

ORDINANCE NO. 975

AN ORDINANCE ADOPTING CHAPTER 16 OF THE CODE OF ORDINANCES, TOWN OF HOLLYWOOD PARK, ENTITLED "COMMUNITY HOMES FOR DISABLED PERSONS" TO PROVIDE FOR THE REGULATION AND OPERATION OF COMMUNITY HOMES FOR DISABLED PERSONS; PROVIDING A SAVINGS CLAUSE, EFFECTIVE DATE AND PENALTY.

WHEREAS, the Town of Hollywood Park supports the rights of disabled persons to live in stable, affordable housing, in settings that maximize community integration and opportunities for acceptance; and

WHEREAS, the Town of Hollywood Park desires to make reasonable accommodations in rules, policies, and practices to afford disabled persons equal opportunity to use and enjoy a dwelling; and

WHEREAS, the Town of Hollywood Park desires to protect the health, safety, and welfare of its elderly and disabled citizens and of its neighborhoods by providing an appropriate licensing scheme for community homes; and

WHEREAS, Texas Local Government Code Section 51.001 authorizes a municipality to adopt ordinances that are for the good government, peace, or order of the municipality or for the trade and commerce of the municipality and is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, Texas Local Government Code Section 215.033 authorizes a general law type A municipality to grant and issue licenses, direct the manner of issuing and registering licenses and set the fees to be paid for licenses; and

WHEREAS, Texas Local Government Code Section 51.012 authorizes a general law type A municipality to adopt an ordinance, act, law, or regulations, not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the municipality as a body politic; and

WHEREAS, the City Council of the Town of Hollywood Park, Hollywood Park, Texas, hereby finds and determines that it is in the best interest, welfare and good order of the Town of Hollywood Park to regulate and license the operation of Community Homes.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF HOLLYWOOD PARK:

**I.  
CODE AMENDMENT**

The Code of Ordinances, Town of Hollywood Park, Texas, is hereby amended by adding a new Chapter 16, Community Homes for Disabled Persons, as follows:

**“CHAPTER 16  
COMMUNITY HOMES FOR DISABLED PERSONS**

**Section 16-100 Definitions.**

“*Assisted living facility*” means 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.

“*Community Homes for Disabled Persons*” or “*Community Homes*” as used in this Chapter shall mean a shared residential living arrangement and qualifies as a Community Home under Texas Human Resources Code Chapter 123, Section 123.004, as amended.

- (a) As used in this section “person with a disability” means a person whose ability to care for himself, perform manual tasks, learn, work, walk, see, hear, speak, or breathe is substantially limited because the person has:
  - (1) an orthopedic, visual, speech, or hearing impairment;
  - (2) Alzheimer's disease;
  - (3) pre-senile dementia;
  - (4) cerebral palsy;
  - (5) epilepsy;
  - (6) muscular dystrophy;
  - (7) multiple sclerosis;
  - (8) cancer;
  - (9) heart disease;
  - (10) diabetes;
  - (11) mental retardation;
  - (12) autism; or
  - (13) emotional illness.

“*Single Family Dwelling Unit*” or “*residence*” shall mean an independent, attached or detached residential building designed to house and provide living space, including kitchen and bathroom facilities, for an individual family.

**Sec. 16-101. Applications.**

(a) License Applications.

(1) General. All applications for a Community Home shall be submitted to the City Secretary with site plans drawn to scale and showing the general arrangement of the use, together with the essential requirements, such as off-street parking facilities, locations of buildings and uses to be licensed, means of ingress and egress to public streets, the type of visual screening such as walls, planting and fences, the location and existing ownership of adjacent residences and buildings, and the location and area of coverage of all outside lighting, especially any which might shine into an adjacent residential area. The City Secretary shall file the application and report the same to the Planning and Zoning Commission.

(2) Licensing Fee. An applicant shall pay the applicable licensing fee.

(3) Requirements. An application subject to this Article shall include the following:

(A) Property Location. The address or physical location of the property and phone number(s) at the property location, and if the application applies to a new property, the application shall be supplemented within 30 days following receipt of a certificate of occupancy.

(B) Individual Applicant Information. If the applicant is an individual, the names, street address, mailing address, e-mail address, telephone number, emergency contact phone number, cell phone number (if applicable), and a legible copy of the driver’s license or other official state or federal identification card, and date of birth of the applicant. The street address may not be the address of the residence used or proposed to be used for the Community Home unless the owner, operator, or employee actually resides full-time at such residence.

(C) Entity Applicant Information. If the applicant is not an individual, the name, street address, mailing address, e-mail address, telephone number, emergency contact phone number, cell phone number (if applicable), and a legible copy of the driver’s license or other official state or federal identification card, and date of birth, and position of the authorized officer or agent filing the form on behalf of the applicant. The street address may not be the address of the residence used or proposed to be used for the Community Home unless the owner, operator, or employee actually resides full-time at such residence.

(D) Information on Community Home Owners, Operators, or Employees. The names, street address, mailing address, e-mail address, telephone number, emergency contact phone number, cell phone number (if applicable), and a legible copy of the driver’s license or other official state or federal identification card, and date of birth of any owners, operators, or employees of the Community Home, other than the applicant. The street address may not be the address of the residence used or proposed to be used for Community Home unless the owner, operator, or employee actually resides full-time at such residence.

