

AN ORDINANCE

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF HOGANSVILLE TO AMEND THE CODE OF THE CITY; TO AMEND THE ZONING ORDINANCE AND BUSINESSES CHAPTERS OF THE CODE IN ORDER TO MODIFY THE DEFINITION OF PERSONNEL CARE HOME; TO AMEND PARAMETERS OF THE SPECIAL USE PERMIT FOR GROUP HOMES AND PERSONAL CARE HOMES; TO REPEAL CONFLICTING ORDINANCES; TO FIX AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

THE COUNCIL OF THE CITY OF HOGANSVILLE HEREBY ORDAINS:  
SECTION 1:

That the Zoning Ordinance of the City of Hogansville be amended by deleting, within Section 102-2, the definition entries for "Group home" and "Personal care home" and inserting in lieu thereof new definition entries in proper alphabetical order and to read as follows:

*"Group home:* A dwelling unit which is used to provide assisted community living for persons with physical, mental, emotional, familial or social difficulties.

*Personal care home:* A dwelling shared by persons, excluding resident staff, who live together as a single housekeeping unit and in a long-term, family-like environment in which staff persons provide care, education and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach maximum potential under the direction and guidance of twenty-four (24) hour per day supervision. The term personal care home shall not include a half-way house, a treatment center for alcoholism or drug abuse, a work release facility for convicts or ex-convicts, a home for the detention and/or rehabilitation of juveniles adjudged delinquent or unruly and placed in the custody of the state, or other housing facilities serving as an alternative to incarceration. The term personal care home shall also not allow the use of a dwelling as an apartment or duplex. A personal care home shall not allow use of the dwelling as a home for individuals on parole, probation, or convicted and released from incarceration, for any crimes including child molestation, aggravated child molestation, or child sexual abuse, as defined in O.C.G.A. § 16-6-4 or individuals required to register as sex offenders pursuant to O.C.G.A. § 42-1-12. A personal care home may include a home for the handicapped which shall mean, consistent with the Fair Housing Act, a person (1) with a physical or mental impairment which substantially limits one or more of such person's major life activities; (2) having a record of having such an impairment; or (3) being regarded as having such an impairment. However, such term does not include the current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals."

i. The applicant shall submit a "good neighbor plan" which contains, at minimum, the following components:

1. Hours of operation;
2. Designated staff member, telephone number and administrative procedure for neighborhood complaints or concerns; and
3. Grounds maintenance plan.

(2)

*Planning Commission Review; Mayor and Council Action.* Within sixty (60) days of the submission of a completed application, the Planning Commission shall review the contents of said application and transmit to the Mayor and Council a recommendation of approval or denial of same. The Mayor and Council shall thereafter act on a completed special use permit application within forty-five (45) days of the recommendation of the Planning Commission. The Mayor and Council may grant the special use permit only if the requirements of this code section are met, and the following conditions are satisfied:

- a. No applicant, manager (or principal if the applicant is an entity) shall have been convicted within the ten (10) years preceding the application of any felony, any misdemeanor involving moral turpitude, or any sexually related crime. This requirement shall apply with respect to the laws of this state, other states, the United States, and other countries. A plea of nolo contendere or the forfeiture of a bond shall be considered a conviction for purposes of this section. Sentencing as first offender status shall not be considered as a conviction if the sentence was successfully completed without any violation of probation and with no adjudication of guilt ever being entered;
- b. The applicant, manager (or principal if the applicant is an entity) shall not have had revoked, suspended or otherwise terminated, within the ten (10) years preceding his application, any license or permit to operate a group home issued by any governmental entity; and
- c. The applicant must be of good moral character and a citizen of the United States or an alien lawfully admitted for permanent residence.

(3)

*Automatic Revocation.* Any special permit issued pursuant to this section shall become invalid if the appropriate permits or licenses required by the State of Georgia are revoked or otherwise terminated. Such special permits shall also become invalid if the facility is not operated for a continuous period of six (6) months.

