

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING TITLE 20 (ZONING), CHAPTER 20.02 (GENERAL PROVISIONS AND DEFINITIONS), TO DELETE BOARDING HOUSE, GROUP HOME, ROOMING HOUSE AND TRANSITIONAL HOUSING AND ADD DEFINITIONS FOR DISABLED GROUP DWELLING, GROUP RESIDENTIAL FACILITY, HALFWAY HOUSE, HOMELESS SHELTER, AND LODGING HOUSE; CHAPTER 20.08 (APPENDIX A), TABLE OF PERMISSIBLE USES, SECTIONS 3 AND 13 - TO DELETE TRANSITIONAL HOUSING, BOARDINGHOUSE, AND ROOMING HOUSE, TO ALLOW HALFWAY HOUSE AND HOMELESS SHELTER BY SPECIAL PERMIT IN CERTAIN COMMERCIAL AND MANUFACTURING DISTRICTS, TO ALLOW DISABLED GROUP DWELLING, ASSISTED LIVING FACILITY, CONVALESCENT HOMES, INTERMEDIATE CARE FACILITY, NURSING HOME, REST HOME AND BOARDING HOME BY RIGHT IN RESIDENTIAL, APARTMENT, COMMERCIAL, AND CERTAIN SPECIAL PURPOSE DISTRICTS, BY DETAILED SITE PLAN IN CERTAIN SPECIAL PURPOSE DISTRICTS AND BY MASTER ZONING PLAN IN THE RESIDENTIAL MIXED USE DISTRICT; AND GROUP RESIDENTIAL FACILITY, ASSISTED LIVING FACILITY, CONVALESCENT HOME, INTERMEDIATE CARE FACILITY, NURSING HOME, REST HOME AND BOARDING HOME BY SPECIAL PERMIT IN RESIDENTIAL, APARTMENT, COMMERCIAL, AND CERTAIN SPECIAL PURPOSE DISTRICTS, BY DETAILED SITE PLAN IN CERTAIN SPECIAL PURPOSE DISTRICTS AND BY MASTER ZONING PLAN IN THE RESIDENTIAL MIXED USE DISTRICT; TO DELETE BOARDING HOME FACILITY 4 RESIDENTS OR LESS AND 5 RESIDENTS OR MORE, TO ALLOW A LODGING HOUSE BY RIGHT IN APARTMENT AND COMMERCIAL DISTRICTS; CHAPTER 20.10 (SUPPLEMENTAL USE REGULATIONS) TO DELETE CONGREGATE HOME, AMEND THE STANDARDS FOR BOARDING HOME FACILITIES, ADD STANDARDS AND REGULATIONS FOR DISABLED GROUP DWELLING; GROUP RESIDENTIAL FACILITY, HALFWAY HOUSE, AND HOMELESS SHELTER; AND (APPENDIX C) TABLE OF PARKING REQUIREMENTS AND STANDARDS TO DELETE TRANSITIONAL HOUSING, BOARDING HOUSE, AND ROOMING HOUSE, AND TO ADD STANDARDS FOR HALFWAY HOUSE, HOMELESS SHELTER, DISABLED GROUP DWELLING, AND GROUP RESIDENTIAL FACILITY, OF THE EL PASO CITY CODE. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, Title 20 (Zoning) of the El Paso City Code was adopted to promote the health, safety, morals and general welfare of the community; and,

WHEREAS, it is necessary to provide adequate and reasonable accommodation for disabled group dwellings, group residential facilities, halfway houses, and homeless shelters within the City of El Paso; and

WHEREAS, it is necessary to create development standards for the location of these uses; and

**WHEREAS**, a public hearing regarding the proposed amendment was held before the City Plan Commission, and the Commission recommended approval of the amendment; and,

**WHEREAS**, the El Paso City Council has determined that this amendment is in the best interest of the public and will promote the public health, safety and welfare of the City;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

**SECTION 1:** That Title 20, Zoning, Chapter 20.02, General Provisions and Definitions, of the El Paso City Code be amended as follows:

Delete the following definitions in their entirety:

20.02.136 Boardinghouse  
20.02.426 Group home  
20.02.820 Rooming house  
20.02.1105 Transitional Housing

Add the following definitions:

20.02.295 "Disabled Group Dwelling" means a single family dwelling designed and used as a residence by more than five (5) disabled persons, but no more than eight (8) persons, 2 of which may be supervisors, and who are living together as a single housekeeping unit. Disabled person has the meaning defined by the Federal Fair Housing Act of 1988, as amended.