(E) Additional Entity Applicant Information. The form of business of the applicant; name, street address, mailing address, e-mail address, telephone number,

emergency contact phone number, cell phone number (if applicable), and a legible copy of the driver's license or other official state or federal identification card, and date of birth of a managerial agent of the business; and if the business is a legal entity, such as a corporation or association, a copy of the documents establishing the business.

(F) Additional Information on Non-owner Operated Community Homes. If the operator of the real property is renting or leasing the real property, the operator must submit a letter from the owner of the real property authorizing the use of the rental property as a Community Home. In the case of using a residence as a Community Home, the operator must submit a letter from the owner of the real property authorizing the use of the rental property as a Community Home and acknowledging the requirement for the property to be used as a Community Home.

(G) Criminal Background Checks. In the case of an application to use a residence as a Community Home, the application shall include completed state or federal request and release forms authorizing the City to obtain a criminal history report on each owner, operator, and employee, along with any applicable fee to perform the check.

(H) Insurance Documentation. In the case of an application to use a residence as a Community Home, a copy of the insurance documents for the group housing for disabled person's residence showing the levels of insurance coverage. If the documents are not provided, a letter from a properly licensed insurance agent, authorized to operate within the State of Texas, shall be submitted indicating the facility is provided insurance coverage appropriate for the type of facility being operated.

(I) Jurat. A statement that, by filing the application, the applicant swears or affirms under penalty of perjury that, to the best of the applicant's knowledge, all information contained in the application is true and correct and that the application is complete and includes all information required to be disclosed under this section.

(b) Notice. The City shall provide written notice to owners of real property lying within one thousand (1000) feet of the property on which the use is requested that an application has been filed with the City.

#### **Sec. 16-102. Regulation and Licensing of Community Homes for Disabled Persons.**

(a) No Community Homes shall operate until the City Fire Marshall of the Town of Hollywood Park or his designee has issued a license stating that the facility complies with the provisions of this Chapter.

(b) No Community Home shall operate until the applicant has provided proof of any licensing required by the State of Texas.

(c) No Community Home which is operated within a residential zoning district shall have more than six persons with disabilities and two primary caregivers residing in the Community Home at the same time.

(d) General Regulatory Requirements. A Community Home covered by this Section shall have the minimum housing requirements in this Subsection.

(1) Internal Configuration Requirements:

(i) **Bathroom Facilities.** Water closets, lavatories, and bathtubs or showers must be available on each floor when not provided in each individual room,

(A) provided in the ratio of one toilet and one lavatory, and one bathtub or shower for every six residents, or fraction thereof, and

(B) accessible to the residents without going outside of the building or without going through a sleeping room of another resident, and

(C) disabled accessible.

(ii) **Bedroom Limitations and Requirements for Residents.** Any single-family dwelling unit that is proposed to be utilized for group housing for the disabled shall provide at a minimum, the following square footage in each bedroom:

(A) To house one (1) disabled person per bedroom, the dwelling unit must provide at least one hundred (100) square feet of space per bedroom utilized for this purpose.

(B) To house two (2) or more disabled persons per bedroom, the dwelling unit must provide at least eighty (80) square feet of space per disabled person housed in the bedroom utilized for this purpose. For example, two disabled persons would require a one hundred sixty (160) square foot bedroom.

(C) In bedrooms, beds shall be spaced at least three feet apart when placed side-by-side or end-to-end.

(D) In bedrooms, beds shall be at least six feet (6') long and three feet (3') wide equipped with supportive springs in good condition and a clean supportive mattress in good condition, and a mattress cover that prevents bodily fluids from soiling the mattress.

(E) Each bed shall have at least one pillow with a clean pillowcase, two (2) clean sheets, and a cover such as a blanket or quilt, in good condition, per bed, cleaned weekly, or if soiled when soiled.

(F) Each bed shall have extra bed linens, including sheets, pillowcase and blankets, which must be made available to each resident.

(G) Each bedroom shall have at least one chest of drawers or equivalent per resident, in good condition having a sufficient number of drawers or other areas to contain all necessary items of clothing and personal belongings of each resident that can be locked/secured.

(H) Each bedroom shall have at least one end table per resident in good condition located adjacent to each bed in each sleeping room.

(I) Each bedroom shall have sufficient hanging space to allow clothes not stored in drawers to be hung. Clothing must not be stored on the floor.

(J) Each bedroom shall have bath towels, washcloths, soap, individual comb and toothbrush available at all times and in quantity sufficient to meet the needs of the residents, which may be kept in bathing areas.

(K) Each bedroom shall have access to one or more emergency exits without passing through another sleeping room and emergency exits shall be appropriately identified.

(iii) Doors.

(A) Interior doors to living spaces, bedrooms, bathrooms and toilet rooms must fit the openings in which they are hung, be properly equipped with hardware and be maintained in good working condition. Doors with locking devices must be provided where necessary to provide privacy and protection of the resident.

(I) Every closet door latch will be such that it can be readily opened from the inside in case of an emergency.

(II) Every bathroom door or door lock must permit the opening of the locked door in case of an emergency.

(III) Each door shall have a minimum clear width of 32 inches measured from the face of the door (open 90 degrees) to the face of the door stop.

(B) Exterior doors serving as emergency exits shall be appropriately identified.

(iv) Electrical Service. Each facility must be supplied with electric service and fixtures that are properly installed and maintained in safe working condition and connected to a source of electrical power.

(v) Environmental Control. Each facility must have heating and cooling equipment that are properly installed, vented, and maintained in a safe good working condition. The temperature of rooms intended for human occupancy will remain at a temperature between sixty-eight (68) and eighty-two (82) degrees Fahrenheit.

