

Residential Recovery Facilities and Group Homes: An Overview

Office of the City Attorney
Public Safety Division

City Council
March 13, 2018

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Group Home Categories

- ✓ 1. Homes Subject to State Licensing
- ✓ 2. Sober Living Homes
- ✓ 3. Homes **not** subject to state licensing and whose occupants are **not** within a protected class.



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Homes Subject to State Licensing

1. Abuse Recovery/Treatment Facilities

- A. Provides 24-hour residential, nonmedical services to persons recovering from alcohol/drug misuse or abuse, and who need alcohol/drug recovery treatment or detoxification services. (H&S Code Section 11834.02)
- B. Incidental medical services (monitoring health status) allowed.



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Homes Subject to State Licensing

2. Community Care Facilities

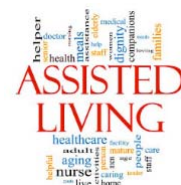


Provide 24 hour non-medical residential care to children and adults with disabilities who are in need of personal services, supervision, and/or assistance with activities essential for daily living.

(H&S Code Section 1502).

3. "Assisted Living" or "Board and Care" (for persons 60 years of age or older)

(H&S Code Section 1569.5)



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Homes Subject to State Licensing



4. Health Facilities

- A. The state also licenses a variety of residential health care facilities.
- B. Examples:
 - i. Congregate Living Health Facilities - Inpatient care for terminally ill, ventilator dependent, or catastrophically or severely disabled. (H&S Code Section 1250(i))
 - ii. Intermediate Care Facilities - Intermediate nursing care. (H&S Code Section 1250(e))
 - iii. Pediatric Day Care and Respite Care - quality care to medically fragile and terminally ill children and their families. (H&S Code Section 1760 et seq.)



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Homes Subject to State Licensing

1. Primary purpose to move people out of institutions and into "normal" family-like surroundings.
2. Not subject to local regulations relating to **zoning** (i.e., CUPs), business taxation, or local licensing *if serving six or fewer residents*.
3. These homes are subject to local regulation that applies to residential use of property in the same zone.



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Homes Subject to State Licensing

Overconcentration of Community Care Facilities.

1. The state must submit any facility application to the city where the facility will be located. (H&S Code Section 1520.5)
 2. City may ask that license be denied based on overconcentration.
 - A. 300 feet from an existing facility.
 - B. Separation requirements only apply to facilities with the same kind of license.
 - C. Does not apply to foster homes and residential facilities for the elderly.
 - D. Does not apply to Abuse Recovery/Treatment Facilities
- SB-786 (Mendoza 2017) would make it 300 feet.



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Homes Subject to State Licensing

State Agencies for Enforcement Oversight

1. California Department of Health Care Services
 - A. Abuse recovery/treatment facilities
 - B. Health Facilities
2. California Department of Social Services
 - A. Community Care Facilities
 - B. Residential Care Facilities for the Elderly



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Homes Subject To State Licensing

The screenshot shows the Riverside CA Department of Social Services (CDSS) website. The header includes the CA.GOV logo, the Department of Social Services (CDSS) name, and navigation links for Download Data, State Offices, FAQ, and Glossary. The main content area is titled 'Facility Detail' and features information for 'HARVEST SAFE HAVEN FOR BOYS'. The facility is licensed, with a license date of 7/13/2016. The address is 3737 MAIN ST., SUITE 500, RIVERSIDE, CA 92501. The phone number is (951) 752-4207. The facility type is 'GROUP HOME'. The page also includes a 'Facility Detail FAQ' section with various questions and answers. At the bottom, there is a 'Back [New Search] [Email Facility Info]' link and a 'RiversideCA.gov' logo.

Facility Detail

HARVEST SAFE HAVEN FOR BOYS [Stay Updated](#) Status: Licensed
Lic. Date: 7/13/2016

Address:
See FAQs
Licensee Name: HARVEST SAFE HAVEN FOR BOYS

Phone: See FAQs
Facility Number: 336427799
Facility Capacity: 6
Facility Type: GROUP HOME

State Licensing Office Contact Information [🔗](#)
Address: 3737 MAIN ST., SUITE 500
RIVERSIDE, CA 92501
Phone: (951) 752-4207

[Back \[New Search\] \[Email Facility Info\]](#)

All Visits [Citations](#) [Inspections](#) [Complaints](#) [Other Visits](#) [Reports](#)

of Visits: 11
All Visit Dates: 11/20/2017, 05/09/2017, 07/21/2017, 07/07/2017, 05/03/2017, 04/26/2017, 04/20/2017, 03/06/2017, 01/06/2017, 03/18/2016, 03/03/2016

All visits include Inspection Visits, other visits and may include complaint visits.

[Back \[New Search\] \[Email Facility Info\]](#)

Facility Detail FAQ

- I have questions about this facility. Where can I get the answers?
- Where can I find out more about how facilities are regulated in California?
- Why does it show "No date on file" for a license date?
- What does "Pending" status mean?
- What does a "Revocation Action Pending" mean?
- What does "License Suspended" mean under License Status?
- What does "Probation" mean?
- What is a Type A Citation?
- What is a Type B Citation?
- What is the Facility Evaluation Report?
- Why can't I see Facility Evaluation Reports prior to April 16, 2016?
- What is the Complaint Investigation Report?
- Why can't I see Complaint Investigation Reports prior to January 11, 2016?
- What is the difference between an 'inconclusive' and an 'unsubstantiated' complaint allegation?



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Homes Subject to State Licensing

SUMMARY

Six or fewer residents = residential use of home.

1. Must be a permitted use in all residential zones in which a single family residence is permitted.
2. No CUP required.



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Homes Subject to State Licensing

SUMMARY

Seven or more residents = group home.