20.02.426 "Group Residential Facility" an interim or permanent residential facility (as opposed to a lodging or medical treatment facility) that provides room and board to more than eight (8) disabled persons, and who live together as a single housing unit. Disabled person has the meaning defined by the Federal Fair Housing Act of 1988, as amended. This use does not include homeless shelters, halfway house, or other uses specifically defined in this Title.

20.02.429 "Halfway House" means a facility for the housing, rehabilitation, and training of persons on probation, parole, or early release from correctional institutions, or other persons found guilty of criminal offenses.

20.02.455 "Homeless Shelter" means a lodging facility that provides room and board on a temporary basis to more than four persons who are not related by blood, marriage, or adoption to the head of the household or the owner or operator of the facility, and that negotiates sleeping arrangements on a daily basis, whether or not the facility is operated for profit or charges for the services it offers. These facilities are distinguishable from lodging houses which separately rent room to occupants where homeless shelters sleeping arrangements are shared.

20.02.526 "Lodging house" means a dwelling other than a hotel, motel or tourist home, where, for compensation and by prearrangement, lodging, meals, or lodging and meals, are provided to more

than five persons unrelated by blood or marriage to the owner or operator; including residential fraternity and sorority houses.

**SECTION 2:** That Title 20, Zoning, Chapter 20.08. Permissible Uses, Section 20.08.030 C. Appendix A—Table of Permissible uses, of the El Paso City Code be amended as follows:

Delete the following sections:

3.175 Transitional Housing  
13.05 Boardinghouse  
13.28 Rooming house

Add the following sections:

3.125 Halfway Houses shall only be permitted by special permit in the following districts: C-4, C-5 and M-1, prohibited in all other districts, and by adding Sections 20.10.010; 20.10.020; 20.10.266 to the Supplemental Standards Column.

3.126 Homeless Shelters shall only be permitted by special permit in the following districts: C-4, C-5 and M-1, prohibited in all other districts, and by adding Sections 20.10.010; 20.10.020; 20.10.275 to the Supplemental Standards Column.

13.065 Disabled Group Dwelling shall only be permitted by right in the following districts: all Residential Districts R-1, R-2, R-3, R-4 and R-5, RMH, A-1, A-2, A-3, A-4, A-O A-3/O, A-M; in Commercial Districts C-OP, C-1, C-2, C-3, C-4, C-5; and in Special Purpose Districts R-F; by Detailed Site Plan in the following Special Purpose Districts PMD, S-D, P-R I, P-R II, and SRR; by Master Zoning Plan in Special Purpose District R-MU; prohibited in all other districts, and by adding Sections 20.10.010; 20.10.020, 20.10.175 or 20.10.265, and 20.10.450 to the Supplemental Standards column.

13.115 Group Residential Facility shall only be permitted by special permit in the following districts: all Residential Districts R-1, R-2, R-3, R-4 and R-5, RMH, A-1, A-2, A-3, A-4, A-O A-3/O, A-M; in Commercial Districts C-OP, C-1, C-2, C-3, C-4, C-5; and in Special Purpose Districts R-F; by Detailed Site Plan in the following Special Purpose Districts PMD, S-D, P-R I, P-R II, and SRR; by Master Zoning Plan in Special Purpose District R-MU; prohibited in all other districts, and by adding Sections 20.10.010; 20.10.020, 20.10.175 or 20.10.265, and 20.10.450 to the Supplemental Standards column.

Amend the following sections:

6.01 Assisted Living Facility shall only be permitted by right in the following districts: all of the Residential Districts R-1, R-2, R-3, R-4 and R-5, RMH, A-1, A-2, A-3, A-4, A-O A-3/O, A-M; in all Commercial Districts C-OP, C-1, C-2, C-3, C-4, C-5; and in Special Purpose Districts R-F; by Detailed Site Plan in the following Special Purpose Districts PMD, S-D, P-R I, P-R II, and SRR; by

Master Zoning Plan in Special Purpose District R-MU; prohibited in all other districts, and by adding Section 20.10.175 or 20.10.265 to the Supplemental Standards column.

