

**Division 51-4.200.**

**Use Regulations.**

**SEC. 51-4.201. RESIDENTIAL USES.**

(a) General provisions.

(1) In an GO district, single-family, duplex, and multiple-family uses must be a component of an office building and comprise no more than five percent of the total floor area of the building.

(2) Notwithstanding any other provision in this chapter, a facility that meets all of the requirements of Article 1011n, V.T.C.A., may locate in any residential zone or district in the city as a matter of right. Unless otherwise directed by the city attorney, the building official and any other city officer or employee charged with enforcement of this chapter shall construe Article 1011n by substituting Congress' definition of a handicapped person in the Fair Housing Amendments Act of 1988, as amended, for the state's definition of "disabled person" in that article.

(b) Specific residential uses. The following residential uses are subject to the general provisions in Subsection (a) and the regulations below:

(1) Single-family.

(A) Definition: One dwelling unit located on a lot.

(B) Districts permitted: Residential districts except MH; nonresidential districts except NO, LO, MO, and industrial districts.

(C) Required off-street parking: Two spaces for each dwelling unit, except one space for each dwelling unit in R-7.5 and R-5 districts. No handicapped parking is required.

(D) Required off-street loading: None.

(E) Additional provisions:

(i) The board of adjustment may grant a special exception to authorize an additional dwelling unit in any district when, in the opinion of the board, the additional dwelling unit will not:

(aa) be used as rental accommodations; or

(bb) adversely affect neighboring properties.

(ii) In granting a special exception under Subparagraph (i), the board shall require the applicant to deed restrict the subject property to prevent use of the additional dwelling unit as rental accommodations.

(iii) A dwelling unit must be physically separable from contiguous dwelling units in the event of removal of a dwelling unit.

(iv) Each dwelling unit must have separate utility services; however, general utility services on land owned and maintained by a homeowner's association is allowed.

(v) Each party wall must be governed by a set of deed restrictions, stipulating that if a dwelling unit is removed, the party wall stays with the remaining dwelling unit.

(vi) In a single-family, duplex, or townhouse district, a lot for a single-family use may be supplied by not more than one electrical utility service, and metered by not more than one electrical meter. The board of adjustment may grant a special exception to authorize more than one electrical utility service or more than one electrical meter on a lot in a single-family, duplex, or townhouse district when, in the opinion of the board, the special exception will:

(aa) not be contrary to the public interest;

(bb) not adversely affect neighboring properties;

and

(cc) not be used to conduct a use not permitted in the district where the building site is located.

(vii) In addition to any other applicable regulations, industrialized housing must comply with the following additional provisions. For purposes of this subparagraph, "industrialized housing" means industrialized housing as defined by Section 1202.002 of the Texas Occupations Code, as amended.

(aa) Industrialized housing must have all local permits and licenses that are applicable to other single-family or duplex dwellings.

(bb) Industrialized housing must have a value equal to or greater than the median taxable value of each single-family dwelling located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll of the appraisal district. For purposes of this subparagraph, the "value" of the industrialized housing means the taxable value of the industrialized housing and the lot after installation of the industrialized housing.

(cc) Industrialized housing must have exterior siding, roofing, roof-pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located. "Compatible" as used in this subparagraph means similar in application, color, materials, pattern, quality, shape, size, slope, and other characteristics; but does not necessarily mean identical. The burden is on the property owner or applicant to supply proof of compatibility. The property owner or applicant may appeal a decision of the building official to deny a permit due to lack of compatibility to the board of adjustment.

(dd) Industrialized housing must comply with municipal aesthetic standards; yard, lot, and space regulations; subdivision regulations; landscaping; and any other regulations applicable to single-family dwellings.

(ee) Industrialized housing must be securely fixed to a permanent foundation.

(ff) Industrialized housing may not be constructed in a historic overlay district unless the industrialized housing conforms to the preservation criteria of the historic overlay district.

(gg) Industrialized housing may not be constructed in a conservation district unless the industrialized housing conforms to the conservation district regulations.

(hh) Industrialized housing may not be constructed unless it complies with public deed restrictions for the property.

