Care Facilities in Residential Zones

ALAMEDA COUNTY PLANNING DEPARTMENT
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Topics to Be Discussed

• Licensed Facilities
  ○ General Guidelines for Licensed Facilities.
  ○ California Department of Social Services, Community Care Licensing Division
    ▸ Community Care Facilities
    ▸ Residential Care Facilities for the Elderly
    ▸ Residential Care Facilities for the Chronically Ill
  ○ California Department of Public Health
    ▸ Hospice
    ▸ Facilities for the Developmentally Disabled
    ▸ Nursing Facilities
    ▸ Other Facility Types
Topics to Be Discussed

• Supportive and Transitional Housing
  ○ Definitions
  ○ Important Notes

• Alameda County Zoning
  ○ Zoning Policies and Definitions
  ○ Zoning and Unlicensed Facilities
Licensed Facilities
General Guidelines for Licensed Facilities

- Whether or not a facility should be licensed or certified is determined by the State, not by the County.

- Separation requirements to alleviate overconcentration apply only to facilities with the same type/category of license. Separation requirements are specified in State law for most, but not all facility types.

- State law requires that residential facilities with 6 or fewer persons be treated for Zoning purposes the same as any other permitted residential use in the same zone. The County cannot impose any requirement on these facilities that is not also applied to all residential uses within that zone.
General Guidelines for Licensed Facilities

- The rule pertaining to facilities serving 6 or fewer persons appears to apply to virtually all licensed facilities. [Included are facilities for persons with disabilities and other facilities (Welfare & Inst. Code 5116), residential health care facilities (Health & Safety Code 1267.8, 1267.9, & 1267.16), residential care facilities for the elderly (Health & Safety Code 1568.083 - 1568.0831, 1569.82 – 1569.87), community care facilities (Health & Safety Code 1518, 1520.5, 1566 - 1566.8, 1567.1, pediatric day health facilities (Health & Safety Code 1267.9; 1760 – 1761.8), and facilities for alcohol and drug treatment (Health & Safety Code 11834.23).]
Community Care Licensing Division

- The California Department of Social Services, Community Care Licensing Division (CCLD) licenses care facilities for persons who can not live alone but who do not need extensive medical services.

- The services provided in these facilities vary according to the needs of the individual, but typically include help with medications and assistance with personal hygiene, dressing and grooming. The facilities also may provide supervision and programs for individuals who have Alzheimer's disease or other types of dementia.

- CCLD has three facility categories:
  - Community Care Facilities,
  - Residential Care Facilities for the Elderly,
  - Residential Care Facilities for the Chronically Ill.
Community Care Facilities

- "Community care facility" means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children.
The following facilities provide 24 hour care to adults, children or the elderly:

1. Residential Facility
2. Foster Family Home
3. Small Family Home
4. Social Rehabilitation Facility
5. Community Treatment Facility
6. Transitional Shelter Care Facility
7. Transitional Housing Placement Facility
8. Group Home
9. Runaway and Homeless Youth Shelter
10. Crisis Nursery
11. Adult Residential Facility for Persons with Special Health Care Needs
Community Care Facilities

- Community Care Facilities must be 300 feet apart; with the exception of foster family homes and transitional shelter care facilities which are not subject to the State's overconcentration standard.

- Regulations and definitions are provided in Sections 1500-1567.5 of the Health & Safety Code
Residential Care Facilities for the Elderly

- "Residential Care Facilities for the Elderly" means facilities that provide housing arrangements for persons 60 years old or over.

- They do not have any separation requirements.

- Regulations and definitions are provided in Sections 1569-1569.889 of the Health & Safety Code.

- Most common licensed facility type in Alameda County.
Residential Care Facilities for the Chronically Ill

- "Residential Care Facilities for the Chronically Ill" means facilities that serve persons with chronic, life-threatening illnesses.

- No facility may house more than 25 residents, except that the director (of CCLD) may authorize a facility to house up to 50 residents.
Residential Care Facilities for the Chronically Ill

- Residential Care Facilities for the Chronically Ill must be 300 feet apart

- Regulations and definitions are provided in Sections 1568.01-1568.17 of the Health & Safety Code
California Department of Public Health (CDPH) Licensing and Certification Program (L&C) is responsible for:

- ensuring health care facilities comply with state laws and regulations;
- in cooperation with the Department of Health and Human Services, ensuring that facilities accepting Medicare and Medi-Cal (in California, Medicaid is referred to as Medi-Cal) payments meet federal requirements;
- overseeing the certification of nurse assistants, home health aides, hemodialysis technicians, and the licensing of nursing home administrators.

L&C licenses or certifies health care facilities which include:

- nursing facilities;
- hospices;
- facilities that serve persons with developmental disabilities;
- Pediatric Day And Respite Health Facilities;
- Congregate Living Health and Psychiatric Health Facilities.
Hospice

- "Hospice" means a facility that provides interdisciplinary health care for an individual who has a terminal disease.

- L&C licenses hospices that are not certified under the federal Medicare program.

- A volunteer hospice does not require a license to provide hospice services so long as they do not provide skilled nursing services and do not charge for the services. An unlicensed hospice also must disclose the fact that they are not required to obtain a license.

- Hospices are not subject to the State's overconcentration standard.

- Regulations and definitions are provided in Sections 1745-1759 of the Health & Safety Code.
Facilities for the Developmentally Disabled

- There are four types of Intermediate Care Facilities for the Developmentally Disabled, they are:
  - "Intermediate Care Facility/Developmentally Disabled"
  - "Intermediate Care Facility/Developmentally Disabled-habilitative"
  - "Intermediate Care Facility/Developmentally Disabled-nursing"
  - "Developmentally Disabled-continuous Nursing Care"

- Facilities must meet the standards and conditions specified in Title 42 Code of Federal Regulations as Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID).

