

ORDINANCE NO. 4210
 Zoning Text Amendment No. 2012-03

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE ADOPTED ON SEPTEMBER 4, 1973, AND RECODIFIED ON NOVEMBER 21, 1988, BY PROVIDING CERTAIN ADDITIONS AND DELETIONS UNDER SECTIONS 2-200, 3-200 AND 6-100 GOVERNING AND DEFINING RESIDENTIAL CARE FACILITIES AND ADDING A NEW SECTION 2-800 THEREBY CREATING REGULATIONS FOR THE USE AND OPERATION OF SUCH FACILITIES; PROVIDING A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EFFECTIVE DATE THEREOF.

WHEREAS, the Planning and Zoning Commission did give public notice and did hold a public hearing regarding the proposed amendments to the regulations governing and has recommended amendments to the Mesquite Zoning Ordinance; and

WHEREAS, the City Council did give public notice and did hold a public hearing regarding the proposed amendments.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That the Mesquite Zoning ordinance adopted on September 4, 1973, and recodified on November 21, 1988, be and the same is hereby amended by providing certain additions and deletions under Sections 2-200, 3-200 and 6-100 and adding a new Section 2-800 to read as follows, said Ordinance in all other respects to remain in full force and effect:

- (1) *Section 2-203(B)(14).* Amend the section by deleting subsection (B)(14) of the permitted use table for residential districts and adding a new subsection (B)(14) of the permitted use table for residential districts in Section 2-203 to read as follows:

	<i>AG</i>	<i>R</i>	<i>D</i>	<i>TNMR</i>	<i>A</i>	<i>SPECIAL CONDITIONS</i>
<i>B. NONRESIDENTIAL USES</i>						
14. RESIDENTIAL CARE FACILITIES						See generally, Section 2-800
a. Personal Care Home	P	P	P	P	P	
b. Community Home (6 or fewer persons)	P	P	P	P	P	SIC 836; Requires State licensing; Permits only homes complying with the Community Homes for Disabled Persons Location Act; Classify all others as Group Homes.
c. Group Home (7 to 15 persons)	C	C	C	P	P	SIC 836; Requires State licensing; Classify facilities for delinquents and offenders as SIC 9223; See 3-203.
d. Residential Care Institution (16 or more persons)					P	SIC 836

- (2) *Section 2-800.* Amend by adding a new Section 2-800 to read as follows:

2-800 RESIDENTIAL CARE FACILITIES

2-801 CERTIFICATE OF OCCUPANCY

A. REQUIRED

All *assisted living facilities* shall apply for and receive an approved certificate-of-occupancy from the Building Official prior to the commencement of operations. All State licensed facilities operating within the City without an approved certificate of occupancy as of April 16, 2012, shall apply for a certificate within thirty days after said date and shall meet the requirements for an approved certificate no later than July 1, 2012.

B. CONTROLLING CODES

To receive a certificate-of-occupancy, the proposed *assisted living facility*, including the premises, shall meet the requirements of this Section, the International Residential Code or International Building Code, whichever is applicable for the size of the facility, the International Property Maintenance Code, and such other codes and ordinances that may govern the operation of the facility. The Building Official may approve a provisional certificate-of-occupancy for a *community home* or *group home* pending the applicant's receipt of a State license for the facility.

C. REASONABLE ACCOMMODATION

The Director of Community Development is authorized to provide a reasonable accommodation to standards, rules, policies or practices of the City related to the use or occupancy of a dwelling when the accommodation may be necessary to afford disabled persons an equal opportunity to use and enjoy the dwelling.

2-802 PERSONAL CARE HOMES

A. LOCATION

A *personal care home* shall be permitted-by-right in any residential district.

B. REGISTRATION

Not less than ten days prior to commencing operations, the proprietor of a *personal care home* shall:

1. If owner-occupied, apply for and register the facility as a home occupation with the Office of Planning and Zoning. For purposes of such application, the conducting of the *personal care home* shall be considered incidental to the primary residential use of the dwelling, and any employees of the facility shall be considered occupants of the dwelling; or
2. If not owner-occupied, apply for and register the facility as a rental dwelling unit with the Building Official under Section 5-468 of the City Code.

