

Group Living Facilities – Definitions

I. City Zoning Ordinance Definitions

The following uses are permitted in residential districts

Day Care.

Facility or area used regularly to provide daytime care, training, education, custody, treatment or supervision to more than six children, adults or elderly in a family setting for less than twenty-four hours a day, whether for compensation or not. This definition shall not include kindergarten, pre-kindergarten, and schools listed elsewhere in this ordinance.

Family

An individual or two or more persons who need not be related by blood or marriage living in a dwelling unit.

Family Home.

A facility or area providing food and shelter, personal guidance, care, rehabilitation services, or supervision for not more than six disabled persons, regardless of their legal relationship to one another, and two supervisory personnel. A family home is a community-based residential home operated by the Texas Dept. of Mental Health and Mental Retardation Act, which provides services to disabled persons, or a nonprofit entity certified by the Texas Dept. of Human Resources as a provider under the intermediate care facilities for the mentally retarded program.

Foster Family Home.

A facility or area providing full time parental care for six or fewer total minor children for which reimbursement or fee is received for any one or more of the children in return for such services. This use must comply with statutory licensing requirements.

Foster Group Home.

A facility of area providing full time parental care for seven to twelve total minor children for which reimbursement or fee is received for any one or more of the children in return for such services. This use must comply with statutory licensing requirements.

Personal Care Facility.

A residence, licensed by the Texas State Dept. of Health, which provides services to ambulatory residents, such as food preparation, housekeeping, and supervisory assistance for routine daily activities. The Ordinance allows 6 or fewer residents by right, while requiring an SUP for 7 or more persons¹.

Single Family

A detached dwelling having accommodations for and occupied by only one family; this does not include mobile homes.

¹ *State Law:* The term “personal care facility” was changed and given the precise meaning of an “assisted living facility” in 1999. *Arlington Zoning Ordinance:* “Personal Care Facility” is still used in our Ordinance (Article 2-200). Because the ordinance was drafted prior to the state law change, the City interprets this term to match those residences qualifying as “assisted living facilities” under state law.

Other care facilities that are not permitted in residential districts are:

Boarding House.

Boarding house is a residential structure that provides lodging for five or more persons with or without meals, is available on a more or less temporary basis, and which makes no provisions for cooking in any of the rooms occupied by paying guests. (This definition also provides separate categories and definitions for Fraternity/Sorority House and Private Dorm).

Halfway House.

A facility for the housing, rehabilitation, and training of persons on probation or parole from correctional institutions, or other persons found guilty of criminal offenses.

Nursing Home.

A facility or area furnishing food and shelter in single or multiple facilities to five or more persons who are not related by blood, marriage, or adoption to the owner or proprietor of the establishment. In addition, the facility provides minor treatment under the direction and supervision of a physician, or provides a service which meets some need beyond the basic provisions of food, shelter and laundry.

Supervised Living Facility.

A residential facility of three or more dwelling units providing living quarters restricted to individuals who require access to services but not daily nursing or medical intervention. Incidental uses and/or services may include protective supervision, personal care, social and recreational services, assistance with medical requirements, laundry and transportation service, private or common kitchens/dining facilities, as long as such services are provided to residents only.

II. State Regulations

Group Home:

This general term, which is not defined in state law, is used frequently to describe any and all homes with unrelated residents in residentially zoned districts.

Community Home²:

To be considered a Community Home, an entity:

1. must provide the following services to *persons with disabilities* who reside in the home³:
 - a. food and shelter;
 - b. personal guidance;
 - c. care;
 - d. habilitation services; and
 - e. supervision;
2. must not have more than six *persons with disabilities* and two supervisors residing in the home at the same time;⁴
3. must meet all applicable licensing requirements;⁵
4. must not be established within one-half mile of an existing community home;⁶

² Tex. Hum. Res. Code Ann. §123.004.

³ Tex. Hum. Res. Code Ann. § 123.005.

⁴ Tex. Hum. Res. Code Ann. § 123.006.

⁵ Tex. Hum. Res. Code Ann. § 123.007.

5. must be either:
 - a. a *community-based residential home*⁷ operated by:
 - i. MHMR;
 - ii. a county, municipality, hospital district, school district or an organizational combination of two or more of those local agencies;
 - iii. a non-profit corporation; or
 - iv. an entity certified by the Department of Human Services as a provider under the medical assistance program serving persons in intermediate care facilities for persons with mental retardation; or
 - b. an *assisted living facility* licensed under Chapter 247, Health and Safety Code, provided the exterior of the structure retains compatibility with surrounding residential dwellings.

Person with a disability:⁸

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

*Assisted Living Facility*⁹:

An establishment that furnishes, in one or more facilities, food and shelter to four¹⁰ or more persons who are unrelated to the proprietor of the establishment; and provides *personal care services*. Assisted Living Facilities must be licensed by the state under Chapter 247 of the Health and Safety Code.

*Personal Care Services*¹¹:

Assistance with meals, dressing, movement, bathing, or other personal needs or maintenance; the administration of medication by a licensed person or the assistance with or supervision of medication; or general supervision or oversight of the physical and mental well-being of a person who needs assistance to maintain a private and independent residence in an assisted living facility or who needs assistance to manage the person's personal life, regardless of whether a guardian has been appointed for the person.

⁶ Tex. Hum. Res. Code Ann. §123.008. This rule may now be invalid under the FHAA.

⁷ "Community based residential home" is not defined in state law, but appears to be a general term for a home with unrelated, disabled residents that does not meet the definition of an assisted living center but still qualifies as a "community home" based on its being operated by any one of the four listed types of entities.

⁸ Tex. Hum. Res. Code Ann. §123.002.

⁹ Tex. Health & Safety Code Ann. § 247.002.

¹⁰ Note that to be an "assisted living facility," a group home can have no less than four residents, and to be a "community home" a group home can have no more than six residents. Therefore, a "community home" that is an "assisted living facility" must have between four and six residents. If there are seven or more residents, the Act does not apply.

¹¹ *Id.*