(vi) First Aid Kit. Each facility shall be equipped with a first aid kit as recommended by the American Red Cross.

(vii) Furnishings. All equipment, fixtures, furniture, and furnishings, including windows, draperies, curtains, and carpets, must be kept clean and free of dust, dirt, vermin, and other contaminants, and must be maintained in good order and repair.

(viii) Kitchen Requirements. A single family dwelling unit that is proposed to be utilized for shared Community Homes shall be required to have a kitchen meeting the following requirements:

(A) 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.

(B) The kitchen facilities 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.

(C) The residential stove shall be protected by a residential vent/hood fire protection system. Residential vent/hood systems may be battery operated provided that an appropriately engineered battery charging system is incorporated into the system design.

(D) The kitchen shall be accessible to the residents sharing the use without going through a sleeping room of another resident.

(E) The kitchen shall have a food preparation area with a total of not less than 6 square feet and total kitchen area of not less than 60 square feet.

(F) The kitchen shall have as a minimum a two compartment sink for manual dishwashing.

(G) The kitchen shall have a cooking stove fueled by gas or electricity.

(H) The kitchen shall contain at least one cabinet of adequate size, suitable for storage of food and utensils.

(I) The kitchen shall be properly equipped to allow for the preparation of meals.

(ix) Pathways and Stairs. Public pathways and stairways in buildings must maintain a minimum unobstructed width concurrent with local fire and building codes and must be provided with convenient light switches controlling an adequate lighting system.

(x) Plumbing Fixtures. Every plumbing fixture, water pipe and waste pipe must be properly installed and maintained in good sanitary working condition, free from defects, leaks and obstructions and properly connected to an approved sewage disposal system.

(xi) Storage. Poisonous, toxic, and flammable materials shall:

(A) be stored and maintained away from bed linens, towels, or kitchen equipment;

(B) be prominently and distinctly labeled for easy identification of contents; and

(C) not be used in a way that contaminates food equipment or utensils, or in a way that constitutes a hazard to employees or residents.

(xii) Telephone. A telephone must be available, 24 hours per day, must be easily accessible, and must afford privacy for use by residents. In addition, the following information must be maintained within close proximity to the telephone:

(A) a listing of emergency telephone numbers, including the numbers of the local police, fire department, ambulance, the office of the Town of Hollywood Park,

(B) the telephone number for the Texas Department of Family and Protective Services (DFPS),

(C) the telephone number for the Local Mental Health Authority, and

(D) the Texas Information and Referral Network must be placed in plain view on or next to the telephone and accessible to persons who are visually or hearing impaired, as needed.

(xiii) Water Temperature Control. Each facility must have water heating facilities that are properly installed, vented, in good working condition, and properly connected with hot and cold water lines. The temperature of water drawn at every required sink, lavatory basin, bathtub or shower will remain at a temperature between one hundred and ten (110) and one hundred and twenty (120) degrees Fahrenheit.

(xiv) Windows and Doors. Every habitable room must have at least one window that can be easily opened, or such other device as will ventilate the room. Locks that can be easily opened manually from the inside must be provided on all exterior doors and windows. All windows must be openable without tools. The window opening must meet local codes for emergency egress. Every window, exterior door and basement hatchway must be weather tight, watertight, insect and rodent-proof and must be kept in good working condition. Where applicable each window must qualify as a "Rescue Window" as provided in this Section.

(xv) Other Accommodations. Each facility must provide:

(A) A properly operating washer and dryer that is properly vented to the outside. Washer or dryer must be in a utility or other room/areas that are not in kitchen area.

(B) A sitting/communal/recreational room for the common use of all residents. Furniture must include comfortable chairs and tables, and lamps in good repair and appearance.

(C) A dining room located on the same floor as the kitchen and must:

(1) be as nearly adjacent to the kitchen as practicable; and

(2) be accessible to the residents, without going through a sleeping room of another resident; contain not less than 120 square feet of floor area; and be supplied with one dining chair and 2 linear feet of dining table space for each resident of a facility.

(2) Caretaker Sleeping Requirements. Any single-family dwelling unit that is proposed to be utilized for Community Homes shall provide for a separate bedroom for the care provider or providers.

(3) Exterior Structure. A single-family dwelling unit that is proposed to be utilized for Community Homes shall possess an exterior structure that maintains or retains compatibility with the surrounding residential dwellings.

(4) Facility Construction. A single family dwelling unit that is proposed to be utilized for Community Homes shall 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;

(v) All electrical circuits to occupant sleeping areas shall be provided with Arch Fault Circuit Interrupter (AFCI) type breaker switches in the circuit breaker panel; and

(vi) All electrical receptacles within six feet of a sink, toilet, bathtub, or shower shall be provided with Ground Fault Circuit Interrupter Receptacles (GFCI), or the circuit shall be provided with a Ground Fault Circuit Interrupter (GFCI) type breaker switch in the circuit breaker panel.

(5) Density Limitation. Except for group living arrangements in existence prior to the date of adoption of Section 8-101 that register with the City Fire Marshall prior to April 1, 2015, no other group living arrangements shall be located within a radius of one-half (1/2) mile of the facility for which the license is requested. The City Fire Marshall, or his designee, shall make such measurements 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 Community Homes. In making the determination that no home exists within one-half (1/2) mile, the City Fire Marshall shall consider information provided by the applicant, information contained in the records of the Town of Hollywood Park, and information obtained by physical inspection of the premises, if any.

