

Sober Living Facility.

Proposed Legislation

1.

A sober living facility which would otherwise be considered an unpermitted use as a boarding or lodging house in a R1 or R2 zone, may locate in any residential zone with a sober living permit and a business license provided:

a.

An application for a sober living facility is submitted to the Community Development Director by the owner/operator of the sober living facility. The application shall provide the following: (1) the name, address, phone number and driver's license number of the owner/operator; (2) the name, address, phone number and driver's license number of the house manager; (3) a copy of the sober living facility rules and regulations; (4) written intake procedures; (5) the relapse policy; (6) an affirmation by the owner/operator that the sober living facility will serve only tenants who are disabled as defined by state and federal law and documentation of the evaluation process which determines that tenants of the sober living facility are disabled; and (7) a fee for the cost of processing of the application as set by resolution of the City Council.

b.

There are no more than six tenants, not counting a house manager, but in no event more than seven tenants residing in the sober living facility.

c.

There shall be no more than three tenants per bedroom.

d.

Tenant rental agreements shall be no less than thirty (30) days, otherwise the operator shall be responsible for collecting and remitting a transient occupancy tax in accordance with [Chapter 5.16](#) of this code.

e.

It is not located in an accessory secondary housing unit unless the primary dwelling unit is used for the same purpose and if so, the residents in both the primary and secondary units shall be combined in determining whether the maximum number of six allowed by this section has been exceeded.

f.

It has a house manager who resides at the sober living facility or any multiple of persons acting as a house manager who are present and who are responsible for the day-to-day operation.

g.

It is not, at the time the sober living permit is issued, located within three hundred (300) feet, as measured from the closest property lines, of any other dwelling unit housing a group home or sober living facility.

h.

All tenants, other than the house manager, must be actively participating in legitimate recovery programs, including, but not limited to, Alcoholics Anonymous, Narcotics Anonymous, or 12-Step Recovery. Current records of meeting attendance must be maintained. Refusal to actively participate in such a program shall be cause for eviction.

i.

Its rules and regulations must prohibit the use, sale or distribution of any alcohol or any non-prescription controlled substances by any tenant either on or off site. These rules and regulations shall be posted in a common area inside the dwelling unit. **Any violation of this rule must be cause for eviction and the violator cannot be re-admitted for at least ninety (90) days. Any second violation of this rule shall result in permanent eviction. Tenants that have a second violation shall not be permitted to reside in a sober living facility in the City for a period of twelve (12) months.**

j.

No combination of tenants who are parolees, probationers or subject to the Uniform Controlled Substances registration requirements of Health and Safety Code Section 11590 shall exceed two. Notwithstanding the preceding, in no event shall any tenant violate any terms or conditions of probation or parole which prohibit the tenant residing with another parolee or probationer.

k.

No persons who are required to register as sex registrants under Penal Code Section 290 shall reside in the sober living facility.

l.

It shall have a written visitation policy precluding visitors who are under the influence of any drug or alcohol, are **probationers, or parolees.** No visitors shall be permitted to spend the night or stay past 10:00 p.m. and **a house manager must be present during visitations.**

m.

It shall have regular drug testing or some equivalent alternative, to ensure that tenants are not currently using drugs or alcohol.

n.

It shall have a good neighbor policy that directs tenants to be considerate of neighbors, including refraining from engaging in excessively loud or obnoxious behavior that would interfere with the neighbors' enjoyment of their properties. The good neighbor policy shall establish a written protocol for the house manager to follow when a neighbor complaint is received.

o.

All garage and driveway spaces shall, at all times, be available and used for the parking of vehicles. There must be at least one off-street parking spot for every three tenants. Tenants may each only store or park a single vehicle at the dwelling unit or on any residential street within one thousand (1,000) feet of the dwelling unit.

- p. It shall not provide any treatment that would require a State license.
- q. The operator shall be responsible for updating any information required by this subsection as soon as practical.
- r. It shall comply with all other laws, rules and regulations which may apply to its operation, including any building and fire codes and shall be subject to inspection by a building inspector and fire inspector prior to the issuance of any sober living permit.

2.

The sober living permit shall be issued by the Community Development Director as a ministerial matter if the applicant is in compliance and has agreed to comply with the requirements of this section. If the application is for an R3 or R4 zone, **a conditional use permit shall also be required in the same manner as for other boarding or lodging house uses.** It shall be denied by the Community Development Director and if already issued shall be revoked upon a hearing by the Community Development Director under any of the following circumstances:

- a. Any owner/operator or house manager has provided any material false or misleading information on the application or omitted any pertinent information on the application;
- b. Any owner/operator or house manager has an employment history in which he or she was terminated during the past two years because of physical assault, sexual harassment, embezzlement or theft; falsifying a drug test; or selling or furnishing illegal drugs or alcohol.
- c. Any owner/operator or house manager has been or is convicted of or plead nolo contendere to any of the following offenses:
 - (i) Sex offense for which the person is required to register as a sex offender under California Penal Code Section 290 (last seven years);
 - (ii) Arson offenses - violations of Penal Code Sections 451—455 (last seven years);
 - (iii) Violent felonies, as defined in Penal Code Section 667.5, which involve doing bodily harm to another person (last ten years); or
 - (iv) The sale or furnishing of any controlled substances (last five years).

- d. Any owner/operator or house manager is on parole or formal probation supervision within one year of the date of the submittal of the application or at anytime thereafter.
 - e. Any owner/operator or house manager is a recovering drug or alcohol addict and upon the date of application or employment has had less than one full year of sobriety.
 - f. The owner/operator or house manager fails to immediately evict any tenant that uses alcohol or abuses any drugs, prescription or non-prescription, or is not actively participating in a legitimate addiction recovery program.
 - g. The owner/operator accepts tenants, other than a house manager, who are not disabled/handicapped as defined by the FHA and FEHA.
 - h. The sober living facility, as measured by the closest property lines, is located within three hundred (300) feet of any group home or sober living facility. If a group home moves within three hundred (300) feet of an existing sober living facility this shall not cause the revocation of sober living facility's permit or be grounds for denying a transfer of such permit. Sober living facilities in existence as of the effective date of this section and in compliance with this code as it existed prior to the effective date shall not be subject to the three-hundred-foot distance requirement.
 - i. The sober living facility fails to promptly update information required by this section which has become obsolete or inaccurate.
 - j. The sober living facility unlawfully discriminates against tenants.
 - k. For any other significant and/or repeated violations of this section and/or any other applicable laws and/or regulations.
3. A sober living permit issued in accordance with this subsection shall be required for any sober living facility seeking a conditional use permit.
4. An applicant may seek relief from the strict application of this subsection pursuant to [Chapter 17.10.045](#) of this code if necessary to afford a person with a disability a reasonable opportunity to enjoy a dwelling.