



## Residential Recovery Facilities and Group Homes: An Overview

CITY COUNCIL WORKSHOP  
JUNE 11, 2024

Office of the City Attorney  
Public Safety Division

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### Group Homes 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

- 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)
- Incidental medical services (monitoring health status) allowed.



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## Homes Subject to State Licensing

### 2. Health Facilities

- The state also licenses a variety of residential health care facilities.
- Examples:
  - Congregate Living Health Facilities
    - Inpatient care for terminally ill, ventilator dependent, or catastrophically or severely disabled. (H&S Code Section 1250(i))
  - Intermediate Care Facilities
    - Intermediate nursing care. (H&S Code Section 1250(e))
  - 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

### 3. Community Care Facilities

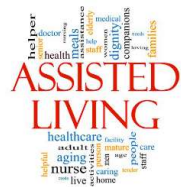
- Provide 24-hour non-medical residential care to children and adults with disabilities who are in need of personal services, supervision, and/or assistance with activities essential for daily living.

(H&S Code Section 1502).



**4. “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

- Primary purpose to move people out of institutions and into “normal” family-like surroundings.
- Not subject to local regulations relating to **zoning** (i.e., CUPs), business taxation, or local licensing *if serving six or fewer residents*.
- 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

### SUMMARY

- **Six or fewer residents** = residential use of home.
  - Must be a permitted use in all residential zones in which a single-family residence is permitted.
  - No CUP required.



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## Homes Subject to State Licensing

### SUMMARY

- **Seven or more residents** = group home.
  - Subject to local zoning.
  - CUP required.
  - 300-foot separation from other group homes. (RMC 19.315)
  - Maximum of 40 tenants. (RMC 19.315)



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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

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

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



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## Treatment Progression

State Licensed SUD Facility

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30 - 90 days



Sober Living Home

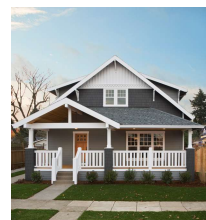
\$\$



6 months



Forever Home



Happily Ever After



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## TWO RULES:

### 1. Unrelated people can live together as a family.

Santa Barbara v. Adamson (1980) – Cal. Sup. Court

- Adamson owned 10-bedroom house, lived with 11 unrelated adults, in violation of single-family residential zone ordinance.

Ordinance defining family as two or more persons related by blood, marriage, or adoption, or a group not to exceed five other persons, violated Cal. Const. right to privacy.



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## TWO RULES:

### 2. Maximum Occupancy Determined by UHC.

Briseno v. City of Santa Ana (1992)

Briseno family of five lived in one-bedroom apartment.

- New Santa Ana ordinance limited one-bedroom to four occupants. Briseno family couldn't afford a two-bedroom.

Court ruled a city cannot lower occupancy below that authorized by Uniform Housing Code.

UHC allows six people in typical one-bedroom apartment



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## Uniform Housing Code (HSC 17922)

Every dwelling unit in this state is required to have at least 1 room with a minimum of 120 square feet floor area, other habitable rooms at least 70 square feet; any room for sleeping purposes increased by 50 square feet for each person in excess of two.



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## Uniform Housing Code (HSC 17922)

Smallest apartment: 120 square foot living room – 2 people. 70 square foot bedroom – 2 more people. Total of 4.

Typical 1 bedroom apartment: 170 square foot living room (120 + 50) – 3 people. 120 square foot bedroom (70 + 50) – 3 more people. Total of 6.



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## Sober Living Homes

### Litigation

- 2013 – Newport Beach won in District Court, lost at 9<sup>th</sup> 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.



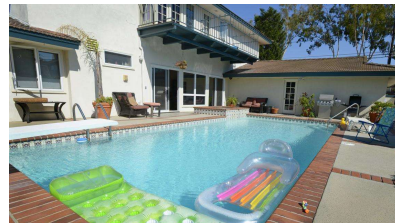
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## Sober Living Homes

### Litigation

- 2016 – Costa Mesa won in District Court, 9<sup>th</sup> Circuit enjoined the ordinance, parties settled.
  - Ordinance requires 650-foot separation between sober living homes.



