

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: City Development Department

AGENDA DATE: Introduction: August 19, 2014
Public Hearing: September 9, 2014

CONTACT PERSON/PHONE: Mathew McElroy, (915) 212-1550,
McElroyMX@elpasotexas.gov

DISTRICT(S) AFFECTED: All Districts

SUBJECT:

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, homeless shelter, lodging house and victims shelter; Chapter 20.08 (Appendix A), Table of Permissible Uses, Sections 3 and 13 – to delete transitional housing, boardinghouse, and rooming house, to allow homeless shelter by special permit in certain commercial and manufacturing districts, to allow victims shelter by right in all apartment and commercial 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 other special purpose districts and by master zoning plan in the residential mixed used 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, by right in apartment, commercial, and certain special purpose districts, by detailed site plan in certain other 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, 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 homeless shelter, victims 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.

BACKGROUND/DISCUSSION:

On June of 2013, the City Council directed staff to revise the distance requirements from schools as they relate to the transitional living facility in Title 20 (Zoning) of the El Paso City Code. In order to achieve this, Title 20 (Zoning) is being amended to delete unnecessary uses, definitions and related code sections and standards, and add or revise uses, definitions, standards and distance requirements as required as they relate to group housing and personal care services. Additionally, the table of permissible uses is being amended to permit the uses in various zoning districts.

PRIOR COUNCIL ACTION:

On July 29, 2014, the City Council approved Ordinance #018218 to amend the definition of transitional housing, to add the definition for Halfway House, and to add standards and regulations for Halfway House in various sections of Title 20 (Zoning) of the El Paso City Code.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

City Plan Commission (CPC) – Recommended Approval (5-3).

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required)

FINANCE: (if required)

DEPARTMENT HEAD: Mathew S. McElroy
City Development Director



APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

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, HOMELESS SHELTER, LODGING HOUSE AND EMERGENCY SHELTER; CHAPTER 20.08 (APPENDIX A), TABLE OF PERMISSIBLE USES, SECTIONS 3 AND 13 - TO DELETE TRANSITIONAL HOUSING, BOARDINGHOUSE, AND ROOMING HOUSE, TO ALLOW HOMELESS SHELTER BY SPECIAL PERMIT IN CERTAIN COMMERCIAL AND MANUFACTURING DISTRICTS, TO ALLOW EMERGENCY SHELTER BY RIGHT IN ALL APARTMENT AND COMMERCIAL 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 OTHER 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, BY RIGHT IN APARTMENT, COMMERCIAL, AND CERTAIN SPECIAL PURPOSE DISTRICTS, BY DETAILED SITE PLAN IN CERTAIN OTHER 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, 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 HOMELESS SHELTER, EMERGENCY 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.

20.02.337 “Emergency Shelter” means a facility that provides temporary housing and appropriate supportive services to more than five persons, exclusive of the support staff, whom have been victims of a crime, and are seeking shelter on an emergency basis. The persons seeking shelter could for example, be victims of domestic violence, sexual assault, or human trafficking

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 lodging, meals, or lodging and meals, on a temporary basis to more than four persons, who are homeless, and are not related by

blood, marriage, or adoption to the head of the household or the owner or operator of the facility; whether or not the facility is operated for profit or charges for the services it offers.

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 Emergency Shelter shall only be permitted by right in the following districts: all of the Apartment Districts A-1, A-2, A-3, A-4, A-O A-3/O, A-M; and in the Commercial Districts C-OP, C-1, C-2, C-3, C-4, C-5; prohibited in all other districts, and by adding Sections 20.10.010 and 20.10.020 to the Supplemental Standards column.

3.126 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.

3.1265 Homeless Shelters shall only be permitted by special permit in the following districts: C-3, 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, by right in the following districts: all Apartment Districts 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:

Renumber 3.28 Youth Organization (with/without living facility) to 3.29

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 special permit in the following districts: R-1, R-2, R-3, R-4 and R-5, RMH, and by right in the following districts 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.

