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LEGISLATIVE DRAFT

§ 230.28. Group Homes.

A. **Purpose.** This section is intended to preserve the residential character of single-family residential neighborhoods and to further the purposes of the FEHA, the FHAA and the Lanterman Act by, among other things: (1) ensuring that group homes are actually entitled to the special accommodation and/or additional accommodation provided under the Huntington Beach Municipal Code and not simply skirting the City's boarding house regulations; (2) limiting the secondary impacts of group homes by reducing noise and traffic, preserving safety and providing adequate on street parking; (3) providing an accommodation for the disabled that is reasonable and actually bears some resemblance to the opportunities afforded non-disabled individuals to use and enjoy a dwelling unit in a single-family neighborhood; and (4) to provide comfortable living environments that will enhance the opportunity for the disabled and for recovering addicts to be successful in their programs.

B. Special Use Permit Required.

1. A group home that may otherwise be considered an unpermitted use may locate in the RL, RM, RMH, RH, RMP, a Specific Plan Residential, or a Specific Plan Mixed Use zone with a Special Use Permit provided:
 - a. An application for a group home is submitted to the Director by the owner/operator of the group home. The application shall provide the following:
 - i. The name, address, phone number and driver's license number of the owner/operator;
 - ii. If the applicant and/or operator is a partnership, corporation, firm or association, then the applicant/operator shall provide the additional names and addresses as follows and such persons shall also sign the application:
 - (1) Every general partner of the partnership,
 - (2) Every owner with a controlling interest in the corporation,
 - (3) The person designated by the officers of a corporation as set forth in a resolution of the corporation that is to be designated as the permit holder;
 - iii. The license and permit history of the applicant(s), including whether such applicant(s), in previously operating a similar use in this or another City, County or State under license and/or permit, has had such license and/or permit revoked or suspended, and the reason therefor;
 - iv. The name, address, phone number and driver's license number of the house manager;
 - v. A copy of the group home rules and regulations;
 - vi. Written intake procedures;
 - vii. The relapse policy;

- viii. An affirmation by the owner/operator that only residents (other than the house manager) who are disabled as defined by State and Federal law shall reside at the group home;
- ix. Blank copies of all forms that all residents and potential residents are required to complete; and
- x. A fee for the cost of processing of the application as set by resolution of the City Council.

No person shall open a group home or begin employment with a group home until this information has been provided and such persons shall be responsible for updating any of this information to keep it current.

- b. The group home has six or fewer occupants, not counting a house manager, but in no event shall have more than seven occupants. If the dwelling unit has a secondary accessory unit, occupants of both units will be combined to determine whether or not the limit of six occupants has been exceeded.
- c. The group home shall not be located in an accessory secondary unit unless the primary dwelling unit is used for the same purpose.
- d. The group home has a house manager who resides at the group home or any multiple of persons acting as a house manager who are present at the group home on a 24-hour basis and who are responsible for the day-to-day operation of the group home.
- e. All garage and driveway spaces associated with the dwelling unit shall, at all times, be available for the parking of vehicles. Residents and the house manager may each only store or park a single vehicle at the dwelling unit or on any street within 500 feet of the dwelling unit. The vehicle must be operable and currently used as a primary form of transportation for a resident of the group home.
- f. Occupants must not require and operators must not provide "care and supervision" as those terms are defined by Health and Safety Code Section 1503.5 and Section 80001(c)(3) of Title 22, California Code of Regulations.
- g. Integral group home facilities are not permitted. Applicants shall declare, under penalty of perjury, that the group home does not operate as an integral use/facility.
- h. If the group home operator is not the property owner, written approval from the property owner to operate a group home at the property.
- i. The property must be fully in compliance with all building codes, municipal code and zoning.
- j. At least 48 hours prior to an occupant's eviction from or involuntary termination of residency in a group home, the operator thereof shall:
 - i. Notify the person designated as the occupant's emergency contact or contact of record that the occupant will no longer be a resident at the home;

