

AN ORDINANCE      2012-12-13-0972

**AMENDING CHAPTER 35, UNIFIED DEVELOPMENT CODE, OF THE CITY CODE OF SAN ANTONIO, TEXAS, BY MAKING SUBSTANTIVE AND MINOR AMENDMENTS; CORRECTING CLERICAL AND FORMATTING ITEMS; CLARIFYING ITEMS; AMENDING DEFINITIONS; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR SEVERANCE.**

\* \* \* \* \*

**WHEREAS**, during the 2009 Texas Legislative Session, an amendment was made to Chapter 254 of the Health and Safety Code to allow local regulation of boarding home facilities by municipalities; and

**WHEREAS**, the City recognizes the right of people with disabilities to have access to independent living; and

**WHEREAS**, the City recognizes the right of people with disabilities to live in an area characterized as a residential community or neighborhood free of discrimination; and

**WHEREAS**, the City recognizes that a reasonable accommodation may be necessary to allow for group living arrangements to make feasible the choice of people with disabilities to have available alternative living arrangements; and

**WHEREAS**, reasonable accommodations may be necessary to afford person(s) with disabilities equal opportunity to use and enjoy a dwelling; and

**WHEREAS**, the City has provided a process for a reasonable accommodation to allow additional residents in a single family home when the increased occupancy will not change the residential character of the dwelling or the neighborhood; and

**WHEREAS**, a public hearing was held after notice and publication regarding these amendments at which time parties in interest and citizens were given an opportunity to be heard by the Zoning Commission on December 4, 2012; and

**WHEREAS**, the Zoning Commission has submitted a final report to the City Council regarding these amendments to the Unified Development Code; **NOW THEREFORE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The City Code of San Antonio, Texas is hereby amended by adding the language that is underlined (added) and deleting the language that is stricken (~~deleted~~) to the existing text as set forth in this Ordinance.

**SECTION 2.** Chapter 35 of the City Code of San Antonio, Texas is hereby amended as follows:

Chapter 35, Article III, Section 35-311, Table 311-1, Table 311-2, and Table 311-2a are amended as follows:

**35-311 Use Regulations**

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<b>TABLE 311-1 RESIDENTIAL USE MATRIX</b>																				
<b>PERMITTED USE</b>	<b>RP</b>	<b>RE</b>	<b>R-20</b>	<b>NP-15</b>	<b>NP-10</b>	<b>NP-8</b>	<b>R-6</b>	<b>RM-6</b>	<b>R-5</b>	<b>RM-5</b>	<b>R-4</b>	<b>RM-4</b>	<b>MF-18</b>	<b>MF-25</b>	<b>MF-33</b>	<b>MF-40</b>	<b>MF-50</b>	<b>ERZD</b>	<b>LCBS FUNCTION</b>	<b>LCBS STRUCTURE</b>
Assisted Living Facility, Boarding Home Facility or Community Home with <del>six (6)</del> <u>five (5)</u> or fewer residents		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	1230	
Assisted Living Facility, Boarding Home Facility or Community Home with <del>seven (7)</del> <u>six (6)</u> or more residents													P	P	P	P	P	P		
Nursing Facility												P	P	P	P	P	P	P	1250	

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<b>TABLE 311-2 NON-RESIDENTIAL USE MATRIX</b>												
<b>PERMITTED USE</b>	<b>O-1 &amp; O-1.5</b>	<b>O-2*</b>	<b>NC</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>D</b>	<b>L</b>	<b>I-1</b>	<b>I-2</b>	<b>ERZD</b>	<b>LCBS (Function)</b>
*****												
Service Assisted Living Facility, Boarding Home Facility or Community Home with no more than sixteen (16) residents			P	P	P	S	P				P	1230
*****												
Service Nursing Facility				P	P	P					P	1250

\* For uses permitted by right (“P) in the “O-2” district, please see 35-310.09 (c)(1)(D).

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**Table 311-2a**

		Urban		Rural		Farm		Mixed Industrial					
<i>PERMITTED USE</i>		UD Major Node	UD Minor Node	RD Major Node	RD Minor Node	FR Ag Commercial	VILLAGE CENTER FR / FR Minor Node	MI - 1	MI-1 Minor Node	VILLAGE CENTER - MI	MI - 2	MI-2 Minor Node	VILLAGE CENTER - M2
Service	Assisted Living Facility, Boarding Home Facility or Community Home with no more than 16 residents	P	P	P	P				P			P	

Chapter 35, Article III, Section 35-358, Table 358-1 is amended as follows:

**35-358. “AE-1”, “AE-2”, “AE-3”, and “AE-4” Arts and Entertainment Districts.**

**(b) Administration.**

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**TABLE 358-1  
ARTS AND ENTERTAINMENT SPECIAL ZONING DISTRICTS USE MATRIX**