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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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## Costa Mesa Ordinance

1. Special Use Permit required.
2. Six or fewer clients. 24/7 manager.
3. All garage and driveway spaces available for parking.
4. 650-foot separation from other facilities.
5. All clients participating in AA/NA or the like.



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## Anaheim Ordinance

1. Operator's Permit required 6 or less; CUP for 7 or more residents.
2. All resident vehicles parked on site.
3. 800-foot separation from other facilities.
4. All clients participating in AA/NA or the like.



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STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY  
**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**  
**DIVISION OF HOUSING POLICY DEVELOPMENT**  
 2020 W. El Camino Avenue, Suite 500  
 Sacramento, CA 95833  
 (916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)

GAVIN NEWSOM, Governor



May 3, 2021

Niki Wetzel, Deputy Director  
 Planning and Services Division  
 Planning and Building Department  
 City of Anaheim  
 200 S. Anaheim Boulevard, Suite 162  
 Anaheim, CA 92805

**RE: City of Anaheim Approach to Community Care Facilities and Sober Living Homes – Letter of Technical Assistance**

Dear Niki Wetzel:

The California Department of Housing and Community Development (HCD) has reviewed the City of Anaheim's (City's) land-use regulations set out in Municipal Code sections 18.16.058 (Community Care Facilities-Unlicensed (Small) and Sober Living Homes (Small)) and 18.38.123 (Community Care Facilities-Unlicensed and Sober Living Homes) (Municipal Code) as well as the City's proposed Zoning Code Amendment 2021-00176 (DEV2021-00027) (Zoning Code Amendment) pursuant to Government Code sections 65585 and 65008, the latter of which prohibits discrimination in land use.



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- California's Planning and Zoning Law (Gov. Code, § 65000 et al.) prohibits jurisdictions from engaging in discriminatory land use and planning activities. . .
- Under the law, it is illegal to discriminate based on protected class such as race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability (including individuals in recovery for drug or alcohol abuse, whether or not they are actively seeking recovery assistance), veteran or military status, or genetic information.



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- The law further recites multiple categories of actions that are determined to be discriminatory, including:
- Imposition of different requirements on a residential use by a protected class or by persons of very low, low, moderate, or middle income, other than those generally imposed upon other residential uses. (Gov. Code, § 65008, subd. (d)(2)(A).)



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- The proposed Zoning Code Amendment is problematic for the following reasons:
- 3) Regulation of cars, traffic, noise, loitering, and overcrowding can be administered directly through the City's existing laws. This approach applies universally and does not discriminate against persons with disabilities or persons or families with very low, low, moderate, or middle household incomes.
- a. Population density can be regulated by reference to floor space and facilities.
- b. Noise and morality can be regulated by enforcement of police power ordinances and criminal statutes.
- c. Traffic and parking can be regulated by limitations on the number of cars (and applied evenly to all households) and by off-street parking requirements.



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- The proposed Zoning Code Amendment is problematic for the following reasons:
- 5) Transitional and supportive housing regardless of size are by law "residential uses," not quasi-residential, and may only be subject to the restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (c)(3).) Under state law, for instance, if the transitional or supportive housing is located in a single-family home, the city cannot require a use permit for the transitional or supportive housing unless it also generally requires a use permit for all other single-family homes. Likewise, unless all single-family homes are subject to an operator's permit, such a permit cannot be required for transitional and supportive housing.<sup>2</sup>



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- HCD reminds the City that California is experiencing a severe housing crisis and the availability of housing affordable to all income levels is of vital statewide importance. (Gov. Code § 65580.)
- HCD recommends the City reject the Zoning Code Amendment and amend its current municipal code to ensure it adheres to the nondiscrimination requirements in Government Code section 65008.