(6) Facility Food Handler Permit. For facilities licensed for more than two residents, each facility shall hold a valid food handling permit issued by the applicable local or state regulatory authority in the name of the owner/operator and for the specific facility.

(7) Fire Code. In addition to those specific requirements in above, the facility shall comply with all applicable Fire and Building Codes of the Town of Hollywood Park and applicable portions of the following codes:

(i) The International Building Code, 2011 edition by the International Code Council Inc., 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, 'R4' Occupancy, Residential Care/Assisted Living Facilities;

(ii) The International Plumbing, Mechanical and Fuel Gas Codes, 2011 editions, as published by the International Code Council Inc., 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041; and

(iii) The National Electrical Code as specified under NFPA 101. If later adopted codes or ordinances of the Town of Hollywood Park are more stringent than these standards for assisted living, the more stringent requirements will govern.

(8) Fire Safety. A single family dwelling unit that is proposed to be utilized for Community Homes shall be required to have the following provisions for fire safety:

(i) Portable Fire Extinguishers. In all new and existing Community Homes, at least one portable fire extinguisher (type 2-A:10-B:C) shall be provided for each 3000 square feet, or portion thereof of total covered building area, and at least one additional portable fire extinguisher for each level (each placed in accordance with the recommendation of the City Fire Marshall or the placement recommendation of N.F.P.A. Standard #10); and

(ii) Smoke Alarms. In new and existing Community Homes 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 including the spaces provided by the garage but not including the parking on public right of way adjacent to the home. 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:

(A) on the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms; and

(B) in each room used for sleeping purposes; and

(C) 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

(D) may be required to be installed in living areas at the discretion of the City Fire Marshall.

(iii) Rescue Windows. In new Community Homes classified by the State of Texas as a Type A or Type B assisted living facility, each sleeping room shall have at least one openable 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 openings 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 proposed Community Homes classified as a Type B facility, an automatic sprinkler system shall be provided in accordance with the adopted fire code; and

(v) Fire Alarm Systems (existing group homes). In existing Community Homes facilities, a fire alarm system shall be installed unless

(A) there are interconnected smoke alarms meeting the provisions of 36-106(c)(6)(ii) above, or

(B) other manually activated, continuously sounding alarm is approved by the City Fire Marshall; and

(vi) Fire Alarm Systems (new group homes). In new proposed Community Homes facilities, a fire alarm shall be installed in which

(A) notification appliances activate upon sprinkler flow; and

(B) 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 36-106(c)(6)(ii) above.

(vii) Oxygen Deficiency Alarm Systems (existing group homes). The facility must meet the provisions and requirements concerning oxygen deficiency alarm systems on the same basis that Texas Human Resources Code Section 42.060 would apply had the facility been classified as a “family home” under Texas Human Resources Code Section 42.002.

(viii) Evacuation Charts. A facility shall prominently display occupancy evacuation charts, showing at least two routes of evacuation from the facility for each resident occupied area. These charts shall also indicate the location for portable fire extinguisher locations.

(9) Parking. A single-family dwelling unit that is proposed to be utilized for Community Homes, shall provide on the premises, at 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.

(10) Screening and Grounds Accessibility. A single-family dwelling unit that is proposed to be utilized for Community Homes shall have installed and permanently maintained a six-foot or eight-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, garbage, untended growth, etc., that may constitute a fire or health hazard violation in the City.

(11) Waste Management.

(i) Solid Waste Services. Each shared Community Homes facility shall have the number of separate trash receptacles ordinarily furnished to single-family dwelling units based on the schedule provided:

(A) Facility rated for three or fewer residents - one separate trash receptacle.

(B) Facility rated for more than three residents - two separate trash receptacles.

(C) On a finding by the City Fire Marshall that the number of separate trash receptacles is insufficient, a shared Community Homes facility shall be required to increase the number of separate trash receptacles as the City Fire Marshall shall determine.

For each separate trash receptacle, the solid waste disposal company servicing the Town of Hollywood Park may charge such charge as is prescribed in the waste services agreement between the Town of Hollywood Park and the solid waste disposal company servicing the Town of Hollywood Park. Services for solid waste disposal may only be provided by entities with which the Town of Hollywood Park has a waste services agreement.

(ii) Liquid Waste Services, Including Effluent. Each shared Community Homes facility shall use one of the following services for the management of liquid waste, including effluent, as follows:

(iii) Sanitary Sewer. If available, the shared Community Homes facility shall use the San Antonio Water System sanitary sewer facilities.

(A) On-site Sewage Facility. If liquid waste services are not available through the San Antonio Water System, the following rules shall apply.

(I) A property owner of a residence occupied by a Community Homes facility utilizing an on-site sewage facility (OSSF) located on a tract of land, regardless of acreage, shall secure and possess a permit from the Town of Hollywood Park to construct, or alter, or repair, or extend an on-site sewage facility in accordance with Chapter 34 of the Town of Hollywood Park Code.

(II) Prior to opening a Community Homes facility, the City Fire Marshall shall have the Community Homes facility's OSSF rated for efficiency and capacity. If the OSSF capacity does not support the number of residents and persons attending

residents proposed for the Community Homes facility, the facility's maximum number of residents shall be reduced.

