

Memorandum



CITY OF DALLAS

DATE June 15, 2012

TO Honorable Mayor and Members of the City Council

SUBJECT Group Housing Facilities Regulation & Enforcement

On Wednesday, June 20, 2012 the City Council will be briefed on Group Housing Facilities Regulation & Enforcement. Briefing materials are attached for your review.

If you have any questions, or require additional information, please do not hesitate to contact me.

A handwritten signature in blue ink, appearing to read 'Joey Zapata'.

Joey Zapata
Assistant City Manager

cc: Mary K. Suhm, City Manager
Thomas P. Perkins, Jr., City Attorney
Craig D. Kinton, City Auditor
Rosa A. Rios, City Secretary
C. Victor Lander, Administrative Judge
A.C. Gonzalez, First Assistant City Manager

Ryan S. Evans, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Forest E. Turner, Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Stephanie Cooper, Assistant to the City Manager

Group Housing Facilities Regulation & Enforcement

Presented to the
Dallas City Council
June 20, 2012



Purpose of Briefing

- ❑ Describe the City's recent and current efforts addressing group homes
- ❑ Provide an update on identified group housing facilities in Dallas
- ❑ Discuss changes to the proposed ordinance to regulate boarding home facilities since the May 2, 2012 briefing

What is a Group Housing Facility?

- Generally, group housing facilities are interim or permanent residential dwellings that provide room/board to a group of persons who are not a family, regardless of whether operated for profit
 - The Dallas City Code defines “family” as individuals living together as a single housekeeping unit in which not more than four individuals are unrelated to the head of the household by blood, marriage, or adoption
- The Dallas City Code identifies several different types of group housing facilities
 - See Use Comparison Table, page 4



City's Classification of Group Housing Facility, Use Comparison Table

Use	A. Single Family Use 51A-4.209(b)(6)	B. Handicapped Group Dwelling 51A-4.209(b)(3.1)	C. Lodging/ Boarding House 51A-4.205(2)	D. Residential Hotel 51A-4.209(b)(5.1)	E. Group Residential Facility 51A-4.209(b)(3)	F. Halfway House 51A-4.204(13)
Use Type	Residential	Residential	Lodging	Residential	Residential	Institutional
1. No. of people/units allowed	4 persons or less not related to head of household	8 persons or less who are disabled; may include 2 supervisors	5 or less guest rooms, rented separately	6 or more guest rooms with or without kitchens, or with shared facilities	More than 4 persons who are not related to head of household	50 people maximum
2. How facilities are negotiated	No reference	No reference	No reference	More than 50% of the rental income from occupants of 30 days or more	Not on a daily basis	Only for persons on probation or parole
3. Kitchen allowed in unit	Kitchen	Kitchen	No kitchens in rooms	May have no kitchen May have kitchen in rooms May have shared kitchen	May have kitchen, does not have to	No reference
4. Personal Care Service Provided	Maybe	Maybe	Maybe	No	Maybe	Maybe
5. Zoning allowed	By right in A, SF, D, TH, CH, MF1, MF2, MH, GO, CA, MU1	By right in A, SF, D, TH, CH, MF1, MF2, MH, GO, CA, MU1 when spaced 1000'; otherwise, by SUP. In GO, limited to 5% of floor area of building	By right in MF2, MF3, MF4, RR, CS, LI, IR, and CA; by SUP in CR and IM	By right in MF2, MF3, MF4, CA, MU, when located 1 mile from other residential hotels	By right in CH, MF, CA, MU, when spaced 1000' – otherwise by SUP By SUP in UC	SUP in LI, RR, CS, MU-2, MU-3, &CA – Treatment of alcoholic, narcotic, or psychiatric problems if allowed by SUP
6. Additional provisions	No CO required	No CO required	Operator may serve meals to occupants	Subject to Chapter 27 of the Dallas City Code. Also must have guest registry.	Density regulations (beds/units per acre)	1000' from residential districts & uses, parks, schools & child-care facilities; one mile from another halfway house; within 1200' of mass transit. Also must have a security plan.

City's & State's Role and Functions

- ❑ The Dallas City Code uses different classifications for group housing facilities than the State
- ❑ The City's focus has been on premise, structural and zoning violations
 - Handicap group dwellings, when spaced less than 1000 ft, require SUP
 - ❑ Shortest straight line distance from property line to property line, without regard to intervening structures
- ❑ The State's focus is on operations and health conditions, and these facilities typically provide personal care services such as:
 - Administering medications to residents
 - Assistance for daily living activities such as eating, bathing, dressing, etc.
- ❑ The State performs inspections:
 - After receiving an initial application
 - Annually for State-licensed facilities
 - In response to reported complaints/incidents received by the State
 - When notices of violation are issued by the State and follow-up is required

State's Role and Functions on Group Homes

- The State's Department of Aging and Disability Services (DADS) licenses some facilities, such as:
 - Assisted Living Facilities
 - Continuing Care Facilities
 - Convalescent & Nursing Homes
 - Home & Community Support Services (HCS) Facilities