- ii. Contact the Orange County Health Care Agency OC Links Referral Line and/or another entity designated by the City to determine the services available to the occupant, including, but not limited to, alcohol and drug inpatient and outpatient treatment;
 - iii. Notify the City's Homeless Task Force or its successor panel that an occupant is no longer a resident at the home, and determine the services available therefrom;
 - iv. Provide the information obtained from paragraphs ii and iii of this subsection B.1.j. and any other treatment provider or service to the occupant prior to his or her release on a form provided by the City and obtain the occupant's signed acknowledgement thereon;
 - v. Provided, however, that if the occupant's behavior results in immediate termination of residency pursuant to rules approved by the City as part of the special use permit for that facility, the operator shall comply with paragraphs i. through iv. of this subsection B.1.j. as soon as possible.
- k. Prior to an occupant's eviction from or involuntary termination of residency in a group home, the operator thereof shall also:
- i. Make available to the occupant transportation to the address listed on the occupant's driver license, state-issued identification card, or the permanent address identified in the occupant's application or referral to the group home;
 - ii. Provided, however, that should the occupant decline transportation to his or her permanent address or otherwise has no permanent address, then the operator shall make available to the occupant transportation to another group home or residential care facility that has agreed to accept the occupant. If the operator cannot find accommodation, the occupant must continue to house on premises until such accommodation can be found for the occupant.
- l. The group home operator shall maintain records for a period of one year following eviction from or involuntary termination of residency of an occupant that document compliance with subsections B.1.j. and B.1.k. of this section; provided, however, that nothing herein shall require an operator of a group home to violate any provision of state or federal law regarding confidentiality of health care information. The group home operator may not satisfy the obligations set forth in subsection B.1.k. of this section by providing remuneration to the occupant for the cost of transportation.
- m. All drivers of vehicles picking up or dropping off persons at a group home shall comply with all applicable provisions of this Code and the Vehicle Code, including, but not limited to, those provisions regulating licensure and parking, standing and stopping.
- n. In addition to the regulations outlined above, the following shall also apply to sober living homes:

- i. The sober living home is not located within 1,000 feet, as measured from the closest property lines, of any other sober living home or a state licensed alcoholism or drug abuse recovery or treatment facility.
- ii. All occupants, other than the house manager, must be actively participating in legitimate recovery programs, including, but not limited to, Alcoholics Anonymous or Narcotics Anonymous and the sober living home must maintain current records of meeting attendance. Under the sober living home's rules and regulations, refusal to actively participate in such a program shall be cause for eviction.
- iii. The sober living home's rules and regulations must prohibit the use of any alcohol or any non-prescription drugs at the sober living home or by any recovering addict either on or off site. The sober living home must also have a written policy regarding the possession, use and storage of prescription medications. The facility cannot dispense medications but must make them available to the residents. The possession or use of prescription medications is prohibited except for the person to whom they are prescribed, and in the amounts/dosages prescribed. These rules and regulations shall be posted on site in a common area inside the dwelling unit. Any violation of this rule must be cause for eviction under the sober living home's rules for residency and the violator cannot be re-admitted for at least 90 days. Any second violation of this rule shall result in permanent eviction. Alternatively, the sober living home must have provisions in place to remove the violator from contact with the other residents until the violation is resolved.
- iv. The number of occupants subject to the sex offender registration requirements of Penal Code Section 290 does not exceed the limit set forth in Penal Code Section 3003.5 and does not violate the distance provisions set forth in Penal Code Section 3003.
- v. The sober living home shall have a written visitation policy that shall preclude any visitors who are under the influence of any drug or alcohol.
- vi. The sober living home shall have a good neighbor policy that shall direct occupants to be considerate of neighbors, including refraining from engaging in excessively loud, profane or obnoxious behavior that would unduly interfere with a neighbor's use and enjoyment of their dwelling unit. The good neighbor policy shall establish a written protocol for the house manager/operator to follow when a neighbor complaint is received.
- vii. The sober living home shall not provide any of the following services as they are defined by Section 10501(a)(6) of Title 9, California Code of Regulations: detoxification; educational counseling; individual or group counseling sessions; and treatment or recovery planning.
- o. An applicant may seek relief from the strict application of this section by submitting a reasonable accommodation application setting forth specific reasons as to why accommodation over and above this section is necessary under State and Federal laws, pursuant to HBMC Chapter 17.77.

2. The special use permit shall be issued by the Director as a ministerial matter if the applicant is in compliance or has agreed to comply with subsections B.1.a. through B.1.n. of this section. The issuance of the special use permit shall be denied upon a determination, and if already issued shall be denied or revoked upon a hearing, by the Director that any of the following circumstances exist:
 - a. Any owner/operator or staff person has provided materially false or misleading information on the application or omitted any pertinent information;
 - b. Any owner/operator or staff person 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; and selling or furnishing illegal drugs or alcohol.
 - c. Any owner/operator or staff person has been convicted of or pleaded nolo contendere, within the last seven to 10 years, to any of the following offenses:
 - i. Any sex offense for which the person is required to register as a sex offender under California Penal Code Section 290 (last 10 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 10 years); or
 - iv. The unlawful sale or furnishing of any controlled substances (last seven years).
 - d. Any owner/operator or staff person is on parole or formal probation supervision on the date of the submittal of the application or at any time thereafter.
 - e. The owner/operator accepts residents, other than a house manager, who are not disabled as defined by the FHAA and FEHA.
 - f. A Special Use Permit for a sober living home shall also be denied upon a determination, and if already issued, any transfer shall be denied or revoked, upon a hearing, by the Director that any of the following additional circumstances exist:
 - i. Any owner/operator or staff person of a sober living home is a recovering drug or alcohol abuser and upon the date of application or employment has had less than one full year of sobriety.
 - ii. The owner/operator of a sober living home fails to immediately take measures to remove any resident who uses alcohol or illegally uses prescription or non-prescription drugs, or who is not actively participating in a legitimate recovery program from contact with all other sober residents.
 - iii. The sober living home, as measured by the closest property lines, is located