6.03 Convalescent Homes shall only be permitted by right in the following districts: all of the Residential Districts R-1, R-2, R-3, R-4 and R-5, RMH, A-1, A-2, A-3, A-4, A-O A-3/O, A-M; in all Commercial Districts C-OP, C-1, C-2, C-3, C-4, C-5; and in Special Purpose Districts R-F; by Detailed Site Plan in the following Special Purpose Districts PMD, S-D, P-R I, P-R II, and SRR; by Master Zoning Plan in Special Purpose District R-MU; prohibited in all other districts, and by adding Sections 20.10.175 or 20.10.265 to the Supplemental Standards Column.

6.06 Intermediate Care Facility shall only be permitted by right in the following districts: all of the Residential Districts R-1, R-2, R-3, R-4 and R-5, RMH, A-1, A-2, A-3, A-4, A-O A-3/O, A-M; in all Commercial Districts C-OP, C-1, C-2, C-3, C-4, C-5; and in Special Purpose Districts R-F; by Detailed Site Plan in the following Special Purpose Districts PMD, S-D, P-R I, P-R II, and SRR; by Master Zoning Plan in Special Purpose District R-MU; prohibited in all other districts, and by adding Section Sections 20.10.175 or 20.10.265 to the Supplemental Standards Column.

6.09 Nursing Home shall only be permitted by right in the following districts: all of the Residential Districts R-1, R-2, R-3, R-4 and R-5, RMH, A-1, A-2, A-3, A-4, A-O A-3/O, A-M; in all Commercial Districts C-OP, C-1, C-2, C-3, C-4, C-5; and in Special Purpose Districts R-F; by Detailed Site Plan in the following Special Purpose Districts PMD, S-D, P-R I, P-R II, and SRR; by Master Zoning Plan in Special Purpose District R-MU; prohibited in all other districts, and by adding Section 20.10.175 or 20.10.265 to the Supplemental Standards Column.

6.12 Rest Home shall only be permitted by right in the following districts: all of the Residential Districts R-1, R-2, R-3, R-4 and R-5, RMH, A-1, A-2, A-3, A-4, A-O A-3/O, A-M; in all Commercial Districts C-OP, C-1, C-2, C-3, C-4, C-5; and in Special Purpose Districts R-F; by Detailed Site Plan in the following Special Purpose Districts PMD, S-D, P-R I, P-R II, and SRR; by Master Zoning Plan in Special Purpose District R-MU; prohibited in all other districts, and by adding Section 20.10.175 or 20.10.265 to the Supplemental Standards Column.

13.06 Boarding Home Facility 4 residents or less, and 5 residents or more shall be deleted and amended to:

13.06 Boarding Home Facility shall only be permitted by right in the following districts: all of the Residential Districts R-1, R-2, R-3, R-4 and R-5, RMH, A-1, A-2, A-3, A-4, A-O A-3/O, A-M; in all Commercial Districts C-OP, C-1, C-2, C-3, C-4, C-5; and in Special Purpose Districts R-F; by Detailed Site Plan in the following Special Purpose Districts PMD, S-D, P-R I, P-R II, and SRR; by Master Zoning Plan in Special Purpose District R-MU; prohibited in all other districts, and by adding Section 20.10.175 or 20.10.265 to the Supplemental Standards Column.

13.21 Lodging House shall only be permitted by right in the following districts: A-1, A-2, A-3, A-4, A-O A-3/O, A-M; in all Commercial Districts C-OP, C-1, C-2, C-3, C-4, C-5; prohibited in all other districts.

**SECTION 3:** That Title 20, Zoning, Chapter 20.10, Supplemental Use Regulations, of the El Paso City Code be amended as follows:

Delete:

20.10.150 Congregate home (Reserve Section):

Amend the following Sections:

20.10.115 Boarding Home Facilities

- A. All boarding home facilities must be licensed in accordance with the provisions of Title 5 of this Code.