2-803 COMMUNITY HOMES

A. LOCATION

A *community home* shall be permitted-by-right in any residential district. However, a *community home* shall not be established within one-half mile of an existing *community home*.

B. TYPE OF FACILITY

A *community home* shall be operated by:

1. The Texas Department of Mental Health and Mental Retardation;
2. A community center organized under Subchapter A, Chapter 534, Texas Health and Safety Code, that provides services to persons with disabilities;
3. An entity subject to the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes);
4. An entity certified by the Texas Department of Human Services as a provider under the medical assistance program serving persons in intermediate care facilities for persons with mental retardation; or
5. An assisted living facility licensed under Chapter 247, Texas Health and Safety Code.

2-804 GROUP HOMES

A. LOCATION

1. The establishment of a *group home* in the AG, R or D residential districts shall be subject to approval of a conditional use permit by the City Council. The operator or proprietor of the proposed *group home* shall file a complete application for the conditional use permit prior to obtaining a State license for the proposed facility. The application shall be processed according to the procedures of Section 5-300. A *group home* shall be permitted-by-right within the A or TNMR districts.
2. A *group home* within the AG, R or D residential districts shall not be established within one thousand feet (1,000 ft.) of an existing *community home*.

2-805 CONTEXT AND PREMISES

A. NEIGHBORHOOD APPEARANCE

A *personal care home*, *community home* or *group home* established within an AG, R or D residential district shall retain, or be constructed to match, an exterior appearance compatible with the surrounding residential dwellings. Within the A or TNMR districts, a *personal care home*, *community home* or *group home* shall either maintain the form of the existing building it occupies, or if built new, shall be constructed to the residential standards of the district.

B. MULTIPLE USES PROHIBITED

No other use, including a *home occupation*, shall be conducted on the premises of a *community home* or *group home*, except for such activities clearly incidental to the administration of the facility, the provision of services in connection with the facility's State license, and the conducting of religious services for residents and their families.

C. PARKING

1. Within the AG, R or D residential districts, a *personal care home*, *community home* or *group home* shall provide one off-street parking space for each on-duty or resident

supervisor. The number of motor vehicles kept by and for the use of residents of the facility shall not exceed the number of bedrooms in the facility. Except for emergency vehicles, the facility operator shall schedule caregiver visits so that no more than two caregiver vehicles are parked on the public street at the same time.

2. In all other districts, the parking requirements for *assisted living facilities* shall meet Parking Standard 24 in Section 3-405, and the disposition and configuration of parking shall meet the applicable requirements of Sections 3-400 or 4-1500.

2-806 LICENSURE AND NOTIFICATION

A. LICENSE TO BE POSTED

Each *assisted living facility* shall post its current State license in a conspicuous place near the front door on the interior of the facility for inspection by authorized personnel of the City.

B. NOTIFICATION OF CHANGED CONDITIONS

The operator or proprietor of any *residential care facility* shall give immediate written notice to the Office of Planning and Zoning of any of the following:

1. The revocation or non-renewal of its State license;
2. An approved, proposed or pending amendment to its State license, which authorizes, or would authorize, the facility to increase the number of residents, or which would require the operator or proprietor to reduce the number of residents; or
3. The construction or conversion of living space as an addition to or within a *personal care home, community home or group home*, including a garage conversion, that the operator or proprietor intends to use for additional bedrooms, or the filing of a building permit application to do any of the same.