(4)

*Accreditation Requirements.* Each group home governed by this ordinance shall be required to apply for and received accreditation by the Council on Accreditation (Group Living Services) or Commission on Accreditation

of Rehabilitation Facilities (Group Home Care) within two (2) years of the receipt of the special use permit required hereunder, and shall maintain such accreditation while operating the group treatment facility.

- (5) *Annual Permitting; Fee.* Each facility shall be required to pay an annual permit fee of \$20.00, said fee to be paid no later than January 1st of each year of operation. For a facility which begins operation subsequent to January 1st, the permit fee shall not be prorated but shall be due in full for the remainder of the calendar year.

(6) *Additional Requirements for Each Group Home.*

- a. *Floor area requirements.* To avoid unsafe or unhealthy conditions that may be produced by the overcrowding of persons living in these facilities, a minimum floor area per person shall be required below.
- b. *Total interior living space.* A minimum of 175 square feet of interior living space shall be provided per residing facility resident. Interior living space shall include sleeping space and all other interior space accessible on a regular basis to all facility residents.
- c. *Minimum sleeping areas.* A minimum of 70 square feet shall be provided in each sleeping space for single occupancy. A minimum of 60 square feet of sleeping space shall be provided for each bed in a sleeping space for multiple occupancy.
- d. *Bathroom facilities.* One full bathroom with toilet, sink, and tub or shower per five residents plus an additional toilet and sink shall be provided for each additional group of three persons or any fraction thereof.
- e. *Lot and building requirements.* Each facility shall meet the lot and building requirements of the district in which it is located. All applicable fire safety codes, building codes, and housing codes shall likewise apply.
- f. *Off street parking.* Minimum of two (2) off-street parking space or one parking space per shift employee, plus one per number of permanent vehicles stored at the facility shall be provided, whichever is greater.
- g. *Authorization from state and county agencies.* It shall be the responsibility of the licensee to obtain all appropriate state or county licenses prior to issuance of a certificate of occupancy.

(7) *Suspension or Revocation.*

- a. Any special permit which has been issued or which may hereafter be issued by the city to any permittee under this code section may be suspended or revoked for due cause as hereinafter defined, and

after a hearing has been held by the Mayor and Council for the purpose of considering any such suspension or revocation. At least five (5) days prior to such hearing, written notice of the time, place and purpose of such hearing, and a statement of the charge or charges upon such hearing is to be held, shall be given to the holder of such permit for which suspension or revocation is to be considered.

- b. Due cause for the suspension or revocation of a permit shall consist of a violation of any laws or ordinances applicable to regulating such group home, violation of regulations made pursuant to authority granted for the purposes of regulating such facility, or failure of the permittee or his employees to promptly report to the police department any violation of the law or ordinances, any breach of the peace, disturbance or altercation resulting in violence which may occur in or upon the permitted premises.
- c. A decision shall be rendered in writing by the Mayor and Council within ten (10) days of the hearing referenced hereinabove. Appeal of such decision shall be by writ of certiorari or any other lawful process to the Superior Court of Troup County.

**Section 18-211. Special Use Permit Required for Personal Care Home.**

(1) *Applications; Content and Requirements.* All operators of personal care homes, including those facilities operating as a non-conforming use, are required to apply for and obtain a special use permit from the city and to register the facility with the city. The applicant shall apply for the permit required under this chapter with the City Manager or his designee on forms provided by the city and shall provide such information as may be reasonably required including, without limitation, the following:

- a. The name and address of the applicant;
- b. If the applicant is not an individual, the names and addresses of all officers and members of the board of directors if the applicant is a corporation (hereafter sometimes "principals"). If the applicant is an entity other than a corporation, the applicant shall state the type of entity, principals, and where organized;
- c. The name and address of the manager of the facility;
- d. Whether the applicant, manager (or, if the applicant is not an individual the principals of the entity) have ever had a state or local government license for operation of a personal care home and, if so, the issuing jurisdiction and duration of each;
- e. Whether any license referenced in subparagraph d. above was suspended, revoked, or otherwise

terminated by the licensing authority and, if so, identify the licensing authority, the action taken and the reason for the action taken against the license;

- f. Criminal background information, and a release for the City to obtain same, to allow for review of the standards contained in subsection (2)a. below;
- g. The nature of services and treatments to be provided to residents of the facility and the maximum number of residents, excluding staff, to be housed at any one time; and
- h. Whether the applicant contends that the facility at issue is operating as a non-conforming use, and, if so, the date the facility began operation.

