

ORDINANCE NO. O-2016-011-15

AN ORDINANCE AMENDING ORDINANCE NO. O-2002-032-15, AS AMENDED, THE ZONING ORDINANCE OF THE CITY OF HALTOM CITY, TEXAS, DEFINING COMMUNITY HOME, COMMUNITY WELFARE SHELTER, AND OTHER ZONING DEFINITIONS; REVISING THE DEFINITIONS OF FAMILY, BOARDING HOUSE, AND OTHER ZONING DEFINITIONS; ADOPTING REGULATIONS FOR COMMUNITY HOMES; PROVIDING FOR THE CLASSIFICATION OF COMMUNITY HOME, COMMUNITY WELFARE SHELTER, AND BOARDING HOUSE USES IN CERTAIN ZONING DISTRICTS; PROVIDING CLARIFICATION OF LAND USES AND LAND USE CLASSIFICATIONS IN CERTAIN ZONING DISTRICTS; PROVIDING LOCATIONAL RESTRICTIONS FOR COMMUNITY HOMES; AND PROVIDING CLARIFICATION OF RELATED PARKING REQUIREMENTS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Haltom City is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of Haltom City is empowered under the Texas Local Government Code to adopt ordinances and rules for the orderly and beneficial operation of City government and the welfare of the citizens of Haltom City; and

WHEREAS, the City Council heretofore adopted Ordinance No. O-2002-032-15, as amended, the Zoning Ordinance of the City of Haltom City, Texas, codified as Appendix B of the Code of Ordinances of the City of Haltom City, which Ordinance regulates and restricts the location and use of buildings, structures and land for trade, industry, residence and other purposes, and provides for the establishment of zoning districts of such number, shape and area as may be best suited to carry out these regulations; and

WHEREAS, the City Council finds a compelling interest to regulate the location, size, number, and use of community homes and similar uses to orderly facilitate their purpose while conserving the single family character of established neighborhoods; and

WHEREAS, to achieve the purposes of this ordinance the City Council desires to update the definition of family to bring the definition more into compliance with federal and state law; and

WHEREAS, the city council desires to amend the Zoning Ordinance by defining community home, community welfare shelter, and other zoning definitions; revising the definition of family, boarding house, and other zoning definitions; adopting regulations for community homes; providing for the classification of community home, community welfare shelter, and boarding house uses in certain zoning districts; providing clarification of land uses and land use classifications in certain zoning districts; and providing locational restrictions for community homes; and

WHEREAS, it is the intent of the City Council to fully comply with the federal Fair Housing Amendments Act of 1988 ("FHAA"), as amended, and all other applicable state and federal legislation, which may require that reasonable accommodations be made in rules, policies, and practices to permit persons with handicaps or disabilities equal opportunity to use and enjoy a dwelling; and

WHEREAS, the Planning and Zoning Commission of the City of Haltom City, Texas held a public hearing on May 10, 2016 and the City Council of the City of Haltom City, Texas held a public hearing on June 13, 2016 with respect to the revisions contained in this Ordinance; and

WHEREAS, the City has complied with all requirements of Chapter 211 of the Local Government Code and all other laws dealing with notice, publication and procedural requirements for the amendments described herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HALTOM CITY, TEXAS, THAT:

SECTION 1.

The recitals above are true and correct and made a part of this ordinance for the purposes provided herein.

SECTION 2.

Section 28, "Definitions" in Appendix B – Zoning of the Code of Ordinances of the City of Haltom City, Texas, as amended, is hereby amended by revising the following definitions to read as follows:

Apartment. A room or suite of rooms designed as a dwelling unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.

Apartment hotel or extended stay hotel. One or more buildings containing individual living units intended or designed to be used, or which are used or hired out for compensation to be occupied, or which are occupied, for sleeping purposes by transient guests, including for stays in excess of thirty (30) consecutive days, but not as a permanent residence, and which may provide provisions for personal services and

contain kitchen facilities for food preparation including, but not limited to, facilities such as burners, stoves, or ovens.

Apartment house, cottage house, or row house. Any building with a series or row of separate apartments that share side walls and occupied by families living independently of each other.

Boarding home facility. An establishment defined by Texas Health and Safety Code, Chapter 260, as amended.