(III) At least every twenty-four (24) months, the Community Homes facility's holding tank(s) shall be pumped. Each time the tanks are pumped, a notice shall be provided to City Secretary, who shall maintain a schedule of reported pumping.

(IV) Any group housing facility rated for more than three persons shall be serviced by an aerobic OSSF system.

(e) License Holder Obligation. The holder of the license shall be in charge of and responsible for the operation of the dwelling unit for shared Community Homes.

(1) Annual Review. License shall be renewed annually so long as the facility continues to comply with the standards described in this Subsection 36-106(c). Licenses are nontransferable. The City Fire Marshal shall establish a process or procedure for renewing licenses issued under this Section. In order to renew a license, the facility shall be free of any outstanding violations of the fire or building codes or violation of these regulations. If during the course of conducting the annual review the Fire Marshal identifies a health and safety hazard, sanitation hazard, a maintenance hazard, or other hazardous condition that jeopardizes the welfare of the occupants, the identified hazard shall be corrected within the timeline identified by the Fire Marshal. These hazards may include, but are not limited to the following:

- (i) construction, remodeling, or repairs;
- (ii) plumbing;
- (iii) heating;
- (iv) lighting; and
- (v) ventilation.

(2) Periodic Inspection. Town of Hollywood Park inspection personnel shall have the right to conduct inspections to ensure continued compliance with standards at any time and in the event a home is found to be in violation of the standards of the Code, including items listed in (d)(1) above, the inspector shall forward to the City Fire Marshall a report describing the violations and that the City Fire Marshall or his designee may withdraw the license. Following withdrawal of the license and issuance of a vacate order, the license holder shall have the right to appeal the decision of the City Fire Marshall or his designee to the City Council within ten (10) days.

(3) License Display. The license shall be prominently displayed in the facility at all time. License shall include the following statement:

**“The City does not license facilities as to quality of care. This structure has been inspected and has met the minimum requirements for Community Homes in the Code of Ordinances of the Town of Hollywood Park.”**

(4) Contact Information Display. A facility covered by this Section shall prominently and conspicuously post for display in an area of the facility that is readily available to residents, operators, employees, and visitors:

- (i) The name, address, and phone number of the closest medical treatment and care facility in proximity to the location of the facility; and
- (ii) The name, address, and phone number of a local organization or entity that represents, advocates, or serves elderly or disabled persons, including any toll-free contact information for reporting emergencies.

(5) Lapse of License. Any license issued under this Section shall become void and of no further affect if (1) the use of the premises is discontinued for a period of one year or (2) the property is restored to use as a single-family residence.

(6) Notification of Changes. The license holder shall notify the City Fire Marshal's office within 10 days after any material changes in the information contained in the original license to operate a facility covered under this Section, including any change in ownership or operation of the property.

(f) Denial of License.

(1) License Denial. If the City Fire Marshal determines that the requirements of this Section cannot be met, the City Fire Marshal shall deny the license in writing explaining the nature of the reason or reasons for the denial (the "Formal Denial").

(2) Denial Notification. If the application for a license under this Section is denied, the applicant shall be provided in writing the reason the license is denied and the right of the applicant to appeal and the appeal process.

(3) Filing an Appeal. Within 10 days of receipt of a written license denial or code enforcement action by the City Fire Marshal, an applicant may appeal the decision by filing written notice of appeal with the City Secretary. Upon notification, the City Secretary or her designee shall, within 10 working days, schedule an Appeal Hearing where the applicant may appeal the license denial or code enforcement action. Absent a timely written notice of appeal, the decision of the City Fire Marshal is final. A new application under this Section may not be filed earlier than 90 days after the application of this Paragraph (3) is final.

(4) Hearing. Within 10 days of receipt of the Fire Marshal's Formal Denial, the applicant may appeal the Fire Marshal's opinion by filing written notice of appeal with the City Secretary. Within 40 days of receipt of a notice of appeal, the City Council shall conduct a hearing at which the applicant will be given an opportunity to present his case and the City Council will determine whether to uphold or overturn the decision of the City Fire Marshal.

(g) Health and Safety Based Operating Requirements.

(1) Animals. With the exception of service animals for persons with disabilities, birds, cats, dogs or other animals are not permitted in areas in which food is prepared, stored or where utensils are washed or stored.

(2) Bathrooms. Water closets, lavatories, and bathtubs or showers must be:

(i) kept clean and in good repair and must be well-lighted and ventilated;

- (ii) adequately supplied with toilet paper, soap, and hand towels for each bathroom; and
- (iii) supplied with non-slip surfaces in bathtub or shower, and curtains or other safe enclosures for privacy.

(3) Compliance with Local Laws. Each facility shall meet all applicable state and local sanitary codes.

(4) Facility Repair. Every facility must be kept in good repair, and so maintained as to promote the health, comfort, safety and well-being of residents

- (5) Food Handling. Employees or residents engaged in food handling shall
- (i) observe sanitary methods, including hand washing as appropriate;
  - (ii) not be assigned to preparing foods for others at the facility if carrying a disease that can be transmitted to others; and
  - (iii) if preparing meals for residents for facilities licensed for more than two residents, staff must have a food-handler's permit.

(6) Food Handler Permits. For a facility licensed for more than two residents, the owner or operator of a facility administered under this Section shall ensure that each person who handles or prepares food for the residents has obtained, and maintains, a valid food handler permit.

(7) Food and Water Supplies. Each facility shall maintain a minimum food and water supply sufficient for all residents as recommended by the American Red Cross.

