

Attachment 3

State Law Governing Community Care Facilities, Emergency Shelters, Transitional and Supportive Housing, and Single-Room Occupancy Housing

This paper is intended to provide additional information on meeting the State's requirements for Federal Law prohibits local governments from making housing opportunities unavailable to people with disabilities through discriminatory land use and zoning rules, policies, practices and procedures under the Federal Fair Housing Amendments Act. This Act went into effect in 1988, extending fair housing protections to individuals with disabilities in virtually every housing activity, or transaction (42 U.S.C. §§ 3601 et seq. (Federal Fair Housing Act). The legislative history of the Act specifically recognizes that zoning ordinance provisions have discriminated against people with disabilities by limiting opportunities to live in the community in congregate or group living arrangements.

State Code requires each jurisdiction in the State to specify in its zoning code that housing types intended to meet the needs of disabled and disadvantaged community members are allowed in certain residential areas of the City. Meeting the requirements of the State is addressed in the 2008-2014 Housing Element Update by proposed Housing Implementation Program 12.1.

Community Care Facilities (Residential Care Facilities)

[Regulated by the California's Community Care Facilities Act]

Summary. State licensed "Residential Care Facilities", and "Alcoholism or Drug Abuse Recovery or Treatment Facilities" that serve 6 or fewer persons are regulated by the State, and this regulation pre-empts local zoning ordinances. Therefore, local jurisdictions must treat such uses as they would single-family uses. There is a distance criterion that can be applied to certain residential care facilities, however this cannot be applied to: alcohol or drug abuse recovery or treatment facilities, residential care facilities for the elderly, and foster family homes (Heath and Safety Code §1520.5).

Definition. A "residential care facility" is any group care facility or similar facility that provides 24-hour non-medical care of people in need of supervision or assistance essential for sustaining activities of daily living (Heath and Safety Code § 1502(a)(1)).

Discussion.

The State's Community Care Facilities Act requires that State licensed residential care facilities for six or fewer persons be treated the same as single-family residences and, in doing so, pre-empts local zoning regulation of these facilities (Heath and Safety Code §§ 1566 et seq.). The Act is designed to move individuals with disabilities out of institutions and into family-like surroundings in residential neighborhoods. By requiring that these group homes with up to six

residents be treated as single-family residences, the Act negates the “business” feature of any such facilities which might preclude them from location in compatible residential zones.

The law further provides that resident care facilities serving six or fewer individuals with disabilities be considered family uses for purposes of zoning laws which relate to the residential use of the property. State law specifies that for purposes of local zoning codes, these facilities shall not be included in the definition of boarding or rooming house, guest home, rest home or other similar term which implies that residential care facilities are a business and different than a family dwelling (Heath and Safety Code § 1566.3.)

Alcoholism or drug abuse recovery or treatment facility

[Regulated by the State Department of Alcohol and Drug Programs Regulations]

Summary. “Alcoholism or Drug Abuse Recovery or Treatment Facilities” that serve 6 or fewer persons are regulated by the State, and this regulation pre-empts local zoning ordinances. Therefore, local jurisdictions must treat such uses as they would single-family uses.

Definition. “Alcoholism or drug abuse recovery or treatment facility” means any premises that provides 24-hour non-medical services to adults who are recovering from problems related to alcohol and/or drug abuse or misuse and who need recovery treatment or detoxification services (Heath and Safety Code § 11834.02.).

Discussion. Individuals in recovery for substance abuse are considered as having a disability. The California legislature has enacted a series of laws intended to provide and ensure the accessibility of alcohol and drug recovery, and intervention and prevention services to these individuals (Heath and Safety Code § 1781.).

These Alcohol and Drug Recovery Program statutes provide that alcoholism or drug abuse recovery or treatment facilities that service six or fewer person be considered a residential use for purposes of zoning (Heath and Safety Code § 11834.23.). Like the Community Care Facilities Act, which addresses licensed residential care facilities of six or fewer residents, these statutes pre-empt local regulation of state licensed alcohol or drug abuse recovery or treatment facilities servicing six or fewer individuals. These facilities which serve six or fewer individuals shall not be included within the definition of rooming or boarding house, institution or home for the care of minors, the aged or other similar term that implies that the facility is a business run for profit and differs in any other way from a single-family residence (Heath and Safety Code § 11834.23.)

Emergency Shelters, Transitional Housing, Supportive Housing, and Single-Room Occupancy (SRO) Housing

[Senate Bill 2 (2008) [Regulated by Government Code Section 65583]

Summary. Emergency shelters, transitional housing, supportive housing and single-room occupancy (SRO) units are addressed together in the following section. All of these housing types play a role in providing permanent housing for those in need. As such, these housing types will usually be integrated into a system of care giving (referred to as a “continuum of care” or COC), and are typically constructed, owned, and operated by non-profit housing and services providers. A person in need will enter into the COC typically through an emergency shelter, where immediate housing is provided while their immediate needs are assessed. As soon as possible the operator of the emergency shelter will then move the person into transitional housing (length of stay is limited) or into supportive housing (length of stay is unlimited). In transitional and supportive housing, the person’s long-term needs will be assessed, and the service provider works towards meeting those needs. This may include setting the person up on State and Federal assistance, social security or other forms of public aid. A person is placed in supportive housing when through their needs assessment it becomes apparent that they will need continuous care and support, such as the chronically homeless and persons suffering from certain illnesses. In the case of transitional housing, through this time period, the service provider will work towards placing the person in longer-term housing. If possible, the service provider works to locate the person in permanent housing, this could be in an apartment (or SRO, which is more affordable than other types of rental housing), where the person pays rent, and if they are capable may work.