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## Grandma's House of Hope


- State licensed provider for homeless women with mental health issues. 10 facilities; new one to be *transitional* housing.
- Bought an 8-bedroom house in ritzy area.
- Applied for CUP for 16 women.
- City Council denied CUP.
- Grandma sued, challenging CUP denial.



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4	Supervising Deputy Attorney General	
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14	Attorneys for Intervener-Petitioner	<i>Exempt from Filing Fees</i>
15	California Department of Housing and Community Development	<i>Pursuant to Gov. Code § 6103</i>
16		
17	SUPERIOR COURT OF THE STATE OF CALIFORNIA	
18	COUNTY OF ORANGE	
19	GRANDMA'S HOUSE OF HOPE,	Case No. 30-2022-01241823-CU-WM-CJC
20	Petitioner and Plaintiff,	
21	v.	CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT'S <i>EX PARTE</i> APPLICATION FOR LEAVE TO INTERVENE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
22	CITY OF ANAHEIM and CITY COUNCIL OF THE CITY OF ANAHEIM,	
	Respondents and Defendants.	(Cal. Court Rules 3.1200, <i>et seq.</i> and Code Civ. Proc., § 387.)
		(Declaration of David Zisser; Declaration of Norma N. Franklin; and [Proposed] Order filed concurrently.)
		Date: October 6, 2022



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## Court Agrees Anaheim Violated State Law. Decision is a Big Win for Fair Housing in California

*State Had Warned Disparate Permitting Requirements Constitute Discrimination*


February 2, 2024

**SACRAMENTO, CA** — The Orange County Superior Court today ruled in favor of the California Department of Housing and Community Development (HCD), finding that the City of Anaheim violated multiple state housing laws when it denied a well-established local nonprofit a permit to create transitional housing for women with mental health disabilities who recently experienced homelessness.

In 2021, Grandma's House of Hope – which had already established multiple facilities for women in other parts of Anaheim – was told it needed a conditional use permit (CUP) to house 16 women in an eight-bedroom home in the City's Colony District after vocal opposition from neighbors. The CUP application was then denied. HCD and the nonprofit filed suit on the grounds that the City violated various state laws by treating transitional housing for formerly homeless women differently from other single-family homes in the same zone.

"Today's ruling by the court is a victory for the state and should serve as a signal to other jurisdictions that discriminatory and NIMBY poli not be tolerated," said Governor Gavin Newsom. "Transitional homes are a critical tool to address the homelessness crisis on our streets people into housing. Communities stubbornly refusing to allow housing for all Californians will ultimately be held accountable."

The City of Anaheim requires a CUP for transitional or supportive housing for more than six residents, despite being warned by HCD in May 2021.



accountability



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- “Today’s ruling by the court is a victory for the state and should serve as a warning to other jurisdictions that discriminatory and NIMBY policies will not be tolerated” said Governor Gavin Newsom.
- “Transitional homes are a critical tool to address the homelessness crisis on our streets and get people into housing. Communities stubbornly refusing to allow housing for all Californians will ultimately be held accountable.”



