



OFFICE OF THE
HARRIS COUNTY ATTORNEY
CHRISTIAN D. MENEFE

September 1, 2021

Members of the Commissioners Court
1001 Preston, 9th Floor
Houston, Texas 77002

Re: Request for approval of the Amendment to the Boarding Home Regulations in the Unincorporated Area of Harris County, Texas.

Dear Members of the Court,

This is to request that the following topic be placed on the Commissioners Court Agenda for September 14, 2021, under the County Attorney's portion of the agenda:

Request for approval of the Amendment to the Boarding Home Regulations in the Unincorporated Area of Harris County, Texas.

A copy of the regulations are attached for the Court's approval.

Thank you for your consideration of this request.

Sincerely,

CHRISTIAN D. MENEFE
County Attorney

DeAnne A. Lin

DeAnne A. Lin
Assistant County Attorney

Approved by:

Jay Aiyer
First Assistant County Attorney

**BOARDING HOME REGULATIONS
FOR UNINCORPORATED
HARRIS COUNTY, TEXAS**



AS

**ADOPTED ON JANUARY 26, 2021
EFFECTIVE MARCH 1, 2021
AMENDED ON SEPTEMBER 14, 2021**

HARRIS COUNTY COMMISSIONERS COURT:

**COUNTY JUDGE, LINA HIDALGO
COMMISSIONER PCT. 1, RODNEY ELLIS
COMMISSIONER PCT. 2, ADRIAN GARCIA
COMMISSIONER PCT. 3, TOM RAMSEY
COMMISSIONER PCT. 4, R. JACK CAGLE**

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**SECTION 1.
GENERALLY.**

1.1 AUTHORITY TO REGULATE.

- (a) The Boarding Home Regulations for Unincorporated Harris County, Texas (the “Regulations”) are intended to comply with Chapter 260 of the Texas Health & Safety Code, as amended, and the current Texas Model Standards for Boarding Homes, attached hereto as Appendix A and incorporated herein as referenced.
- (b) It is the purpose of the Harris County Commissioners Court to establish reasonable and uniform regulations of Boarding Homes to promote and protect the health, safety, and general welfare of the residents of unincorporated Harris County, and to protect the residents of Boarding Homes from abuse, neglect, exploitation, Medicare and Medicaid fraud, and other criminal or unethical behaviors.

1.2 ADMINISTRATION.

The Harris County Commissioners Court hereby designates the Harris County Sheriff, or his/her duly authorized agent, as the Boarding Home Permit Administrator for all areas of Harris County outside of a municipality. The Boarding Home Permit Administrator shall operate the Boarding Home Permit Office. The Boarding Home Administrator will process, issue, investigate, suspend, revoke and/or deny Boarding Home permits in accordance with these Regulations.

1.3 AREAS COVERED BY THESE REGULATIONS.

- (a) Pursuant to Tex. Health & Safety Code Ann. § 260.004, these Regulations apply to Boarding Homes located in the parts of Harris County outside the corporate limits of a municipality. Under Tex. Health & Safety Code § 260.008, two or more counties or municipalities may cooperate and contract with each other for the purpose of inspecting and permitting boarding home facilities.
- (b) If the Harris County Commissioners Court enters into an interlocal agreement with a municipality in Harris County for the purpose of adopting these Regulations, the municipality must agree to use the Harris County Boarding Home Permit Office and Administrator for the purpose of permitting the Boarding Homes within the municipality’s jurisdiction. Inspection and enforcement services will be determined and detailed in the interlocal agreement on a case by case basis.

1.4 GENERAL DEFINITIONS.

- (a) “***Applicant***” means an individual, business, company, corporation, or other legal entity that is required to obtain—or has applied for—a Boarding Home Permit.
- (b) “***Assistance with Self-Administration of Medication***” means assisting a resident by reminding the resident to take medication, opening and removing medications from a container, placing medication in a resident’s hand or in/on a clean surface such as a pill cup or a medication reminder box, or reminding the resident when a prescription medication needs to be refilled.
- (c) “***Boarding Home***” is defined as an establishment that furnishes, in one or more buildings, lodging to three or more persons with disabilities or elderly persons who are unrelated to

the owner of the establishment by blood or marriage; and provides residents with community meals, light housework, meal preparation, transportation, grocery shopping, money management, laundry services, or assistance with self-administration of medication but does not provide personal care services as defined by Tex. Health & Safety Code Ann. § 247.002 to those persons.

- (d) **“Boarding Home Employee”** means any person who provides work or services to the Boarding Home and is paid as a full or part-time employee, temporary employee, contract consultant or any other designation, or anyone paid as a 1099 independent contractor.
- (e) **“Boarding Home Permit Administrator”** means the Harris County Sheriff or his/her designee.
- (f) **“Boarding Home Permit Office”** means the physical location which has been designated by the Boarding Home Permit Administrator where commercial businesses and/or individuals may apply, if necessary to be physically present, for a Class 1 or Class 2 Boarding Home Permit.
- (g) **“Boarding Home Owner”** means an individual, business, company, corporation, or other legal entity that:
 - (1) has an ownership interest in, or receives profits from, a Boarding Home;
 - (2) is a partner, director, designated agent, or officer of a business, company, corporation, or other legal entity that has an ownership interest in a Boarding Home;
 - (3) is a shareholder that holds more than ten (10) percent of the outstanding shares of a business, company, corporation, or other legal entity that has an ownership interest in a Boarding Home;
 - (4) has been issued by the County Clerk an assumed name certificate for a business that owns a Boarding Home;
 - (5) signs a lease or owns the real property for a Boarding Home;
 - (6) receives a certificate of compliance for a Boarding Home;
 - (7) signs an alarm permit for a Boarding Home;
 - (8) opens an account for utilities for a Boarding Home;
 - (9) signs for, or applies for, a food preparation license issued by the Harris County Public Health Department for a Boarding Home; or,
 - (10) applies for a Class 1 Boarding Home Permit.
- (h) **“Engineering Officials,”** means the Harris County Engineer and employees of the Harris County Engineering Department.
- (i) **“Fire Safety Official”** means the Harris County Fire Marshal or their designee.
- (j) **“Harris County”** means the unincorporated areas of Harris County, Texas.

- (k) **“Interlocal Agreement”** or **“Cooperative Agreement”** means an interlocal agreement between Harris County and a municipality in accordance with Tex. Gov’t Code Ann. §§ 791.001 *et seq.*, as amended.
- (l) **“Public Health Official”** means the Local Health Authority or his/her designee of the Harris County Public Health Services.
- (m) **“Regulations”** means the Boarding Home Regulations for Unincorporated Harris County, Texas.
- (n) **“Resident”** means a person who is residing in a Boarding Home facility.

SECTION 2.

CLASS 1 BOARDING HOME PERMITS (FACILITY).

2.1 APPLICATION.

- (a) It shall be a violation of these regulations for any person, individual, business, company, corporation, or other legal entity, to own or operate a Boarding Home in Harris County for any period of time that has not been issued a Class 1 Boarding Home Permit. In accordance with Tex. Health & Safety Code Ann. § 260.005(b), if a person operates a Boarding Home in violation of these Regulations, Harris County may impose fines for noncompliance.
- (b) **A BOARDING HOME SHALL NOT OPERATE DURING THE PENDENCY OF THE APPLICATION AND SHALL NOT OPERATE UNTIL THE CLASS 1 BOARDING HOME PERMIT APPLICATION HAS BEEN APPROVED AND THE CLASS 1 BOARDING HOME PERMIT IS ISSUED AND DISPLAYED.**

All boarding homes in existence at the time of the adoption of these Regulations have six months from the approval date to initiate the application process to obtain a Class I Boarding Home Permit and one year to complete the process to obtain the Class I permit. Failure to complete the process to obtain a Class I Boarding Home permit shall result in the immediate cease of operations of the Boarding Home. The Boarding Home Permit Administrator is authorized to approve up to one (1) extension of no more than one hundred eighty (180) days for a Boarding Home Owner or operator to complete the Class I permit process.

- (c) A complete application including all supportive documents must be filed with the Boarding Home Permit Administrator before the permitting process will begin.
 - (1) Applications for Class I Boarding Home Permits should be completed online using the E-Permit application process located at <https://epermits.harriscountytexas.gov/>.
 - (2) If the Applicant must apply in person, the Boarding Home Permit Administrator will establish the hours and procedures as to where and when an application can be submitted. In person applications may increase the length of time needed for approval of the Permit.
 - (3) The Applicant(s) shall be the Boarding Home’s Owner(s).