1. Subject to local zoning.
2. CUP required.
3. 300 foot separation from other group homes.
4. Maximum of 40 tenants.



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Homes Subject to State Licensing

SUMMARY

The Code Enforcement Division maintains the right to enforce its codes to abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the City.



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Sober Living Homes

Typically single family residences occupied by a group of persons recovering from alcohol and/or drug dependencies who choose to live in a cooperative living arrangement and in an alcohol/drug free environment to maintain sobriety and stay clean.



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Sober Living Homes

1. Alcoholics and recovering drug addicts are deemed persons with disabilities under State and Federal law.
2. Persons with disabilities are entitled to live together in a family environment in a residential neighborhood.



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Sober Living Homes

STATE LAW

1. **Not** subject to local zoning, business taxation or licensing regulations.
2. Gov't Code 12955 (FEHA) --- "It shall be unlawful... to discriminate through public or private land use practices, decisions, and authorizations because of ... **disability** Discrimination includes, ... zoning laws, denial of use permits,... that make housing opportunities unavailable."



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Sober Living Homes

FEDERAL LAW

The Federal Fair Housing Act broadly prohibits discrimination against people with disabilities with regard to the availability of housing. Additionally, the Act places an affirmative responsibility on local governments to provide a "reasonable accommodation" to housing for people with disabilities, usually in the form of a zoning change where necessary.



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Sober Living Homes

Litigation

2013 – Newport Beach won in District Court, lost at 9th Circuit. Settled for \$5.25 million and paid another \$4 million in legal fees.

Ordinance would have removed sober living homes from most residential areas.



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Sober Living Homes

Litigation

2016 – Costa Mesa won in District Court, 9th Circuit enjoined the ordinance, parties settled.

Ordinance requires 650 foot separation between sober living homes.



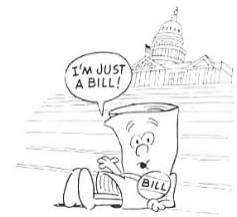
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Sober Living Homes

Attempted Federal Regulation

H.R. 472 Safe Recovery and Community Empowerment Act (introduced 2017) would amend the Fair Housing Act to allow state and local regulation of residential recovery facilities (sober living homes).



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Sober Living Homes

H.R. 472

1. Would require a reasonable minimum distance between residential recovery facilities within a residential zone if necessary to preserve the residential character of the area; and
2. Would require facilities obtain an operating license/permit or satisfy a set of consumer protection standards, which may include a maximum capacity.



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Sober Living Homes

Failed State Legislative Bills

1. Since 1998, 26 Bills submitted seeking to regulate sober living homes.
 - A. Most required State licensing of sober living homes.
 - B. Some required certification from an recognized organization (Sober Living Network).
2. All died in committee or vetoed by Governor.



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Sober Living Homes

Examples of Failed Legislative Bills

Would have:

1. required courts to refer persons to a sober living facility only if it was certified as provided in the bill;
2. required facility owners that serve more than six persons to notify local law enforcement;
3. required denial of application for alcohol recovery or treatment facilities if the location was within 300 feet of an existing facility and would result in over-concentration;
4. defined a "sober living home" consistent with the RMC; or
5. required an alcohol or recovery treatment facility licensee to report specified events or incidents, including the death of a resident, within one working day.



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Sober Living Homes

Failed Legislative Bills

AB 285 (Melendez) died in committee 1/31/18. Would have defined sober living homes and required certification by an approved organization.



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Sober Living Homes

DEFINITION

1. No definition under state or federal law.
2. As a result, local agencies develop their own definition compliant with state and federal disability discrimination laws.
3. Must be consistent with FHA.



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Sober Living Homes

City of Riverside Definition (RMC Title 19 – Zoning)

Residential dwelling, structure or unit used for a cooperative living arrangement to provide an alcohol and drug free environment for persons recovering from alcohol and or drug abuse.



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Sober Living Homes

RMC Sober Living Home Requirements

1. All residents recovering from substance abuse.
2. All residents participate in legitimate programs (AA/NA) and keep attendance records.
3. Zero Tolerance policy for alcohol/drugs.
4. Written policy for alcohols/drugs.
5. No on site services. (detox, treatment)
AA/NA meetings are allowed.



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Sober Living Homes

RMC Sober Living Home Requirements

6. No more than one sex offender per facility.
7. Residents do not require non-medical care. (Supervision, like for foster home.)
8. Operators maintain current membership in a recognized non-profit organization of sober living homes. (*Sober Living Network*)
9. Comply with all applicable state and local laws.



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Other Non-Licensed Group Homes

Parolee/Probationer House (RMC 19.350)

1. Houses 2 or more probationers/parolees.
2. MCUP or CUP required.
3. 1,000 foot separation from other group homes.
4. 5,000 foot separation from other parole/probation homes.
5. Excludes Sober Living Homes. (Inmates must be recovering addicts.)



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Summary

FACILITY TYPE	LEGAL AUTHORITY	JURISDICTION	LIMITED TO SIX?	SEVEN OR MORE?
Group Homes	Health & Safety Code Sections <i>11834.01 – Alcohol/Drug Facilities</i> <i>1500 – Community Care Facilities</i> <i>1569.5 – Assisted Living</i> <i>1250, 1760, etc. – Health Facilities</i>	STATE (6 or less) CITY (7 or more)	YES By right.	CUP applies
Sober Living Homes	"Recovering alcoholics" are persons with disabilities. The law prohibits housing discrimination and requires "reasonable accommodations." Riverside Municipal Code, Title 19	CITY	NO	PERMITTED
Parolee/Probationer Homes	Riverside Municipal Code § 19.350	CIYT	MCUP required.	CUP applies.



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Discussion



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