(viii) Except in the agricultural district, accessory structures are subject to the following regulations:

(aa) No person shall rent an accessory structure. For purposes of this section, rent means the payment of any form of consideration for the use of the accessory structure.

(bb) No person shall use an advertisement, display, listing, or sign on or off the premises to advertise the rental of an accessory structure.

(cc) The height of an accessory structure may not exceed the height of the main building.

(dd) The floor area of any individual accessory structure on a lot, excluding floor area used for parking, may not exceed 25 percent of the floor area of the main building.

(ee) The total floor area of all accessory structures on a lot, excluding floor area used for parking, may not exceed 50 percent of the floor area of the main building.

(ff) Accessory structures must have exterior siding, roofing, roof-pitch, foundation fascia, and fenestration compatible with the main building. "Compatible" as used in this provision means similar in application, color, materials, pattern, quality, shape, size, slope, and other characteristics; but does not necessarily mean identical. The burden is on the property owner or applicant to supply proof of compatibility. This provision does not apply to accessory structures with a floor area of 200 square feet or less.

(1.1) Handicapped group dwelling unit.

(A) Definitions:

(i) DOMICILE means the legal, established, fixed, and permanent place of residence of a person, as distinguished from a temporary and transient, though actual, place of residence.

(ii) HANDICAPPED GROUP DWELLING UNIT means a single dwelling unit that is the domicile of not more than eight handicapped persons who are not a "family" as that term is defined in this chapter, and who are living together as a single housekeeping unit. Up to two supervisory personnel may reside on the premises, provided that the total number of residents, including supervisory personnel, does not exceed eight.

(iii) HANDICAPPED PERSON means a handicapped person as defined in the federal Fair Housing Amendments Act of 1988, as amended.

(iv) LICENSED means licensed by the Texas Department of Human Services, or its successor.

(B) Districts permitted: When located at least 1,000 feet from group residential facilities and all other licensed handicapped group dwelling units, as defined in this chapter, by right in the following districts: Residential districts except MH; non-residential districts except NO, LO, MO, and industrial districts; otherwise, by SUP only in same districts. For purposes of this provision, the distance between uses is measured in a straight line, without regard to intervening structures or objects, between the nearest boundaries of the building sites on which the uses are located. (Note: The spacing component of these use regulations is based, not on the handicapped status of the residents, but on the non-family status of the groups.)

(C) Required off-street parking: Two spaces for each dwelling unit, except one space for each dwelling unit in R-7.5 and R-5 districts. If an SUP is required for this use, the off-street parking requirement may be established in the

ordinance granting the SUP. In determining this requirement, the city council shall consider the nature of the proposed use and the degree to which the use would create traffic hazards or congestion given the capacity of nearby streets, the trip generation characteristics of the use, the availability of public transit and the likelihood of its use, and the feasibility of traffic mitigation measures.

(D) Required off-street loading: None.

(E) Additional provisions:

(i) No certificate of occupancy is required for this use.

(ii) This use liberalizes current restrictions on the number of unrelated persons who may reside together in a dwelling unit in the city for the exclusive benefit of handicapped persons seeking to permanently reside together as a single housekeeping unit. Its purpose is to comply with the substance and spirit of the federal Fair Housing Amendments Act of 1988, as amended, which requires that reasonable accommodations be made in rules, policies, and practices to permit persons with handicaps equal opportunity to use and enjoy a dwelling. *[See Section 51-1.102(b)(2).]*

(iii) This use is exempt from payment of SUP application fees.

(iv) Any owner of property on which this use is located or proposed to be located may require a letter from the director confirming that no SUP is required for the use. No fee is required to apply for such a letter. Application must be on a form furnished by the director. The director shall issue the requested letter unless, within 30 days after submission of a complete application, the director gives written notice to the applicant that the use or proposed use will require an SUP. For purposes of this paragraph, notice is given to the applicant by depositing the same properly addressed and postage paid in the United States mail. The proper address for purposes of this notice requirement is the address provided by the applicant on the application. No SUP shall be required for uses that operate in justifiable reliance upon a valid confirmation letter issued by the director.

