

Planning Department

P.O. Box 2000 • 1625 13th Street
Lubbock, Texas 79457
(806) 775-2102 • Fax (806) 775-2100

GROUP HOMES FOR THE HANDICAPPED CITY PERMIT INFORMATION

Thank you for your interest in opening a group home for the handicapped. Attached is a copy of the City of Lubbock Ordinance No. 2006-00006, an application for a permit for a group home, and a facility type sheet. Please read all information carefully. The Ordinance states there are no other group homes within a 1,000-foot radius of the home for which the permit is requested. This will be verified by the Planning Department prior to issuing the permit.

Six or fewer clients are allowed in a group home as a permitted use. For seven or more clients, it will be necessary for you to make application for a conditional use to the Zoning Board of Adjustment for approval at a public hearing.

Texas State law requires that if you have four or more clients, you must have a personal care facility license (*this is in addition to the City permit*). Also, if you are operating multiple facilities (regardless of the number of clients) you are required to be licensed by the State. The City of Lubbock will require proof of the State license when applicable. Contact Allen Clanahan with the Texas Department of Human Services at 791-7576 if you have any questions. It is our understanding that State law requires no State license for three or fewer clients.

To make application, the following should be completed:

1. Fill out the application.
2. Attach a floor plan for the proposed home, which must include the following:
 - a) Bedrooms' dimension
 - b) Number of clients in each bedroom
 - c) Rooms labeled (i.e. client's bedroom, caretaker's bedroom)
3. You will need to contact the Fire Marshall's office at 775-2646 and the Health Department at 775-2928 to request an inspection. (They will ask you for the number of handicapped residents, the address and a phone number.) Keep copies of these inspections to forward with your application.
4. Mail the application with the attached site plan and copies of the Health and Fire Inspections to City of Lubbock Planning Department, Post Office Box 2000, Lubbock, Texas 79457 or bring the information to Room 107 at 1625 13th Street, Lubbock, Texas.
5. When **all** documents and inspections are completed with copies in the file, we will issue your group home certificate. This certificate shall be renewed annually.

Should you have additional questions, please do not hesitate to contact me at 775-2108. Thank you for your interest.

Sincerely,

Lois Benedict

First Reading
January 12, 2006
Item 6.5

Second Reading
January 26, 2006
Item 6.9

ORDINANCE NO. 2006-00006

AN ORDINANCE AMENDING CHAPTER 29 OF THE CODE OF ORDINANCES, CITY OF LUBBOCK, ENTITLED "ZONING" BY AMENDING SECTION 29-3, BY ADDING SUBSECTION (6b), A DEFINITION FOR "ASSISTED LIVING FACILITY" AND AMENDING SUBSECTION (54a) DEFINING "GROUP HOUSING FOR HANDICAPPED PERSONS;" BY AMENDING SECTION 29-7(d)(9) TO INCREASE CONDITIONAL USE GROUP HOUSING IN THE "R-1" SINGLE FAMILY DISTRICT TO SEVEN (7) OR MORE HANDICAPPED PERSONS IN ACCORDANCE WITH STATE LAW; BY AMENDING SECTION 29-7(d)(9) TO ENLARGE THE NOTICE AREA FOR CONDITIONAL USE PERMITS FOR GROUP HOMES FOR HANDICAPPED PERSONS; AND BY AMENDING SECTION 29-30(b)(7) TO PROVIDE ADDITIONAL REQUIRMENTS FOR PERMITS FOR GROUP HOMES FOR HANDICAPPED PERSONS; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE AND PROVIDING FOR PUBLICATION.