- (4) The Boarding Home Permit Administrator will provide the permit fee schedule to the Applicant(s). Reasonable fees will be assessed and used to administer the county permitting program or for other purposes directly related to providing boarding home facility services to elderly persons and persons with disabilities in accordance with Tex. Health & Safety Code Ann. § 260.005(b).
 - (5) Incomplete applications will result in denial of the application and forfeiture of the application fee.
 - (6) Once a complete application has been received, the Permit Administrator will coordinate all needed inspections of the Applicant(s)' proposed Boarding Home to ensure compliance with these Regulations. The Applicant(s) must be present in person during any inspection. It shall be the responsibility of the Applicant(s) to provide an interpreter if necessary, during these inspection(s).
 - A. After the initial inspection, the Applicant(s) will be informed in writing of what corrections must be made to the proposed Boarding Home in order to comply with these Regulations.
 - B. A second inspection will be performed if corrections must be made. If the corrections made are inadequate, the Applicant(s) will again be informed in writing of what corrections must be made to the proposed Boarding Home in order to comply with these Regulations.
 - C. If after the third and final inspection the Applicant's proposed Boarding Home fails to comply with these Regulations, the Boarding Home Permit Administrator will deny the application.
 - D. If the proposed Boarding Home passes inspection, all criminal background checks are passed, and all training has been completed the Boarding Home Permit Administrator will approve the application.
 - E. Each application allows for three (3) inspections. If compliance with these Regulations are not met within the three (3) inspections or within ninety (90) days the applicant shall reapply for the permit.
 - (7) The Applicant(s) has ninety (90) days from the initial inspection to complete the inspection process. Failure to complete the inspection process within these ninety (90) days shall result in denial of the application. It is the obligation of the Applicant to ensure the process is completed in the requisite ninety (90) days.
 - (8) Failure to provide any information required by this Section or a determination by the Boarding Home Permit Administrator that inaccurate, erroneous, or incomplete information has been submitted, shall be grounds for denial of the application.
- (d) In municipalities which have elected to adopt the Harris County Boarding Home Regulations, and where Harris County Commissioners Court has approved an Interlocal Agreement between the municipality and Harris County, the municipality shall use the Harris County Boarding Home Permit Administrator for Boarding Home Permit applications.

- (e) Each complete Class 1 Boarding Home Permit application shall be accompanied by:
- (1) a current annual fire inspection report from the Harris County Fire Marshal's Office, completed within ninety (90) days prior to making application for a Class I permit, showing compliance with all applicable fire and life safety codes;
 - (2) a current maximum occupancy load certificate issued by the Harris County Fire Marshal's Office within ninety (90) days prior to making application for a Class I permit;
 - (3) a copy of a certificate of compliance issued by the Harris County Engineer's Office showing compliance with developmental regulations;
 - (4) a true and correct copy of the assumed name certificate filed in the office of the Harris County Clerk, bearing the file mark or stamp that evidences its filing, if the Boarding Home will be operating under an assumed name;
 - (5) a copy of the formative legal documents for the applicable legal entity(s) (e.g., the Articles of Incorporation);
 - (6) a non-refundable application fee as determined by the Boarding Home Permit Administrator;
 - (7) a color photocopy of the Applicant's driver's license or government-issued photo identification;
 - (8) a complete and accurate list of all Boarding Home Employees along with color photocopies of the individual(s) driver's license or government-issued identification papers;
 - (9) proof, as required by Section 3 of these Regulations, that all Boarding Home Owners and/or Employees of the Proposed Boarding Home have applied for a valid Class 2 Boarding Home Permit pursuant to these Regulations;
 - (10) copy of the current and valid lease agreement between the Applicant and the owner of the real property where the proposed Boarding Home is planning to operate, with the Applicant listed as the owner of the proposed Boarding Home, or legal proof that the Applicant owns the real property from which the proposed Boarding Home is planning to operate;
 - (11) a certification that all of the contents of the application, and the material presented above, are true and correct under the penalty of perjury as defined by Tex. Penal Code § 37.02. Additionally, any misrepresentation by the Applicant(s) on his/her application may result in charges up to a second-degree felony offense as defined by Tex. Penal Code § 37.10.
 - (12) A signed statement by the Boarding Home Owner that all Boarding Home Employees may be criminally liable under Section 48.052, Human Resource Code for failure to report abuse, neglect, or exploitation.
- (f) A Class 1 Boarding Home Permit is not transferable, assignable, or divisible. Transferring, assigning, dividing, or any attempt to transfer, assign, or divide an issued Class 1 Boarding Home Permit is a violation of these regulations.

- (g) Prior to the purchase, merger, transfer, takeover, or any other legal process that would mean the Boarding Home Owner would change, the new Owner must apply and receive a Boarding Home Permit.

2.2 DENIAL OF A CLASS 1 BOARDING HOME PERMIT

- (a) A boarding home facility owner/operators Permit to operate a boarding home shall be initially denied or denied for renewal if the owner/operator has been convicted of a criminal offense listed in subsection (c) or (d) of this section. If the owner/operator employs any person convicted of a criminal offense listed in subsection (c) or (d), then based on the facts, the Permit may be denied, suspended, revoked, or denied renewal.
- (b) The owner/operator must complete any state or federal request and release forms that are required to obtain a criminal history report for the owner/operator. In addition to the permit fee, the owner/operator will provide funding to the county/municipality in a manner specified by the county/municipality to cover any fees imposed by state or federal agencies for the report.
- (c) The following histories will disqualify an owner/operator from obtaining a permit to operate a boarding home or will serve as a bar to being employed by a boarding home facility:
 - (1) an offense under Chapter 19, Penal Code (criminal homicide);
 - (2) an offense under Chapter 20, Penal Code (kidnapping and unlawful restraint);
 - (3) an offense under §21.02, Penal Code (continuous sexual abuse of young child or children), or §21.11, Penal Code (indecent with a child);
 - (4) an offense under §22.011, Penal Code (sexual assault);
 - (5) an offense under §22.02, Penal Code (aggravated assault);
 - (6) an offense under §22.04, Penal Code (injury to a child, elderly individual, or disabled individual);
 - (7) an offense under §22.041, Penal Code (abandoning or endangering child);
 - (8) an offense under §22.08, Penal Code (aiding suicide);
 - (9) an offense under §25.031, Penal Code (agreement to abduct from custody);
 - (10) an offense under §25.08, Penal Code (sale or purchase of a child);
 - (11) an offense under §28.02, Penal Code (arson);
 - (12) an offense under §29.02, Penal Code (robbery);
 - (13) an offense under §29.03, Penal Code (aggravated robbery);
 - (14) an offense under §21.08, Penal Code (indecent exposure);
 - (15) an offense under §21.12, Penal Code (improper relationship between educator and student);
 - (16) an offense under §21.15, Penal Code (improper photography or visual recording);
 - (17) an offense under §22.05, Penal Code (deadly conduct);

- (18) an offense under §22.021, Penal Code (aggravated sexual assault);
 - (19) an offense under §22.07, Penal Code (terroristic threat);
 - (20) an offense under §33.021, Penal Code (online solicitation of a minor);
 - (21) an offense under §34.02, Penal Code (money laundering);
 - (22) an offense under §35A.02, Penal Code (Medicaid fraud);
 - (23) an offense under §42.09, Penal Code (cruelty to animals);
 - (24) an offense under §30.02, Penal Code (burglary);
 - (25) an offense under §31, Penal Code (theft), that is punishable as a felony; or
 - (26) a conviction under the laws of another state, federal law, or the Uniform Code of Military Justice for an offense containing elements that are substantially similar to the elements of an offense listed in this subsection.
- (d) A person may not own a boarding home or be employed in a position the duties of which involve direct contact with a resident in a boarding home before the fifth anniversary of the date the person is convicted of any felony offense not listed in subsection (c) or any of the following non-felony offenses:
- (1) an offense under §22.01, Penal Code (assault), that is punishable as a Class A misdemeanor;
 - (2) an offense under §32.45, Penal Code (misapplication of fiduciary property or property of a financial institution), that is punishable as a Class A misdemeanor;
 - (3) an offense under §32.46, Penal Code (securing execution of a document by deception), that is punishable as a Class A misdemeanor;
 - (4) an offense under §37.12, Penal Code (false identification as peace officer);
 - (5) an offense under §42.01(a)(7), (8), or (9), Penal Code (disorderly conduct); or
 - (6) a conviction under the laws of another state, federal law, or the Uniform Code of Military Justice for an offense containing elements that are substantially similar to the elements of an offense listed in this subsection.

The owner/operator must ensure that all employees, including volunteers who are not residents, have had a background check of conviction records, pending charges and disciplinary board decisions completed within the past two years, and is repeated every year thereafter, and that the individual is not disqualified under the provisions of Subsections (c) and (d) of this section. The owner/operator will immediately discharge any employee or volunteer whose criminal history check reveals conviction of a crime that bars employment or volunteer service.

2.3 REVOCATION OR SUSPENSION OF A CLASS 1 BOARDING HOME PERMIT.

- (a) The Permit Administrator may revoke or suspend a permit for the following reasons:
- (1) the Boarding Home has violated, or is not in compliance with, any Section or Subsection of these Regulations;
 - (2) the Applicant(s) made a misleading statement in the application for a Class 1 Boarding Home Permit, provided false, fraudulent, or untruthful information in

the application for a Class 1 Boarding Home Permit, and/or withheld pertinent information in the application for a Class 1 Boarding Home Permit; or,

- (3) the Class 1 Boarding Home Permit should not have been issued pursuant to these Regulations.
- (b) If any of the stated events or conditions providing a basis for revocation or suspension of a Class 1 Boarding Home Permit have occurred, the Boarding Home Permit Administrator shall document the violation in a revocation or suspension letter, and provide notice to the Boarding Home Owner(s) by certified mail, return receipt requested, or delivered to the address supplied on the application. A revocation or suspension of a Class 1 Boarding Home Permit by the Boarding Home Permit Administrator shall become final on the seventh (7th) day after the revocation or suspension letter is posted on an entrance door of the Boarding Home.
- (c) Immediate closing of a Boarding Home may occur by state district court action. Harris County will coordinate with Adult Protective Services to ensure the transfer of all current Residents.

