



**MINUTES**  
**PLANNING AND ZONING COMMISSION REGULAR MEETING**  
**THURSDAY, JANUARY 17, 2019, 6:00 P.M.**

**Commissioners Present:**

Chair Dr. Jim Miller  
Vice-Chair Mark Hausheer  
Commissioner Kitty Owen  
Commissioner Karen Diaz  
Commissioner David Dauer

**Commissioners Absent:**

Commissioner David Heier (Voluntary Announced Absence)  
Vacant Position

**City Staff Present:**

Nancy Cain, City Administrator  
Cynthia Trevino, City Attorney  
Marisa Spencer, Interim City Secretary

**Other City Councilmembers or Commissioners Present:**

Councilmember Kay Bower

**1. Call to Order**

With a quorum of the Planning and Zoning Commission Members present, Chair Dr. Miller, called the regular meeting of the Garden Ridge Planning and Zoning Commission to order at 6:02 p.m. on Thursday, January 17, 2019, in the City Council Chambers of the Garden Ridge City Hall, 9400 Municipal Parkway, Garden Ridge, Texas 78266.

**2. Roll Call**

See above.

**3. Pledge of Allegiance**

Chair Dr. Miller led the Pledge of Allegiance.

**4. Citizen Comment Period – limited to 30 minutes total**

No one signed up to speak.

**5. Business Items**

**The Commission may discuss, consider, and/or take action on the following items:**

**a) Approvals/Recommendations.**

**i. Approval of Minutes for December 20, 2018, Planning and Zoning Commission Regular Meeting.**

**Motion:** A motion was made by Commissioner Owen, seconded by Commissioner Diaz, to approve the minutes for December 20, 2018, Planning and Zoning Commission Regular Meeting. The Commission voted four (4) for and none (0) opposed. The motion carried unanimously.

**b) Discussions/Reports/Updates.**

**i. Update on Freese and Nichols, Inc. for Zoning and Subdivision Ordinance rewrite assistance.**

Nancy Cain, City Administrator, stated Freese and Nichols, Inc. is making progress and they are hoping to have documentation prepared within the next few weeks to discuss with the subcommittee. Chair Dr. Miller thanked Nancy Cain, City Administrator, for the update.

**ii. Ordinance No. 210-022018 An Ordinance of the City Council of the City of Garden Ridge adopting board and commission policy and procedures; providing that this Ordinance shall be cumulative of all Ordinances; providing a severability clause; providing a savings clause; and providing an effective date.**

Chair Dr. Miller stated he had a discussion with City staff regarding interpretation of absences in Ordinance No. 210-022018. He stated Commissioner Ringle was automatically terminated when he was absent from the December 20<sup>th</sup> Planning and Zoning Commission regular meeting due to his five (5) total absences, with four (4) of those being consecutive. Chair Dr. Miller stated the Commission does not have to make any recommendation to City Council. He also stated he received a resignation letter from Mr. Ringle today, but that was after the fact of him being terminated.

The Commission reviewed and discussed other sections of the Ordinance, including: Terms of Office, Vacancies, Types of Absences, and Education/Training.

**iii. TxDOT expansion layout as it pertains to the City of Garden Ridge.**

Chair Dr. Miller stated all Commissioners in attendance tonight attended the TxDOT Public Hearing last night. The Commission discussed topics covered and information provided at the TxDOT Public Hearing, including: traffic lights, trains, bike lanes, different phases and their dates, and sewer development. The Commission also discussed how these topics could impact the Commission's Zoning and Subdivision Ordinance rewrites.

**iv. Ordinance No. 13-122018 An amended comprehensive Planning and Zoning Ordinance for the City of Garden Ridge, Texas; establishes a Planning and Zoning Commission; establishes a board of adjustment; regulates and restricts the use and location of buildings and outbuildings, exterior lighting, fencing and landscaping; includes definitions, divides the City into zoning districts with regulations for each; sets special use permit requirements; sets broadcast and reception antenna rules; adopts a map of the City showing the boundaries and classifications of zoning districts; incorporating sign regulations herein; prescribes a penalty of not less than \$10.00 nor more than \$2000.00 for violation of this Ordinance; and repeals Ordinance 13-062017 adopted on June 7, 2017.**

**1. Amendments to Section 4 and Section 5 prohibiting use of outbuildings, detached structures, accessory structures, vehicles, and trailers as living quarters or rentals.**

Chair Dr. Miller stated the amendments reflect what the Commission discussed and agreed on at the last meeting.