WHEREAS, the City of Lubbock supports the rights of handicapped persons to live in stable, affordable housing, in settings that maximize community integration and opportunities for acceptance; and

WHEREAS, the City of Lubbock desires to make reasonable accommodations in rules, policies, and practices to afford handicapped individuals equal opportunity to use and enjoy a dwelling; and

WHEREAS, the State of Texas has amended Chapter 123 of the Human Resources Code, the Community Homes for Disabled Persons Location Act; and

WHEREAS, the City of Lubbock desires to amend its Ordinances regarding group housing for handicapped or disabled persons to reflect the changes in the state statute; and

WHEREAS, the City of Lubbock desires to protect the health, safety, and welfare of its disabled citizens and of its neighborhoods by providing an appropriate regulatory scheme for group homes for the handicapped; and

WHEREAS, the City of Lubbock desires to provide notice of application for a conditional use permit to locate a group home for seven or more handicapped persons to owners of real property lying within one thousand feet of the property on which the use is requested in order to assure that the City is notified of the existence of other group living arrangements within this radius; and

WHEREAS, the proposed amendments to the Zoning Ordinance as hereinafter made have been duly presented to the Planning and Zoning Commission for its recommendation which was received by the City Council and, after due consideration, the City Council found that it would be expedient and in the interest of the public health, safety and general welfare to so amend the Zoning Ordinance; and

WHEREAS, all conditions precedent required by law for a valid amendment to the Zoning Ordinance have been fully compiled with, including giving notices in

compliance with the notices provided by the Texas Local Government Code §211.007 (Vernon, 1990), and notice was duly published in the Lubbock Avalanche-Journal more than fifteen (15) days prior to the date of the public hearing before the City Council on such proposed amendment, and the public hearing according to said notice, was held in the City Council Chamber of the Municipal Building, Lubbock, Texas, at which time persons appeared in support of the proposal; and after said hearing, it was by the City Council determined that it would be in the public interest, due to changed conditions, that the Zoning Ordinance be amended in the manner hereinafter set forth in the body of this Ordinance and this Ordinance having been introduced prior to first reading hereof; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT Section 29-3 of the Code of Ordinances, City of Lubbock, Texas, is hereby amended by adding Section 29-3(6b) to read as follows:

“(6b) *Assisted living facility*: An establishment under Texas Health and Safety Code Chapter 247 that furnishes food and shelter to four or more persons who are unrelated to the proprietor of the establishment and provides personal care services. Types of assisted living facilities as established by the State of Texas are as follows:

- a. Type A. In a Type A facility, a resident
 - (1) must be physically and mentally capable of evacuating the facility unassisted. This may include mobile or ambulatory persons such as those who are in wheelchairs or electric carts and have the capacity to transfer and evacuate themselves in an emergency;
 - (2) does not require routine attendance during nighttime sleeping hours; and
 - (3) must be capable of following directions under emergency conditions.
- b. Type B. In a Type B facility, a resident may:
 - (1) require staff assistance to evacuate;
 - (2) be incapable of following directions under emergency conditions;
 - (3) require attendance during nighttime sleeping hours; or
 - (4) not be permanently bedfast, but may require assistance in transferring to and from a wheelchair.”

SECTION 2. THAT the first paragraph of Section 29-3 (54a) of the Code of Ordinances, City of Lubbock, Texas, is hereby amended to read as follows:

“(54a) **GROUP HOUSING FOR HANDICAPPED PERSONS**

Shared Group Housing for Handicapped Persons shall mean a shared residential living arrangement which provides a family type environment for up to and including six (6) handicapped persons, supervised by one or more primary

care givers subject to compliance with the permit conditions listed in Section 29-30(b)(7).”

SECTION 3. THAT Section 29-7(d)(9) of the Code of Ordinances of the City of Lubbock, Texas is hereby amended to read as follows:

“(9) Group housing for handicapped persons in a shared residential living arrangement which provides a family-type environment for seven (7) or more handicapped persons, supervised by one or more primary care givers, as further defined in section 2.54a [29-3(54a)] a and b, and subject to compliance with the permit conditions listed in section 29-30(b)(7), save and except section 29-30(b)(7)b1 and b2. Application for a conditional use permit under this section shall require notice as prescribed in section 29-28(c)(3) to owners of real property lying within one thousand (1000) feet of the property on which the use is requested.”

