

Boarding Homes

PREPARED BY THE CITY OF EL PASO'S
PLANNING & INSPECTIONS DEPARTMENT

Presentation Overview

- **Defining a Boarding Home Facility**
 - What is a Boarding Home Facility?
 - What a Boarding Home Facility is Not
 - El Paso Boarding Home Overview Prior to Adoption of Texas Boarding Home Model Standards
- **Texas Boarding Home Model Standards**
 - House Bill 216: Texas Boarding Home Model Standards Overview
 - House Bill 216: Benefits
- **Boarding Home Facilities in El Paso**
 - Overview of Boarding Home Facilities in El Paso
 - Current City Permitting Process
 - Local Zoning Regulations and Boarding Homes
 - Result of Boarding Home Facilities Ordinance
- **Challenges in Regulation**
 - Comparing Types of Residential-Based Homes for the Elderly and Disabled
 - Challenges in Regulating Boarding Homes and Other Residential-Based Homes for the Elderly and Disabled
 - Conclusion

Defining a Boarding Home Facility

- WHAT IS A BOARDING HOME FACILITY?
- WHAT BOARDING HOME FACILITY IS NOT
- EL PASO BOARDING HOME OVERVIEW PRIOR TO ADOPTION OF TEXAS BOARDING HOME MODEL STANDARDS

What is a Boarding Home Facility?

“Boarding home facility” means an establishment that:

- **Furnishes** in one or more buildings, lodging to **three or more** persons with **disabilities or elderly persons** who are unrelated to the owner of the establishment by blood or marriage; **and....**
- **Provides** community meals, light housework, meal preparation, transportation, grocery shopping, money management, laundry services **or assistance with self-administration of medication** but **does not provide personal care services** to the persons.

Following are NOT considered Boarding Homes:

- Emergency Shelter
- Homeless Shelter
- Halfway House
- Lodging House (fraternity or sorority house, B&B, etc.)
- Sobering House
- Adult Day Care
- Nursing Facility
- Adult Foster Care Facility
- Monastery or Convent
- Assisted Living Facility
- Rehab Facility
- Independent Living
- Hotel or Motel
- Intermediate Care Facility
- Home & Community Support Services
- Child-Care Facility
- Continuing Care Facility
- Retirement Community

El Paso Boarding Homes Prior to Adoption of Texas Boarding Home Model Standards

- Usually found in residential areas
- Private residences which have been found to have 3 to 10+ residents
- Prior to adoption of Texas Boarding Home Model Standards:
 - Regulated by City Home Occupation License
 - Inspections to verify compliance with health, safety, zoning and construction standards
 - Generic license intended for all types of home occupations; not boarding home specific
- No staffing requirements
 - Licensing/Education
 - Criminal background
- Discovery often complaint driven – Code and Health Violations
- Transient – when they become “visible” to authorities they move
- Not licensed by State of Texas
- Licensed through the City’s generic Home Occupation License

Texas Boarding Home Model Standards

- HOUSE BILL 216: TEXAS BOARDING HOME MODEL STANDARDS OVERVIEW
- HOUSE BILL 216: BENEFITS

House Bill 216: Texas Boarding Home Model Standards Overview

- Approved by 81st Texas Legislature, Regular Session, 2009; published 2010.
- Allows county or municipality to regulate Boarding Homes, including:
 - Issuance of a permit to operate;
 - Requiring compliance with model standards developed by the state;
 - Inspect or investigate the facility at any reasonable time.
- Texas Boarding Home Model Standards address the following:
 - Standard 1 Construction and Remodeling
 - Standard 2 Sanitary and Related Conditions
 - Standard 3 Reporting and Investigation of Injuries, Incidents and unusual accidents
 - Standard 4 Assistance with Self Administration of Medication
 - Standard 5 Requirement for In-service Training of Staff
 - Standard 6 Criminal History Record Check for Operator and Staff
 - Standard 7 Assessment and Monitoring of Residents
- As of December 2014, Texas Department of Aging and Disability Services was aware of four Texas governmental entities that adopted the state's model standards:
 - City of El Paso (2011)
 - City of Brenham (2012)
 - City of Dallas (2012)
 - City of San Antonio (2014)

House Bill 216: Benefits

- Provide standards for otherwise facilities not licensed by the state to prevent understaffing, overcrowding and physically unsafe environments;
- Provides protection to elderly and disabled populations to prevent financial exploitation, abuse and neglect;
- Provides a means to regulate facilities that can be impactful to the neighborhoods in which they locate;
- Creates a more level playing field for various types of care providers which are licensed by the state;

Boarding Home Facilities in El Paso

- OVERVIEW OF BOARDING HOMES IN EL PASO
- CURRENT CITY PERMITTING PROCESS
- LOCAL ZONING REGULATIONS AND BOARDING HOMES
- RESULT OF BOARDING HOME FACILITIES ORDINANCE

Overview of Boarding Homes in El Paso

	Boarding Home Facilities				Personal Care Homes*			
	FY13**	FY14	FY15	FY16	FY13	FY14	FY15	FY16
Total Licenses Issued	0	0	0	3	51	31	86	86
Avg. Residents per Facility	0	0	0	Unknown	4.2	3.4	3.5	3.8
Total Residents	0	0	0	Unknown	214	106	299	328
Avg. Inspections per Facility	0	0	0	2.7	2.4	3.4	3.1	2.9
Total Inspections	0	0	0	8	124	105	266	248
Licenses Denied	0	0	0	1	1	2	3	3
Licenses Expired	0	0	0	0	100	45	18	0
Licenses in Review	-	-	-	6	-	-	-	14
Active Licenses	-	-	-	3	-	-	-	113

*Personal care homes are licensed through the City with the Home Occupation license. Personal care homes differ from Boarding Homes in that they offer personal care services. Personal care homes are also regulated by the state, however, only homes with 4 or more residents are issued a state license.