Boarding house or lodging house. A building other than a hotel, motel, extended stay hotel, apartment hotel, bed and breakfast inn, apartment house, boarding home facility, community home, or apartment, providing lodging with or without meals, and for compensation or through a nonprofit organization, for five (5) or more persons unrelated by blood, marriage, adoption, or guardianship. A boarding house or lodging house includes, but is not limited to, uses such as fraternity houses, sorority houses, and dormitories.

Community home. A community-based residential home, as defined by Texas Human Resources Code Chapter 123, that is operated by: a) the Department of Aging and Disability Services; b) a community center organized under Subchapter A, Chapter 534, Texas Health and Safety Code, that provides services to persons with disabilities; c) an entity subject to the Texas Nonprofit Corporation Law as described by Section 1.008(d), Business Organizations Code; or d) an entity certified by the Department of Aging and Disability Services as a provider under the ICF-IID medical assistance program. A community home is also considered to be an assisted living facility licensed under Chapter 247, Texas Health and Safety Code, provided 1) that the exterior structure retains compatibility with the surrounding residential dwellings; and 2) the person establishing or operating an assisted living facility holds a license issued under Chapter 247, Texas Health and Safety Code.

Community welfare shelter. A non-profit facility providing temporary boarding, lodging, counseling, and care to at least one person (and his or her dependents) who may or may not be defined or described as a person with a disability under state or federal law and being a victim of domestic violence and/or an unwed mother of a new born child.

Dwelling, multi-family. A structure(s) or portion thereof used for occupancy by five or more families living independently of each other and containing five or more dwelling units.

Family. One or more persons related by blood, marriage, guardianship, or adoption, or a group of not more than four (4) persons unrelated by blood, marriage, guardianship, or adoption, occupying a single dwelling unit and expressly excluding occupants of a lodging house, boarding house, fraternity house, and sorority house.

SECTION 3.

Section 9, "Matrix of Uses" in Appendix B – Zoning of the Code of Ordinances of the City of Haltom City, Texas, as amended, is hereby amended by deletion of the following from the table of permitted uses:

KEY:
P = Permitted
C = Conditional
SE = Special Exception

A. Residential uses:	F-1	F-2		F-1	F-2	HD	H		-1	-2	-3	-4	-5	-1	-2
Assisted living center															
Single family detached dwelling unit															
Duplex dwelling unit															
Townhouse															
Triplex or fourplex dwelling unit															
Multi-family dwelling unit															

And the addition of the following to the table of permitted uses:

KEY:
P = Permitted
C = Conditional
SE = Special Exception

A. Residential uses:	F-1	F-2		F-1	F-2	H	H		-1	-2	-3	-4	-5	-1	-2
Apartment house, cottage house, or row house															
Assisted living facility (in residential character)	p***	p***	p***												
Assisted living facility (not in residential character)															
Community home	p***	p***	p***	p***	p***	p***	p***								
Mobile home dwelling															
One-family dwelling - attached (townhouse)															
One-family dwelling - detached															
Two-family dwelling (duplex)															
Three-family dwelling (Triplex)															
Four-family dwelling (Fourplex or Quadplex)															
Multi-family dwelling															
C. Educational and Institutional uses:															
Boarding Home Facility															
Boarding House or lodging house															
Community Welfare Shelter															

*** Refer to Sec. 29.AA for supplementary district regulations

SECTION 4.

Section 16.C, "Area Requirements" in Appendix B – Zoning of the Code of Ordinances of the City of Haltom City, Texas, as amended, is hereby amended by the addition of the following:

C. Area requirements.

Parking requirements:	Three off-street parking spaces per three-bedroom unit
	Four off-street parking spaces per four-bedroom unit
	See Section 16.E for additional parking requirements

SECTION 5.

Section 17.C, "Area Requirements" in Appendix B – Zoning of the Code of Ordinances of the City of Haltom City, Texas, as amended, is hereby amended by the addition of the following:

C. Area requirements.

Parking requirements:	Three off-street parking spaces per three-bedroom unit
	Four off-street parking spaces per four-bedroom unit
	See Section 17.E for additional parking requirements

SECTION 6.