(v) Any aggrieved person may appeal a decision of the director that an SUP is required for this use. Such appeals shall be heard and decided by the board of adjustment. An appeal to the board must be made within 15 days after the director gives written notice that the SUP is required. Appeal is made by filing a written notice of appeal on a form approved by the board. *[See Section 51A-4.703.]* No fee is required to appeal the decision of the director to the board.

(vi) If two or more facilities are within 1,000 feet of each other and otherwise in permissible locations, the first one lawfully established and continually operating thereafter is the conforming use. For purposes of this subparagraph,

“continually operating” means that the use has not been discontinued for six months or more.

(2) Duplex.

(A) Definition: Two dwelling units located on a lot.

(B) Districts permitted: Residential districts except single-family, MH, and A districts; nonresidential districts except NO, LO, MO, and industrial districts.

(C) Required off-street parking: Two spaces for each dwelling unit.

(D) Required off-street loading: None.

(E) Additional provisions:

(i) Only one main building may be placed on a building site under this use.

(ii) In a duplex district, a lot for a duplex use may be supplied by not more than one electrical utility service, and metered by not more than two electrical meters. The board of adjustment may grant a special exception to authorize more than one electrical utility service or more than two electrical meters on a lot in a duplex use in a duplex district when, in the opinion of the board, the special exception will:

(aa) not be contrary to the public interest;

(bb) not adversely affect neighboring properties;

and

(cc) not be used to conduct a use not permitted in the district where the building site is located.

(iii) In addition to any other applicable regulations, industrialized housing must comply with the following additional provisions. For purposes of this subparagraph, “industrialized housing” means industrialized housing as defined by Section 1202.002 of the Texas Occupations Code, as amended.

(aa) Industrialized housing must have all local permits and licenses that are applicable to other single-family or duplex dwellings.

(bb) Industrialized housing must have a value equal to or greater than the median taxable value of each single-family dwelling located

within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll of the appraisal district. For purposes of this subparagraph, the “value” of the industrialized housing means the taxable value of the industrialized housing and the lot after installation of the industrialized housing.

(cc) Industrialized housing must have exterior siding, roofing, roof-pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located. “Compatible” as used in this subparagraph means similar in application, color, materials, pattern, quality, shape, size, slope, and other characteristics; but does not necessarily mean identical. The burden is on the property owner or applicant to supply proof of compatibility. The property owner or applicant may appeal a decision of the building official to deny a permit due to lack of compatibility to the board of adjustment.

(dd) Industrialized housing must comply with municipal aesthetic standards; yard, lot, and space regulations; subdivision regulations; landscaping; and any other regulations applicable to single-family dwellings.

(ee) Industrialized housing must be securely fixed to a permanent foundation.

(ff) Industrialized housing may not be constructed in a historic overlay district unless the industrialized housing conforms to the preservation criteria of the historic overlay district.

(gg) Industrialized housing may not be constructed in a conservation district unless the industrialized housing conforms to the conservation district regulations.

(hh) Industrialized housing may not be constructed unless it complies with public deed restrictions for the property.

(3) Multiple-family.

(A) Definition: Three or more dwelling units located on a lot.

(B) Districts permitted: Multiple-family, O-1, O-2, GO, commercial, and central area districts: specific use permit required in I-1 and I-2 districts.

(C) Required off-street parking: One space for each 500 square feet of dwelling unit floor area within the building site except in CA-1 and CA-2 districts, only one space per dwelling unit is required.

(i) Only the floor area within a dwelling unit (excluding balconies) is included in the calculation of required off-street parking.

(ii) Not less than one space nor more than two and one-half spaces are required for each dwelling unit in a multiple-family structure 36 feet or less in height.

(iii) Not less than one space nor more than two spaces are required for each dwelling unit in a multiple-family structure over 36 feet in height.

(D) Required off-street loading:

<b><u>SQUARE FEET OF FLOOR AREA IN STRUCTURE</u></b>	<b><u>TOTAL REQUIRED SPACES OR BERTHS</u></b>
<b>0 to 50,000</b>	<b>NONE</b>
<b>50,000 to 100,000</b>	<b>1</b>
<b>100,000 to 300,000</b>	<b>2</b>
<b>Each additional 200,000 or fraction thereof</b>	<b>1 additional</b>

(E) Additional provisions:

(i) Uses that are customarily incidental to the multiple-family use and that include an employee's washroom, a manager's office, laundry room, swimming pool, and game courts are permitted. The game courts, laundry room, and swimming pool must be for the exclusive use of the residents and their guests. No exterior advertising of the accessory uses is permitted.

