

**Office of the City Manager**

City of Richland Hills, Texas

## Memorandum

**To:** Honorable Mayor Bill Agan and members of the Richland Hills City Council  
**From:** Eric Strong, Assistant City Manager  
**Date:** August 20, 2013  
**Subject:** Assisted Living Facility Ordinance

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**City Council Action Requested:**

Consider Ordinance No. 1252-13, defining an Assisted Living Facility and implementing licensing and regulatory compliance.

**Background Information:**

Staff has recently been made aware that we have a deficiency in our existing ordinances in regard to Assisted Living Facilities. Currently, the language used to define an Assisted Living Facility as well as the rules and regulations for licensing the that an Assisted Living Facility must adhere to are vague. Staff is proposing the adoption of the attached ordinance in order to strengthen our enforcement and regulation capabilities of these types of facilities. Doing so will help to ensure that appropriate safety measures are in place for residents of these facilities and impose appropriate regulatory controls on these facilities by requiring the operator of a facility to obtain a license from the State of Texas prior to operating a facility.

**Attachments:**

Ordinance No. 1252-13

**Staff Contact:**

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**ORDINANCE NO. 1252-13**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF RICHLAND HILLS, CHAPTER 18, "BUSINESSES", BY ADDING A NEW ARTICLE IX, "ASSISTED LIVING FACILITIES"; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Richland Hills, Texas is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, Chapter 247 of the Health and Safety Code (the "Act") prohibits a person from establishing or operating an assisted living facility without a state issued license; and

**WHEREAS**, the Act authorizes a municipality to prohibit a person who does not hold a state issued license from establishing or operating an assisted living facility within the municipality; and

**WHEREAS**, the City Council has determined that in order to protect the health, welfare, and safety of its residents, it is necessary to prohibit unlicensed assisted living facilities from operating within the City and to require such facilities to provide proof of licensure to the City in order to operate; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RICHLAND HILLS, TEXAS, THAT:**

**SECTION 1**

The Richland Hills Code of Ordinances is hereby amended by adding Article IX to Chapter 18 to read as follows:

**"ARTICLE IX. ASSISTED LIVING FACILITIES.**

**Secs. 18-436 – 450. Reserved.**

## DIVISION 1. GENERALLY

### **Sec. 18-451. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Assisted living facility* has the meaning as defined in the Act, as it may be amended. As of the date of this ordinance, Section 247.002(1) provides that it means an establishment that:

- (1) furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment;
- (2) provides:
  - a. personal care services; or
  - b. administration of medication by a person licensed or otherwise authorized in this state to administer the medication;
- (3) may provide assistance with or supervision of the administration of medication; and
- (4) may provide skilled nursing services for the following limited purposes:
  - a. coordination of resident care with outside home and community support services agencies and other health care professionals;
  - b. provision or delegation of personal care services and medication administration as described by this subdivision;
  - c. assessment of residents to determine the care required; and
  - d. for periods of time as established by department rule, delivery of temporary skilled nursing treatment for a minor illness, injury, or emergency.

## DIVISION 2. LICENSE

### **Sec. 18-452. State license required.**

A person may not establish or operate an Assisted Living Facility within the City of Richland Hills without obtaining a license issued under Chapter 247 of the Texas

Health and Safety Code and providing proof to the city manager or his designee of such licensure prior to commencing operations.”

## **SECTION 2. CUMULATIVE**

This Ordinance shall be cumulative of all provisions of the City Code and other ordinances of the City of Richland Hills, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed.

## **SECTION 3. SEVERABLE**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if a phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of the unconstitutional phrase, clause, sentence, paragraph, or section.

## **SECTION 4. SAVINGS**

All rights and remedies of the City of Richland Hills are expressly saved as to any and all violations of the provisions of the City Code or any other ordinances regulating Assisted Living Facilities that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

## **SECTION 5. PENALTY**

Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense.

## **SECTION 6. PUBLICATION**

The City Secretary of the City of Richland Hills is hereby directed to publish caption, penalty clause, and effective date clause in the official newspaper at least once within ten (10) days after the passage of this ordinance.

**SECTION 7. EFFECTIVE DATE**

This Ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.

\_\_\_\_\_  
THE HONORABLE BILL AGAN, MAYOR

ATTEST:

\_\_\_\_\_  
LINDA CANTU, CITY SECRETARY

EFFECTIVE DATE: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
BETSY ELAM, CITY ATTORNEY