within 1,000 feet of any other sober living home or State licensed alcoholism or drug abuse recovery or treatment facility. If a State-licensed alcoholism or drug abuse recovery or treatment facility moves within 1,000 feet of an existing sober living home this shall not cause the revocation of the sober living home's permit or be grounds for denying a transfer of such permit.

- g. For any other significant and/or repeated violations of this section and/or any other applicable laws and/or regulations, including, but not limited to, failure to comply with the provisions of subsections B.1.j. through m.
- h. Revocation shall not apply to any group home, which otherwise would cause it to be in violation of this section, that has obtained a reasonable accommodation pursuant to HBMC Chapter 17.77.

C. Effect of Denial or Revocation of Special Use Permit or Conditional Use Permit

1. **Whenever an application for a Special Use Permit or Conditional Use Permit for a Sober Living Facility, Group Home, or similar facility is denied, no other similar application by such applicant or permittee will be considered for a period of five years from the date of the denial of an application. Whenever a permit has been revoked, canceled, or otherwise invalidated, no other similar application by such permittee shall be considered for a period of five years from either the date the notice of the permit revocation was mailed or the date of the final decision of the city to revoke the permit, whichever is later. The prohibitions of this subsection shall also apply to the following:**
 - a. **Any individual whose Special Use Permit or Conditional Use Permit was revoked or whose application was denied who later becomes a director or officer of a corporation, profit or nonprofit, or a member of a partnership or a person owning or possessing any portion of the shares of a corporation seeking to obtain a Special Use Permit.**
 - b. **A corporation, profit or nonprofit, whose Special Use Permit or Conditional Use Permit was revoked, or application was denied, to any of its directors or officers or to any person who owned any portion of its shares, who attempts by way of a new corporation or using their individual names or becoming a member of a partnership or a director or officer or a person owning or possessing any portion of the shares in another corporation seeking to obtain a new Special Use Permit or Conditional Use Permit.**
 - c. **A landowner who illegally leased, rented, sold, or otherwise allowed an individual or corporation to operate a non-permitted Group Home or Sober Living Home.**
2. **In addition to any other law, no person or entity shall be eligible for and/or receive an operator's Special Use Permit or Conditional Use Permit if that person or entity, or any director or officer of that entity or a person who owned any portion of that entity's shares, or any financial interest holder of that entity, engaged or engages in unpermitted and/or illegal activity involving medical care, addiction care, addiction recovery, and Group or Sober Home operation, in the five years preceding an application under this chapter or during the application**

process. A determination of ineligibility may be made by the City Manager and shall be based on the preponderance of the evidence. This prohibition shall not apply to a natural person who would otherwise be ineligible based on a criminal conviction that has been dismissed, withdrawn, expunged or set aside.

~~C.~~ D. Compliance.

1. Existing group homes must apply for a special use permit within 90 days of the effective date of the ordinance codified in this section.
2. Group homes that are in existence upon the effective date of the ordinance codified in this section shall have one year from the effective date of the ordinance codified in this section to comply with its provisions, provided that any existing group home, which is serving more than six residents, must first comply with the six-resident maximum.
3. Existing group homes obligated by a written lease exceeding one year from the effective date of the ordinance, or whose activity involves investment of money in leasehold or improvements such that a longer period is necessary to prevent undue financial hardship, are eligible for up to one additional years grace period pursuant to Planning Division approval.

~~D.~~E. Transfer of Special Use Permit. A Special Use Permit may not be transferred to any other person or entity. No Special Use Permit issued pursuant to this section shall be transferred or assigned or authorize any person other than the person or entity named in the permit to operate the group home named therein.

~~E.~~ F. A Conditional Use Permit shall be required for and may be granted to allow the operation of a group home, or a residential care facility with seven or more occupants in the RM, RMH, RH, RMP, Specific Plan Residential and Specific Plan Mixed Use Zones subject to the following conditions:

1. As measured from the property line to property line, the group home or sober living home shall be at least 1,000 feet from any other property that contains a group home, sober living home, or State-licensed residential care facility.
2. An application for an Operator's Permit that complies with Chapter 5.110 of the Huntington Beach Municipal Code (HBMC) shall be required for and may be granted to permit the operation of a group home or sober living home.