The Commission agreed by consensus to hold a public hearing to receive public input for or against the proposed amendments at the February 12<sup>th</sup>, 2019, Planning and Zoning Commission Regular Meeting.

**v. An Ordinance of the City Council of the City of Garden Ridge, Texas amending the Comprehensive Planning and Zoning Ordinance for the City, establishing zoning regulations; providing policies and procedures pursuant to the Texas Local Government Code;**

comprehensive zoning district regulations; zoning map; general provisions; use, height and area regulations; special uses and structures; conditional uses; site plans; visual screening; off-street parking and loading regulations; non-conforming buildings and uses; zoning district boundary verification procedures; zoning of annexed areas; administrative rules and procedures; definitions; appendices; providing other provisions relating to the subject; providing for the administration, enforcement, and amendment thereof; providing a savings clause and for the repeal of all other ordinances in conflict herewith; prescribing a penalty for violations and establishing each day of such violation as a separate offense; providing for severability; and providing an effective date.

**1. Receive proposed changes and review the proposed Ordinance.**

Cynthia Trevino, City Attorney, discussed group and community homes per the Commission's request at the previous meeting (see attached). She also addressed questions from Commissioners.

**2. Discuss and make possible recommendation on future meetings or direction regarding Ordinance development process.**

The Commission discussed different uses throughout zoning districts as well as the possibility of districts changing in the future.

**c) Future Agenda Items.**

**i. Commissioners input on agenda items.**

Commissioner Diaz requested to add Place 4 vacancy to the agenda.

Chair Dr. Miller requested to discuss Ordinance No. 210-022018 in more depth and be able to make possible recommendations to City Council.

Vice-Chair Hausheer requested to add a sewer update to the agenda. Chair Dr. Miller stated he does not think this would be beneficial to discuss at this time but could be discussed later if something changed.

Commissioner Owen stated update on wifi connections.

Vice-Chair Hausheer stated discussion regarding drones; however, Cynthia Trevino, City Attorney, stated this topic does not fall under Planning and Zoning.

**ii. Announce date, time, and location for next meeting (February 12, 2019, at 6:00 p.m. at City Hall).**

Chair Dr. Miller announced the next Planning and Zoning Commission Regular Meeting will be on Tuesday, February 12, 2019, at 6:00 p.m. at City Hall.

**6. Citizen Comment Period – limited to 20 minutes total**

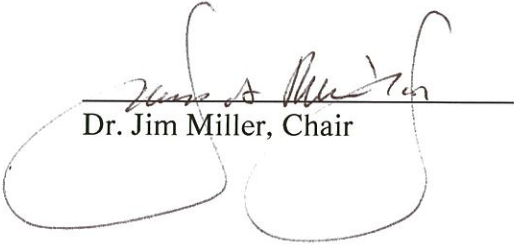
Tracey Blackwell, 9745 Trophy Oaks Drive, spoke regarding the TxDOT expansion plan.

Shelby Trial, 21657 Forest Waters Circle, thanked the Commission for continuing to work hard. He also spoke regarding Ordinance No. 210-022018.

Kay Bower, 8947 Garden Ridge Drive, spoke regarding the TxDOT expansion plan and obtaining documentation from TxDOT.

7. **Adjournment**

**Motion:** A motion was made by Commissioner Owen, seconded by Commissioner Dauer, to adjourn. The Commission voted four (4) for and none (0) opposed. The motion carried unanimously. There being no further business, the Thursday, January 17, 2019, Planning and Zoning Commission Regular Meeting was adjourned at 8:04 p.m. by Chair Dr. Miller.

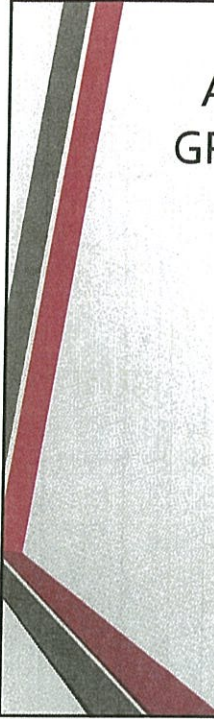


Dr. Jim Miller, Chair

ATTEST:



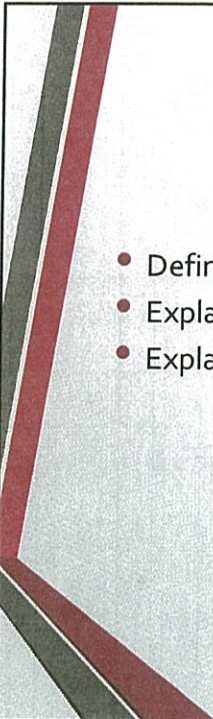
Marisa Spencer  
Interim City Secretary



# A PRIMER ON REGULATION OF GROUP HOMES and COMMUNITY HOMES

PLANNING & ZONING COMMISSION  
JANUARY 17, 2019

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## Presentation

- Definition of Group Home/Community Home
- Explanation of State Law
- Explanation of Federal Law