		AE-2				
<i>PERMITTED USE</i>		<i>AE-1</i>	<i>Corner</i>	<i>Interior</i>	<i>AE-3</i>	<i>AE-4</i>
Service	Assisted Living Facility, Boarding Home Facility or Community Home with 6 or fewer residents	P	P	P	P	
Service	Assisted Living Facility, Boarding Home Facility or Community Home with 7 to 16 residents	P	P		P	
Service	Nursing Facility	S	S		S	
Service	Skilled-Nursing Facility	S	S		S	

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Chapter 35, Article III, Section 35-376 is amended as follows:

**35-376. Assisted Living Facilities, Boarding Homes and Community Homes.**

- (a) Permitted use. Assisted Living Facilities, Boarding Homes and Community Homes shall be a permitted use pursuant to Sections 35-311 and 35-358. In single-family districts the maximum number of residents, by right, shall be six (6). A request for reasonable accommodation to accomplish the goals and policies of the Fair Housing Act (42 U.S.C. 3601) may be authorized as a

conditional use (“CD”) pursuant to Section 35-422 to allow from seven (7) to no more than sixteen (16) residents. Reasonable accommodation is encouraged where such accommodation may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing.

(b) Compatibility standards in single family zoning districts and mixed residential districts:

1. There shall be no exterior display or sign with the exception that a nameplate, not exceeding one (1) square feet in area, may be permitted when attached to the front of the main structure provided the nameplate is not illuminated and attached flat to the dwelling unit or visible through a window.
2. No exterior construction features shall be permitted which would place the structure out of character with the surrounding residential neighborhood.
3. Front yard impervious cover shall comply with maximum percentages indicated in Section 35-515, Table 515-1.

(c) Permits and licenses required:

1. Current and valid state licenses.
2. A current and valid certificate of occupancy issued by the City of San Antonio.

(d) Residential Conversion. Any residential structure converted into any of the uses in this section will be required to comply with all additional city code standards including but not limited to the building code, electric code or fire code, as applicable, based on the nature of the proposed use and occupancy classification.

~~(a) Community homes are permitted as indicated in the Article III use matrices, subject to compliance with all regulations, licensing and distance requirements of Chapter 123 Community Homes for Disabled Persons Location Act of the Texas Human Resources Code, and as amended, and (if applicable) Chapter 247 Assisted Living Facilities of the Texas Health and Safety Code, and as amended.~~

~~(b) Residents may not keep, on the premises or on the public rights-of-way adjacent to the premises, more than one (1) motor vehicle per bedroom for the use of the residents.~~

Chapter 35, Article V, Section 35-526, Table 526-3a and Table 526-3b are amended as follows:

**35-526 Parking & Loading Standards**

**(b) Table of Off-Street Parking Requirements**

**TABLE 526-3a  
Parking in Residential Use Districts**

<i>PERMITTED USE</i>	<i>Minimum Vehicle Spaces</i>	<i>Maximum Vehicle Spaces</i>
ASSISTED LIVING, BOARDING HOME, OR COMMUNITY HOME WITH 6 OR	0.3 per resident room	1 per resident room

<i>PERMITTED USE</i>	<i>Minimum Vehicle Spaces</i>	<i>Maximum Vehicle Spaces</i>
FEWER RESIDENTS OR ELDERLY HOME		
ASSISTED LIVING, BOARDING HOME, OR COMMUNITY HOME WITH 7 OR MORE RESIDENTS	0.3 per resident plus 1 space for each employee	1 per resident plus 1 space for each employee
FAMILY HOME	1 per 250 sf GFA	1 per 200 sf GFA
ROOMING HOUSE	0.3 per room	1 per room

**TABLE 526-3b  
Parking in Nonresidential Use Districts**

	<i>PERMITTED USE</i>	<i>Minimum Vehicle Spaces</i>	<i>Maximum Vehicle Spaces</i>
HOUSING	HOUSING – BOARDING HOUSE	1 per guest room plus 2 spaces for owners section	N/A
SERVICE	ASSISTED LIVING FACILITY, BOARDING HOME FACILITY, OR COMMUNITY HOME WITH NO MORE THAN 16 RESIDENTS	0.3 spaces per bed plus 1 space for each employee	1 per bed plus 1 space for each employee
SERVICE	ROOMING HOUSE	1 per guest room plus 2 spaces for owners section	N/A

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Chapter 35, Appendix A, (b) Definitions is amended as follows:

**35-A101. Definitions and Rules of Interpretation**

**(b) Definitions.**

Words with specific defined meanings are as follows:

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**Assisted living facility.** An establishment that furnishes, in one or more buildings, food and shelter to four or more persons who are unrelated to the proprietor of the establishment; provides personal care services, as defined by Chapter 247 Assisted Living Facility Licensing Act of the Texas Health and Safety Code, or administration of medication by a person licensed or otherwise authorized in the state of Texas to administer the medication; and may provide assistance with or supervision of the administration of medication. The assisted living facility shall be licensed by the State of Texas under Chapter 247 Assisted Living Facility Licensing Act of the Texas Health and Safety Code, and as amended, and shall comply with Chapter 123 Community Homes for Disabled Persons Location Act of the Texas Human Resources Code. By definition, an unlicensed facility is not considered an assisted living facility. See also definition for community home for assisted living facilities with 6 or fewer residents. See also § 35-376.