Definitions. Definitions from the State Department of Housing and Community Development are provided below.

- **“Emergency Shelter”** – (Health and Safety Code 50801(e)): means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.
- **“Transitional Housing”** – (Health and Safety Code 50675.2(h)): means rental housing operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.
- **“Supportive Housing”** – (Health and Safety Code 50675.14(b)): Supportive housing is permanent rental housing linked to a range of support services designed to enable residents to maintain stable housing and lead fuller lives. Supportive housing has no limit on length of stay (whereas there is a length of stay in Transitional Housing), and is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.
- **“Single-Room Occupancy” (SRO) Units** are small, between 200 to 350 square foot, rooms that include a bed, closet, small kitchenette, and bathroom. Many SRO’s are converted from hotels. These units provide a valuable source of affordable housing lower- income individuals, seniors, people with disabilities, and the formerly homeless.

Discussion.

Emergency Shelters. Every locality must identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones must include sufficient capacity to accommodate the need for emergency shelter as identified in the housing element, EXCEPT that all local governments must identify a zone or zones to accommodate at least one year-round shelter. Adequate sites/zones can include existing facilities that can be converted to accommodate the need for emergency shelters.

Shelters can only be subject to the development and management standards that apply to residential or commercial development in the same zone except that local governments may apply written and objective standards that include all of the following:

- maximum number of beds;
- off-street parking based upon demonstrated need;
- size and location of on-site waiting and intake areas;
- provision of on-site management;
- proximity to other shelters;
- length of stay;
- lighting; and
- security during hours when the shelter is open.

Transitional Housing. Transitional housing is to be considered a residential use and is subject to the same restrictions that apply to similar housing types in the same zone. Transitional housing is used to facilitate the movement of homeless individuals and families to permanent housing. A person may live in a transitional apartment for up to two-years while receiving services that enable independent living. Every locality must identify zones that will allow the development of transitional housing. Appropriate sites for transitional housing have the following characteristics:

- **Zoning:** Transitional housing should be subject to the same permitting processes as other housing in the zone without undue special regulatory requirements.
- **Location:** The zoning should include sites located within the boundaries of the jurisdiction and close to public services and facilities, including transportation.
- **Development Standards:** Parking requirements, fire regulations, and design standards should not impede the efficient use of the site as transitional housing.

Supportive Housing. Supportive housing is to be considered a residential use and is subject to the same restrictions that apply to similar housing types in the same zone. Supportive housing is similar to transitional housing; however there is no time limit on a person's stay in supportive housing. Typically, a portion of the housing is targeted to people who have risk factors such as homelessness, or health challenges such as mental illness or substance addiction; such persons may remain in supportive housing indefinitely. Study after study attest to the cost effectiveness of supportive housing. Not only is it significantly less expensive than

the institutional alternatives that homeless and disabled people often cycle through – including shelters, institutions and hospitals – it ends tenants' dependence on emergency services for healthcare and treatment. The types of support services that can be provided include medical and mental health care, vocational and employment services, substance abuse treatment, childcare, and independent living skills training.

Most supportive housing is built and managed by non-profit housing developers in partnership with non-profit service providers. However, local governments must play a proactive role in assuring support and providing necessary approvals. The housing element should identify zones that allow supportive housing development and demonstrate that zoning, local regulations (standards and the permit process) encourage and facilitate supportive housing.

Supportive housing comes in all shapes and sizes, and is designed to meet the needs of both the people to be served and the communities where it is located. It could be a renovated hotel or a new multifamily development where tenants with disabilities live alongside other families. Supportive housing can include services for the residents in the building, or a number of small supportive homes may share a central neighborhood service center. Whatever the configuration, supportive housing allows tenants, who would otherwise be homeless, or utilizing emergency services and institutions to access support services that enable them to live as independently as possible, while reducing the burden on community emergency services.

Single-Room Occupancy (SRO) Housing: Many older SROs have been lost due to deterioration, hotel conversions, and demolition. Therefore, in addition to identifying zoning and development standards that will allow and encourage the construction of new SROs, local governments should consider including program actions in their housing elements that commit to preserving and rehabilitating existing residential hotels and other buildings suitable for SROs. Other implementation actions that would encourage both the development of new SROs and the preservation of existing opportunities include:

- **Zoning and permit procedures:** The element could include a program action that commits the local government to amending their zoning and building codes, and permitting procedures to facilitate and encourage new SRO construction. A more streamlined entitlement process helps in providing greater predictability in the approval and development of new SROs. In terms of preservation, local governments could include programs to promote the rehabilitation of older (structurally sound) buildings located in appropriate areas, rather than demolition.
- **Provide regulatory and fiscal assistance:** The element could include a program action that commits the local government to providing funding sources and regulatory relief to assist non-profit developers in constructing and preserving SRO facilities.
- **Implement educational programs:** Include a outreach program for neighborhood groups, stakeholders, advocates, and local businesses regarding the advantages of providing opportunities for new construction and preservation of SROs.