2.4 CLASS 1 BOARDING HOME PERMIT APPEALS.

- (a) If the Boarding Home Permit Administrator denies the issuance or suspends an issued Class 1 Boarding Home Permit Application, the Applicant(s) or Boarding Home Owner(s) has the opportunity to make a written request for a hearing before a hearing examiner appointed by the Harris County Commissioners Court. The hearing examiner shall not have participated in any investigation of the alleged grounds for denial, revocation, or suspension of the Class 1 Boarding Home Permit.
- (b) All requests for hearings must be in writing and delivered to the Boarding Home Permit Administrator no later than five (5) days from the date when the denial, revocation, or suspension letter was received or posted at an entrance door of the Boarding Home by the Boarding Home Permit Administrator. The Applicant(s) or Boarding Home Owner(s) waive the right to a Class 1 Boarding Home Permit appeal hearing if the request is not timely received by the Boarding Home Permit Administrator.

A BOARDING HOME SHALL NOT OPERATE DURING THE PENDENCY OF AN APPEAL TO THE HEARING EXAMINER.

- (c) The Applicant(s) or Boarding Home Owner(s) shall be provided an opportunity to present evidence, cross-examine witnesses, and be represented by legal counsel. The formal rules of evidence do not apply.
- (d) It shall be the responsibility of the Applicant(s) or Boarding Home Owner(s) to provide a court reporter and an interpreter if necessary for the Class 1 Boarding Home Permit appeal hearings before the hearing examiner. The requirement for a court reporter may be waived if the hearing takes place virtually and is recorded.
- (e) The Applicant(s) or Boarding Home Owner(s) must be present in person at the Class 1 Boarding Home Permit appeal hearings. If the Applicant(s) or Boarding Home Owner(s) is not present in person at the Class 1 Boarding Home Permit appeal hearing, the Class 1 Boarding Home Permit will be automatically denied or suspended.

- (f) The hearing examiner has the power to uphold or reverse the denial of a Class 1 Boarding Home Permit.
- (g) The hearing examiner has the power to uphold, reverse, or modify the suspension of a Class 1 Boarding Home Permit by ordering a shorter or longer suspension.
- (h) The decision of the hearing examiner shall be final.
- (i) The hearing examiner shall issue a written order memorializing his/her decision within five (5) days from the date of the Class 1 Boarding Home permit appeal hearing. The written order shall be distributed to the Applicant(s) or Boarding Home Owner(s), and Boarding Home Permit Administrator via e-mail address supplied on the application and by certified mail.

2.5 REAPPLICATION FOR A CLASS 1 BOARDING HOME PERMIT.

- (a) After the hearing examiner's final ruling of the revocation of a Class 1 Boarding Home Permit, an Applicant(s) may reapply for a Class 1 Boarding Home Permit after the expiration of one hundred eighty (180) days from the date of the hearing examiner's ruling.
- (b) The application will be considered a new application in regard to the timelines and fee established in Subsection 2.1, and for any applicable distance requirements set forth in these Regulations.
- (c) After the immediate closure of a Boarding Home and the transfer of the current residents, the Boarding Home Owner may be barred from applying for a Harris County Class I Boarding Home permit.

2.6 RENEWAL OF A CLASS 1 BOARDING HOME PERMIT.

- (a) A Class 1 Boarding Home Permit may be renewed for the following year starting ninety (90) days before the expiration of the current permit by filing a complete application of a Class 1 Boarding Home Permit and paying the applicable fee set forth in these Regulations.
- (b) A renewal application shall be subject to the same requirements in these Regulations as are required for a Class 1 Boarding Home Permit application. As long as the completed renewal application was submitted within this ninety (90) day period, the previous Class 1 Boarding Home Permit will remain in effect until the Boarding Home Permit Administrator makes a determination in accordance with these Regulations as to whether the Class 1 Boarding Home Permit will be renewed.

2.7 CONTENTS OF A CLASS 1 BOARDING HOME PERMIT.

- (a) A Class 1 Boarding Home Permit is valid for three hundred and sixty-five (365) days.
- (b) When the application process is complete and the proposed Boarding Home has met all the requirements set forth in these Regulations, the Boarding Home Permit Administrator shall issue the proposed Boarding Home a Class 1 Boarding Home Permit.
- (c) The Class 1 Boarding Home Permit shall contain the following:
 - (1) the date the Permit was issued;

- (2) the date the Permit expires;
 - (3) the name of the Boarding Home;
 - (4) the physical address of the Boarding Home;
 - (5) the name of the Boarding Home Owner(s);
 - (6) type of ownership, i.e. d/b/a, Texas or foreign corporation, partnership, etc.
 - (7) a 24/7 contact for the Boarding Home in case of emergency;
 - (8) the number of residents allowed to live at the facility; and,
 - (9) the signature of the Boarding Home Permit Administrator.
- (d) The Boarding Home Permit Administrator shall keep a signed copy of the Class 1 Boarding Home Permit for the Boarding Home Permit Administrator's records.

SECTION 3.

CLASS 2 BOARDING HOME PERMITS (EMPLOYEE PERMIT)

3.1 APPLICATION.

- (a) It shall be a violation of these regulations for any employee or Boarding Home Owner who has not been issued a Class 2 Boarding Home permit, to engage in any of the activities outlined in Section 1.4, Subsections (d) or (g) in a Boarding Home located in Harris County. This is regardless of whether that Boarding Home has been issued a Class 1 Boarding Home Permit pursuant to these Regulations.
- (b) Pursuant to Health & Safety Code 260.005 the county may impose fines for noncompliance of these regulations if a boarding home owner, operator, or employee engages in any of the activities outlined in Section 1.4, Subsection (d) or (g) in a Boarding Home located in Harris County without being issued a Class 2 Boarding Home Permit pursuant to these Regulations
- (c) A complete application shall be filed with the Boarding Home Permit Administrator. The application shall be filed on the form provided by the Boarding Home Permit Administrator. The Boarding Home Permit Administrator shall establish the hours when an application can be submitted.
 - (1) The Applicant shall be a Boarding Home Owner and/or Employee.
 - (2) The Boarding Home Permit Administrator shall provide the fee schedule to the Applicant. Pursuant to Health & Safety Code 260.005 of the Health & Safety Code, the fees must be based on the cost of processing the applications, investigating the applicants and program administration.
 - (3) Incomplete applications will result in denial of the application and forfeiture of the application fee.

- (d) Each complete Class 2 Boarding Home Permit Application shall be accompanied by:
 - (1) a color copy of the Applicant's driver's license or government-issued photo identification;
 - (2) a color copy of the Applicant's social security card;
 - (3) a certification stating the Applicant has not violated, or been convicted of, any offense listed in Subsection 2.2(c) and (d); and,
 - (4) a valid mailing address, e-mail address and 24/7 phone number.
- (e) A Class 2 Boarding Home Permit application shall be denied upon failure to produce all documents and information required by Subsection 3.1(d) (1)-(4).
- (f) **A BOARDING HOME OWNER AND/OR EMPLOYEE SHALL NOT WORK AT A BOARDING HOME DURING THE PENDENCY OF THEIR APPLICATION AND SHALL WORK ONLY IF THEIR CLASS 2 BOARDING HOME PERMIT APPLICATION HAS BEEN APPROVED AND THE CLASS 2 BOARDING HOME PERMIT ISSUED.**

All current owners, operators, or employees of a Boarding Home in existence at the time of the adoption of these Regulations shall have no more than thirty (30) days from the approval date to complete the application process to obtain a Class 2 Boarding Home Permit. Failure to complete this process and obtain a Class 2 permit within the allocated time shall result in denial.

- (g) Class 2 Boarding Home Permit is not transferable, assignable, or divisible, and it is a violation of these Regulations for any boarding home permit holder to attempt to do so.

