

**EDITED  
VERSION**

## § 156.065 COMMUNITY HOMES FOR PERSONS WITH DISABILITIES.

- (A) ~~General.~~ As the City's zoning regulations must comply with the Community Homes for Persons With Disabilities Act of the State of Texas, ~~Federal Fair Housing Act, being 42 U.S.C. §§ 3601 et seq., and state laws prohibiting discrimination of the handicapped and elderly,~~ this section clarifies what the City, by law, must allow. ~~and addresses the federal and state restrictions in place.~~
- (B) Definition: In this chapter, "person with a disability" means a person whose ability to care for himself or herself, 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) an intellectual disability;
  - (12) autism; or
  - (13) mental illness.

(C) Definition. ~~Personal Care Facility~~ means a facility that provides supervised living arrangements for persons with physical or mental disability, which by reason of federal or state law, is not subject to limitations set forth in deed restrictions or single family zoning districts.

A community home shall provide the following services to persons with disabilities who reside in the home:

- (1) food and shelter;
- (2) personal guidance;
- (3) care;
- (4) habilitation services; and
- (5) supervision.

To qualify as a community home, an entity must comply with Human Resources Code Sections 123.005 through 123.008 and be:

- (1) a community-based residential home operated by:
  - (A) the Department of Aging and Disability Services;
  - (B) a community center organized under Subchapter A, Chapter 534, Health and Safety Code, that provides services to persons with disabilities;
  - (C) an entity subject to the Texas Nonprofit Corporation Law as described by Section 1.008 , Business HUMAN RESOURCES CODE Statute text rendered on: 9/1/2022 - 738 - Organizations Code; or
  - (D) an entity certified by the Department of Aging and Disability Services as a provider under the ICF-IID medical assistance program; or
- (2) an assisted living facility licensed under Chapter 247, Health and Safety Code, provided that the exterior structure retains compatibility with the surrounding residential dwellings.

- ~~(1) This definition includes a community-based residential home operated by:
 
  - ~~(a) The Texas Health and Human Services Commission;~~
  - ~~(b) A community center operated under Tex. Health and Safety Code Ch. 534, which provides services to disabled persons;~~
  - ~~(c) A non-profit corporation; or~~
  - ~~(d) Any entity certified by the; Texas Health and Human Services Commission as a provider under the intermediate care facilities for the mentally retarded program.~~~~
- ~~(2) This definition includes homes for the handicapped as defined in 42 U.S.C. § 3602(h).~~
- (C) Mandated exceptions. To the extent required by state or federal law, a personal care facility is an additional permitted use in any zoning district; provided that:
  - ~~(1) Homes and residential units not designated and constructed in compliance with the ordinance and code requirements applicable to multiple occupancy residential buildings and nursing homes, shall meet the following requirements:
 
    - ~~(a) The structure shall comply with provisions of the Fire Code, Electrical Code and Building Code that are applicable to nursing homes.~~
    - ~~(b) There shall be two parking spaces, plus one additional space for each three residents.~~
    - ~~(c) There shall be not less than 50 square feet of living space within a sleeping room for each occupant assigned to such room.~~
    - ~~(d) There shall be not less than 175 square feet of living area in the structure for each occupant/resident of the structure, and attendant on duty.~~
    - ~~(e) The structure and operations shall comply with the standards established by the Health and Human Services Commission as licensing standards for personal care facilities for a Type B facility.~~~~
- (D) (1) The home must meet all applicable state licensing requirements;
  - ~~(3) A personal care facility must have at least one paid staff member on duty 24 hours per day, and one supervisor for each six residents during waking hours; and~~
  - (2) Not more than six persons with disabilities and two supervisors may reside in a community home at the same time.
  - (3) The limitation on the number of persons with disabilities applies regardless of the legal relationship of those persons to one another.
  - ~~(4) A personal care facility may not have more than 15 residents.~~
- (E) A Community Home that meets the qualifications under Texas Human Resource Code Chapter 123 is a *use by right* that is authorized in any district zoned as Residential.

(Ord. 00-65N, 6-1-2005; Ord. 19-255, 3-13-2019)