- (8) Food Storage. All food and drink shall be:
- (i) clean, free from spoilage, pathogenic organisms, toxic chemicals, and other harmful substances;
  - (ii) prepared, stored, handled, and served so as to be safe for human consumption;
  - (iii) maintained at a temperature of 41 degrees Fahrenheit or below for foods subject to spoilage;
  - (iv) maintained at 140 degrees Fahrenheit or above at all times for hot foods ready to serve;
  - (v) maintained in the freezer at a temperature of 0 degrees Fahrenheit or below for foods stored as frozen; and
  - (vi) stored in food containers that are appropriately labeled, dated, and protected from flies, insects, rodents, dust, and moisture.

- (9) Kitchen. Each kitchen must:
- (i) be kept in a clean and sanitary condition;
  - (ii) have a food preparation area with a surface area that is smooth, impermeable, free of cracks and easily cleanable, that shall not be used for eating; and
  - (iii) have a refrigerator that is equipped with a thermometer and is maintained in an operational, clean and sanitary condition that is adequate to maintain foods at the required temperature

(10) Kitchen Inspections. The owner or operator of a facility administered under this Section shall obtain, maintain, and produce upon request, documentation that the facility kitchen has been inspected for compliance with the Texas Health Code requirements.

(11) Laundry. All linens and laundry shall be:

- (i) bagged or placed in a hamper before being transported to the laundry area;
- (ii) properly identified to prevent loss; and
- (iii) not be transported through, sorted, processed, or stored in kitchens, food preparation areas, or food storage areas, if soiled.

(12) Meal Preparation. Meals provided by the facility shall be nutritionally balanced and shall provide the USDA recommended daily allowances of vitamins, minerals and calories.

(13) Meal Service. Meals shall be served:

- (i) at least three (3) times per day;
- (ii) in sufficient quantity and quality to meet the nutritional needs of the residents;
- (iii) daily at regular hours, with at least one hot meal per day;
- (iv) with no more than 14 hours between the beginning of the evening meal and the beginning of the morning meal; and
- (v) with alternative selections for residents on medically prescribed diets.

(14) Meal Schedule. A time schedule of meals shall be posted daily.

(15) Pest Control. Each owner/operator shall be responsible for the extermination of any insects, rodents or other pests in the rooms occupied by residents, storage areas, and attics or on the premises and yard.

(16) Sanitation. After each usage, all eating and drinking utensils shall be thoroughly washed and sanitized in hot water containing a suitable soap or synthetic detergent and rinsed in clean hot water. In the event a mechanical dishwasher is used, dishwasher detergent is required.

(17) Solid Sanitation. All garbage and refuse must be kept in watertight, covered containers. The garbage and refuse area must be kept in a clean and sanitary condition. A sufficient number of garbage receptacles must be provided as provided above. All garbage, trash and refuse must be removed from the premises frequently to prevent nuisance and unsightly conditions.

(h) Reporting and Investigation of Injuries, Incidents and Unusual Accidents and the Establishment of Other Policies and Procedures to Ensure Resident Health and Safety.

(1) Policies. Each owner/operator of a facility must develop and implement policies and procedures for investigating and documenting injuries, incidents and unusual accidents that involve residents. Owners/operators must also establish policies and procedures necessary to ensure resident health and safety.

(i) Minimum requirements for the documentation of injuries, incidents or unusual accidents should include, but are not limited to:

- (A) date and time of the injury, incident or unusual accident occurred;
- (B) description of the injury, incident or unusual accident;
- (C) description of any medical or mental health treatment the resident received;
- (D) steps taken by the owner/operator to prevent future injuries, incidents or unusual accidents if a problem at the facility resulted in the injury, incident or unusual accident; and
- (E) when the resident's legal guardian or legally authorized representative was notified about the injury, incident or unusual accident.

(ii) Residents, the resident's guardian, or legally authorized representatives should be given access to the inspection records as described in (h)(1)(i) within 48 hours of requesting the records from the owner/operator.

(2) Investigation and Documentation. In addition to investigating and documenting injuries, incidents or unusual accidents, an owner/operator must report any allegations of abuse, neglect or exploitation of an adult age 65 or older or an adult with a disability to the Texas Department of Family and Protective Services. Failure to report suspected abuse, neglect or exploitation of an elderly adult or adult with a disability is a Class A misdemeanor.

(i) Each owner/operator should ensure that each resident has access to a telephone 24 hours per day that is easily accessible and affords privacy for use by each resident;

(ii) The owner/operator shall ensure that no resident is harassed, retaliated against, threatened or intimidated at any time for making a report of abuse, neglect or exploitation;

(iii) Owner/operators will provide each resident with a copy of the definitions of abuse, neglect or exploitation as outlined in Chapter 48 of the Human Resources Code; and

(iv) Owner/operators will allow law enforcement personnel, emergency medical and fire personnel access to the facility when these professionals are responding to a call at the owner/operator's facility.

(3) Financial Conflicts. No operator or other employee of a facility shall provide services or engage in behavior that constitutes a financial conflict of interest including:

- (i) borrowing from or loaning money to residents;
- (ii) witnessing wills in which the operator or employee is a beneficiary;
- (iii) co-mingling the resident's funds with the operator's or other residents' funds; and

(iv) becoming the guardian, conservator or power of attorney for a resident.