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## City of Fountain Valley

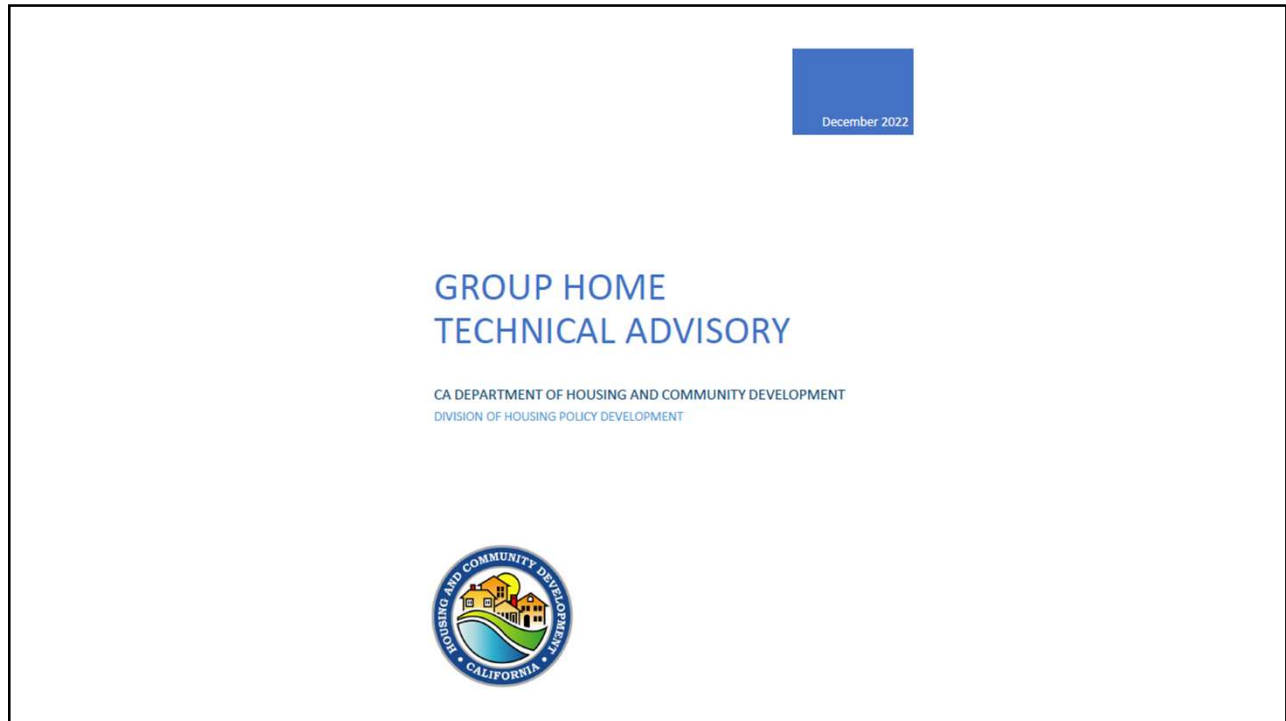
### Sober Living Ordinance Jan 30, 2024

1. Permit required for sober living houses that are not a “single housekeeping unit”.
  - Live together long term; established ties to each other.
  - Share expenses.
  - Residents decide who lives in the house.
2. 650-foot separation from other sober living.

