

Ordinance Fact Sheet

TO: CITY COUNCIL

Date: August 13, 2007

FROM: CITY ATTORNEY

SUBJECT: AN ORDINANCE OF THE CITY OF PASADENA AMENDING TITLE 8 OF THE PASADENA MUNICIPAL CODE BY ADDING CHAPTER 8.19 RELATING TO GROUP HOMES FOR THE DISABLED WHICH ARE NOT LICENSED BY THE STATE AND AMENDING TITLE 17 SECTION 17.80.020B OF THE PASADENA MUNICIPAL CODE AMENDING THE DEFINITION OF A BOARDING HOUSE

TITLE OF PROPOSED ORDINANCE:

AN ORDINANCE OF THE CITY OF PASADENA AMENDING TITLE 8 OF THE PASADENA MUNICIPAL CODE BY ADDING CHAPTER 8.19 RELATING TO GROUP HOMES FOR THE DISABLED WHICH ARE NOT LICENSED BY THE STATE AND AMENDING TITLE 17 SECTION 17.80.020B OF THE PASADENA MUNICIPAL CODE AMENDING THE DEFINITION OF A BOARDING HOUSE

PURPOSE OF ORDINANCE:

The proposed ordinance amends the definition of "boarding houses" and will establish a reasonable accommodation permit process requirement to allow group homes for the disabled in single family residential zones subject to operational standards to maintain the residential character of the use.

BACKGROUND

The City has received numerous complaints regarding group homes in residential zones. On March 26, 2007 the City Council approved amendments to the municipal code to allow the City to better regulate such group homes to maintain the residential character of the neighborhoods.

MEETING OF 08/13/2007

AGENDA ITEM NO. 9.A.2.

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Although an ordinance amendment was previously placed on the Council's agenda, due to issues raised by members of the group home community, the item was pulled for further research and refinement.

The City's current code prohibits "boarding houses" in single family residential zones but defines such homes to be ones that rent up to 5 rooms. By redefining their characteristics the City will be able to encompass and regulate all group home type facilities, boarding houses, and the like which rent out individual rooms without consideration as to who the renters are. The revised definition would provide that the rental of three or more rooms would constitute a boarding house. Although initially it was proposed that the rental of 3 to 5 rooms would constitute a boarding house, after further research it was determined that such a definition was too limiting. The broader definition is therefore recommended and provided for in the proposed ordinance.

Although all group homes would normally meet the definition of a boarding house, the ordinance amendment does not seek to regulate *licensed* facilities (as they would be exempt from local regulation) but only those which are not licensed. Accordingly the proposed ordinance amendments would not be in conflict with State law.

Unlicensed group homes which provide housing for the disabled (for example those housing individuals recovering from drug or alcohol addiction who are deemed disabled under Federal and State law) would fall under the definition of a boarding house and, as with all boarding houses, would be a prohibited use in single family residential zones. However, under Federal law, a group home for the disabled wanting to locate in such a residential zone may seek from the City a "reasonable accommodation." Federal law requires that the City provide a reasonable accommodation. Accordingly, the City would be required to allow a group home for the disabled in such a residential zone even though a boarding house would normally be prohibited in such residential zones. By implementing a process through which a permit would issue allowing a reasonable accommodation and by setting standards of operation the City would be able to ensure that the residential character of these residential zones be maintained.

Such standards would include a separation requirement from any other group home facility within the City whether or not such facility is licensed by the State, as well as provisions for the prohibition of nuisance activities. Although Council approved a 500 foot separation requirement, it is recommended that this be reduced to 300 feet to maintain consistency with current State law which sets forth a 300 feet separation between certain licensed facilities.

Staff recognizes that there currently may be group homes for the disabled not licensed by the State operating in single family residential zones. It is recommended that these group homes be required to comply with the proposed ordinance and obtain a reasonable accommodation permit if they desire to remain in operation. These existing group homes would not be subject to the distance requirement if they meet the other operational standards and would be permitted to continue operating.

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The Council's request to have notice provided to surrounding neighbors would be accomplished through the administrative process. Additionally, staff is continuing to research the most appropriate distance requirements that would apply to all boarding houses in all types of residential zoning districts.

REASON WHY LEGISLATION IS NEEDED:

An ordinance is needed to amend the provisions of Title 17 and Title 8 of the Pasadena Municipal Code.

PROGRAM, DEPARTMENTS, OR GROUPS AFFECTED:

The Planning Division and Neighborhood Services Division and the Police Department will be affected by the proposed ordinance.