3.2 DENIAL OF A CLASS 2 BOARDING HOME PERMIT.

- (a) A history for the below listed offenses will disqualify an owner/operator from obtaining a permit to operate a boarding home or will serve as a bar to being employed by a boarding home facility:
 - (1) an offense under Chapter 19, Penal Code (criminal homicide);
 - (2) an offense under Chapter 20, Penal Code (kidnapping and unlawful restraint);
 - (3) an offense under §21.02, Penal Code (continuous sexual abuse of young child or children), or §21.11, Penal Code (indecentcy with a child);
 - (4) an offense under §22.011, Penal Code (sexual assault);
 - (5) an offense under §22.02, Penal Code (aggravated assault);
 - (6) an offense under §22.04, Penal Code (injury to a child, elderly individual, or disabled individual);
 - (7) an offense under §22.041, Penal Code (abandoning or endangering child);
 - (8) an offense under §22.08, Penal Code (aiding suicide);
 - (9) an offense under §25.031, Penal Code (agreement to abduct from custody);
 - (10) an offense under §25.08, Penal Code (sale or purchase of a child);
 - (11) an offense under §28.02, Penal Code (arson);
 - (12) an offense under §29.02, Penal Code (robbery);

- (13) an offense under §29.03, Penal Code (aggravated robbery);
 - (14) an offense under §21.08, Penal Code (indecent exposure);
 - (15) an offense under §21.12, Penal Code (improper relationship between educator and student);
 - (16) an offense under §21.15, Penal Code (improper photography or visual recording);
 - (17) an offense under §22.05, Penal Code (deadly conduct);
 - (18) an offense under §22.021, Penal Code (aggravated sexual assault);
 - (19) an offense under §22.07, Penal Code (terroristic threat);
 - (20) an offense under §33.021, Penal Code (online solicitation of a minor);
 - (21) an offense under §34.02, Penal Code (money laundering);
 - (22) an offense under §35A.02, Penal Code (Medicaid fraud);
 - (23) an offense under §42.09, Penal Code (cruelty to animals);
 - (24) an offense under §30.02, Penal Code (burglary);
 - (25) an offense under §31, Penal Code (theft), that is punishable as a felony; or
 - (26) a conviction under the laws of another state, federal law, or the Uniform Code of Military Justice for an offense containing elements that are substantially similar to the elements of an offense listed in this subsection.
- (b) A person may not own a boarding home or be employed in a position the duties of which involve direct contact with a resident in a boarding home before the fifth anniversary of the date the person is convicted of any felony offense not listed in subsection (c) or any of the following non-felony offenses:
- (1) an offense under §22.01, Penal Code (assault), that is punishable as a Class A misdemeanor;
 - (2) an offense under §32.45, Penal Code (misapplication of fiduciary property or property of a financial institution), that is punishable as a Class A misdemeanor;
 - (3) an offense under §32.46, Penal Code (securing execution of a document by deception), that is punishable as a Class A misdemeanor;
 - (4) an offense under §37.12, Penal Code (false identification as peace officer);
 - (5) an offense under §42.01(a)(7), (8), or (9), Penal Code (disorderly conduct); or
 - (6) a conviction under the laws of another state, federal law, or the Uniform Code of Military Justice for an offense containing elements that are substantially similar to the elements of an offense listed in this subsection.
- (c) The owner/operator must ensure that all employees, including volunteers who are not residents, have had a background check of conviction records, pending charges and disciplinary board decisions completed within the past two years, and is repeated every year thereafter, and that the individual is not disqualified under the provisions of Subsections (a) and (b) of this section. The owner/operator will immediately discharge

any employee or volunteer whose criminal history check reveals conviction of a crime that bars employment or volunteer service.

- (d) The following may result in the denial of a Class 2 Boarding Home Permit.
 - (1) the Applicant made a misleading statement in the application for a Class 2 Boarding Home Permit, provided false, fraudulent, or untruthful information in the application for a Class 2 Boarding Home Permit, and/or withheld pertinent information in the application for a Class 2 Boarding Home Permit.
 - (2) the Applicant is under eighteen (18) years of age;
 - (3) the Applicant has had a Class 1 or Class 2 Boarding Home Permit revoked within the three hundred and sixty-five (365) day period immediately preceding the date the application was filed; or
 - (4) an application or renewal fee required by these Regulations has not been paid.
- (e) If any of the stated events or conditions providing a basis for denial of a Class 2 Boarding Home Permit have occurred, the Boarding Home Permit Administrator shall document the reason for denial in a denial letter, and provide notice to the Applicant(s) by certified mail or e-mail to the pertinent address taken from the application.
- (f) An applicant shall sign a statement that the employee understands the requirements of Tex. Health & Safety Code § 260.009(b) and failure to report abuse, neglect, or exploitation may result in personal criminal liability under Tex. Hum. Res. Ann. § 48.052.

3.3 REVOCATION OR SUSPENSION OF A CLASS 2 BOARDING HOME PERMIT.

- (a) A Class 2 Boarding Home Permit may be revoked or suspended upon a finding by the Boarding Home Permit Administrator of any of the following facts:
 - (1) a Boarding Home Owner or Employee has violated, or is not in compliance with, any applicable Section or Subsection of these Regulations;
 - (2) a Boarding Home Owner or Employee failed to display on his/her person at all times while on the premises of a Boarding Home, a current valid Class 2 Boarding Home Permit issued pursuant to these Regulations;
 - (3) a Boarding Home Owner or Employee violated any of the offenses described in Subsection 3.2(a) of these Regulations. Class 2 license shall be suspended during the pendency of any of the listed criminal cases. If the ultimate disposition of the case results in conviction, the Class 2 license shall be revoked.
 - (4) a Boarding Home Owner or Employee is found to be on the premises of a Boarding Home in Harris County, and providing services to that Boarding Home, without a Class 2 Permit for that location;
 - (5) a Boarding Home Owner or Employee made a misleading statement in the application for a Class 2 Boarding Home Permit, provided false, fraudulent, or untruthful information in the application for a Class 2 Boarding Home Permit, and/or withheld pertinent information in the application for a Class 2 Boarding Home Permit; or,

- (6) the Class 2 Boarding Home Permit should not have been issued pursuant to these Regulations.
- (b) If any of the stated events or conditions providing a basis for revocation or suspension of a Class 2 Boarding Home Permit have occurred, the Boarding Home Permit Administrator shall document the violation in a revocation or suspension letter, and provide notice the Boarding Home Owner or Boarding Home Employee via certified mail or e-mail within five (5) days from the date on which the revocation or suspension letter was drafted by the Boarding Home Permit Administrator. The revocation or suspension letter shall provide the reason(s) for the action. A suspension of a Class 2 Boarding Home Permit by the Boarding Home Permit Administrator shall become final on the third (3rd) day after the suspension letter is mailed via certified mail. A suspension or revocation of Class 2 Boarding Home Permit is grounds for immediate removal from the facility pending the outcome of any pending criminal charges.

3.4 CLASS 2 BOARDING HOME PERMIT APPEALS.

- (a) If the Boarding Home Permit Administrator revokes a Class 2 Boarding Home Permit or suspends a Class 2 Boarding Home Permit, the Applicant or Boarding Home Owner/Employees shall have the opportunity to make a written request for a hearing before a hearing examiner appointed by the Harris County Commissioners Court. The hearing examiner shall not have participated in any investigation of the alleged grounds for denial, revocation, or suspension of the Class 2 Boarding Home Permit.

AN APPLICANT OR BOARDING HOME OWNER/EMPLOYEE SHALL NOT WORK AT ANY BOARDING HOME DURING THE PENDENCY OF AN APPEAL TO THE HEARING EXAMINER.

- (b) All requests for hearings shall be in writing and delivered to the Boarding Home Permit Administrator within thirty (30) days from the date when the denial, revocation, or suspension letter was transmitted by the Boarding Home Permit Administrator. The Applicant or Boarding Home Owner/Employees waives the right to a Class 2 Boarding Home Permit appeal hearing if the request is not timely received by the Boarding Home Permit Administrator.
- (c) The Applicant or Boarding Home Owner/Employee shall be provided an opportunity to present evidence, cross-examine witnesses, and be represented by legal counsel. The formal rules of evidence do not apply.
- (d) It shall be the responsibility of the Applicant or Boarding Home Owner/Employee to provide a court reporter and an interpreter if necessary for the Class 2 Boarding Home Permit appeal hearings before the hearing examiner.
- (e) The Applicant or Boarding Home Owner/Employee shall be present in person at the Class 2 Boarding Home Permit appeal hearings. If the Applicant or Boarding Home Owner/Employee is not present in person at the Class 2 Boarding Home Permit appeal hearing, the denial or revocation of the Class 2 Boarding Home Permit shall be automatically upheld.
- (f) The hearing examiner has the power to uphold or reverse the revocation of a Class 2 Boarding Home Permit.

- (g) The hearing examiner has the power to uphold, reverse, or modify the suspension of a Class 2 Boarding Home Permit by ordering a shorter or longer suspension.
- (h) The hearing examiner has the power to uphold, modify or reverse the revocation of a Class 2 Boarding Home Permit and instead order a suspension. However, if the hearing examiner finds that a violation of a particular Section or Subsection of these Regulations has occurred and that the specific violation calls for mandatory revocation, the hearing examiner shall strictly abide by that determination and shall not retroactively modify or change the status of that revocation.
- (i) The decision of the hearing examiner shall be final.
- (j) The hearing examiner shall issue a written order detailing his/her decision within five (5) days from the date of the Class 2 Boarding Home permit appeal hearing. The written order shall be distributed to the Applicant or Boarding Home Employee, and Boarding Home Permit Administrator via certified mail or email.

3.5 REAPPLICATION FOR A CLASS 2 BOARDING HOME PERMIT.

- (a) After the hearing examiner's final ruling of revocation of a Class 2 Boarding Home Permit, an Applicant(s) may reapply for a Class 2 Boarding Home Permit after the one hundred eighty (180) days from the date of the hearing examiner's ruling.
- (b) The application will be considered a new application in regard to the timelines and fee established in Subsection 3.1.