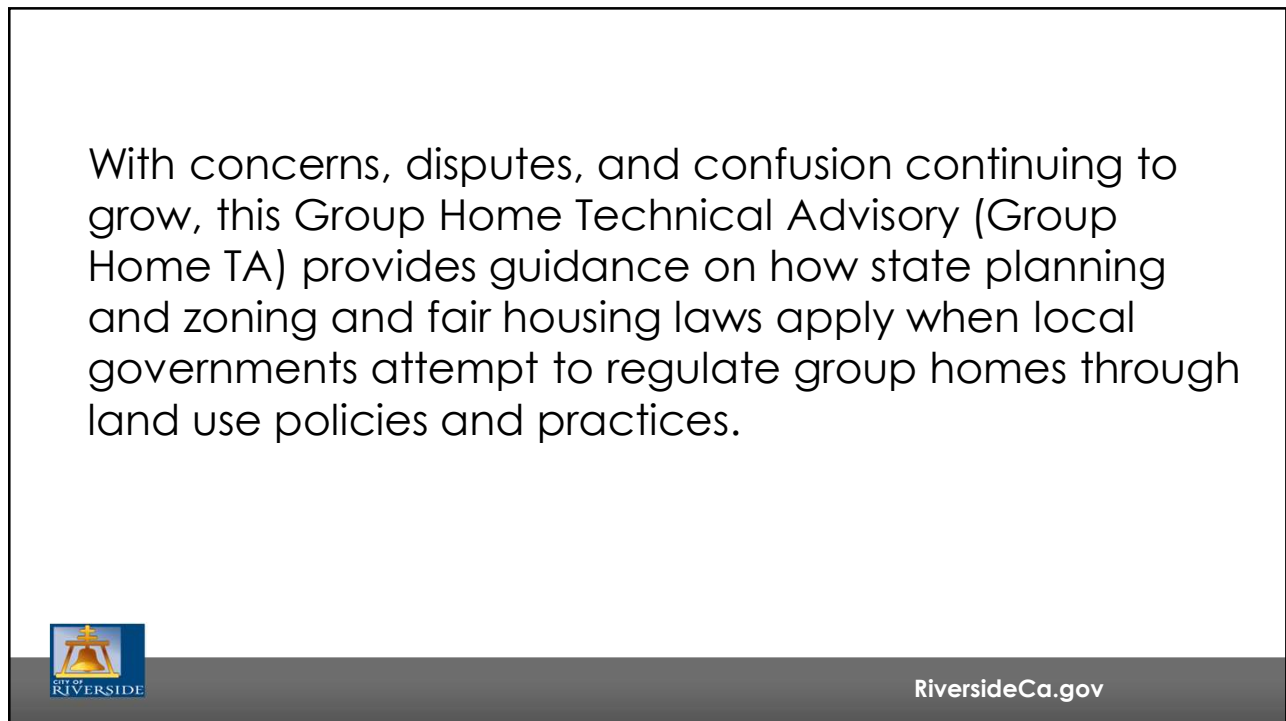


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It is designed to help local governments comply with their obligations under these state laws, including, for example, the Planning and Zoning Law, Housing Element Law, AFFH provisions, Anti-Discrimination in Land Use Law, and the Fair Employment and Housing Act (FEHA) (collectively, state housing laws).



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## **7. COMMON ISSUES IN LOCAL ORDINANCES THAT REGULATE GROUP HOMES**

### **A. DEFINITIONS OF SINGLE HOUSEKEEPING UNITS OR SINGLE-FAMILY HOMES**

Zoning ordinances sometimes attempt to restrict or limit group homes in single-family residential zones (e.g., R-1) through definitions of single housekeeping units or single-family homes. Overly restrictive definitions risk violating not only state housing laws, but the California Constitution's protections.



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## 7. COMMON ISSUES IN LOCAL ORDINANCES THAT REGULATE GROUP HOMES

- B. REQUIREMENTS THAT ALL GROUP HOMES WITH MORE THAN SIX RESIDENTS MUST OBTAIN PERMITS TO LOCATE IN SINGLE-FAMILY ZONES

[CUP > 6 only applies to *state licensed* facilities]



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## 7. COMMON ISSUES IN LOCAL ORDINANCES THAT REGULATE GROUP HOMES

- C. RETROACTIVE COMPLIANCE

- D. SPACING REQUIREMENTS

- The Legislature has found spacing requirements justified only for specific types of licensed facilities

- E. OCCUPANCY LIMITS AND BUILDING, FIRE, OR OTHER HEALTH AND SAFETY CODE REQUIREMENTS



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## 7. COMMON ISSUES IN LOCAL ORDINANCES THAT REGULATE GROUP HOMES


### F. REQUIREMENTS FOR OPERATORS AND RESIDENTS

- Imposing Special Parking Requirements on Group Homes.
- Restricting Recovery Residence Occupants to Persons Actively Participating in Recovery Programs.
- Restricting Occupancy Exclusively to Persons with Disabilities.



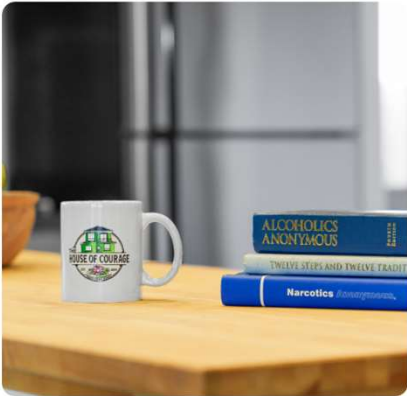
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## THE HOUSE OF COURAGE


A sanctuary for individuals on their journey to recovery from addiction.