(ii) The minimum space between exterior walls of a multiple-family dwelling must be 10 feet between the walls if only one wall has an opening for light and air and 20 feet if both walls have an opening for light and air. This provision applies to multiple-family buildings with a common roof or freestanding, multiple-family buildings. This provision does not apply to walls located entirely within a dwelling unit.

(iii) For multiple-family dwellings over 36 feet in height, an outer court that has on its perimeter exterior walls that have openings for access, light, or air, must have a minimum width equal to the depth of the court, up to a maximum required width of 100 feet.

(iv) For multiple-family dwellings over 36 feet in height, an inner court that has one or more walls with openings for access, light, or air must have a minimum dimension in length and in width equal to the height of the building enclosing the inner court, up to a maximum required width and length of 100 feet.

(3.1) Group residential facility.

(A) Definition: An interim or permanent residential facility (as opposed to a lodging or medical treatment facility) that provides room and board to a group of persons who are not a “family” as that term is defined in this chapter, whether or not the facility is operated for profit or charges for the services it offers. This use does not include:

(i) facilities that negotiate sleeping arrangements on a daily basis;

(ii) dwelling units occupied exclusively by families (Note: Dwelling units occupied exclusively by families are considered to be single-family, duplex, or multiple-family uses, as the case may be); or

(iii) any other use specifically defined in this chapter.

(B) Districts permitted: When located at least 1,000 feet from all other group residential facilities and licensed handicapped group dwelling units (as defined in this chapter), by right in multiple-family and central area districts; otherwise by SUP only in the same districts. For purposes of this provision, the term “licensed” means licensed by the Texas Department of Human Services, or its successor, and the distance between uses is measured in a straight line, without regard to intervening structures or objects, between the nearest boundaries of the building sites on which the uses are located. (Note: The spacing component of these use regulations is based, not on the handicapped status of the residents, but on the non-family status of the groups. [See Section 51A-1.102(b)(2).])

(C) Required off-street parking: 0.25 spaces per bed, plus one space per 200 square feet of office area; a minimum of four spaces is required. If an SUP is required for this use, the off-street parking requirement may be established in the ordinance granting the SUP. In determining this requirement, the city council shall consider the nature of the proposed use and the degree to which the use would create traffic hazards or congestion given the capacity of nearby streets, the trip generation characteristics of the use, the availability of public transit and the likelihood of its use, and the feasibility of traffic mitigation measures.

(D) Required off-street loading: None.

(E) Additional provisions:

(i) The use is subject to the following density restrictions:

<u>ZONING DISTRICT CLASSIFICATION</u>	<u>MAXIMUM NO. OF DWELLING UNITS OR SUITES* PER NET ACRE</u>	<u>MAXIMUM NO. OF BEDS* PER NET ACRE</u>
TH-1	35	70
TH-2 and TH-3	40	80
MF-1	50	100
MF-2	60	120
MF-3	90	180
MF-4	160	320

\*For purposes of this subparagraph, the term “suite” means one or more rooms designed to accommodate one family, containing living, sanitary, and sleeping facilities, but not containing a kitchen; and the term “bed” means a piece of furniture, mat, cushion, or other device on or in which one may lie and sleep.

(ii) This use must comply with statutory licensing requirements, if any.

(iii) This use may include dwelling units or suites that are exclusively restricted to visitors or members of the staff.

(4) Reserved.

(5) Reserved.

(6) Manufactured home park, manufactured home subdivision, and campground.

(A) Definition:

(i) A manufactured home park is a unified development of transient stands arranged on a lot under single ownership.

(ii) A manufactured home subdivision is a plat designed specifically for manufactured home development.

(iii) A campground is a lot used to accommodate recreation vehicles, tents, or manufactured homes on a rental basis for temporary camping purposes.

(B) Districts permitted: MH.