Background

- ❑ A multi-departmental task force on group housing facilities was created in June 2007 to coordinate the City's inspection/enforcement process, report results, and make recommendations
- ❑ In response to final recommendations by the task force in 2008, the City's 2009 Legislative Agenda sought authority to regulate 6 types of state-licensed group facilities by:
 - Requiring applicants for state license be approved by a local official for compliance with municipal ordinances – Not Adopted
 - Requiring facilities to post state license and a sign that specifies complaint procedures – Adopted by House Bill 216 only for facilities not licensed by the state
 - Allowing cities to inspect group homes for compliance with state law
–Adopted by House Bill 216 only for facilities not licensed by the state
 - Allowing cities to file suit for injunctions, damages, civil penalties, court costs, and attorneys' fees against the owner and operators of a facility in violation of state law or municipal ordinance – Not Adopted
 - Establishing procedures for emergency closure of facilities operating without license and creating an immediate threat to the health/safety of a resident – Not Adopted
 - Allowing the state agency, local district attorney, county attorney, or city attorney to request a court to appoint a trustee to operate a group facility as an alternative to closure – Not Adopted

Background

- ❑ HB 216, adopted in 2009, allows the City to regulate boarding home facilities not licensed by the State, but did not fully achieve the City's recommendations
 - City's 2011 legislative agenda included recommendations to strengthen and clarify HB 216, however they were not adopted
- ❑ In FY 09-10, Code Compliance assumed responsibility for coordinating multi-department inspections of group facilities

On-going City Enforcement

- ❑ For every group housing facility the City identifies, a uniform intake form is used to gather information
- ❑ Group facilities can be difficult to find and the City uses various methods to identify them:
 - Inspecting previously identified residential group facilities to verify on-going operation and compliance
 - Information gathered from hospitals, other care agencies, and State Department of Aging & Disability Services (DADS)
 - 3-1-1 Calls – complaints and concerns reported by residents are inspected to identify residential group facilities and coordinate multi-departmental inspections as necessary
- ❑ Data is used to maintain a database of information for various city departments

On-going City Enforcement

- ❑ In FY09-10, approximately 400 properties were identified and assessed as potential group facilities
- ❑ As of March 2012, 327 properties are being tracked by City staff (see map in Appendix)
 - 231 group facilities are currently identified as operational
 - ❑ 194 handicapped group dwelling units
 - ❑ 5 lodging and boarding houses
 - ❑ 19 residential hotels
 - ❑ 13 group residential facilities
 - An additional 96 properties had 5 or fewer unrelated residents at time of inspection, technically making them a single family use
 - ❑ Staff continues monitoring for number of residents and any code violations

On-going City Enforcement

- Action by Code Compliance and the City Attorney's Office has yielded the following results on group homes since 2008
 - 6 group homes have ceased operation
 - 3 group homes have come into compliance after litigation
 - 14 group homes have voluntarily come into compliance
 - 1 group home operator with 7 group homes is currently suing the City, seeking to invalidate the 8-person limit for handicapped group dwellings

On-going City Enforcement

- ❑ As of March 2012, 26 of the 231 identified facilities were found to have significant violations, including:
 - Lack of State license (1 location in violation)
 - Zoning regulations (24 locations in violation)
 - ❑ 12 locations less than 1000' from another without SUP
 - ❑ 4 locations that have more than 8 residents
 - ❑ 8 locations that need a Certificate of Occupancy to operate as a Group Residential Facility
 - Code Violations (1 location with structural violations)
- ❑ Status of enforcement presently taken at the 26 facilities with violations:
 - Code Compliance issued 32 notices and 4 citations
 - Fire & Rescue issued 32 notices; 9 are still open but expected to be in compliance within the timeframe given to the owner/operator
 - City referred 1 location to DADS

On-going City Enforcement

- Apart from common code violations, other issues often include:
 - Residents who appear incoherent or under influence of drugs or alcohol loitering in neighborhoods
 - Large numbers of unfamiliar persons living or visiting these facilities
 - Frequent calls for police and EMS
 - Behavior and visibility of some group home operations does not fit in with more typical families in neighborhoods

Proposed Ordinance

- ❑ State Law allows cities to adopt ordinances to enhance regulation of boarding home facilities
- A Boarding Home Facility is an establishment that:
 - ❑ Furnishes lodging to three or more persons who are unrelated to the owner by blood or marriage; and
 - ❑ Does not provide personal care services; however, may provide community meals, light housework, meal preparation, transportation, grocery shopping, money management, laundry services, or assistance with self-administration of medication

Proposed Ordinance

- Recent changes since the May 2, 2012 briefing to City Council
 - Increased specificity of regulation to strengthen enforcement
 - Custom tailored requirements to specific types of disabilities
 - Resolved conflicts between model standards and City Code for consistency
 - Clarified suspension and variance processes for permits