20.10.275 Homeless Shelter

- A. Special permits issued for a homeless shelter shall expire without any further action by the City Council when: the use for which the permit was issued changes to another use; the facility ceases to operate for one hundred twenty days or more; the facility has a change in ownership; or the occupancy changes.
- B. An application for this shelter shall include an operational plan of the homeless shelter. The operational plan shall provide a description of the intended use and sufficient details to adequately describe the intended operations of the center.
- C. The operational plan may include the following:
1. An organizational tree including an estimated total number of professional staff and volunteers that will work at the shelter;
 2. The estimated number of beds to be provided;
 3. The estimated average population per month;
 4. A description of the services to be provided, such as job placement, drug and alcohol treatment, and other rehabilitative or training services;
 5. A description of the population expected to be served, for example women, women and children, single men, families, etc.;
 6. Expected length of stay per person;

7. Any other information the applicant believes could be helpful to explain the operation and compatibility of the proposed shelter with the proposed location.
- D. A homeless shelter may not be permitted within one thousand (1,000) feet of another homeless shelter or halfway house.
- E. Measurements of distance under this section 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.
- F. 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	Emergency Shelter	None	None	None	None	Allowed	2H
3.126	Halfway House	NOTE 1	NOTE 1	None	None	Not Allowed	2A, B
3.1265	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	N/A	Note 3	None	Not Allowed	2H

		facility, plus one additional space for each resident over 5 persons					
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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.

MEMORANDUM

DATE: September 3, 2014

TO: The Honorable Mayor and City Council
Tommy Gonzales, City Manager

FROM: Alex Hoffman, Lead Planner

SUBJECT: Zoning Ordinance Amendment

The City Plan Commission recommended approval (5-3) on August 28, 2014. Additionally, the three members who voted against the proposed ordinance requested a minority report be drafted to reflect provisions of the ordinance they wish to see amended or deleted.

During the public comment portion of the public hearing, two people spoke in favor of the proposed ordinance, while one individual spoke against. The main focus of the speakers related to the locational criteria of homeless shelters.

Attachments: Proposed Ordinance
Minority Report (Exhibit A)
Letter to City Plan Commission (Exhibit B)

ORDINANCE NO. _____

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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, lodging houses, and emergency 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;

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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~~, no more than six (6) persons with disabilities and ~~two (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. This use does not include a homeless shelter or halfway house as defined in this Title.

20.02.337 “Emergency Shelter” means a facility that provides temporary housing and appropriate supportive services to more than five persons, exclusive of the support staff, whom have been victims of a crime, and are seeking shelter on an emergency basis. The persons seeking shelter could for example, be victims of domestic violence, sexual assault, or human trafficking. This use does not include a homeless shelter or halfway house as defined in this Title.

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 ~~a homeless shelter, or halfway house, or other uses specifically as~~ 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 lodging, meals, or lodging and meals, on a temporary basis to more than ~~four~~ five persons, who are homeless, and are not related by blood, marriage, or adoption to the head of the household or the owner or operator of the facility; whether or not the facility is operated for profit or charges for the services it offers.

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 Emergency Shelter shall only be permitted by right in the following districts: all of the Apartment Districts A-1, A-2, A-3, A-4, A-O A-3/O, A-M; and in the Commercial Districts C-OP, C-1, C-2, C-3, C-4, C-5; prohibited in all other districts, and by adding Sections 20.10.010 and 20.10.020 to the Supplemental Standards column.

~~3.126 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.~~

3.1265 Homeless Shelters shall only be permitted by special permit in the following districts: C-3, 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, by right in the following districts: all Apartment Districts 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:

~~Renumber 3.28 Youth Organization (with/without living facility) to 3.29~~

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):

Replace Amend the following Sections in its entirety:

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~~ may request an exception to the distance requirement from City Council. Chapter 20.4004 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 special permit in the following districts: R-1, R-2, R-3, R-4 and R-5, RMH, and in Special Purpose Districts R-F; and by right in the following districts 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~~ may 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.

20.10.275 Homeless Shelter

- A. Special permits issued for a homeless shelter shall expire without any further action by the City Council when: the use for which the permit was issued changes to another use; the facility ceases to operate for one hundred twenty days or more; the facility has a change in ownership; or the occupancy changes.
- B. An application for this shelter shall include an operational plan of the homeless shelter. The operational plan shall provide a description of the intended use and sufficient details to adequately describe the intended operations of the center.
- C. The operational plan may include the following:
 - 1. An organizational tree including an estimated total number of professional staff and volunteers that will work at the shelter;
 - 2. The estimated number of beds to be provided;
 - 3. The estimated average population per month;

4. A description of the services to be provided, such as job placement, drug and alcohol treatment, and other rehabilitative or training services;
 5. A description of the population expected to be served, for example women, women and children, single men, families, etc.;
 6. Expected length of stay per person;
 7. Any other information the applicant believes could be helpful to explain the operation and compatibility of the proposed shelter with the proposed location.
- D. A homeless shelter may not be permitted within one thousand (1,000) feet of another homeless shelter or halfway house.
- E. Measurements of distance under this section 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.
- F. 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	Emergency Shelter	None	None	None	None	Allowed	2H
3.126	Halfway House	NOTE 1	NOTE 1	None	None	Not Allowed	2A, B
3.1265	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	Note 3	None	Not Allowed	2H

			bedroom				
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.