(4) Payee Relationships. If an owner/operator becomes the representative payee for a resident or assists a resident with general money management, the owner/operator shall:

(i) maintain separate financial records for each resident for which the owner/operator is the representative payee for the entire period of time the owner/operator is the resident's representative payee and continue to maintain the resident's records for one year past the last calendar day the owner/operator is the resident's representative payee;

(ii) include in the records an itemized list of expenditures that the owner/operator has made on behalf of the resident, including the charges that are assessed by the owner/operator;

(iii) maintain receipts for all expenditures in addition to the itemized documentation;

(iv) develop a budget with the resident outlining routine expenditures and ensure that expenditures that are not routine are discussed with the resident before the resident's funds are expended; and

(v) the owner/operator will allow the resident, the resident's guardian, or legally authorized representative access to the resident's financial records that are maintained by the owner/operator within 48 hours of receiving a request.

(5) Service Agreement. An owner/operator of a facility shall develop a service agreement with each resident and maintain a copy of the agreement signed by the resident.

(i) Assistance with Self-Administration of Medication.

(1) Assistance with Medications. Assistance with self-administration of medication may be provided to adult residents who can identify their medication and know when their medication should be taken but require assistance with self-administration. Assistance with self-administration of medication may not be provided to minors.

(2) Limitations. Assistance with self-administration of medication is limited to:

(i) reminding the resident to take medication;

(ii) opening a container, removing medication from a container, and placing medication in a resident's hand or in/on a clean surface, such as a pill cup or medication reminder box, for the resident's self-administration; and

(iii) reminding the resident when a prescription needs to be refilled.

This Paragraph shall not limit a person duly delegated by a physician under the authority of Section 157.001(a)(1) of the Texas Occupation Code to act for such physician.

(3) Medication Storage. All medications must be stored in a locked area. The facility must provide a central locked storage or individual locked storage areas for each resident's medication.

(i) If the facility uses a central medication storage area, an employee must be available to provide access at all times and each resident's medication must be stored separately from other residents' medications within the storage area.

(ii) If a resident's medication requires refrigeration, the facility must provide a refrigerator with a designated and locked storage area or a refrigerator inside a locked medication room.

(iii) Medications labeled for "external use only" must be stored separately within the locked area.

(iv) Poisonous substances must be labeled, stored safely, and stored separately from medications within a locked area.

(v) If a facility stores controlled drugs, the facility must adopt and enforce a written policy for preventing the diversion of the controlled drugs.

(4) Medication Disposal. Medication that remains in the facility after a resident is no longer lodging in the facility must be properly disposed of by the owner or operator in accordance with applicable County or municipality requirements, if any.

(j) In-service Education of Facility's Staff.

(1) Initial Training. Except as to a facility licensed for two or less residents, each owner/operator and employee is subject to the following initial training requirements prior to contact with residents:

(i) establishing employer rules and policies;

(ii) recognizing and reporting abuse, neglect and exploitation;

(iii) establishing resident's rights, including all applicable rights from

the following:

Elderly;

Disabilities;

and

(A) Texas Human Resource Code, Chapter 102, Rights of the

(B) Texas Human Resource Code, Chapter 112, Developmental

(C) Texas Property Code, Chapter 301, Fair Housing Practices;

(D) Texas Property Code, Chapter 92, Residential Tenancies.

(i) establishing policies and procedures for contacting emergency personnel when a resident's health or safety is at risk;

(ii) establishing a complaint process specific to the City and facility;

- medication;
- unusual accidents;
- limited to:
  - (iii) establishing assistance procedures for the self-administration of
  - (iv) establishing policies for the prevention of injuries, incidents and
  - (v) establishing an emergency, evacuation and disaster plan; and
  - (vi) establishing service specific orientation that includes, but is not
    - (A) nutrition, including meal preparation and dietary needs;
    - (B) sanitation;
    - (C) laundry; and
    - (D) housework.

(2) On-Going Training. Each owner/operator and employee is subject to the following ongoing training requirements:

- (i) Updates and changes in any policies and procedures within 10 days of the owner, operator or employee becoming aware of the change;
- (ii) Orientation specific to the needs of each new resident within one day of the resident moving into the facility; and
- (iii) Orientation specific to the needs of a resident whose needs have changed due to injury, illness, hospitalization or other circumstances which affect the resident's needs within one day of the owner, operator, or employee becoming aware of the change.

(3) Initial Training for Existing Facilities. For any existing facility licensed for more than two residents, its owner/operator shall complete the requirements of this Subsection not later than 90-days following the date that the City Fire Chief provides notice that this Section has been adopted by the City Council. If initial training has not been completed within such period, the City Fire Marshall shall issue a Formal Denial of such permit.

(k) Criminal Background History Checks

(1) Criminal Offenses. A facility owner/operator's license to operate a facility administered under this Section may be denied, revoked, suspended, or denied for renewal if the owner/operator has been convicted of a criminal offense listed in Paragraphs (3) or (4) of this Subsection, or if the owner/operator has in its employ any person convicted of a criminal offense listed in Paragraphs (3) or (4) of this Subsection.

(2) Criminal Background Release. The owner/operator must complete any state or federal request and release forms that are required to obtain a criminal history report for the owner/operator. In addition to the license fee, the owner/operator will provide funding to the City in a manner specified by the City to cover any fees imposed by state or federal agencies for the report.