3.6 RENEWAL OF A CLASS 2 BOARDING HOME PERMIT.

- (a) A Class 2 Boarding Home Permit may be renewed for the following year starting ninety (90) days before expiration of the current permit before the expiration of the current permit by filing a complete application of a Class 2 Boarding Home Permit and paying the applicable fee set forth in these Regulations.
- (b) A renewal application shall be subject to the same requirements in these Regulations as are required for a Class 2 Boarding Home Permit application. As long as the completed renewal application was submitted within this ninety (90) day period, the previous Class 2 Boarding Home Permit will remain in effect until the Boarding Home Permit Administrator makes a determination in accordance with these Regulations as to whether the Class 2 Boarding Home Permit will be renewed.

3.7 CONTENTS OF A CLASS 2 BOARDING HOME PERMIT.

- (a) A Class 2 Boarding Home Permit is valid for three hundred and sixty-five (365) days.
- (b) When the application process is complete and the Applicant has met all the requirements set forth in these Regulations, the Boarding Home Permit Administrator shall issue the Applicant a Class 2 Boarding Home Permit.
- (c) The Class 2 Boarding Home Permit shall contain the following:
 - (1) The date the Permit was issued;
 - (2) The date the Permit expires;
 - (3) The name of the Boarding Home Owner/Employee;

- (4) A color photo of the Boarding Home Owner/Employee;
 - (5) The name and physical address of the Boarding Home(s) the Boarding Home Owner/Employee is permitted to work at;
 - (6) A 24/7 contact for the Boarding Home in case of emergency; and
 - (7) The signature of the Boarding Home Permit Administrator.
- (d) The Boarding Home Permit Administrator shall keep a signed copy of the Class 2 Boarding Home Permit for the Boarding Home Permit Administrator's records.

SECTION 4. OPERATIONS OF BOARDING HOME

4.1 COMPLIANCE WITH THE TEXAS BOARDING HOUSE MODEL STANDARDS IS MANDATORY.

In addition to complying with any requirements found in the Regulations, a Boarding Home Owner granted a Permit must operate the Boarding Home in full compliance with the current "Texas Boarding House Model Standards," attached hereto as Appendix A and incorporated herein by reference (the "Standards"). Failure to comply with any of these Standards may result in revocation or suspension of the Boarding Home Permit or fines or both.

If the executive commissioner amends the Standards, all Boarding Home Owners will be notified and supplied with a current copy of the newly amended Standards. Boarding Home Owners must inform the Boarding Home Permit Administrator within five (5) days of receipt of the notice that they will close their Boarding Home instead of complying with the new amendments. After receiving notice the Boarding Home will close, the Boarding Home Permit Administrator will provide notice that the Boarding Home Owner has thirty (30) days to work with Adult Protective Services to make arrangements for the Residents to transfer to another facility and to cease operations.

4.2 CLASS 1 BOARDING HOME PERMIT REQUIRED.

It shall be a violation of these regulations for a person to operate a Boarding Home in Harris County that has not been issued a valid Class 1 Boarding Home Permit or to employ a person who has not been issued a valid Class 2 Boarding Home Permit.

4.3 CLASS 1 BOARDING HOME PERMIT AND REQUIRED DOCUMENTS DISPLAYED.

- (a) A Boarding Home owner shall post and display its current valid Class 1 Boarding Home Permit conspicuously in plain sight in a common area accessible to the public and patrons.
- (b) A sign prescribed by the county and issued by the Boarding Home Permit Administrator, that specifies how complaints may be registered with the county shall be posted in a common area accessible to the public and patron.
- (c) A notice prescribed by the county that states that inspection and related reports are available at the boarding home facility for public inspection and providing a telephone

number that may be used to obtain information concerning the boarding home facility shall be posted in a common area accessible to the public and patron.

- (d) A concise summary of the most recent inspection report relating to the boarding home facility shall be posted in a common area accessible to the public and patron.
- (e) A notice in a form prescribed by the county, shall be posted in a common area accessible to the public and patron that lists the name, location, and contact information for:
 - (1) the closest local public health services agency in the proximity to the boarding home facility; and
 - (2) a local organization or entity that represents, advocates, or serves elderly person or person with disabilities, including any related toll-free contact information for reporting emergencies to the organization or entity.
- (f) A violation of this Subsection may be grounds for denial, revocation, or suspension of a Boarding Home's Class 1 Boarding Home Permit.

4.4 CLASS 2 BOARDING HOME PERMIT REQUIRED.

- (a) It shall be a violation of these regulations for any Boarding Home Owner, Employee or volunteer to provide work or service to a Boarding Home without being issued a valid Class 2 Boarding Home Permit pursuant to these Regulations.
- (b) Pursuant to Tex. Health & Safety Code § 260.005, the county may impose a fine if an owner, operator, or employee operates in violation of this Subsection.

4.5 INSPECTION BY LAW ENFORCEMENT AND OTHER PUBLIC OFFICIALS

- (a) In accordance with Tex. Health & Safety Code Ann. § 260.007(a), Peace Officers, Fire Safety Officials, Engineering Officials, and Public Health Officials may conduct any inspection, survey, or investigation that they consider necessary and may enter the premises of a Boarding Home facility at reasonable times to make an inspection, survey, or investigation. Harris County is entitled to access books, records, and other documents maintained by or on behalf of a Boarding Home facility to the extent necessary to enforce the Standards adopted by Harris County.
- (b) It shall be a violation of these regulations for a Boarding Home to exclude, prohibit, or prevent any Peace Officers, Fire Safety Officials, Engineering Officials, or Public Health Officials from conducting an inspection, survey, or investigation.

SECTION 5 VIOLATIONS AND PENALTIES

5.1 PENALTIES FOR VIOLATIONS OF THIS REGULATION

- (a) In accordance with Health and Safety Code § 260.0051, a person commits an offense if the person operates a boarding home facility without a permit in Harris County. An offense is a Class B misdemeanor.
- (b) In accordance with Health and Safety Code § 260.005, the county may impose fines for any noncompliance with these Regulations.

- (c) Violations of these Regulations will result in a fine of \$1,000 per violation. Each day that a violation continues is considered a separate violation for the purpose of assessing the fines.
- (d) A violation of the Regulation may result in revocation of a Boarding Home's Class 1 Boarding Home Permit in addition to any fines that may be imposed.

**SECTION 6.
ADDITIONAL REGULATIONS.**

6.1 SEVERANCE CLAUSE.

The Commissioners Court hereby declares the adoption of these Regulations and each separate part hereof. Any part of these Regulations held to be invalid shall not affect the validity of the remaining portions.

6.2 CUMULATIVE EFFECT.

Authority under these Regulations is cumulative of other authority that Harris County and its incorporated municipalities have to regulate Boarding Homes and does not limit that authority.

APPENDIX A

Texas Boarding House Model Standards

Introduction: The Legislature through House Bill 216, 81st Legislature, Regular Session, 2009, created Health and Safety Code Chapter 254, Boarding Home Facilities. Section 254.003 directs the Health and Human Services Commission (HHSC) to develop and publish model standards for the operation of boarding home facilities relating to: construction and remodeling of boarding homes; sanitary and related conditions; the reporting and investigation of injuries, incidents, and unusual accidents and the establishment of policies and procedures to ensure resident health and safety; assistance with self-administering medication; requirements for in-service education of the facility's staff; criminal history record checks; assessment and periodic monitoring to ensure that a resident does not require personal care, nursing or other services and is capable of self-administering medication. The legislation further directed HHSC to make the model standards available to local counties or municipalities that choose to require boarding homes to obtain a permit to operate the boarding home.

Definitions:

- A. Boarding home facility means an establishment that:
 - 1. furnishes, in one or more buildings, lodging to three or more persons with disabilities or elderly persons who are unrelated to the owner of the establishment by blood or marriage; and
 - 2. provides community meals, light housework, meal preparation, transportation, grocery shopping, money management, laundry services, or assistance with self-administration of medication but does not provide personal care services to those persons.
- B. Personal care services means
 - 1. assistance with meals, dressing, movement, bathing, or other personal needs or maintenance;
 - 2. the administration of medication by a person licensed to administer medication or the assistance with or supervision of medication; or
 - 3. 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.
- C. Assistance with self-administration of medication means assisting a resident by reminding the resident to take medication, opening and removing medications from a container, placing medication in a resident's hand or in/on a clean surface such as a pill cup or a medication reminder box and reminding the resident when a prescription medication needs to be refilled.
- D. Resident means a person who is residing in a boarding home facility.