Section 29, "Supplementary District Regulations" in Appendix B – Zoning of the Code of Ordinances of the City of Haltom City, Texas, as amended, is hereby amended by the addition of the following:

- AA. *Community home.* It is the purpose and intent of this subsection to regulate community homes so as to protect and promote the health, safety, and general welfare of the residents of a community home, the citizens of the City, and visitors thereto, and to establish reasonable and uniform regulations that allow community homes to locate in specific neighborhoods. Residents of community homes are intended to benefit from being situated within the neighborhood rather than an area of more intense uses. These regulations are intended to balance the right of the citizens of the City to live in a safe and peaceful environment and, on the other hand, the right of individuals to live freely in accordance with the guidelines of the laws and Constitution of the United States and United States Supreme Court rulings pursuant thereto.

These regulations are intended to fully comply with the federal Fair Housing Amendments Act of 1988 ("FHAA"), as amended, and all other applicable state and federal legislation, which may require that reasonable accommodations be

made in rules, policies, and practices to permit persons with handicaps or disabilities equal opportunity to use and enjoy a dwelling.

These regulations are also intended to deter property uses and activities which directly or indirectly cause adverse secondary effects, including the depreciation of property values, in the immediate neighborhood surrounding the community home. It is not the purpose or intent of these regulations to restrict or deny lawful access by individuals to housing, but rather to designate a safe and reasonable location to facilitate the operation of a successful community home in a single family neighborhood.

A person commits an offense if he or she causes or permits the operation or establishment of a community home in violation of any of the following restrictions:

1. *Provisions of services.* A community home shall provide the following services to persons with disabilities who reside in the home:
 - a. food and shelter;
 - b. personal guidance;
 - c. care;
 - d. habilitation services; and
 - e. supervision.

2. *Limitation on number of residents.*
 - a. Not more than six persons with disabilities and two supervisors may reside in a community home at the same time.
 - b. The limitation on the number of persons with disabilities applies regardless of the legal relationship of those persons to one another.

3. *Evidence of license, contract, or certification.* A community home, including an assisted living facility, must provide evidence of a license, contract, or certification with the Department of Aging and Disability Services, the Department of State Health Services, or other state agency, or evidence of incorporation as a nonprofit corporation in the State of Texas.

4. *Orderly facilitation of purposeful housing standard.* A community home may not be established within one-half mile of an existing community home. The intent of this paragraph is to prevent oversaturation of community homes, which may be detrimental to the community home residents' ability to benefit from living within a neighborhood, rather than an area of more intense uses.

5. ***Limitation on number of motor vehicles.*** Except as otherwise provided in the Haltom City Zoning Ordinance, the residents of a community home may not keep for the use of the residents of the home, either on the premises of the home or on a public right-of-way adjacent to the home, motor vehicles in numbers that exceed the number of bedrooms in the home.
6. ***Ensuring safety of residents.*** The Department of Aging and Disability Services, the appropriate licensing agency, or nonprofit corporation shall make every reasonable effort to ensure the safety of residents of a community home operated by or under the regulatory jurisdiction of the department and the residents of a neighborhood that is affected by the location of the community home.
7. ***Certificate of occupancy required.*** Prior to commencing use of a building for a community home, a certificate of occupancy must be obtained in accordance with Section 37 of the Haltom City Zoning Ordinance.
8. ***Annual life safety inspection.*** Community homes shall be subject to annual life safety inspections by the Haltom City Fire Marshal or his or her designee.
9. ***Automatic fire sprinkler system required.*** Community homes shall be equipped with an automatic fire sprinkler system and be in compliance with the applicable Haltom City Building, Residential, and Fire Codes as directed by the Building Official and the Fire Marshal.
10. ***Emergency closure.*** Pursuant to Texas Health and Safety Code Chapter 247, the Haltom City Fire Marshal or his or her designee may immediately close an assisted living facility in circumstances in which:
 - a. the facility is established or operating in violation of Texas Health and Safety Code Section 247.021; and
 - b. the continued operation of the facility creates an immediate threat to the health and safety of a resident of the facility.

The emergency order to close the facility may be appealed, in whole or in part, to the Board of Adjustment in accordance with the procedures set forth in Section 35.