SECTION 4. THAT Section 29-30(b)(7)b of the Code of Ordinances of the City of Lubbock, Texas is hereby amended to read as follows:

“b. Applicant shall provide evidence which clearly shows compliance with the following criteria:

1. Any single-family dwelling unit which is proposed to be utilized for shared group housing for the handicapped shall provide as a minimum, the following square footage in each bedroom:
 - (i) To house one (1) handicapped person per bedroom, the dwelling unit must provide one hundred (100) square feet of space per bedroom utilized for this purpose.
 - (ii) To house two (2) or more handicapped persons per bedroom, the dwelling unit must provide at least eighty (80) square feet of space per handicapped person housed in the bedroom utilized for this purpose. For example, two handicapped persons would require a one hundred sixty (160) square foot bedroom.
2. Any single-family dwelling unit which is proposed to be utilized for shared group housing for handicapped persons shall provide for a separate bedroom for the care provider or providers.

3. A single-family dwelling unit which is proposed to be utilized for shared group housing for handicapped persons, shall provide on the premises, as a minimum, one parking space for each bedroom in the home, including the spaces provided by the garage but not including the parking on public right of way adjacent to the home.
4. A single family dwelling unit which is proposed to be utilized for shared group housing for handicapped persons, shall possess an exterior structure which maintains or retains compatibility with the surrounding residential dwellings.
5. A single family dwelling unit which is proposed to be utilized for shared group housing for handicapped persons, shall have installed and permanently maintained a six-foot solid screening fence around the rear and side yards, except that when, in the opinion of the Board of Adjustment, all or portions of such fence do not serve the public interest, this provision shall not apply. Landscaped outdoor areas shall be provided for the enjoyment of residents. Ramps, walks and steps must be of slip-resistive texture and uniform, without irregularities. Ramps must not exceed 1:12 slope, and shall meet handicap standards for width. All outside areas, grounds, adjacent buildings etc. on site must be maintained in good condition and kept free of rubbish, garage, untended growth, etc., that may constitute a fire or health hazard.
6. A single family dwelling unit which is proposed to be utilized for shared group housing for handicapped persons shall be required to have the following provisions for fire safety:
 - (i) *Portable Fire Extinguishers.* In all new and existing group housing, at least one portable fire extinguisher (type 2-A:10-B:C) shall be provided for each 3000 square feet and at least one additional portable fire extinguisher for each level; and
 - (ii) *Smoke Alarms.* In new and existing group housing for less than six handicapped persons and classified by the State of Texas as a Type A or Type B assisted living facility, multiple station smoke alarms shall be installed and maintained. Where more than one smoke alarm is required to be installed within an individual dwelling unit or sleeping unit, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the

individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed. Required smoke alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection. When the installation of the alarm devices is complete, each detector and interconnecting wiring for multiple-station alarm devices shall be tested in accordance with the household fire warning equipment provisions of National Fire Protection Association 72. Smoke alarms shall be installed and maintained at all of the following locations: 1) on the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms; and 2) in each room used for sleeping purposes, and 3) in each story within a dwelling unit, including basements but not including crawl spaces and uninhabitable attics. In dwelling units with split-levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level; and 4) may be required to be installed in living areas at the discretion of the fire code official;

- (iii) *Rescue Windows.* In new group housing proposed to house less than six handicapped persons and classified by the State of Texas as a Type A or Type B assisted living facility, each sleeping room shall have at least one operable emergency escape and rescue window with a minimum net clear opening of 5.7 square feet or an exterior door. The minimum net clear opening height dimension shall be 24 inches. The minimum net clear opening width dimension shall be 20 inches. The net clear opening dimension shall be the result of normal operation of the opening. Emergency escape and rescue openings shall have the bottom of the clear opening not greater than 44 inches measured from the floor. Emergency escape and rescue opening shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the above and such devices shall be releasable or removable from the inside

without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening; and

- (iv) *Automatic Sprinkler Systems.* In new group housing classified as a Type B facility proposed to house six or more handicapped persons, an automatic sprinkler system shall be provided in accordance with the adopted fire code; and
- (v) *Fire Alarm Systems (existing group homes).* In existing group housing for six or more handicapped persons, a fire alarm system shall be installed unless 1) there are interconnected smoke alarms meeting the provisions of 29-30(b)(7)b7(ii) above, or 2) other manually activated, continuously sounding alarm is approved by the fire code official; and
- (vi) *Fire Alarm Systems (new group homes).* In new group housing proposed to house six or more handicapped persons, a fire alarm shall be installed in which 1) notification appliances activate upon sprinkler flow; and 2) at least one manual fire alarm box per floor is installed at an approved location and arranged to sound continuously interconnected smoke alarms meeting the provisions of 29-30(b)(7)b7(ii) above.