- E. Elderly person means a person who is 65 years of age or older.
- F. Person with a disability means a person with a mental, physical, or developmental disability that substantially impairs the person's ability to provide adequately for the person's care or protection and
 - 1. who is 18 years of age or older or
 - 2. under 18 years of age and who has had the disabilities of minority removed.
- G. An injury, incident or unusual accident is an event that resulted in a change in the resident's physical or mental status that occurred in the boarding home facility or on the grounds of the boarding home facility that requires intervention by a private or public entity responsible for physical or mental health services, or an event that requires the facility taking resident safety and protection measures including:
 - 1. an allegation of abuse, neglect, or exploitation;
 - 2. death;
 - 3. a resident's absence from the facility when circumstances place the resident's health, safety or welfare at risk;
 - 4. fire;
 - 5. criminal acts; and
 - 6. altercations between residents.
- H. Abuse, neglect and exploitation is defined in the Texas Human Resource Code and §48.002 as the following:
 - 1. "Abuse" means:
 - a. the negligent or willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical or emotional harm or pain to an elderly or disabled person by the person's caretaker, family member, or other individual who has an ongoing relationship with the person; or
 - b. sexual abuse of an elderly or disabled person, including any involuntary or nonconsensual sexual conduct that would constitute an offense under §21.08, Penal Code (indecent exposure) or Chapter 22, Penal Code (assaultive offenses), committed by the person's caretaker, family member, or other individual who has an ongoing relationship with the person.
 - 2. "Exploitation" means the illegal or improper act or process of a caretaker, family member, or other individual who has an ongoing relationship with the elderly or disabled person using the resources of an elderly or disabled person for monetary or personal benefit, profit, or gain without the informed consent of the elderly or disabled person.

3. "Neglect" means the failure to provide for one's self the goods or services, including medical services, which are necessary to avoid physical or emotional harm or pain or the failure of a caretaker to provide such goods or services.

Standard 1. Construction/Remodeling

- A. Each owner/operator of a boarding home facility must ensure the resident's health, safety, comfort and protection through the following standards that address the construction or remodeling of a boarding home facility, including plumbing, heating, lighting, ventilation and other housing conditions.
- B. Each facility must meet the following applicable codes and regulations:
 1. local zoning and building codes;
 2. federal, state and local fire codes;
 3. federal, state and local health & safety codes; and
 4. federal and state accessibility regulations.
- C. Mobile homes shall not be permitted for use as boarding homes or additions to existing boarding homes.
- D. Interior doors to living spaces, bedrooms, bathrooms and toilet rooms must fit the openings in which they are hung, be properly equipped with hardware and be maintained in good working condition. Doors with locking devices must be provided where necessary to provide privacy and protection of the resident.
 1. Every closet door latch will be such that it can be readily opened from the inside in case of an emergency.
 2. Every bathroom door or door lock must permit the opening of the locked door in case of an emergency.
- E. Public pathways and stairways in buildings must maintain a minimum unobstructed width concurrent with federal fire codes and must be provided with convenient light switches controlling an adequate lighting system.
- F. Boarding home facilities must be supplied with electric service and fixtures that are properly installed and maintained in safe working condition and connected to a source of electrical power.
- G. Every boarding home facility must have heating and cooling equipment that are properly installed, vented, and maintained in a safe good working condition. The temperature of rooms intended for human occupancy will remain at a temperature between sixty-eight (68) and eighty-two (82) degrees Fahrenheit.
- H. Every boarding home facility must have water heating facilities that are properly installed, vented, in good working condition, and are properly connected with hot and cold water lines. The temperature of water drawn at every required sink, lavatory basin,

bath tub or shower will remain at a temperature between one hundred and ten (110) and one hundred and twenty (120) degrees Fahrenheit.

- I. Every habitable room must have at least one window that can be easily opened, or such other device as will ventilate the room. Locks that can be easily opened manually from the inside must be provided on all exterior doors. All windows must be openable without tools. The window opening must meet local codes for emergency egress. The bottom of the window opening must not be more than 44 inches above the floor.
- J. Sleeping rooms must have:
 - 1. at least 70 square feet of floor space in single-occupancy rooms;
 - 2. at least 60 square feet of floor space for each occupant in multi-occupancy rooms
 - 3. beds spaced at least three feet apart when placed side by side or end-to-end;
 - 4. at least a seven feet, six inches (7'6") ceiling height;
 - 5. required accessibility for non-ambulatory residents and residents with conditions that substantially limit ambulation and/or mobility;
 - 6. beds at least six feet (6') long and three feet (3') wide equipped with supportive springs in good condition and a clean supportive mattress in good condition, and a mattress cover that prevents bodily fluids from soiling the mattress;
 - 7. at least one pillow with a clean pillowcase, two (2) clean sheets, and a cover such as a blanket or quilt, in good condition, per bed, cleaned weekly or more often if soiled;
 - 8. extra bed linens, including sheets, pillowcase and blankets must be available to each resident;
 - 9. at least one chest of drawers or equivalent, in good condition having a sufficient number of drawers or other areas to contain all necessary items of clothing and personal belongings of each resident that can be locked/secured;
 - 10. at least one chair in good condition in each sleeping room;
 - 11. at least one end table in good condition located adjacent to each bed in each sleeping room;
 - 12. sufficient hanging space to allow clothes not stored in drawers to be hung. Clothing must not be stored on the floor;
 - 13. bath towels, washcloths, soap, individual comb and toothbrush must be available at all times and in quantity sufficient to meet the needs of the residents; and
 - 14. access to emergency exit without passing through another sleeping room.
- K. All equipment, fixtures, furniture, and furnishings, including windows, draperies, curtains, and carpets, must be kept clean and free of dust, dirt, vermin, and other contaminants, and must be maintained in good order and repair.

- L. Water closets, lavatories, and bathtubs or showers must be:
1. available on each floor when not provided in each individual room;
 2. provided in the ratio of one toilet and one lavatory, and one bathtub or shower for every six residents, or fraction thereof; and
 3. accessible to the residents without going outside of the building or without going through a sleeping room of another resident.
- M. A telephone must be available, 24 hours per day, must be easily accessible, and must afford privacy for use by residents.
1. A listing of emergency telephone numbers, including the numbers of the local police, fire department, ambulance, the office of the local governmental entity that issued the boarding house permit, the Texas Department of Family and Protective Services (DFPS), the Local Mental Health Authority, and the Texas Information and Referral Network must be placed in plain view on or next to the telephone and accessible to persons who are visually or hearing impaired, as needed.
- N. Each boarding home facility must provide:
1. A washer and dryer for every 10 residents, or fraction thereof that is properly vented to the outside. Washer or dryer must be in a utility room/ area that is not in kitchen area.
 2. A sitting/communal/recreational room for the common use of all residents. Furniture must include comfortable chairs and tables, and lamps in good repair and appearance.
 3. A dining room located on the same floor as the communal kitchen and must:
 - a. be as nearly adjacent to the communal kitchen as practicable;
 - b. be accessible to the residents, without going through a sleeping room or sleeping dormitory of another resident;
 - c. contain not less than 70 square feet of floor area; and
 - d. be supplied with one dining chair and 2 linear feet of dining table space for each resident of a boarding home facility.
 4. A kitchen that:
 - a. is accessible to the residents sharing the use without going through a sleeping room of another resident;
 - b. has a food preparation area with a total of not less than 6 square feet;
 - c. contains a minimum floor space of 60 square feet for dining area or, each kitchen with dining attached must be at least 100 square feet;
 - d. has a minimum two compartment sink for manual dishwashing;

- e. has a cooking stove fueled by gas or electricity;
 - f. contains at least one cabinet of adequate size, suitable for storage of food and utensils; and
 - g. is properly equipped to allow for the preparation of meals.
- O. Fire precautions must include:
- 1. providing suitable fire escapes/exits that must be kept in good repair and accessible at all times;
 - 2. having a written fire and evacuation plan that sets forth responsibilities and steps to be taken by staff and residents in the event of fire or other emergency;
 - 3. posting an emergency evacuation plan throughout the facility; and
 - 4. not storing gasoline operated maintenance equipment, lawn care equipment, and flammable supplies inside the boarding home facility.
- P. Alarm precautions must include the following:
- 1. Extinguishers must be sufficiently provided, accessible, checked monthly and recharged annually by a certified person.
 - 2. All fire protection measures must be in accordance with requirements of the local fire authority.
 - 3. Smoke detectors must be hard-wired, working and equipped in each bedroom, in corridors or hallways on each floor, and in laundry and basement areas.
 - 4. If a facility has a resident who is hearing impaired, a boarding house owner/operator must install a visual smoke detector that is capable of alerting a person with a hearing impairment of the presence of fire or smoke.
 - 5. Carbon monoxide detectors must be working and equipped close to sleeping areas.
- Q. All residents must be shown how to use all emergency exits from the facility within 24 hours of arrival to the facility.
- R. The boarding home site must pass all required inspections and the owner/operator must keep a current file of reports and other documentation on-site needed to demonstrate compliance with applicable laws and regulations. The inspections must be signed, dated, and free of any outstanding corrective actions. The following inspections are required:
- 1. annual inspection by the local fire authority or the State fire marshal;
 - 2. annual inspection of the alarm system by the local fire authority or an inspector authorized to install and inspect such systems;
 - 3. annual kitchen inspection by the local health authority;

4. gas pipe pressure test once every three years by the local gas company or a licensed plumber;
5. annual inspection and maintenance of fire extinguishers by personnel licensed or certified to perform these duties; and
6. annual inspection of liquefied petroleum gas systems by an inspector certified by the Texas Railroad Commission.