11. ***Reasonable Accommodation.*** The provisions in this subsection governing the use of community homes shall not be construed to limit a person's right to request a reasonable accommodation on the basis of a disability. A person requesting a reasonable accommodation from this ordinance on the basis of a disability may file a request for reasonable accommodation

with the Board of Adjustment in accordance with the procedures set forth in Section 35.

SECTION 7.

Section 31.D, "Schedule of Minimum Parking Spaces" in Appendix B – Zoning of the Code of Ordinances of the City of Haltom City, Texas, as amended, is hereby amended by the deletion of the following from the schedule of minimum parking spaces:

Use	Number of Spaces	Required for Each	Additional Requirements
Residential:			
One family dwelling	2	dwelling unit	adjacent spaces (not tandem)
Four-family, multiple dwelling (5 or more)	2	family unit	
Commercial:			
Boarding House	1	per proprietor and each sleeping unit	

And the addition of the following to the schedule of minimum parking spaces:

Use	Number of Spaces	Required for Each	Additional Requirements
Residential:			
One-family dwelling detached	2	dwelling unit	adjacent spaces (not tandem)
One-family dwelling attached (townhouse)	2.25	dwelling unit	adjacent spaces (not tandem); see Section 15.D
Community home	1	per proprietor and each sleeping unit	adjacent spaces (not tandem)
Multi-family, Apartment	see Sections 16.C and 17.C		see Sections 16.E and 17.E
Institutional/Commercial:			
Assisted living facility	1	sleeping unit	
Community welfare shelter, boarding house	1	per proprietor and each sleeping unit	adjacent spaces (not tandem)

SECTION 8.

Section 35 "Board of Adjustment", Subsection B, "Jurisdiction and powers," in Appendix B – Zoning of the Code of Ordinances of the City of Haltom City, Texas, as amended, is hereby amended by adding a new subsection 11 to read as follows:

11. Hear an appeal of an emergency order of closure of an assisted living facility under Section 29.AA., or a request for a reasonable accommodation from the rules, policies, and practices for the location of community homes in this ordinance to permit persons with handicaps or disabilities equal opportunity to use and enjoy a dwelling.
 - a. A request for reasonable accommodation may be made to the Board by any person with a disability, the person's representative, a developer, or a provider of housing for individuals with disabilities. The request shall state the reason for the accommodation from the zoning and development regulations and the basis for the request.

- b. The Board shall conduct a hearing to determine whether the request for reasonable accommodation should be granted. The applicant or applicant's representative shall have the burden to demonstrate that:
 - (1) The applicant (or the person on whose behalf the applicant is requesting the accommodation) suffers from a disability as defined by the Fair Housing Act, as amended; and
 - (2) The applicant (or the person on whose behalf the applicant is requesting the accommodation) demonstrates that the accommodation is both reasonable and necessary. An accommodation under this section is "necessary" if, without the accommodation, the applicant will be denied an equal opportunity to obtain the housing of his or her choice.
- c. If the applicant demonstrates the matter set out in paragraph b. above, the request for reasonable accommodations shall be granted by the Board unless the Board finds from evidence presented at the hearing that the accommodation would fundamentally alter the City's land use and zoning patterns or the impact of the use on its surroundings would be greater than that of other uses permitted in the zoning district.

SECTION 9.

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Haltom City, Texas, as amended, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 10.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 11.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 12.

All rights and remedies of the City of Haltom City, Texas, are expressly saved as to any and all violations of the provisions of Ordinance No. O-2002-032-15 or any ordinances governing zoning that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 13.

The City Secretary of the City of Haltom City, Texas, is hereby directed to publish in the official newspaper of the City of Haltom City, Texas, the caption, penalty clause, publication clause and effective date clause of this Ordinance one (1) time within ten (10) days after the first reading of this Ordinance as required by Section 10.01 of the Charter of the City of Haltom City, Texas.

SECTION 14.

This Ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON FIRST READING THIS ^{13th} ~~27th~~ DAY OF JUNE, 2016.

PASSED AND APPROVED ON SECOND READING THIS ^{27th} DAY OF June, 2016.



[Signature]
Mayor

ATTEST:

[Signature]
City Secretary

EFFECTIVE: June 27, 2016

APPROVED AS TO FORM AND LEGALITY:

WKO
City Attorney