**Boarding home facility.** 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, as defined by Chapter 247 Assisted Living Facility Licensing Act of the Texas Health and Safety Code, to those persons. ~~Boarding home facilities shall comply with Chapter 254 Boarding Home Facilities of the Texas Health and Safety Code.~~ See also § 35-376.

**Community home.** A facility which complies with Chapter 123 Community Homes for Disabled Persons Location Act of the Texas Human Resources Code, and as amended; and which is:

- A community-based residential home operated by: ~~(1)~~ the Texas Department of Mental Health and Mental Retardation; (2) a community center organized under Subchapter A, chapter 534, Health and Safety Code, that provides services to persons with disabilities; (3) an entity subject to the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes); or (4) an entity certified by the Texas Department of Human Services as a provider under the medical assistance program serving persons in intermediate care facilities for persons with mental retardation; or
- An assisted living facility with six or fewer residents licensed under Chapter 247 of the Texas Health and Safety Code, provided that the exterior structure retains compatibility with the surrounding residential dwellings. By definition an unlicensed facility is not considered an assisted living facility.

See also § 35-376.

**Family.** One (1) or more persons occupying a dwelling living together as a separate housekeeping unit in one (1) or more rooms with complete living facilities, including kitchen facilities or equipment for cooking or provisions for the same, and including room or rooms for living, sleeping, bathing and eating. The term family expressly excludes residents of an assisted living facility, boarding home, community home, college fraternity or sorority, transitional home, or nursing facility as defined.

**Group home.** See assisted living facility, boarding home or community home as applicable. See also § 35-376.

**Nursing facility.**

- (a). A facility which furnishes food and shelter to four or more persons who are unrelated to the proprietor of the establishment; and provides minor treatment under the direction and supervision of a physician licensed by the Texas State Board of Medical Examiners, or other services that meet some need beyond the basic provision of food, shelter, and laundry; and which complies with Chapter 242 Convalescent and Nursing Homes and Related Institutions of the Texas

Health and Safety Code, and as amended. Nursing facilities include skilled nursing facilities which are defined by the United States Social Security Act Sec. 1819. 42 U.S.C. 1395i-3.

(b). Other congregated living facilities not defined in this Chapter that provide residential accommodations with health care, supervision and/or other personal services including convalescent facilities for individuals who may not require hospitalization such as extended care facilities or hospice care facilities.

**SECTION 3.** All other provisions of Chapter 35 of the City Code of San Antonio, Texas shall remain in full force and effect unless expressly amended by this ordinance.

**SECTION 4.** Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this ordinance, for any reason be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

**SECTION 5.** The City Clerk is directed to publish notice of this Ordinance in accordance with Section 17 of the Charter of the City of San Antonio.

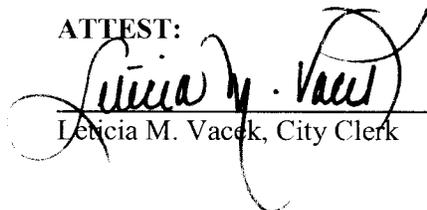
**SECTION 6.** The publishers of the City Code of San Antonio, Texas are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to index, format and number paragraphs to conform to the existing code.

**SECTION 7.** This ordinance shall become effective March 1, 2013.

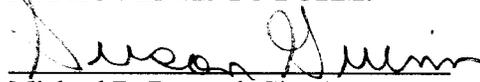
**PASSED AND APPROVED** this 13<sup>th</sup> day of December, 2012.

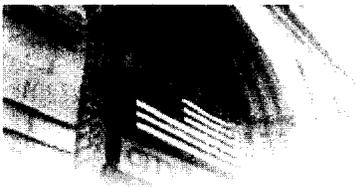
  
M A Y O R  
Julián Castro

ATTEST:

  
Leticia M. Vaccaro, City Clerk

APPROVED AS TO FORM:

  
Michael D. Bernard, City Attorney  
for



Request for  
**COUNCIL**  
 ACTION

City of San Antonio



## Agenda Voting Results - 9B

<b>Name:</b>	9A, 9B, 9C						
<b>Date:</b>	12/13/2012						
<b>Time:</b>	02:57:46 PM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance amending Chapter 35, Unified Development Code of the City Code of San Antonio, Texas by adopting new provisions and definitions for boarding homes and related facilities.						
<b>Result:</b>	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x			x	
Ivy R. Taylor	District 2		x				
Leticia Ozuna	District 3		x				
Rey Saldaña	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				x
Cris Medina	District 7	x					
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
Carlton Soules	District 10		x				