Add the following Sections:

20.10.175 Disabled Group Dwelling

- A. Occupancy: Not more than six persons with disabilities and two supervisors may reside in a community home at the same time.
- B. An on-site resident staff person must be present at all times, whenever any residents of the facility are present.
- C. The establishment shall be operated and maintained in the character of a residential dwelling in harmony with and appropriate in appearance to the character of the general vicinity in which it is to be located.
- D. Districts Permitted: when located at least 1,000 feet from all other licensed disabled group dwellings and licensed group residential facilities, by right in the following districts: R-1, R-2, R-3, R-4 and R-5, RMH, A-1, A-2, A-3, A-4, A-O A-3/O, A-M; C-1, C-2, C-3, C-4, C-5; and in Special Purpose Districts R-F; by Detailed Site Plan in the following Special Purpose Districts PMD, S-D, P-R I, P-R II, and SRR; by Master Zoning Plan in Special Purpose District R-MU. The spacing component of these use regulations is based, not on the disabled status of the residents, but on the non-family status of the groups.
- E. Exception to the Distance Requirements: The owner and applicant can request an exception to the distance requirement from City Council. Chapter 20.40 Administrative Provisions, Article VI Changes and Amendments shall be followed to request this exception. The application fee for the public hearing shall be waived. A determination must be made by City Council that the enforcement of the distance prohibition in the particular instance:
  - 1. Is not in the best interest of the public;
  - 2. Constitutes waste or the inefficient use of land or other resources;
  - 3. Creates an undue hardship on an applicant;
  - 4. Does not serve its intended purpose;
  - 5. Is not effective or necessary; or
  - 6. After consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

- F. In accordance with the Federal Fair Housing Act, this use as defined does not extend to the following people:
  - 1. Persons who claim to be disabled solely on the basis of having been adjudicated a juvenile delinquent;
  - 2. Persons who claim to be disabled solely on the basis of having a criminal record;
  - 3. Persons who claim to be disabled solely on the basis of being registered as a sex offender;
  - 4. Persons who currently use illegal drugs;
  - 5. Persons who have been convicted of the manufacture or sale of illegal drugs; or
  - 6. Persons with or without disabilities who present a direct threat to the persons or property of others.
- G. Measurements of distance in this section are taken from property line to property line.
- H. In the event a conflict arises regarding the distance requirement, the owner or operator of a disabled group dwelling will have the burden of establishing "first in time" rights for purposes of complying with the distance requirement.

#### 20.10.265 Group Residential Facilities

- A. Occupancy: More than eight disabled persons.
- B. An on-site resident staff person must be present at all times, whenever any residents of the facility are present.
- C. The establishment shall be operated and maintained in the character of a residential dwelling in harmony with and appropriate in appearance to the character of the general vicinity in which it is to be located.
- D. Districts Permitted: when located at least 1,000 feet from all other licensed disabled group dwellings and licensed group residential facilities, by right in the following districts: R-1, R-2, R-3, R-4 and R-5, RMH, A-1, A-2, A-3, A-4, A-O A-3/O, A-M; C-1, C-2, C-3, C-4, C-5; and in Special Purpose Districts R-F; by Detailed Site Plan in the following Special Purpose Districts PMD, S-D, P-R I, P-R II, and SRR; by Master Zoning Plan in Special Purpose District R-MU. The spacing component of these use regulations is based, not on the disabled status of the residents, but on the non-family status of the groups.
- E. Exception to the Distance Requirements: The owner and applicant can request an exception to the distance requirement from City Council. Chapter 20.04 Administrative Provisions, Article VI Changes and Amendments shall be followed to request this exception. The application fee for the public hearing shall be waived. A determination must be made by City Council that the enforcement of the distance prohibition in the particular instance:
  - 1. Is not in the best interest of the public;
  - 2. Constitutes waste or the inefficient use of land or other resources;
  - 3. Creates an undue hardship on an applicant;
  - 4. Does not serve its intended purpose;
  - 5. Is not effective or necessary; or
  - 6. After consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.
- F. In accordance with the Federal Fair Housing Act, this use as defined does not extend to the following people:

1. Persons who claim to be disabled solely on the basis of having been adjudicated a juvenile delinquent;
  2. Persons who claim to be disabled solely on the basis of having a criminal record;
  3. Persons who claim to be disabled solely on the basis of being registered as a sex offender;
  4. Persons who currently use illegal drugs;
  5. Persons who have been convicted of the manufacture or sale of illegal drugs; or
  6. Persons with or without disabilities who present a direct threat to the persons or property of others.
- G. Measurements of distance in this section will be taken from property line to property line.
- H. In the event a conflict arises regarding the distance requirement, the owner or operator of the group residential facility will have the burden of establishing "first in time" rights for purposes of complying with the distance requirement.