ENVIRONMENTAL

The proposed ordinance amendment would have no significant environmental impact and therefore CEQA does not apply. (CEQA Guidelines 15162.)

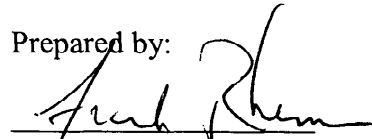
FISCAL IMPACT

The proposed ordinance would have a fiscal impact in relation to costs for staff time for permit processing and enforcement.

Respectfully submitted,


MICHELE BEAL BAGNERIS
City Attorney

Prepared by:


Frank L. Rhemrev
Assistant City Attorney

Introduced by _____

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF PASADENA AMENDING
TITLE 8 OF THE PASADENA MUNICIPAL CODE BY ADDING
CHAPTER 8.19 RELATING TO GROUP HOMES FOR THE DISABLED
WHICH ARE NOT LICENSED BY THE STATE AND
AMENDING TITLE 17 SECTION 17.80.020B AMENDING THE
DEFINITION OF A BOARDING HOUSE**

WHEREAS, the City Council of the City of Pasadena recognizes that federal law requires cities to provide a reasonable accommodation for those individuals who are disabled with respect to housing opportunities; and

WHEREAS, the City Council of the City of Pasadena recognizes that the Pasadena Municipal Code prohibits the operation of boarding houses in single family residential zones and that group homes for the disabled may fall under the definition of a boarding house; and

WHEREAS, the City Council of the City of Pasadena recognizes that in order to provide such a reasonable accommodation, a group home for the disabled may be allowed to locate in a single family residential zone; and

WHEREAS, the City Council of the City of Pasadena finds that group homes for the disabled which are not licensed by the State, although providing a valuable service to those so afflicted, can adversely affect the health, safety, comfort, and general welfare of the surrounding neighborhood when located in a single family residential zone;

NOW THEREFORE, the people of the City of Pasadena ordain as follows:

SECTION 1. Title 8 of the Pasadena Municipal Code is hereby amended by adding a Chapter 8.19 which reads as follows:

“Chapter 8. 19

GROUP HOMES FOR THE DISABLED

WHICH ARE NOT LICENSED BY THE STATE

Sections:

- 8.19.010 Purpose
- 8.19.020 Definitions
- 8.19.030 Applicability
- 8.19.040 Operator Permit
- 8.19.050 Standards
- 8.19.060 Compliance
- 8.19.070 Authority to enter

8.19.010 Purpose

The City has prohibited boarding houses in the RS, RM-12, and RM-16 zoning districts. The City, however, recognizes that a group home for the disabled may fall under the definition of a boarding house. The City also recognizes that as a reasonable accommodation to those deemed disabled, it may be necessary to allow a group home for the disabled which is not licensed by the State of California to locate within these zoning districts. The City acknowledges that such group homes for the disabled provide a valuable service to the disabled but also recognizes that a boarding house can adversely affect the health, safety, comfort and general welfare when allowed to locate within the RS, RM-12, and RM-16 zoning districts. The purpose of this ordinance is to address community problems that are associated with group homes for the disabled; provide opportunities for the operation of such group homes to be conducted in a mutually beneficial

relationship with the community; ensure that there is no degradation of the community; and to prevent conduct that is contrary to the purpose of this ordinance.

8.19.020 Definitions

For the purposes of this Chapter, the following definitions shall apply:

A. “Group home for the disabled” - Any home, residence, facility, or premises which provides temporary, interim, or permanent housing to persons who are disabled as defined in State or Federal law in a group setting where such home, residence, facility, or premises is not licensed by the State of California.

B. “Operator” - Any corporation or person(s) who owns, manages, or operates a group home for the disabled.

C. “Reasonable Accommodation Permit” - The process by which an operator may seek from the City an accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford the disabled equal opportunity to use and enjoy a dwelling.

D. “Boarding House” - as defined in Chapter 17 (zoning code) of this Code.

E. “Disabled” - as defined in State or Federal law.

8.19.030 Applicability

The provisions of this chapter shall apply to group homes for the disabled and to all persons who own, manage, or operate them when such group home meets the definition of a boarding house and is allowed to locate in the RS, RM-12, or RM-16 zoning district pursuant to a reasonable accommodation.

8.19.040 Reasonable Accommodation Permit

Any person who owns, manages, or operates a group home for the disabled which is not licensed by the State of California and seeks to operate such a group home in the RS, RM-12, or RM-16 zoning district pursuant to a “reasonable accommodation” shall obtain a Reasonable Accommodation Permit from the City. No person shall operate such a group home without first having obtained such a written permit.