8. A single family dwelling unit which is proposed to be utilized for shared group housing for handicapped persons shall be required to have a kitchen meeting the following requirements:

- (i) The facility must have a kitchen or dietary area to meet the general food service needs of the residents. It must include provisions for the storage, refrigeration, preparation, and serving of food; for dish and utensil cleaning; and for refuse storage and removal;
- (ii) Facilities that house 8 or more residents must comply with 25 TAC §§229.161—229.171 and §§229.173—229.175 (Texas Food Establishment Rules) and local health ordinances or requirements must be observed in the storage, preparation, and distribution of food; in the cleaning of dishes, equipment, and work area; and in the storage and disposal of waste.”

9. A single family dwelling unit which is proposed to be utilized for shared group housing for handicapped persons

shall be required to comply with the following requirements regarding facility construction:

- (i) The facility must meet the provisions and requirements concerning accessibility for individuals with disabilities in the following laws and regulations: the Americans with Disabilities Act of 1990 (Title 42, United States Code, Chapter 126, as amended); Title 28 Code of Regulations, Part 35; Texas Civil Statutes, Article 9102; and Title 16, Texas Administrative Code, Chapter 68;
- (ii) The Illumination Engineering Society of North America recommendations must be followed to achieve proper illumination characteristics and lighting levels throughout the facility. Minimum illumination must be 10 foot-candles in resident rooms during the day and 20 foot-candles in corridors, dining rooms, lobbies, toilets, bathing facilities, laundries, stairways, and elevators during the day. Minimum illumination for medication preparation or storage areas, kitchens, and staff desks must be 50 foot-candles during the day. Illumination requirements for these areas apply to the task performed and should be measured on the tasks.
- (iii) Heating, ventilating and air-conditioning systems must be designed and installed in accordance with the International Mechanical Code, NFPA 90A Standard for the Installation of Air Conditioning and Ventilating Systems, and NFPA 90B Standard for the Installation of Warm Air Heating and Air Conditioning Systems, as applicable, and the American Society of Heating, Ventilating, and Air-Conditioning Engineers (ASHRAE).
- (iv) Floors must be free of irregularities and substantially level; they must have a resilient, nonabrasive and slip-resistant surface; exposed floor surfaces and floor coverings should promote mobility in areas used by residents and promote maintenance of sanitary conditions. If carpeted, the area used by residents should have nonabrasive carpeting.”

SECTION 5. THAT Section 29-30(b)(7)d of the Code of Ordinances of the City of Lubbock, Texas is hereby deleted and replaced by the following section to read as follows:

- “d. A separate dumpster in addition to that ordinarily furnished to single-family dwelling units shall be required for waste disposal by the shared group housing facility.”

SECTION 6. THAT Section 29-30(b)(7)e of the Code of Ordinances of the City of Lubbock, Texas is hereby amended to read as follows:

- “e. In addition to those specific requirements in Section 29-7(d)(7)b, the facility shall comply with all applicable Fire and Building Codes of the City of Lubbock and applicable portions of the following codes:

- (1) The International Building Code, 2003 edition by the International Code Council Inc., 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, ‘R4’ Occupancy, Residential Care/Assisted Living Facilities;
- (2) The International Plumbing, Mechanical and Fuel Gas Codes, 2003 editions, as published by the International Code Council Inc., 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041; and
- (3) The National Electrical Code as specified under NFPA 101.

If later adopted codes or ordinances of the City of Lubbock are more stringent than these standards for assisted living, the more stringent requirements will govern.”

SECTION 7. THAT Section 29-30(b)(7)f of the Code of Ordinances of the City of Lubbock, Texas is hereby amended to read as follows:

- “f. No other group living arrangements shall be located within a radius of one thousand (1000) feet of the home for which the permit is requested. Such measurements shall be measured from property line to property line. Other group living arrangements shall include, but not be limited to, community homes for disabled persons, personal care facilities, adult foster care homes and group housing for handicapped persons. In making the determination that no home exists within one thousand (1000) feet, the director of planning shall consider information provided by the applicant, information contained in the records of the City of Lubbock, and information obtained by physical inspection of the premises, if any.”