(2)

*Planning Commission Review; Mayor and Council Action.* Within sixty (60) days of the submission of a completed application, the Planning Commission shall review the contents of said application and transmit to the Mayor and Council a recommendation of approval or denial of same. The Mayor and Council shall thereafter act on a completed special use permit application within forty-five (45) days of the recommendation of the Planning Commission. The Mayor and Council may grant the special use permit only if the requirements of this code section are met, and the following conditions are satisfied:

- a. No applicant, manager (or principal if the applicant is an entity) shall have been convicted within the ten (10) years preceding the application of any felony, any misdemeanor involving moral turpitude, or any sexually related crime. This requirement shall apply with respect to the laws of this state, other states, the United States, and other countries. A plea of nolo contendere or the forfeiture of a bond shall be considered a conviction for purposes of this section. Sentencing as first offender status shall not be considered as a conviction if the sentence was successfully completed without any violation of probation and with no adjudication of guilt ever being entered;
- b. The applicant, manager (or principal if the applicant is an entity) shall not have had revoked, suspended or otherwise terminated, within the ten (10) years preceding his application, any license or permit to operate a personal care home issued by any governmental entity; and
- c. The applicant must be of good moral character and a citizen of the United States or an alien lawfully admitted for permanent residence.

(3)

*Automatic Revocation.* Any special permit issued pursuant to this section shall become invalid if the appropriate permits or licenses required by the State of Georgia are revoked or otherwise terminated. Such special permits shall also become invalid if the facility is not operated for a continuous period of six (6) months.

(4) **Annual Permitting; Fee.** Each facility shall be required to pay an annual permit fee of \$20.00, said fee to be paid no later than January 1st of each year of operation. For a facility which begins operation subsequent to January 1st, the permit fee shall not be prorated but shall be due in full for the remainder of the calendar year.

(5) **Suspension or Revocation.**

- a. Any special permit which has been issued or which may hereafter be issued by the city to any permittee under this code section may be suspended or revoked for due cause as hereinafter defined, and after a hearing has been held by the Mayor and Council for the purpose of considering any such suspension or revocation. At least five (5) days prior to such hearing, written notice of the time, place and purpose of such hearing, and a statement of the charge or charges upon such hearing is to be held, shall be given to the holder of such permit for which suspension or revocation is to be considered.
- b. Due cause for the suspension or revocation of a permit shall consist of a violation of any laws or ordinances applicable to regulating such personal care home, violation of regulations made pursuant to authority granted for the purposes of regulating such facility, or failure of the permittee or his employees to promptly report to the police department any violation of the law or ordinances, any breach of the peace, disturbance or altercation resulting in violence which may occur in or upon the permitted premises.
- c. A decision shall be rendered in writing by the Mayor and Council within ten (10) days of the hearing referenced hereinabove. Appeal of such decision shall be by writ of certiorari or any other lawful process to the Superior Court of Troup County.”

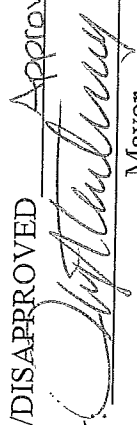
**SECTION 3:**

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

**SECTION 4:**

This Ordinance after adoption by the Council and upon approval by the Mayor shall become effective immediately.

INTRODUCED AND FIRST READING August 17, 2015  
SECOND READING AND ADOPTED/REJECTED September 02, 2015  
SUBMITTED TO MAYOR AND APPROVED/DISAPPROVED Approved

BY:   
Mayor

ATTEST:   
Clerk