

Memorandum



DATE April 1, 2011

TO Honorable Mayor and Members of the City Council

SUBJECT Group Housing Facilities Regulation and Enforcement Briefing

On Wednesday, April 6, 2011 you will be briefed on Group Housing Facilities Regulation and Enforcement. The briefing material is attached for your review.

If you have questions or need additional information, please let me know.

for EJT
for Forest E. Turner
Assistant City Manager

Attachment

c: Mary K. Suhm, City Manager
Thomas P. Perkins, Jr., City Attorney
Deborah Watkins, City Secretary
Craig Kinton, City Auditor
Judge C. Victor Lander, Administrative Judge
Ryan S. Evans, First Assistant City Manager
A.C. Gonzalez, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Frank Libro, Public Information Officer
Helena Stevens-Thompson, Assistant to the City Manager – Council Office
Joey Zapata, Director, Code Compliance Department

Group Housing Facilities Regulation and Enforcement

Briefing to the City Council
April 6, 2011

Purpose of Briefing

- ❑ Describe the different type of group housing facilities and applicable regulations
- ❑ Review the process to identify violations and enforce code, fire safety, zoning and other regulations
- ❑ Provide update on identified group housing facilities in Dallas

Background

- ❑ A multi-departmental Boarding House Task Force was created in June 2007 to:
 - Better coordinate the City's inspection and enforcement process and
 - Report results and recommendations to the Quality of Life Council Committee
- ❑ Code Compliance, Crisis Intervention, DPD, Dallas Fire-Rescue, Building Inspection and City Attorney's Office participated in the task force
- ❑ Inspections and enforcement targeted code violations, building and zoning requirements, public safety and fire safety issues
- ❑ Task Force investigated 345 properties and performed enforcement activities

Background

- ❑ Final recommendations by the task force in November 2008 included:
 - Registration of all residential rental properties
 - Authorization to allow the City to enforce the State's Assisted Living Facilities statute
 - Support changes to State law to authorize local governments to:
 - ❑ Deny licenses to group housing facilities when they violate City ordinances
 - ❑ Seek appointment of a trustee to operate licensed homes when closure would adversely affect residents
 - ❑ Order emergency closures and seek injunctive relief for violations of State law

Background

- ❑ City's 2009 Legislative Agenda recommended a full array of enforcement tools to identify, regulate and enforce state law and municipal ordinances applicable to group housing facilities
- ❑ 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 includes recommendations to strengthen or clarify HB 216
- ❑ In FY 09-10, Code Compliance assumed responsibility for coordinating multi-department inspections of group facilities

What is a Group Housing Facility?

- ❑ A group housing facility is an interim or permanent residential facility that provides room/board to a group of persons who are not a family, regardless of whether it is operated for profit
 - A family is defined 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
- ❑ Several different types of group housing facilities are identified in the Dallas City Code



Who Regulates Group Housing Facilities?

- ❑ The State's Department of Aging and Disability Services (DADS), licenses some facilities, such as:
 - Adult Day Care Centers
 - ❑ Offer daytime programs for seniors or people with disabilities, and assistance with some tasks, such as taking medicine.
 - Assisted Living Facilities
 - ❑ Offers residents their own room or apartment, allows personal belongings to make it feel like home, and group dining. Residents usually pay monthly rent as well as additional fees for services.
 - Nursing Homes
 - ❑ Offers 24-hour nursing care, rehabilitative services or medical care to persons with needs that keep them from living independently.
 - Hospices
 - ❑ Offer pain relief, comfort and support to people who expect to live for six months or less and choose to give up care to treat their terminal illness. Services include care to treat pain, as well as other services, such as counseling, and are offered in homes, hospitals, nursing homes, hospice facilities, and intermediate care facility for persons with mental retardation.
 - Home and Community-based Service (HCS) Facilities:
 - ❑ Up to four people with intellectual or developmental disabilities live in a home-like place and types of assistance are individually planned. Daily living assistance is offered, such as taking medicine, dressing, cooking or bathing, managing behaviors.

Who Regulates Group Housing Facilities?

- The State's focus is on operations and health conditions, and these facilities typically provide:
 - Medications dispensed by staff to residents
 - Assistance for daily living activities such as bathing, dressing, etc.
- The State performs inspections:
 - After receiving an initial application
 - Annually for State-licensed facilities
 - In response to reported complaints/incidents
 - When notices of violation are issued and follow-up is required

Who Regulates Group Housing Facilities?