SECTION 8. THAT Section 29-30(b)(7)l of the Code of Ordinances of the City of Lubbock, Texas is hereby amended to read as follows:

“1. Nothing in this section shall be construed as attempting to regulate or affect the right of handicapped individuals to purchase their own housing for single family residences or to affect the right of individuals to care for handicapped family members.”

SECTION 9. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed Two Thousand and No/100 Dollars (\$2,000.00) as provided in Section 29-31 of the Zoning Ordinance of the City of Lubbock.

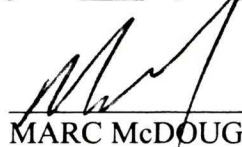
SECTION 10. THAT should any paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 11. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.


AND IT IS SO ORDERED.

Passed by the City Council on first reading this 12th day of January, 2006.

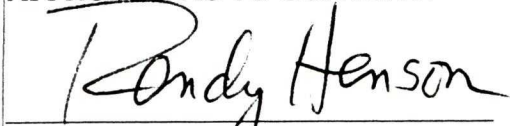
Passed by the City Council on second reading this 26th day of January, 2006.


MARC McDOUGAL, MAYOR


ATTEST:


Rebecca Garcia, City Secretary
Garza

APPROVED AS TO CONTENT:


Randy Henson, City Planner

APPROVED AS TO FORM:


Linda Chamales, Senior Attorney
Office Practice Section

TYPE I

PROMPT - Evacuation capabilities equivalent to the capabilities of the general public. (3 minutes or less)

TYPE II

SLOW - Evacuations capabilities to move to a point of Safety in a timely manner with some assistance from the staff (3 to 13 minutes) all residents are able to travel to centralized during facilities without continuances staff assistance. Continuous staffing required.

TYPE III

IMPRACTICAL - Occupants that even with staff assistance cannot reliably move to a point of safety in a timely manner, (more than 13 minutes). Resident's with physical disabilities of a nature that he/she is not capable of maneuvering in a wheelchair, walker, etc. unaided or residences who will not or cannot understand instructions from a staff member or residents that are taking medication which will make it difficult for staff to arouse quickly.

**Application for Permit
Group Housing for Handicapped Persons**

Permit No: _____

Location of Facility _____ Name of Facility _____

What type of handicapped persons will occupy residence? (Circle one)

Type I (prompt) _____ Type II (slow) _____ Type III (impractical) _____

Maximum number of Handicapped Persons: _____

Facility Owner Name _____ Address (Home) _____

Daytime Phone Number _____ Address (Mailing) _____

Facility Operator Name/Applicant _____ Address (Home) _____

Daytime Phone Number _____ Address (Mailing) _____

Driver's License # _____ Date of Birth _____ Social Security # _____

Property Owner Name _____ Address _____

Will this facility be (Circle one) Owner occupied _____ Shift work _____ Other _____

Have floor plans been submitted? Yes _____ No _____

Has this location ever been occupied as a group home? Yes _____ No _____

If so, please give permit number: _____

Please state reason for obtaining a new permit (i.e., new location, new owners or operators, increase in number of residents, or update facility for prompt, slow, or impractical residents): _____

Are there any other group living arrangements within 1000 feet of this location? Yes _____ No _____

If so, please list addresses: _____

Please state nearest address and type of other group living arrangement: _____

Have you ever been convicted of a felony? Yes ___ No ___.

Intentional submission of false information or subterfuge are grounds for denial of a permit for group housing for handicapped persons. I have read and understand the ordinance and guidelines pertaining to group housing for handicapped persons.

The applicant shall have 60 days from the date of this application to complete the permitting process and have all necessary inspections and documents turned into this office.

Facility Operator Signature _____ Date _____

Facility Owner Signature _____ Date _____

Yes/No _____ Date _____

Final Approval from: Building _____
 Fire _____
 Health _____
 Planning _____
 State _____