- (3) *Section 3-203 SIC836*. Amend the section by deleting SIC836 of the permitted use table for nonresidential districts and adding a new SIC836 of the permitted use table for nonresidential districts to Section 3-203 to read as follows:

SIC CODE	USE DESCRIPTION	O	GR	LC	THN K20 NG7C I	CV	MU	CB	SS	C	I	PKNG STND	SPECIAL CONDITIONS
836	Residential Care												See 2-203 for Personal Care Home, Community and Group Homes; Classify halfway houses or correctional facilities for delinquents and offenders as 9223; See 2-800 for parking requirements
a.	Personal Care Home												
b.	Community Home (6 or fewer persons)												
c.	Group Home (7-15 persons)												
d.	Residential Care Institution (16 or more persons)	C	C	P			P	P		P	P	24	

- (4) *Section 6-102*. Amend the section by deleting the definition of *residential care facility* in its entirety and adding new definitions for *assisted living facility, care institution, community home, group home, personal care home, personal care services* and *residential care facility* in Section 6-102 to read as follows:

ASSISTED LIVING FACILITY

A residential establishment, consisting of one or more facilities, licensed under Chapter 247 of the Texas Health and Safety Code that provides food, shelter and *personal care services* to four (4) or more persons unrelated to the proprietor of the establishment.

CARE INSTITUTION

A residential establishment licensed as an *assisted living facility* under Chapter 247 of the Texas Health and Safety Code that provides food, shelter and *personal care services* to sixteen (16) or more persons.

COMMUNITY HOME

A residential establishment licensed by the State of Texas, where not more than six (6) disabled persons and two supervisors may reside at the same time, and where the disabled persons are provided food and shelter, personal guidance as well as supervised care and rehabilitation. The limitation on the number of persons with disabilities applies regardless of the legal relationship of those persons to one another.

GROUP HOME

A residential establishment licensed as an *assisted living facility* under Chapter 247 of the Texas Health and Safety Code that provides food, shelter and *personal care services* to seven (7) or more, but fifteen (15) or fewer persons. Supervisors may reside in the establishment, provided that no more than a total of fifteen (15) persons may reside therein, regardless of the legal relationship of those persons to one another.

PERSONAL CARE HOME

A residential establishment that provides food, shelter and *personal care services* to three (3) or fewer persons unrelated to the proprietor of the establishment.

PERSONAL CARE SERVICES

Assistance with feeding dressing, moving, bathing, or other personal needs or maintenance; administration of medication by a person licensed or otherwise authorized in this State to administer the medication or provide assistance with or supervision of the administration of medication; or general supervision or oversight of the physical and mental well-being of a person who needs assistance to maintain a private and independent residence or who needs assistance to manage the person's personal life, regardless of whether a guardian has been appointed for the person.

RESIDENTIAL CARE FACILITY

A *personal care home, community home, group home, care institution, or other assisted living facility*, as those terms are defined herein.

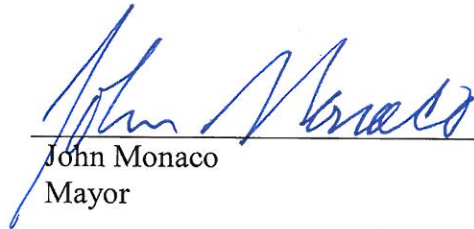
SECTION 2. That all ordinances, or portions thereof, of the City of Mesquite in conflict with the provisions of this ordinance, to the extent of such conflict are hereby repealed. To the extent that such ordinances or portions thereof not in conflict herewith, the same shall remain in full force and effect.

SECTION 3. That should any word, sentence, clause, paragraph, phrase or section of this ordinance be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part

so decided to be invalid, illegal or unconstitutional and shall not affect the validity of the Mesquite Zoning Ordinance as a whole.

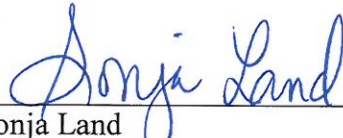
SECTION 4. That any person (as defined in Chapter 1, Section 1-2 of the Code of the City of Mesquite, Texas, as amended) violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction thereof, shall be subject to a fine not to exceed Two Thousand (\$2,000.00) Dollars for each offense, provided, however, if the maximum penalty provided for by this ordinance for an offense is greater than the maximum penalty provided for the same offense under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense shall be the maximum penalty provided by the laws of the State of Texas. Each day or portion of a day any violation of this ordinance continues shall constitute a separate offense.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 16th day of April, 2012.




John Monaco
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



B. J. Smith
City Attorney