City Development Department

MEMORANDUM

TO: Mayor and Council
FROM: City Plan Commission
DATE: September 3, 2014
RE: Minority Report for Transitional Housing Ordinance

On August 28, 2014, during the regular meeting of the City Plan Commission (CPC), the commission voted, 5 to 3, to approve the proposed ordinance amending Title 20—Transitional Housing. Voting to approve were Commissioners Loweree, Brannon, Grambling, Erickson, and Amoriello. Voting to deny included Commissioners Wright, Landeros, and Madrid.

The CPC policies provide the opportunity, for those voting in the minority, to provide a minority report to the Mayor and Council. This minority report is presented to you in an effort to provide you additional information as you make a decision on the proposed ordinance amending Title 20 Transitional Housing.

Specifically, those voting in the minority would like for the City Council to consider the following:

- Consider having various subcategories of homeless populations. Some examples can include homeless shelters that serve 1. women/children, 2. women, 3. elderly or the disabled, 4. single men, and 5. substance abuse clients. Understanding that these populations have various and different needs, it was the opinion of the minority of the CPC, that it would be helpful to integrate some of these populations into areas of the city that can offer residential opportunities, retail services, and easier access to social services.
- To allow some homeless shelters (women and children populations) to exist by right in some residential areas such as apartment or mixed-use zoning districts and use the operational plans to be submitted as a guiding document to determine whether or not one would qualify in residential areas.
- To delete section 20.10175 B. An on-site resident staff person must be present at all times, whenever, any residents of the facility are present.

Mayor
Oscar Leeser

City Council

District 1
Ann Morgan Lilly

District 2
Larry Romero

District 3
Emma Acosta

District 4
Carl L. Robinson

District 5
Dr. Michiel R. Noe

District 6
Claudia Ordaz

District 7
Lily Limón

District 8
Cortney C. Niland

City Manager
Tommy Gonzalez





City Development Department

Mayor
Oscar Leeser

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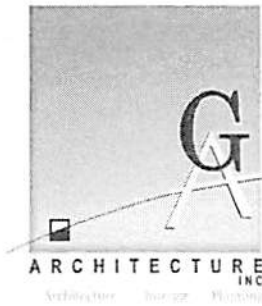
City Manager
Tommy Gonzalez

MEMORANDUM
PAGE 2

- To clarify the spacing and location requirement of having these establishments be 1,000 feet from each other.

We thank you in advance for our consideration.





25 August 2014

Mayor Oscar Leeser
City of El Paso
City Hall
300 N. Campbell
El Paso, Texas 79901

RE: CITY ORDINANCE #018218

Dear Mayor Leeser and Members of City Council:

I am aware that the Rescue Mission is opting to relocate their long-term shelter to 900 Wyoming Ave. This location is around a day care center, school, public park, residential district as well as business offices such as mine.

It is my understanding that the City will be revisiting City Ordinance #018218 where it initially required halfway houses and homeless shelters to be no closer than 1,000 feet of a church, school private or public, nursery schools, daycares, public parks and boundary of any residential district. However, the new ordinance now only restricts shelters to certain commercial and industrial zoning districts.

I ask that you revisit this ordinance taking into consideration that amending this ordinance will only hide the fact that a day care center, school, public park, business and residential district are still around the proposed location for this shelter. I have confidence that City Council can work on finding a better solution or alternate location for this shelter in an area where you can still accommodate this need to better serve and meet the needs of this community.

Respectfully,

GA ARCHITECTURE, INC.

Gerardo Gutierrez, AIA
President

GG/jec
G:\14 10.000\Letters\082514L

CONTACT US

GA ARCHITECTURE, INC.
1000 EAST YANDELL DRIVE
EL PASO, TEXAS 79902

P: 915.313.9091
F: 915.313.9092
gerry@gaarchs.com

cc: Ann Morgan Lilly, District 1
Larry E. Romero, District 2
Emma Acosta, District 3
Carl L. Robinson, District 4
Dr. Michiel Noe, District 5
Claudia Ordaz, District 6
Lily Limón, District 7
Courtney Niland, District 8
Tommy Gonzalez, City Manager