Proposed Ordinance

- ❑ Proposed ordinance requires owners or operators of boarding home facilities to obtain a license and comply with standards listed below
 - Annual permitting and comprehensive inspections
 - ❑ Re-inspections based on complaints
 - Maintenance of certain records
 - Posting of certain signs and documents
 - Compliance with certain model housing and health standards
 - Reporting residents injuries, incidents, and unusual accidents
 - Reporting residents abuse, neglect and exploitation
 - Prohibits owners and operators from engaging in specific activities with residents that result in financial conflicts of interest
 - Requiring owners and operators to keep detailed records if they manage residents' funds
 - Require owners and operators to receive annual training
 - Prohibit persons with specified criminal convictions from serving as owners or operators
- ❑ Proposed ordinance does not conflict with zoning or spacing requirements in City Code

Limits of Proposed Ordinance

- ❑ Proposed ordinance relies on owners/operators to self-report on injuries, allegations of abuse, management of residents' finances, etc.
 - City usually cannot verify incidents without police or EMS reports
- ❑ Conditions can change daily inside boarding homes, and periodic inspections can't identify all violations
 - Once an inspection is complete, continuous compliance until the next inspection is not assured
- ❑ Ordinance will require operator to allow entry to city staff for inspections
 - Inspectors cannot enter boarding houses without permission
 - If denied entry, a search warrant based on probable cause is required
 - ❑ Police would be dispatched to aid in serving warrant
 - ❑ Operators may hide/disguise violations before warrant is served and entry is gained
 - Failure to allow entry to inspectors could result in suspension of permit

Limits of Proposed Ordinance

- ❑ New ordinance prohibits City from applying ordinance to certain facilities:
 - Assisted living and other State-licensed and/or funded facilities
 - Retirement communities, child-care facilities, family violence shelters
 - Religious facilities providing care and treatment of the sick who depend solely on spiritual healing
- ❑ As a result, ordinance cannot regulate 100 of the 327 facilities monitored by the City

Enforcement

- ❑ Enforcement actions in new ordinance
 - Give notices of violation and citations
 - Suspension of boarding house permit
 - ❑ No new residents allowed pending resolution of violations
 - Revocation of boarding house permit
 - ❑ Affected residents would be evicted instead of allowing a receiver to operate the facility, as the City requested from the Legislature
 - File civil lawsuits seeking injunctions and civil penalties for violations of some of the proposed regulations for boarding home facilities

Additional Effort to Improve Boarding Homes

- ▣ Partner with local advocates and care providers to develop incentive program to promote model facilities through referrals to hospitals and care agencies

Alternative Legislative Options

- ❑ In conjunction with support from neighborhood groups, continue to pursue legislative goals not adopted previously
 - Require applicants for state license be approved by a local official for compliance with municipal ordinances
 - Allow cities to file suit for injunctions, damages, civil penalties, court costs, and attorneys' fees against the owner and operators of a facility in violation of state law or municipal ordinance
 - Establish procedures for emergency closure of facilities operating without license and creating an immediate threat to the health or safety of residents
 - Allow the state agency, local district attorney, county attorney, or city attorney to request a court to appoint a trustee to operate a group facility as an alternative to closure

Implementation

- Estimated Costs: \$598,742 / yr
 - Funds a team of code inspectors, caseworkers, support staff and equipment for comprehensive, annual permit inspections and response to complaints
 - Provides necessary capacity to regulate 300 boarding homes through:
 - Annual, comprehensive inspections and permits
 - Up to 5 additional follow-up inspections at each house annually
 - Response to suspected boarding houses identified through citizen complaints and city staff
 - Monthly visits to 79 sites that refer patients to boarding houses
 - Legal support for inspections, permitting and enforcement
 - Does not include costs for Police, Fire, or EMS services

Implementation

- ❑ Projected Revenues of \$150,000/yr
- ❑ Permit Fee
 - Boarding Home Facility Operators would pay an annual \$500 permit fee
 - In addition to the permit fee, facilities would be required to pay for and provide records to prove full compliance with applicable laws through annual:
 - Fire Inspection
 - Fire Extinguisher Inspection
 - Kitchen Inspection
 - Gas Pipe Pressure Test* (Every Three Years)
 - Inspection of liquefied petroleum gas systems

Implementation

- ❑ Lead time required to implement an effective program
 - Development of all necessary work instructions and training for responsible staff
 - Preparation of forms and documents for applications, comprehensive inspections and posting
 - Public information, education and training for boarding home owners/operators, residents and the public with local advocacy and care provider groups
 - Partner with local advocates and care providers to develop incentive program to promote model facilities through referrals to hospitals and care agencies
- ❑ Recommend effective date of October 1, 2012

Next Steps

- ❑ Adopt proposed ordinance on June 27, 2012, which adds Chapter 8A to license boarding home facilities and amends Chapter 33 to be consistent with state laws for assisted living facilities
- ❑ Provide updates to Council on implementation progress, including:
 - Development of work instructions, forms and documents for an effective program
 - Costs for necessary resources, as part of the FY12-13 budget development process
 - Implementation of public information

Appendix: March 2012 Map