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## KEY THINGS TO REMEMBER

- TEXAS HUMAN RESOURCES CODE § 123.003
  - (a) The use and operation of a community home that meets the qualifications imposed under this chapter is **a use by right that is authorized in any district zoned as residential.**
  - (b) A restriction, reservation, exception, or other provision in an instrument created or amended on or after September 1, 1985, that relates to the transfer, sale, lease, or use of property may not prohibit the use of the property as a community home.

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## DEFINITION OF GROUP/COMMUNITY HOME

- There is no single state or federal definition of "group homes" or "community homes"
- Texas law contemplates numerous different types of dwellings that may house unrelated persons as "group homes" or "community homes"
- What many people refer to as "group homes" are legally defined as "community homes" under the Texas Human Resources Code Chapter 123

**\*\*A residential property that qualifies as a "community home" under Chapter 123 is protected by federal and state law against virtually any restriction against its use, including city ordinances and private deed restrictions.\*\***

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## WHAT IS A COMMUNITY HOME? State Law

- A HOME FOR A "PERSON WITH A DISABILITY"
  - A "PERSON WITH A DISABILITY" is a person whose ability to care for himself or herself, perform manual tasks, learn, work, walk, see, hear, speak, or breathe is substantially limited because the person has:
    - (1) an orthopedic, visual, speech, or hearing impairment;
    - (2) Alzheimer's disease;
    - (3) pre-senile dementia;
    - (4) cerebral palsy;
    - (5) epilepsy;
    - (6) muscular dystrophy;
    - (7) multiple sclerosis;
    - (8) cancer;
    - (9) heart disease;
    - (10) diabetes;
    - (11) an intellectual disability;
    - (12) autism; or
    - (13) mental illness.
- Tex. Hum. Res. Code Ann. § 123.002 (West)

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## WHAT IS A COMMUNITY HOME? State Law

- "Family Home" is a residential home that meets the definition of and requirements applicable to a family home under the Community Homes for Disabled Persons - Tex. Prop. Code Ann. § 202.003(b) (West)
- A dedicatory instrument or restrictive covenant may not be construed to prevent the use of property as a family home -Tex. Prop. Code Ann. § 202.003 (b) (West)

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## WHAT IS A COMMUNITY HOME?

### State Law

- Other state law that define residential dwellings that may be considered "group homes"
- Texas Human Resources Code § 42.002
  - Child Care Facility
  - General Residential Operation
  - Continuum-of-care Residential Operation
  - Family Home – note this definition is different that the definition contained in the Property Code
  - Agency foster home
  - Residential child care facility

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## WHAT IS A COMMUNITY HOME?

### State Law

- Other state law that define residential dwellings that may be considered "group homes"
- Texas Health & Safety Code § 260.001
  - Boarding Home Facility
- Texas Government Code § 509.001
  - Community Corrections Facility

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## WHAT IS A GROUP HOME? FEDERAL LAW

- Does not have a specific legal meaning
- Land use and zoning officials and the courts have referred to some residences for persons with disabilities as group home
- "Group Homes" refers to a dwelling that is or will be occupied by unrelated persons with disabilities
- Disability means a person with a disability to include
  1. individuals with a physical or mental impairment that substantially limits one or more major life activities;
  2. individuals who are regarded as having such an impairment; and
  3. individuals with a record of such an impairment
- See – Joint Statement of the Department of Housing and Urban Development and of the Department of Justice – State and Local Land Use Laws and Practices and the Application of the Fair Housing Act, November 10, 2016

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## WHAT IS A GROUP HOME? FEDERAL LAW

- Fair Housing Amendments Act – intended to “prohibit the application of special requirements through land use regulations, restrictive covenants, and conditional or special use permits that have the effect of limiting the ability of such individuals to live in the residence of their choice in the community.” See H.R. Rep. No. 711, 100<sup>th</sup> Cong. 2d Sess., reprinted in U.S.C. C.A.N. 2173, 2185 n(1988).

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## GOING FORWARD

- Recognize that state and federal law apply to group home regulations
- Recognize that certain sections of the zoning ordinance may need significant legal review
- Continue current practice of group education

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## QUESTIONS AND DISCUSSION

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