#### 20.10.266 Halfway House

- A. A special permit for a halfway house shall be issued for a two year time period. Periodic review periods may be established as part of the special permit.
- B. The treatment of alcoholic, narcotic, or psychiatric problems is allowed under this use if expressly permitted by the special permit.
- C. A halfway house may not be permitted within one thousand (1,000) feet of another halfway house or a homeless shelter.
- D. Additionally, a halfway house may not be permitted within one thousand (1,000) feet of the following:
  1. A church;
  2. A public or private elementary or secondary school;
  3. A nursery school, kindergarten, child care center, day nursery or day care center;
  4. A university, college, vocational or business school;
  5. A boundary of any residential district;
  6. A public park; or
  7. The property line of a lot devoted to any residential use.
- E. A security plan must be submitted with an application for a special permit for a halfway house. The security plan must demonstrate compliance with the security requirements of state law. The director shall furnish a copy of security plans for halfway houses to appropriate City, County, State, and Federal (if applicable) agencies for their review and approval before the City Plan Commission and the City Council consider the application. Provisions addressing security must be included in any ordinance granting a special permit for a halfway house. A compliance report must be submitted to the director every two years after the date of passage of an ordinance granting a special permit and with each application for renewal of a special permit for a halfway house.
- F. Measurements of distance under this paragraph are taken radially. "Radial" measurement means a measurement taken along the shortest distance between the nearest point of the building site of the halfway house and the nearest point of the building site of another use, or of a protected zoning district boundary.

G. Within ninety (90) days of the passage of this ordinance the owner or operator of an existing halfway house must comply with the registration provisions of Section 20.22.070 and comply with the provisions of Chapter 20.22 Nonconforming Situations.

20.10.275 Homeless Shelter

- A. A special permit for a homeless shelter shall be issued for a two year time period. Periodic review periods may be established as part of the special permit.
- B. A homeless shelter may not be permitted within one thousand (1,000) feet of another homeless shelter or halfway house.
- C. Additionally, a homeless shelter may not be permitted within one thousand (1,000) feet of the following:
  - 1. A church;
  - 2. A public or private elementary or secondary school;
  - 3. A nursery school, kindergarten, child care center, day nursery or day care center;
  - 4. A university, college, vocational or business school;
  - 5. A boundary of any residential district;
  - 6. A public park; or
  - 7. The property line of a lot devoted to any residential use.
- D. Measurements of distance under this paragraph are taken radially. "Radial" measurement means a measurement taken along the shortest distance between the nearest point of the building site of the halfway house and the nearest point of the building site of another use, or of a protected zoning district boundary.
- E. Within ninety (90) days of the passage of this ordinance the owner or operator of an existing homeless shelter must comply with the registration provisions of Section 20.22.070 and comply with the provisions of Chapter 20.22 Nonconforming Situations.

**SECTION 4:** That Title 20, Appendix C, Table of Parking Requirements and Standards, shall be amended as follows:

Delete the following sections:

- 3.175 Transitional Housing
- 13.05 Boardinghouse
- 13.28 Rooming house

Add the following sections:

Section	Use	Minimum	Maximum	Bicycle	Heavy Truck Trailer	Gravel Screen Parking Required	Notes
3.125	Halfway House	NOTE 1	NOTE 1	None	None	Not Allowed	2A, B

3.126	Homeless Shelter	NOTE 1	NOTE 1	None	None	None	2A, B
13.065	Disabled Group Dwelling	1 motor vehicle for every one bedroom	No more than 1 motor vehicle per bedroom	Note 3	None	Not Allowed	2H
13.115	Group Residential Facility	2 spaces for group residential facility, plus one additional space for each resident over 5 persons	N/A	Note 3	None	Not Allowed	2H

**SECTION 5:** Except as herein amended, Title 20, Zoning, of the El Paso City Code shall remain in full force and effect.

ADOPTED THIS \_\_\_\_\_ day of \_\_\_\_\_ 2014.

CITY OF EL PASO

ATTEST:

\_\_\_\_\_  
Oscar Leeser, Mayor

\_\_\_\_\_  
Richarda Duffy Momsen, City Clerk  
APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Karla M. Nieman  
Assistant City Attorney

\_\_\_\_\_  
Mathew S. McElroy, Director  
City Development Dept.