A. An application for such permits shall be filed with the City and shall be in writing on forms provided by the City.

B. The City shall investigate and shall ascertain whether the proposed group home qualifies for the reasonable accommodation and shall further ascertain whether or not all persons directly or indirectly interested in the permit or in the proposed group home as owner, partner, officer, manager, employee or other person to be in charge of the group home have been convicted of a felony or any crime involving moral turpitude. The City shall cause fingerprints to be taken of the applicant and any other person referred to in this subsection.

C. The Fire Chief and Building Official shall ascertain whether the premises to be used are suitable, proper and adequate, and comply with applicable laws, ordinances and regulations concerning such premises.

D. The City shall notify the applicant in writing within 30 days after the filing of the completed application for a reasonable accommodation permit that the application has been granted or denied. In event of denial, the applicant may appeal to the City but must do so within 10 days of the date of the notification. The City shall hear the appeal within 10 days of the date of receipt of the notice of appeal.

8.19.050 Standards

A. A group home for the disabled located in the RS, RM-12, or RM-16 zoning district pursuant to a reasonable accommodation permit shall comply with the following standards:

1. It shall not result in adverse effects to the health, welfare, peace, or safety of persons in the surrounding area;

2. It shall not jeopardize or endanger the public health, welfare, or safety of persons in the surrounding area;

3. It shall not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood as a result of inadequate maintenance, prohibited activities, and/or operating characteristics;

4. It shall not result in nuisance activities, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, public consumption of alcohol, harassment of passers-by, gambling, public urination, theft, assault, battery, vandalism, littering, loitering, illegal parking, loud noises, lewd conduct, or police detentions and/or arrests;

5. It shall not result in violation of any applicable provision of any other city, state, or federal regulation, ordinance or statute;

6. It shall not be located within 300 feet, measured from the property lines, of any other boarding house or group home facility, whether or not such facility is licensed by the State. State licensed facilities which do not have separation requirements shall not be used in calculating the distance requirement established herein.

7. It shall have no more than 6 boarders, tenants or renters.

B. A group home for the disabled operating in a single family residential zone as of the date of the adoption of this ordinance may remain in operation provided that the operator shall apply for and obtain the reasonable accommodation permit established herein. The home shall be exempt from the distance requirement set forth above provided the operator and the home are in full compliance with all other operational standards.

8.19.060 Compliance

The City Manager's designee may suspend or revoke the operator's permit upon a determination that the holder of the permit has violated any provisions of this chapter or has allowed on the premises any infraction or violation of law. Prior to such suspension or revocation the designee, shall set and conduct a hearing wherein the permit holder shall have the opportunity to be heard and present evidence in his/her defense. After such hearing the hearing officer shall notify the permit holder in writing as to the outcome of the hearing. In the event that the permit is suspended or revoked, the permit holder may appeal to the City Manager but must do so within 10 days of the date of the notification. The City Manager shall hear the appeal within 10 days after the date of receipt of the notice of appeal.

8.19.070 Authority to inspect

Any city official or authorized representative charged with enforcement responsibilities under this municipal code, state law or other government authority may enter and inspect the premises or perform any duty imposed by the municipal code or by state law, provided the owner, managers, operator, or lawful occupant(s) has consented to the inspection.

The refusal by an owner, manager, operator, or occupant to permit such entry and inspection may be considered in any proceeding to suspend or revoke the operator's permit.

SECTION 2. Section 17.80.020B of Chapter 17.80 of Article 8 of the Pasadena Municipal Code is hereby amended by deleting the definition of "boarding houses (land use)" in its entirety and replacing it with a new definition which reads as follows:

8.19.020B Definitions, "B."

"Boarding Houses (land use). A residence or dwelling, other than a hotel, wherein three or more rooms, with or without individual or group cooking facilities, are rented to individuals under separate rental agreements or lease, either written or oral, whether or not an owner, agent, or rental manager is in residence."

SECTION 3. If any section, subsection, subdivision, sentence, clause, phrase or portion of this ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portions thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 4. This ordinance shall take effect upon the expiration of thirty days from its publication.

Signed and approved this _____ day of August, 2007

Bill Bogaard
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its regular meeting held on _____, 2007, by the following vote

AYES:

NOES:

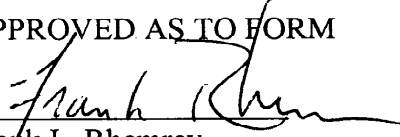
ABSENT:

ABSTAIN:

Published:

Jane L. Rodriguez, CMC
City Clerk

APPROVED AS TO FORM



Frank L. Rhemrev
Assistant City Attorney