Standard 2. Sanitary and Related Conditions

- A. Each owner/operator of a boarding home facility must be responsible for maintaining the dwelling and premises in a clean and sanitary condition.
- B. Every boarding home facility must be kept in good repair, and so maintained as to promote the health, comfort, safety and well-being of residents.
- C. Interior walls, ceilings and floors must be capable of affording privacy and must be maintained free of holes, cracks, loose or deteriorated material, or any other condition that constitutes a hazard to the residents or is a harborage for insects, pests or vermin.
- D. Every window, exterior door and basement hatchway must be weather tight, watertight, insect and rodent-proof and must be kept in good working condition.
- E. The water supply must be of safe, sanitary quality, suitable for use, and adequate in quantity and pressure. The water must be obtained from a water supply system approved by the Texas Commission on Environmental Quality (TCEQ).
- F. Every plumbing fixture, water pipe and waste pipe must be properly installed and maintained in good sanitary working condition, free from defects, leaks and obstructions and properly connected to an approved sewage disposal system.
- G. Every boarding home facility utilizing well water must provide water samples at least annually to the permit issuing entity. If the sample results show coliform present, a sample must be taken within seven (7) days of receipt of the results.
- H. All garbage and refuse must be kept in watertight, covered containers. The garbage and refuse area must be kept in a clean and sanitary condition. A sufficient number of garbage receptacles must be provided by the boarding home. All garbage, trash and refuse must be removed from the premises frequently to prevent nuisance and unsightly conditions.
- I. Each owner/operator must be responsible for the extermination of any insects, rodents or other pests in the rooms occupied by residents, storage areas, attics or on the premises and yard.
- J. Water closets, lavatories, and bathtubs or showers must be:
 1. kept clean and in good repair and must be well-lighted and ventilated;
 2. adequately supplied with toilet paper, soap, and hand towels for each bathroom; and

3. supplied with non-slip surfaces in bathtub or shower, and curtains or other safe enclosures for privacy.
- K. Each kitchen in a boarding home must:
1. be kept in a clean and sanitary condition;
 2. have a food preparation area with a surface area that is smooth, impermeable, free of cracks and easily cleanable, that shall not be used for eating; and
 3. have a refrigerator that is equipped with a thermometer and is maintained in an operational, clean and sanitary condition that is adequate to maintain foods at the required temperature.
- L. Each facility shall meet all applicable state and local sanitary codes.
- M. All linens and laundry shall be
1. bagged or placed in a hamper before being transported to the laundry area;
 2. properly identified to prevent loss; and
 3. not be transported through, sorted, processed, or stored in kitchens, food preparation areas, or food storage areas, if soiled.
- N. Poisonous, toxic, and flammable materials shall
1. be stored and maintained away from bed linens, towels, or kitchen equipment;
 2. be prominently and distinctly labeled for easy identification of contents; and
 3. not be used in a way that contaminates food equipment or utensils, or in a way that constitutes a hazard to employees or residents.
- O. After each usage, all eating and drinking utensils shall be thoroughly washed and sanitized in hot water containing a suitable soap or synthetic detergent and rinsed in clean hot water. In the event a mechanical dishwasher is used, dish detergent is required.
- P. All food and drink shall be:
1. clean, free from spoilage, pathogenic organisms, toxic chemicals, and other harmful substances;
 2. prepared, stored, handled, and served so as to be safe for human consumption;
 3. maintained at a temperature of 41 degrees Fahrenheit or below for foods subject to spoilage;
 4. maintained at 140 degrees Fahrenheit or above at all times for hot foods ready to serve;
 5. maintained in the freezer at a temperature of 0 degrees Fahrenheit or below for foods stored as frozen; and

6. stored in food containers that are appropriately labeled, dated, and protected from flies, insects, rodents, dust, and moisture.
- Q. Meals provided by the facility shall be nutritionally balanced and shall provide the USDA recommended daily allowances of vitamins, minerals and calories.
- R. With the exception of service animals for persons with disabilities, birds, cats, dogs or other animals are not permitted in areas in which food is prepared, stored or where utensils are washed or stored.
- S. Meals shall be served:
1. at least three (3) times per day;
 2. in sufficient quantity and quality to meet the nutritional needs of the residents;
 3. daily at regular hours, with at least one hot meal per day;
 4. with no more than 14 hours between the beginning of the evening meal and the beginning of the morning meal; and
 5. with alternative selections for residents on medically prescribed diets.
- T. A time schedule of meals shall be posted daily.
- U. Employees or residents engaged in food handling shall
1. observe sanitary methods, including hand washing as appropriate; and
 2. not be assigned to preparing foods for others at the facility if carrying a disease that can be transmitted to others.
- V. Regardless of the number of residents, each boarding home facility shall hold a valid food handling permit issued by the applicable local or state regulatory authority in the name of the owner/operator and for the specific boarding home facility.
- W. If preparing meals for residents, staff must have a food-handler's permit.
- X. Each boarding home facility shall maintain a minimum food and water supply sufficient for all residents as recommended by the American Red Cross.
- Y. Each boarding home facility shall be equipped with a first aid kit as recommended by the American Red Cross.

Standard 3. Reporting and Investigation of Injuries, Incidents and Unusual Accidents and the Establishment of Other Policies and Procedures to Ensure Resident Health and Safety

- A. Each owner/operator of a boarding home facility must develop and implement policies and procedures for investigating and documenting injuries, incidents and unusual accidents that involve residents. Owners/operators must also establish policies and procedures necessary to ensure resident health and safety.
1. Minimum requirements for the documentation of injuries, incidents or unusual accidents should include, but are not limited to:

- a. Date and time of the injury, incident or unusual accident occurred;
 - b. Description of the injury, incident or unusual accident;
 - c. Description of any medical or mental health treatment the resident received;
 - d. Steps taken by the owner/operator to prevent future injuries, incidents or unusual accidents if a problem at the boarding home facility resulted in the injury, incident or unusual accident.
 - e. When the resident's legal guardian or legally authorized representative was notified about the injury, incident or unusual accident.
2. Residents, the resident's guardian, or legally authorized representatives should be given access to the inspection records as described in A (1) within 48 hours of requesting the records from the owner/operator.
- B. In addition to investigating and documenting injuries, incidents or unusual accidents, an owner/operator must report any allegations of abuse, neglect or exploitation of an adult age 65 or older or an adult with a disability to the Texas Department of Family and Protective Services. Failure to report suspected abuse, neglect or exploitation of an elderly adult or adult with a disability is a Class A misdemeanor.
1. Each owner/operator should ensure that each resident has access to a telephone 24 hours per day that is easily accessible and affords privacy for use by residents.
 2. The owner/operator shall ensure that no resident is harassed, retaliated against, threatened or intimidated at anytime for making a report of abuse, neglect or exploitation.
 3. Owner/operators will provide each resident with a copy of the definitions of abuse, neglect or exploitation as outlined in Chapter 48 of the Human Resources Code.
 4. Owner/operators will allow law enforcement personnel, emergency medical and fire personnel access to the boarding home facility when these professionals are responding to a call at the owner/operator's room and board facility.
- C. No operator or other employee of a boarding home facility shall provide services or engage in behavior that constitutes a financial conflict of interest including:
1. borrowing from or loaning money to residents;
 2. witnessing wills in which the operator or employee is a beneficiary;
 3. commingling the resident's funds with the operator's or other residents' funds; or
 4. becoming the guardian, conservator or power of attorney for a resident.
- D. If an owner/operator becomes the representative payee for a resident or assists a resident with general money management, the owner/operator shall:

1. maintain separate financial records for each resident for which the owner/operator is the representative payee for the entire period of time the owner/operator is the resident's representative payee and continue to maintain the resident's records for one year past the last calendar day the owner/operator is the resident's representative payee;
 2. include in the records an itemized list of expenditures that the owner/operator has made on behalf of the resident, including the charges that are assessed by the owner/operator;
 3. maintain receipts for all expenditures in addition to the itemized documentation;
 4. develop a budget with the resident outlining routine expenditures and ensure that expenditures that are not routine are discussed with the resident before the resident's funds are expended; and
 5. the owner/operator will allow the resident, the resident's guardian, or legally authorized representative access to the resident's financial records that are maintained by the owner/operator within 48 hours of receiving a request.
- E. An owner/operator of a boarding home facility shall develop a service agreement with each resident and maintain a copy of the agreement signed by the resident.

Standard 4. Assistance with Self-Administration of Medication

- A. Assistance with self-administration of medication may be provided to adult residents who can identify their medication and know when their medication should be taken but require assistance with self-administration. Assistance with self-administration of medication may not be provided to minors.
- B. Assistance with self-administration of medication is limited to:
1. reminding the resident to take medication;
 2. opening a container, removing medication from a container, and placing medication in a resident's hand or in/on a clean surface, such as a pill cup or medication reminder box, for the resident's self-administration; and
 3. reminding the resident when a prescription needs to be refilled.
- C. All residents' medication must be stored in a locked area. The boarding home facility must provide a central locked storage or individual locked storage areas for each resident's medication.
1. If the boarding home facility uses a central medication storage area, a boarding home employee must be available to provide access at all times and each resident's medication must be stored separately from other residents' medications within the storage area.