**The City's Boarding Home Ordinance went into effect on February 2, 2012; however, it has taken time to gather the data and create this report for the public.

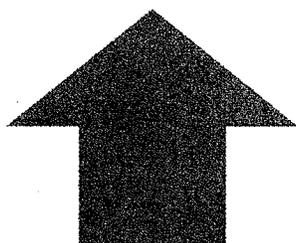
Current City Permitting Process

- **Application Submittal** – One-Stop-Shop screens applicants to determine whether the facility is a Boarding Home (as opposed to a personal care home);
- **Zoning Review** – ensure application complies with local zoning code;
- **Police Department** – conduct background checks on operator and employees; if operator fails the background check, the application does not move forward.
- **Fire Inspection** – ensure compliance with Fire Code;
- **Kitchen Inspection** – ensure compliance with Food and Food Handling (separately requires a health permit);
- **Building Safety/Zoning Inspection** – ensure compliance with property maintenance and building codes and zoning ordinance.
- **Annual License Fee** – \$264 plus \$17 for each background check.

Local Zoning Regulations and Boarding Homes

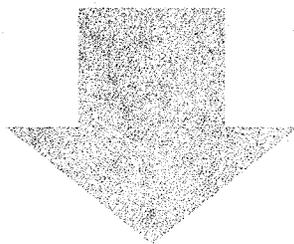
- Boarding homes fit into one of two overarching categories for homes for the elderly and disabled:
 - Disabled Group Dwelling: 6 or fewer disabled residents
 - ✦ Allowed by right in residential zoning districts;
 - Group Residential Facility: 7 or more disabled residents
 - ✦ Allowed by special permit (i.e. Council approval) in residential zoning districts.
- Additionally, boarding homes are subject to a 1,000 foot buffer from other disabled group dwellings or group residential facilities.
 - However, this regulation does not apply to those facilities that house 5 or fewer residents as they fall under the local family definition.
 - Exceptions to this buffer requirement may be granted by City Council.

Result of Boarding Home Facilities Ordinance



Positive Outcomes

- Comprehensive standards to protect the health, safety and welfare of boarding home residents;



Negative Outcomes

- Loophole – shift toward personal care home with 3 or fewer residents as neither the State nor the City licenses such homes.

Challenges in Regulating Boarding Homes and Other Residential-Based Homes for the Elderly or Disabled

- **Training Staff to Properly Enforce**
 - Multitude of state and local definitions, zoning requirements, and licensing types/requirements that do not always align with one another.
 - Training enforcement and application intake/review staff has taken time.
 - Some Boarding Home standards, such as requirements for in-service education of facility's staff, assistance with self-administration of medication, and identifying financial conflicts of interest, are difficult to enforce without specialized training and increased periodic investigations.
- **Local Family Definition**
 - Local family definition exempts boarding homes and residentially-based personal care facilities with 5 or fewer residents from the 1,000 foot required buffer between on another.
 - Creates a loophole whereby residentially-based homes for the elderly/disabled locate in close proximity to one another.
 - This practice often has negative impacts for the neighborhood in which they are located.

Challenges in Regulating Boarding Homes and Other Residential-Based Homes for the Elderly or Disabled

- **State Zoning Requirements for Community Homes**
 - State requires a one-half mile distance between community homes (a subset of homes for the disabled/elderly), while City requires 1,000 foot distance between homes for the disabled/elderly.
 - Increasing to one-half mile to achieve consistency with the state causes concern that such a large distance requirement may contradict the Fair Housing Act.
- **Lack of Licensing for Adult Foster Care Facilities**
 - Neither the state nor the City licenses adult foster cares, i.e. homes with 3 or fewer disabled/elderly residents.
 - Creates a loophole whereby operators limit housing to 3 or fewer residents AND offer personal care services to avoid licensing requirements.
 - Leaves those who cannot care for themselves with little regulatory protection.
 - Additionally, background checks for operators and employees are not required.

Challenges in Regulating Boarding Homes and Other Residential-Based Homes for the Elderly or Disabled

- **Local Licensing Standards for Personal Care Homes**
 - Local licensing for personal care homes with 5 or more residents is achieved through the generic home occupation license.
 - This license is intended for any type of home occupation and as a result, does not address personal care home-specific issues.
 - Solutions may include:
 - ✦ Eliminate this license type and rely on the state, which licenses personal care homes with 4 or more residents (i.e. assisted living facilities); or
 - ✦ Create a new license for this type of use; or
 - ✦ Modify the Boarding Home license to include personal care homes.
 - Each solution has its own set of consequences that should be considered.

Conclusion

- Adoption of the Texas Model Standards for Boarding Home Facilities has been a positive step forward in the protection of elderly/disabled populations.
- Although it has taken time, staff is trained and processes have been fully developed to implement the ordinance.
 - Over the next years, we expect to see an increase in boarding home licenses as existing facilities licensed under our home occupation license are reclassified to reflect their true use.
- Challenges remain, particularly with respect to:
 - Spacing restrictions;
 - Impact of family definition;
 - Licensing (or lack thereof) of residentially-based personal care homes.