(3) Disqualifying Offenses. The following histories will disqualify an owner/operator from obtaining a license to operate a facility administered under this Section or will serve as a bar to being employed by such a facility:

(i) an offense under Chapter 19, Penal Code (criminal homicide);  
 (ii) an offense under Chapter 20, Penal Code (kidnapping and unlawful restraint);  
 (iii) an offense under Section 21.02, Penal Code (continuous sexual abuse of young child or children), or Section 21.11, Penal Code (indecenty with a child);  
 (iv) an offense under Section 22.011, Penal Code (sexual assault);  
 (v) an offense under Section 22.02, Penal Code (aggravated assault);  
 (vi) an offense under Section 22.04, Penal Code (injury to a child, elderly individual, or disabled individual);  
 (vii) an offense under Section 22.041, Penal Code (abandoning or endangering child);  
 (viii) an offense under Section 22.08, Penal Code (aiding suicide);  
 (ix) an offense under Section 25.031, Penal Code (agreement to abduct from custody);  
 (x) an offense under Section 25.08, Penal Code (sale or purchase of a child);  
 (xi) an offense under Section 28.02, Penal Code (arson);  
 (xii) an offense under Section 29.02, Penal Code (robbery);  
 (xiii) an offense under Section 29.03, Penal Code (aggravated robbery);  
 (xiv) an offense under Section 21.08, Penal Code (indecent exposure);  
 (xv) an offense under Section 21.12, Penal Code (improper relationship between educator and student);  
 (xvi) an offense under Section 21.15, Penal Code (improper photography or visual recording);  
 (xvii) an offense under Section 22.05, Penal Code (deadly conduct);  
 (xviii) an offense under Section 22.021, Penal Code (aggravated sexual assault);  
 (xix) an offense under Section 22.07, Penal Code (terroristic threat);  
 (xx) an offense under Section 33.021, Penal Code (online solicitation of a minor);  
 (xxi) an offense under Section 34.02, Penal Code (money laundering);  
 (xxii) an offense under Section 35A.02, Penal Code (Medicaid fraud);  
 (xxiii) an offense under Section 42.09, Penal Code (cruelty to animals);  
 (xxiv) an offense under Section 30.02, Penal Code (burglary);  
 (xxv) an offense under Chapter 31, Penal Code (theft), that is punishable as a felony;  
 (xxvi) an offense under Chapter 481, Health & Safety Code (controlled substance act); or  
 (xxvii) a conviction under the laws of another state, federal law, or the Uniform Code of Military Justice for an offense containing elements that are substantially similar to the elements of an offense listed in this subsection.

(4) Direct Resident Contact. A person may not own a facility administered under this Section or be employed in a position the duties of which involve direct contact with a

resident in such a facility before the fifth anniversary of the date the person is convicted of any felony offense not listed in 20.03 or any of the following non-felony offenses:

- (i) an offense under Section 22.01, Penal Code (assault), that is punishable as a Class A misdemeanor;
- (ii) an offense under Section 32.45, Penal Code (misapplication of fiduciary property or property of a financial institution), that is punishable as a Class A misdemeanor;
- (iii) an offense under Section 32.46, Penal Code (securing execution of a document by deception), that is punishable as a Class A misdemeanor;
- (iv) an offense under Section 37.12, Penal Code (false identification as peace officer);
- (v) an offense under Section 42.01(a)(7), (8), or (9), Penal Code (disorderly conduct); or
- (vi) a conviction under the laws of another state, federal law, or the Uniform Code of Military Justice for an offense containing elements that are substantially similar to the elements of an offense listed in this subsection.

(5) **Owner Responsibility.** The owner/operator must ensure that all employees, including volunteers who are not residents, have had a background check of conviction records, pending charges and disciplinary board decisions completed within the past two years, and is repeated every year thereafter, and that the individual is not disqualified under the provisions of Paragraphs (3) or (4) of this Subsection. The owner/operator will immediately discharge any employee or volunteer whose criminal history check reveals conviction of a crime that bars employment or volunteer service.

(1) **Limitation on City Regulation.** Nothing in this Section shall be construed as attempting to regulate or affect the right of disabled individuals to purchase their own housing for single-family residences or to affect the right of individuals to care for disabled family members.

### **Sec. 16-103. Penalties for Violations.**

Any person, landowner, building owner or occupant and any architect, building contractor, agent, attorney, person, firm, or corporation employed in connection therewith and who have/has assisted in the commission of such violation or who shall build, alter, or occupy any building, structure or land in violation of any portion of this Chapter or who shall violate any statement of or plan submitted and approved under this Article shall be a class C misdemeanor and shall be punishable by a fine not exceeding \$2,000.00.

## **II CUMULATIVE CLAUSE**

That this Ordinance shall be cumulative of all provisions of the Town of Hollywood Park, Texas, except where the provisions of this Ordinance are in direct conflict with the

provisions of such Ordinance, in which event the conflicting provisions of such Ordinance are hereby repealed.

**III  
SEVERABILITY**

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

**IV  
PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government

**V  
EFFECTIVE DATE**

This ordinance shall be effective upon passage and publication as required by State and Local law.

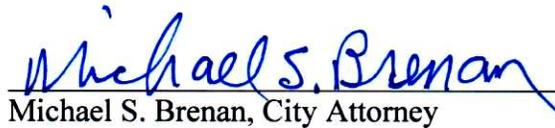
**PASSED, APPROVED and ADOPTED** by the City Council of Hollywood Park, Texas, on this 17<sup>th</sup> day of November, 2015.

  
\_\_\_\_\_  
Chris Fails, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Janice Alamia, City Secretary

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Michael S. Brennan, City Attorney