Gonzalez, Interim City Manager
Warren M. S. Ernst, City Attorney
Judge Daniel F. Solis, Administrative Judge
Rosa A. Rios, City Secretary
Craig D. Kinton, City Auditor
Ryan S. Evans, Interim First Assistant City Manager

Jill A. Jordan, P. E., Assistant City Manager
Forest E. Turner, Assistant City Manager
Joey Zapata, Assistant City Manager
Theresa O'Donnell, Interim Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Frank Libro, Public Information Officer
Elsa Cantu, Assistant to the City Manager – Mayor and Council

Boarding Home Facilities Update

Presented to the
Housing Committee
January 6, 2014



Purpose of Briefing

- Provide an update on regulation and enforcement of Chapter 8A “Boarding Home Facilities”
- Discuss proposed amendments to Chapter 8A

Boarding Home Facilities Ordinance

- Adopted by City Council on June 27, 2012 to ensure that:
 - residents live in safe, sanitary, and decent housing
 - residents are not abused, neglected, or exploited by owners, operators, or employees
 - adequate fire-rescue and police personnel and vehicles are available to serve these residents
 - the city can identify and facilitate appropriate responses for residents who may require special assistance during an emergency or at any other time

Boarding Home Facilities Definition

- Furnishes lodging to 3 or more persons who are unrelated to the owner of the establishment by blood or marriage
- Provides assistance with daily living activities, including meals, housework, transportation, money management, etc.
- Does not provide personal care services, such as feeding, dressing, movement assistance, bathing, or the administration of medication
- Exemptions for various entities licensed by the State, monasteries, dorms, etc.

Boarding Home Facility Location

- A Boarding Home Facility can be located in areas where residential uses are allowed
 - Similar to a single family resident designation
 - Up to 5 unrelated persons constitute a “family”
- Boarding Home Facilities that house handicapped may have up to 8 persons
 - Would meet the definition of a handicapped group dwelling unit (HGDU) under the City’s zoning law
 - Must be located at least 1,000 feet from all other HGDU or Group Residential Facilities

Boarding Home Facility Ordinance

- New ordinance adopted, with certain modifications, model standards by the Texas Health & Human Services Commission that set requirements for:
 - Written policies and procedures for resident health, safety
 - Specific record keeping and postings
 - Cleanliness and sanitary conditions
 - Assistance with self-administration of medication
 - Reporting and investigation of injuries, incidents, accidents
 - Construction/remodeling
 - Requirements for in-service education of facility staff
 - Criminal background history checks for operators and staff
 - Assessment and periodic monitoring of residents

Boarding Home Facility Ordinance

- ❑ Other key requirements in the ordinance
 - Annual registration and \$500 licensing fee
 - Annual interior/exterior inspections
 - Applicants must provide documentation that all ad valorem taxes, fees, fines and penalties owed to the City are current and paid in full
- ❑ Owners/operators must also meet other applicable City Code regulations

Implementation Actions to Date

□ October 2012

- Ordinance took effect October 1, 2012
- Application and pertinent information posted on the city's website
- 311 call center staff trained to provide and gather information based on new requirements for boarding home facilities
- Staff provided ordinance information and registration forms through on-site visits to known facilities

□ November 2012

- Training Conference held at Fair Park Music Hall with participation of 125 boarding home facilities

Implementation Actions to Date

❑ December/January 2013

- 226 notices issued to previously identified facilities to initiate the licensing process

❑ Spring 2013

- Follow-up notices sent to 88 non-responsive facilities
- Determined that the ordinance did not apply to a number of these facilities
 - ❑ Facilities providing personal care services, licensed by the State, less than 3 residents, etc.
- On-site inspection revealed 158 facilities in operation that are required to adhere to the ordinance

Results to Date

- The following is the status of the 158 facilities
 - 16 facilities have voluntarily closed
 - 27 facilities have been licensed to date
 - 98 facilities have submitted licensing applications and are in various stages of review and/or inspections (applications are pending)
 - 16 facilities have not submitted applications
 - 1 application has been denied

Results to Date

- ❑ 896 inspections and re-inspections have been conducted
- ❑ 39 Citations have been issued
 - 24 Operating without a license
 - 1 Electrical hazard (exposed wiring)
 - 2 Plumbing violations (leaky faucets, clogged drains)
 - 1 Illegal fence
 - 2 No building permit
 - 3 Structure not weather/water tight (leaky roof, weather stripping)
 - 6 Failure to protect exterior surface (peeling paint, exposed wood)

Observations

- ❑ Operators are not completing the licensing application in a timely manner
- ❑ Owners are not aware that leased properties are being used for Boarding Home Facilities
- ❑ Certain documents required by the ordinance may not be applicable in all instances
- ❑ The current ordinance
 - may adversely affect some residents and operators
 - limits the ability to effectively enforce
 - is alleged to violate owners and residents' rights to privacy about their disabilities and medical condition

Proposed Ordinance Amendments

- Add time limit for completion of a pending application after an applicant is made aware of deficiencies
 - Currently it is a defense to prosecution for operating without a license if an application is pending

- Require proof of authorization by the property owner to use property as a Boarding Home Facility
 - Currently property owner may be unaware that renter is using the residence as a Boarding Home Facility

Proposed Ordinance Amendments

- Change current requirement for zoning verification letters
 - Delete requirement for facilities with 5 or fewer residents
 - Instead, require distance verification letters for Boarding Home Facilities that meet the definition of a Handicapped Group Dwelling Unit
 - Facilities with 6 to 8 residents
 - Verification that the facility satisfies the 1,000 ft. spacing requirement

Proposed Ordinance Amendments

- Amend conflict of interest provisions
 - Ordinance currently prohibits owners/operators from:
 - Employing residents outside the Boarding Home Facility
 - Going into business with residents
 - Co-mingling funds with residents
 - These provisions may limit residents' ability to earn income and secure housing
 - Allow residents to work on-site or off-site in exchange for rent
 - Add provisions to protect residents who choose this option

Proposed Ordinance Amendments

□ Definitions

- “Boarding Home Facility” – delete reference to Sec. 8A-5 exemptions to clarify burden of proof
 - “Licensee” – include “applicant” to increase enforcement opportunities
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- Clarify that facilities that have not sought licenses may be prosecuted to the same extent as licensees for violations of Chapter 8A
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- Amend various sections to better address privacy concerns regarding disability-related information

Proposed Ordinance Amendments

- Clarify that Boarding Home Facility license applications require criminal background checks for employees as well
- Reduce lifetime ban on potential residents with certain drug convictions to a 10-year ban

Next Steps

- ❑ Continue enforcement efforts to identify, inspect, and license Boarding Home Facilities
- ❑ Submit ordinance revisions for approval by the City Council
- ❑ Provide quarterly status reports to City Council

Boarding Home Facilities