2. If a residents medication requires refrigeration, the boarding home facility must provide a refrigerator with a designated and locked storage area or a refrigerator inside a locked medication room.
 3. Medications labeled for "external use only" must be stored separately within the locked area.
 4. Poisonous substances must be labeled, stored safely, and stored separately from medications within a locked area.
 5. If a boarding home facility stores controlled drugs, the facility must adopt and enforce a written policy for preventing the diversion of the controlled drugs.
- D. Medication that remains in the boarding home facility after a resident is no longer lodging in the facility must be properly disposed of by the owner or operator in accordance with applicable county or municipality requirements.

Standard 5. Requirements for in-service education of facility's staff

- A. Each owner/operator and employee is subject to the following initial training requirements prior to contact with residents:
1. employer rules and policies;
 2. recognizing and reporting abuse, neglect and exploitation;
 3. Resident's rights, including all applicable rights from the following:
 - a. Texas Human Resource Code, Chapter 102, Rights of the Elderly;
 - b. Texas Human Resource Code, Chapter 112, Developmental Disabilities;
 - c. Texas Property Code, Chapter 301, Fair Housing Practices; and
 - d. Texas Property Code, Chapter 92, Residential Tenancies.
 4. policies and procedures for contacting emergency personnel when a resident's health or safety is at risk;
 5. complaint process specific to the city and boarding home;
 6. assistance with self-administration of medication;
 7. prevention of injuries, incidents and unusual accidents;
 8. emergency, evacuation and disaster plan; and
 9. service specific orientation that includes, but is not limited to: a. nutrition, including meal preparation and dietary needs; b. sanitation; c. laundry; and d. housework.
- B. Each owner/operator and employee is subject to the following ongoing training requirements:

1. Updates and changes in any policies and procedures within 10 days of the owner, operator or employee becoming aware of the change.
2. Orientation specific to the needs of each new resident within one day of the resident moving into the home.
3. Orientation specific to the needs of a resident whose needs have changed due to injury, illness, hospitalization or other circumstances which affect the resident's needs within one day of the owner, operator, or employee becoming aware of the change.

Standard 6. Criminal Background History Checks

- A. A boarding home facility owner/operator's permit to operate a boarding home may be denied, revoked, suspended, or denied for renewal if the owner/operator has been convicted of a criminal offense listed in subsection C or D of this section, or if the owner/operator has in its employ any person convicted of a criminal offense listed in subsection C or D.
- B. The owner/operator must complete any state or federal request and release forms that are required to obtain a criminal history report for the owner/operator. In addition to the permit fee, the owner/operator will provide funding to the county/municipality in a manner specified by the county/municipality to cover any fees imposed by state or federal agencies for the report.
- C. The following histories for convictions will disqualify an owner/operator from obtaining a permit to operate a boarding home or will serve as a bar to being employed by a boarding home facility:
 1. an offense under Chapter 19, Penal Code (criminal homicide);
 2. an offense under Chapter 20, Penal Code (kidnapping and unlawful restraint);
 3. an offense under §21.02, Penal Code (continuous sexual abuse of young child or children), or §21.11, Penal Code (indecent with a child);
 4. an offense under §22.011, Penal Code (sexual assault);
 5. an offense under §22.02, Penal Code (aggravated assault);
 6. an offense under §22.04, Penal Code (injury to a child, elderly individual, or disabled individual);
 7. an offense under §22.041, Penal Code (abandoning or endangering child);
 8. an offense under §22.08, Penal Code (aiding suicide);
 9. an offense under §25.031, Penal Code (agreement to abduct from custody);
 10. an offense under §25.08, Penal Code (sale or purchase of a child);
 11. an offense under §28.02, Penal Code (arson);
 12. an offense under §29.02, Penal Code (robbery);
 13. an offense under §29.03, Penal Code (aggravated robbery);

14. an offense under §21.08, Penal Code (indecent exposure);
 15. an offense under §21.12, Penal Code (improper relationship between educator and student);
 16. an offense under §21.15, Penal Code (improper photography or visual recording);
 17. an offense under §22.05, Penal Code (deadly conduct);
 18. an offense under §22.021, Penal Code (aggravated sexual assault);
 19. an offense under §22.07, Penal Code (terroristic threat);
 20. an offense under §33.021, Penal Code (online solicitation of a minor);
 21. an offense under §34.02, Penal Code (money laundering);
 22. an offense under §35A.02, Penal Code (Medicaid fraud);
 23. an offense under §42.09, Penal Code (cruelty to animals);
 24. an offense under §30.02, Penal Code (burglary);
 25. an offense under §31, Penal Code (theft), that is punishable as a felony; or
 26. a conviction under the laws of another state, federal law, or the Uniform Code of Military Justice for an offense containing elements that are substantially similar to the elements of an offense listed in this subsection.
- D. A person may not own a boarding home or be employed in a position the duties of which involve direct contact with a resident in a boarding home before the fifth anniversary of the date the person is convicted of any felony offense not listed in subsection C or any of the following non-felony offenses:
1. an offense under §22.01, Penal Code (assault), that is punishable as a Class A misdemeanor;
 2. an offense under §32.45, Penal Code (misapplication of fiduciary property or property of a financial institution), that is punishable as a Class A misdemeanor;
 3. an offense under §32.46, Penal Code (securing execution of a document by deception), that is punishable as a Class A misdemeanor;
 4. an offense under §37.12, Penal Code (false identification as peace officer);
 5. an offense under §42.01(a)(7), (8), or (9), Penal Code (disorderly conduct); or
 6. a conviction under the laws of another state, federal law, or the Uniform Code of Military Justice for an offense containing elements that are substantially similar to the elements of an offense listed in this subsection.
- E. The owner/operator must ensure that all employees, including volunteers who are not residents, have had a background check of conviction records, pending charges and disciplinary board decisions completed within the past two years, and is repeated every year thereafter, and that the individual is not disqualified under the provisions of Subsections C and D of this section. The owner/operator will immediately discharge any employee or volunteer whose criminal history check reveals conviction of a crime that bars employment or volunteer service.

Standard 7. Assessment and periodic monitoring of residents

- A. Owners/operators of a boarding home facility or their designee will complete and document an annual assessment and conduct periodic monitoring to ensure that a resident is capable of self-administering medication and completing basic elements of personal care as listed in Subsection B & C. The assessment will be used as a tool to determine if the needs of the resident can be addressed in a boarding home facility or if the resident needs personal care services and/or medication administration that cannot be provided by the boarding home facility.
- B. Elements of the self-administration of medication to be assessed by the boarding home facility owner/operator or designee include the ability to perform each of the following tasks with little assistance:
 - 1. identifying the name of the medication;
 - 2. providing a reason for the medication (the owner/operator cannot force the resident to disclose a health condition that is the basis for the medication if the resident refuses);
 - 3. distinguishing color or shape;
 - 4. preparing correct number of pills (dosage);
 - 5. confirming the time to take medication(s);and
 - 6. reading labels.
- C. Elements of personal care to be assessed by the boarding home facility owner/operator include the resident's ability to:
 - 1. eat independently;
 - 2. bathe without assistance;
 - 3. dress without assistance; and
 - 4. move and transfer independently.
- D. As a result of an assessment, if an owner/operator finds that a resident is in a state of possible self-neglect due to no longer being able to perform basic elements of personal care as listed in Subsection C and believes that a higher level of care is needed, the owner/operator is responsible for the following:
 - 1. Contacting DFPS by phoning the Statewide Intake division at 1800-252-5400;
 - 2. Notifying the resident's guardian or legally authorized representative; and
 - 3. Contacting the appropriate health or human services authority to advise that the resident requires services beyond what can be provided by the boarding home facility.

- E. A state of self-neglect does not exist if the resident receives outside professional services that meet the resident's need for personal care or self-administration of medication. In these cases, the resident can remain in the boarding home facility provided that all needs for personal care and self-administration of medication are met.

TRD-201004668 Steve Aragon Chief Counsel Texas Health and Human Services Commission
Filed: August 12, 2010

ORDER OF COMMISSIONERS COURT

The Commissioners Court of Harris County, Texas, met in regular session at its regular term at the Harris County Administration Building in the City of Houston, Texas, on _____, with all members present except _____.

A quorum was present. Among other business, the following was transacted:

ORDER ADOPTING THE AMENDED BOARDING HOME REGULATIONS FOR THE UNINCORPORATED AREA OF HARRIS COUNTY, TEXAS

Commissioner _____ introduced an order and moved that Commissioners Court adopt the order. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge Lina Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Rodney Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Adrian Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Tom S. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. R. Jack Cagle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order thus adopted follows:

The County Attorney’s Office worked with the Harris County Sheriff’s Office along with other County departments and agencies to draft the attached regulations for Commissioners Court consideration pursuant to Chapter 260 of the Texas Health and Safety Code.

The Commissioners Court finds that the unrestricted operation of boarding homes may be detrimental to public health, safety, and general welfare of the residents of unincorporated Harris County, and to protect the residents of Boarding Homes from abuse, neglect, exploitation, Medicare and Medicaid fraud, and other criminal or unethical behaviors. The attached amended regulations are adopted pursuant to that finding.

IT IS ORDERED THAT:

1. The Amended Boarding Home Regulations for the Unincorporated Area of Harris County, Texas are hereby adopted.
2. All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purposes of this order.