- The City Code has different classifications than the State for group housing facilities, such as:
 - A. Handicapped Group Dwelling Unit
 - **State's classifications for assisted living facilities sometimes meet the City's classification for Handicapped Group Dwelling Units**
 - B. Lodging/Boarding House
 - C. Residential Hotel
 - D. Group Residential Facility
 - E. Halfway House
- The City's focus has been on premise, structural and zoning violations because State law allowed more limited regulation by local governments before HB 216
 - City Attorney's Office has briefed Council on HB 216, which was enacted in 2009 and allows the City to regulate boarding home facilities not licensed by the State

City's Classifications of Group Housing Facility Use Comparison Table

Use	A. Handicapped Group Dwelling Unit 51A-4.209 (b) (3.1)	B. Lodging/Boarding House 51A-4.205 (2)	C. Residential Hotel 51A-4.209 (b) (5.1)	D. Group Residential Facility 51A-4.209 (b) (3)	E. Halfway House 51(A) 4.204(13)
Use Type	Residential	Lodging	Residential	Residential	Institutional
1.Number of people/units allowed	8 or less who are HC – may include 2 supervisors	5 or less guest rooms rented separately	6 or more guest rooms with Kitchens or guest rooms w/o kitchen, or guest rooms with shared facilities.	More than 4 persons who are not related to “head of household”.	50 people max
2.How facilities negotiated	No reference	No reference	More than 50% of the rental income from occupants of 30 days or more.	Not on daily basis	Only for persons on probation or parole.
3.Kitchen allowed in unit	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.Zoning allowed	By right in A, SF, D, TH, CH, MF1, MF2, MH, GO, CA, MU1, when spaced 1,000 feet; 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 & 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 1,000 feet – otherwise by SUP By SUP in UC.	SUP in LI, RR, CS, MU-2, MU-3, & CA;
5.Additional provisions	No C.O. required.	Operator may serve meals to occupants.	Subject to Chapter 27 of Dallas City Code. Also must have a guest registry.	Density regulations (beds/units per acre)	1000 ft. from residential districts & uses, parks, schools & child-care facilities; one mile from another halfway house; within 1200 ft. of mass transit. Also must have a security plan.

A. Handicapped Group Dwelling

- ❑ Occupancy Limits
 - 8 or fewer individuals reside at the facility (which includes any staff living at the property)
- ❑ Building and Zoning Requirements
 - Equivalent of a single family use
 - No certificate of occupancy (CO) required
 - Specific Use Permit (SUP) required if distance provisions are not met
- ❑ Distance Restrictions
 - SUP required if located within 1000 feet from another handicapped group dwelling or group residential facility
- ❑ Other Regulations
 - Clients must be handicapped

B. Lodging/Boarding House

- Occupancy Limits
 - Contain at least one but fewer than six guest rooms that are separately rented
- Building and Zoning Requirements
 - Not allowed in Single Family zoning
 - Certificate of Occupancy (CO) is required
- Distance
 - No specific restrictions
- Other Regulations
 - No kitchens in rooms

C. Residential Hotel

- ❑ Occupancy Limits
 - 6 or more guest rooms with living and sleeping accommodations without kitchen or
 - 6 or more rooms rented on daily basis with kitchen, or
 - 6 or more rooms with shared bathroom, kitchen or dining
- ❑ Building and Zoning Requirements
 - Not allowed in Single Family zoning
 - Certificate of Occupancy (CO) is required
- ❑ Distance
 - Must be at least 1 mile from other residential hotel uses
- ❑ Other Regulations
 - Receives 50% or more income from occupants who stay 30 consecutive days or more
 - Must have a guest registry

D. Group Residential Facility

□ Occupancy Limits

- Interim or permanent residential facility that provides room and board to persons who are not a family

□ Building and Zoning Requirements

- Located within CH, MF, CA, MU zoning
- Not allowed in SF
- Certificate of Occupancy (CO) is required

□ Distance

- Must be at least 1,000 feet from all other group residential facility uses and HGDUs

□ Other Regulations

- Density limits on number of rooms and beds per acre

E. Halfway House

- ❑ Occupancy Limits
 - No more than 50 residents on probation or parole
- ❑ Building and Zoning Requirements
 - Must be located 1000 feet from residential districts, single family, duplex, multifamily uses, parks, child care, and schools
 - Certificate of occupancy (CO) is required
- ❑ Distance
 - Must be at least 1 mile from all other halfway house facility uses
- ❑ Other
 - Provide rehabilitation and training to persons on probation, parole or early release
 - Must be within 1200 feet of mass transit
 - Must have a security plan

Regulation and Enforcement Process

- ❑ For every group housing facility and HGDU the City identifies, a uniform intake form is used to gather information:
 - Address, owner information, contact information, type of facility, number of residents/beds/bedrooms, state licenses, Certificate of Occupancy or permits, multi-family or single-family zoned, intake/inspection date, legal status and council district
- ❑ 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 and field inspections
 - 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 and other agencies