(C) Required off-street parking: 1.5 spaces for each transient stand for a manufactured home park or campground; 1.5 spaces for each lot in a manufactured home subdivision.

(D) Required off-street loading: None.

(E) Additional provisions:

(i) The owner of a manufactured home park must have a site plan approved by the commission before the building official may issue a building permit for the manufactured home park. The site plan must include the dimensions, bearings, and street frontage of the property; the location of buildings, structures, lots, stands, and uses; the method of ingress and egress; off-street parking and loading arrangements; screening, lighting, and landscaping, if appropriate; and any other information the director determines necessary for a complete review of the proposed development.

(ii) The owner of a manufactured home subdivision must have a plat approved by the commission and filed in the county records before the building official may issue a building permit for the manufactured home subdivision.

(iii) One caretaker's dwelling unit and one office is permitted under this use.

(iv) No carport, garage, storage building, office, or caretaker's dwelling, laundry house, or other permitted structure under this use may be located closer than 50 feet to a manufactured home district boundary line.

(v) The owner under this use must provide and maintain a permanent steel chain link fence or its equivalent. The fence must be at least five feet in height and must completely surround the rear and all sides of this use that are not exposed to a dedicated street.

(vi) Open playground space must be provided under this use at a ratio of 500 square feet of open space for each of the first 20 lots or transient stands provided, and at a ratio of 250 square feet for all additional lots or transient stands.

(vii) This use must comply with the requirements of Chapter 47 of this code.

(7) Retirement housing.

(A) Definition: A residential facility principally designed for persons 55 years of age or older. This use does not include a convalescent or nursing home, which is defined as a separate main use in Section 51-4.205(3).

(B) Districts permitted: Multiple-family and central area districts; specific use permit required in townhouse districts.

(C) Required off-street parking: 0.7 spaces per dwelling unit or suite, plus one space per 300 square feet of floor area not in a dwelling unit or suite.

(D) Required off-street loading:

<u>SQUARE FEET OF FLOOR AREA IN STRUCTURE</u>	<u>TOTAL REQUIRED SPACES OR BERTHS</u>
0 to 50,000	None
50,000 to 100,000	1
100,000 to 300,000	2
Each additional 200,000 or fraction thereof	1 additional

(E) Additional provisions:

(i) In these regulations:

(aa) ELDERLY RESIDENT means a resident that is 55 years of age or older.

(bb) SUITE means one or more rooms designed to accommodate one family containing living, sanitary, and sleeping facilities, but not containing a kitchen.

(ii) In townhouse and multiple-family districts, this use is subject to the following density restrictions:

<u>ZONING DISTRICT CLASSIFICATION</u>	<u>MAXIMUM NO. OF DWELLING UNITS OR SUITES PER NET ACRE</u>
TH-1	25
TH-2 and TH-3	35
TH-4	40
MF-1	45
MF-2	55
MF-3	90
MF-4	160

(iii) Except as otherwise provided in Subparagraphs (iv) and (v), each occupied dwelling unit or suite must have at least one elderly resident. Failure to comply with this provision shall result in the facility being reclassified as another use.

(iv) One dwelling unit or suite may be designated as a caretaker unit whose occupants are not subject to the age restriction in Subparagraph (iii).

(v) Those persons legally residing with an elderly resident at the facility may continue to reside at the facility for a period not to exceed one year if the elderly resident dies or moves out for medical reasons. The board may grant a special exception to authorize an extension of the length of time a person may continue to reside at the facility if the board finds, after a public hearing, that literal enforcement of this provision would result in an unnecessary personal hardship. In determining whether

an unnecessary personal hardship would result, the board shall consider the following factors:

(aa) The physical limitations of the resident, if any.

(bb) Any economic constraints which would make it difficult for the resident to relocate.

(cc) Whether the resident is dependent on support services or special amenities provided by the retirement housing project.

(dd) Whether there are any alternative housing or market constraints which would impair the ability to relocate.

(vi) No use with exterior advertising or signs may be considered accessory to this use. (Ord. Nos. 16801; 16806; 16913; 17552; 17811; 18849; 19700; 19912; 20038; 20360; 21044; 25435; 25486; 25977; 26140; 27404)

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