### Our Mission

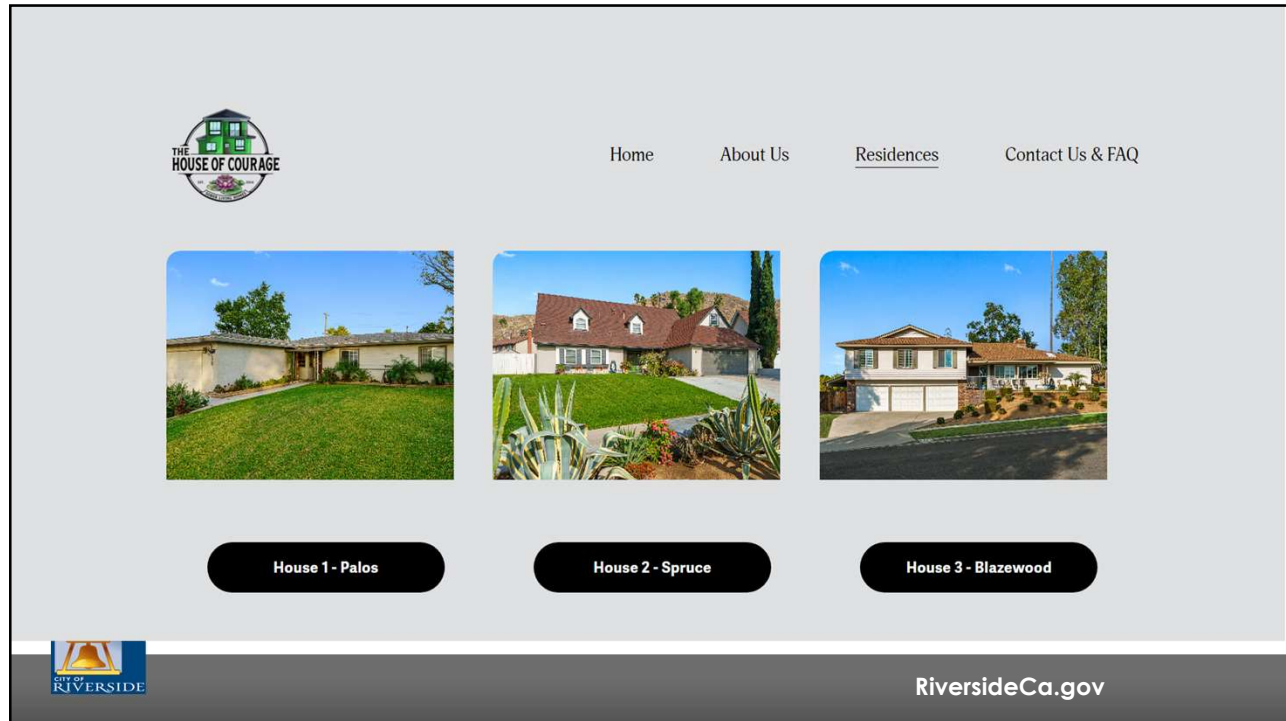
At The House of Courage, our mission is to provide a sanctuary for individuals on their journey to recovery from addiction. We are committed to fostering an inclusive environment that supports various recovery modalities, including the 12-step program. Our dedicated team engages in a motivational and inspirational approach, empowering guests to take ownership of their journey. Our mission extends to helping individuals transition with confidence back into the world. We believe in the inherent worth of each person who walks through our doors, and our goal is to instill a sense of self-worth and purpose. Our mutually supportive environment helps individuals reclaim their lives and build a future filled with courage.

[Learn more](#)



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## Sober Living Homes

### 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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## **Residential Recovery Facilities and Group Homes: An Overview**

### **Discussion**



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