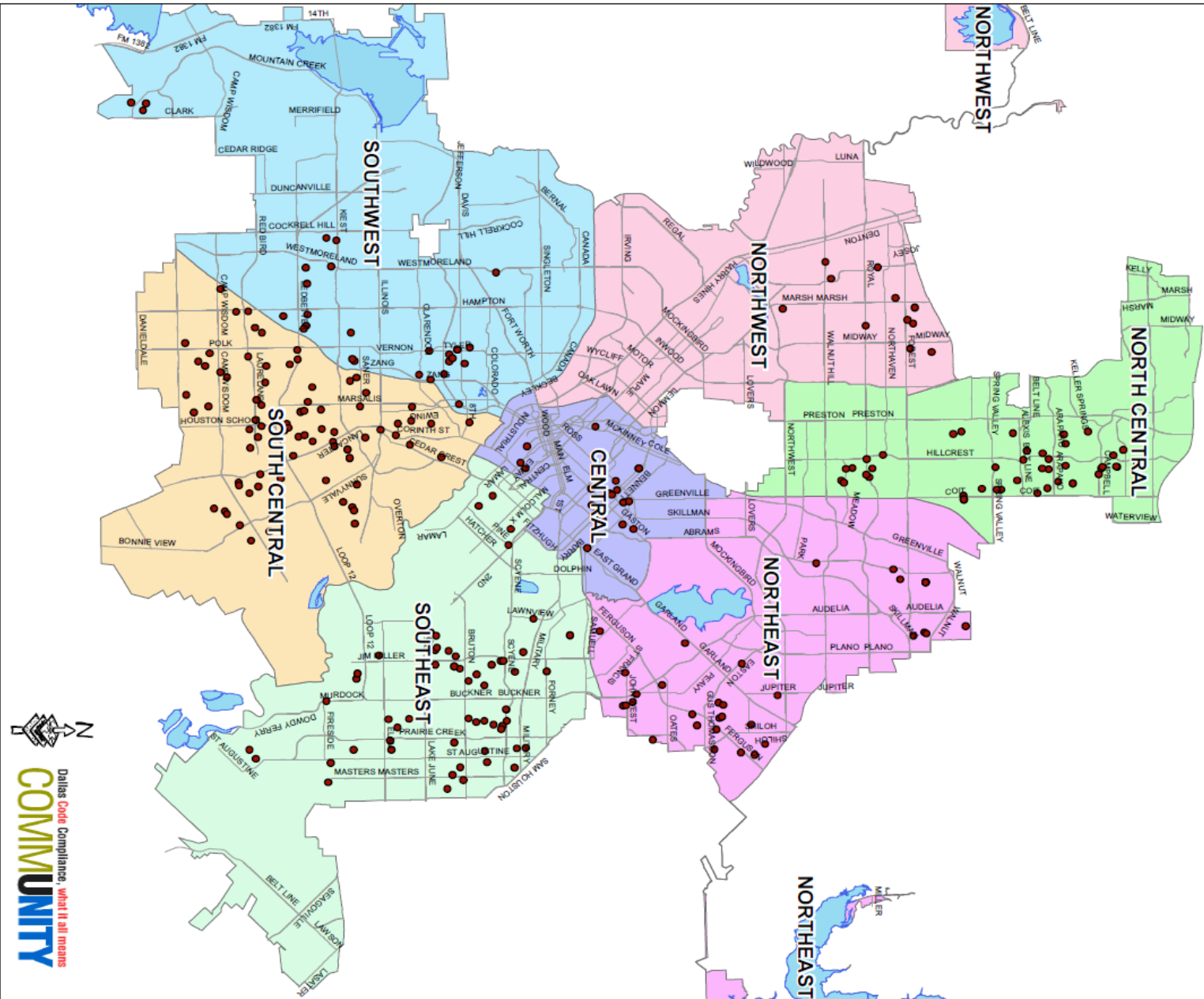
Regulation and Enforcement

- ❑ Approximately 400 properties were assessed in FY09-10 as potential group housing facilities
- ❑ 278 group housing facilities are currently identified as operational
 - 239 Handicapped Group Dwelling Units
 - 6 Lodging/Boarding Houses
 - 20 Residential Hotels
 - 12 Group Residential Facilities
 - 1 Halfway House
- ❑ 11 properties had 5 or fewer residents at time of inspection, technically making them single family uses, but these continue to be monitored

Regulation and Enforcement

- ❑ Of the 278 facilities identified by staff, 48 were found to have violations, including:
 - number of residents (5 locations in violation)
 - distance criteria (28 locations in violation)
 - state criteria (2 locations in violation)
 - zoning regulations (8 locations in violation)
 - code violations (5 locations in violation)
- ❑ Status of enforcement taken on the 48 facilities with violations:
 - Code Compliance issued 14 notices and 3 citations
 - Fire & Rescue issued 18 notices
 - City Attorney's Office issued 3 notices
 - City referred two (2) locations to DADS

Group Facility Locations in Dallas



Next Steps

- ❑ Continue appropriate enforcement action at identified group housing facilities to gain compliance with applicable codes and address quality of life issues
- ❑ Inspect all properties reported from referrals/complaints and re-inspect existing facilities annually to maintain accurate data
 - Continue collaboration with DPD and Crisis Intervention, Dallas Fire-Rescue, Building Inspection and the City Attorney's Office for comprehensive inspections at each property
- ❑ City Attorney's Office is developing a registration ordinance to enhance the City's ability to identify and monitor handicapped group dwelling units