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, HOMELESS SHELTER, LODGING HOUSE AND EMERGENCY SHELTER; CHAPTER 20.08 (APPENDIX A), TABLE OF PERMISSIBLE USES, SECTIONS 3 AND 13 - TO DELETE TRANSITIONAL HOUSING, BOARDINGHOUSE, AND ROOMING HOUSE, TO ALLOW HOMELESS SHELTER BY SPECIAL PERMIT IN CERTAIN COMMERCIAL AND MANUFACTURING DISTRICTS, TO ALLOW EMERGENCY SHELTER BY RIGHT IN ALL APARTMENT AND COMMERCIAL 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 OTHER 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, BY RIGHT IN APARTMENT, COMMERCIAL, AND CERTAIN SPECIAL PURPOSE DISTRICTS, BY DETAILED SITE PLAN IN CERTAIN OTHER 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, 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 HOMELESS SHELTER, EMERGENCY 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, lodging houses, and emergency 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. This use does not include a homeless shelter or halfway house as defined in this Title.

20.02.337 “Emergency Shelter” means a facility that provides temporary housing and appropriate supportive services to more than five persons, exclusive of the support staff, whom have been victims of a crime, and are seeking shelter on an emergency basis. The persons seeking shelter could for example, be victims of domestic violence, sexual assault, or human trafficking. This use does not include a homeless shelter or halfway house as defined in this Title.

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 a homeless shelter; or halfway house; ~~or other uses specifically as~~ 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 lodging, meals, or lodging and meals, on a temporary basis to more than four persons, who are homeless, and are not related by blood, marriage, or adoption to the head of the household or the owner or operator of the facility; whether or not the facility is operated for profit or charges for the services it offers.~~

20.02.455 “Homeless Shelter” means a lodging facility that provides lodging with or without meals, or lodging and meals, on a temporary basis to more than five persons, who are homeless, and are not related by blood, marriage, or adoption to the head of the household or the owner or operator of the facility whether or not the facility is operated for profit or charges for the services it offers.

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 Emergency Shelter shall only be permitted by right in the following districts: all of the Apartment Districts A-1, A-2, A-3, A-4, A-O A-3/O, A-M; and in the Commercial Districts C-OP, C-1, C-2, C-3, C-4, C-5; prohibited in all other districts, and by adding Sections 20.10.010 and 20.10.020 to the Supplemental Standards column.

~~3.126 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.~~

3.1265 Homeless Shelters shall only be permitted by special permit in the following districts: C-3, 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, by right in the following districts: all Apartment Districts 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:

~~Renumber 3.28 Youth Organization (with/without living facility) to 3.29~~

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):

~~Replace Amend~~ the following Sections in its entirety:

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~~ may 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 special permit in the following

districts: R-1, R-2, R-3, R-4 and R-5, RMH, ~~and in Special Purpose Districts R-F~~; and by right in the following districts 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~~ **may** 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.

20.10.275 Homeless Shelter

- A. Special permits issued for a homeless shelter shall expire without any further action by the City Council when: the use for which the permit was issued changes to another use; the facility ceases to operate for one hundred twenty days or more; ~~the facility has a change in ownership~~; or the occupancy changes.
- B. An application for this shelter shall include an operational plan of the homeless shelter. The operational plan shall provide a description of the intended use and sufficient details to adequately describe the intended operations of the center.
- C. The operational plan may include the following:

1. An organizational tree including an estimated total number of professional staff and volunteers that will work at the shelter;
 2. The estimated number of beds to be provided;
 3. The estimated average population per month;
 4. A description of the services to be provided, such as job placement, drug and alcohol treatment, and other rehabilitative or training services;
 5. A description of the population expected to be served, for example women, women and children, single men, families, etc.;
 6. Expected length of stay per person;
 7. Any other information the applicant believes could be helpful to explain the operation and compatibility of the proposed shelter with the proposed location.
- D. A homeless shelter may not be permitted within one thousand (1,000) feet of another homeless shelter or halfway house.
- E. Measurements of distance under this section 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.
- F. 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.
- G. Nuisance. The Homeless Shelter may be considered a public nuisance if any of the following occurs:
- a. More than two (2) police disturbance calls are recorded within a thirty-day period involving residents housed at any single Homeless Shelter.
 - b. A code violation that is not brought into compliance within thirty (30) days of receiving notice; or
 - c. More than five (5) nuisance complaints from adjoining property owners are received and validated by the police department within a six-month period. If the City Manager or designee determines that any of the three (3) provisions occur, s/he shall request that the city attorney take court action to abate the nuisance where appropriate under law.

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	Emergency Shelter	None	None	None	None	Allowed	2H
3.126	Halfway House	NOTE 1	NOTE 1	None	None	Not Allowed	2A, B
3.1265	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 Leaser, 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.