- Facilities must be 300 feet apart.

- Regulations and definitions are provided in Sections 1265-1271.15 of the Health & Safety Code.
Nursing Facilities

- There are two facility types which involve 24 hour skilled nursing, they are:
  - Nursing Facility
  - Skilled Nursing Facility

- Skilled Nursing and Nursing Facilities do not have any separation requirements.

- Regulations and definitions are provided in Sections 1250 - 1339.59 of the Health & Safety Code.
Other Facility Types

- "Pediatric day health and respite care facility" means a facility which provides an organized program of therapeutic social and day health activities and services and limited 24-hour inpatient respite care to medically fragile children 21 years of age or younger, including terminally ill and technology dependent children.

- "Congregate living health facility" means a residential home with a capacity, generally of no more than 12 beds, that provides inpatient care, including the following basic services: medical supervision, 24-hour skilled nursing and supportive care, pharmacy, dietary, social, and recreational.

- "Psychiatric health facility," means a health facility that provides 24-hour inpatient care for mentally disordered, incompetent, or other persons.
Other Facility Types

• Pediatric Day Health and Respite Care Facilities must have **300 feet** of separation.

• Congregate Living Health Facilities must have **1,000 feet** of separation.

• Psychiatric Health Facilities do not have a separation requirement.

• Regulations and definitions are provided in Sections 1250 - 1339.59 of the Health & Safety Code.
The Department of Health Care Services (DHCS) has sole authority to license facilities providing 24-hour residential nonmedical services to eligible adults who are recovering from problems related to alcohol or other drug (AOD) misuse or abuse.

Licensure is required when at least one of the following services is provided: detoxification, group sessions, individual sessions, educational sessions, or alcoholism or drug abuse recovery or treatment planning.

Many facilities licensed by DHCS are also certified. Certification by DHCS identifies those facilities which exceed minimum levels of service quality and are in substantial compliance with State program standards, specifically the Alcohol and/or Other Drug Certification Standards.

Residential facilities licensed by other State departments such as the Department of Social Services (DSS) or the Department of Public Health (DPH) do not require a residential AOD license by DHCS.
Alcoholism or Drug Abuse Treatment Facility

- There are no separation requirements for these facilities.
- Regulations and definitions are provided in Sections 11833.01-11834.50 of the Health & Safety Code.
Supportive and Transitional Housing
Supportive and Transitional Housing – Definitions

- "Supportive housing" means housing with no limit on length of stay, that is occupied by the "target population", and that 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. (Source: Alameda County Zoning Ordinance, based on Section 50675.14(b) of the Health and Safety Code)
"Target population" means persons with Low Income and having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act and may include, among other populations, adults, emancipated youth, families, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people. (Source: Alameda County Zoning Ordinance, based on Section 53260(d) of the Health and Safety Code)
“Transitional housing” and “transitional housing development” mean buildings configured as rental housing developments, but 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. (Source: Alameda County Zoning Ordinance, based on Section 50675.2(h) of the Health and Safety Code)
Supportive and Transitional Housing – Important Notes

- People often use the terms “supportive” or “transitional” when describing care facilities; however, these terms have a very specific meaning to the State.

- If housing is provided consistent with Section 1504.5 of the Health and Safety Code, no license is required.

- Supportive or transitional housing that provides medical care, or serves patients whose need for care or supervision exceeds a certain threshold will need to have a license.

- There are no State mandated separation requirements for unlicensed facilities.
Supportive and Transitional Housing – Important Notes

- Supportive or transitional housing tenants who hold a lease in their own name and are responsible for paying their own rent are covered under all applicable state and federal landlord tenant laws.

- This housing has also been referred to as a "Sober Living Environment (SLE)", "Halfway Home", “Independent Living Arrangement”, or "Recovery Home".
Supportive and Transitional Housing – Important Notes

- Regulations and definitions pertaining to Supportive Housing are in Health & Safety Code Sections 1504.5; 50675.14(b); and 53260(d)

- Regulations and definitions pertaining to Transitional Housing are in Health & Safety Code Section 50675.2
Licensed Facilities

• Community Care Facility
  o Residential Facility
  o Foster Family Home
  o Small Family Home
  o Social Rehabilitation Facility
  o Community Treatment Facility
  o Transitional Shelter Care Facility
  o Transitional Housing Placement Facility
  o Group Home
  o Runaway and Homeless Youth Shelter
  o Crisis Nursery
  o Adult Residential Facility for Persons with Special Health Care Needs

• Residential Care Facility for the Elderly
• Residential Care Facility for the Chronically Ill
Licensed Facilities

- Hospice
- Intermediate Care Facility/Developmentally Disabled
- Intermediate Care Facility/Developmentally Disabled-habilitative
- Intermediate Care Facility/Developmentally Disabled-nursing
- Developmentally Disabled-Continuous Nursing Care
- Nursing Facility
- Skilled Nursing Facility
- Pediatric Day and Respite Care Health Facility
- Congregate Living Health Facility
- Psychiatric Health Facility
Unlicensed Facilities

• Supportive Housing*
• Transitional Housing*

* Housing that meets the provisions of Section 1504.5 of the Health and Safety Code does not require a license.
Alameda County Zoning
Zoning Policies and Definitions

- The Alameda County Planning Department is responsible for the development and enforcement of zoning and land use policies within unincorporated Alameda County. The Planning Department maintains and updates both the Alameda County General Plan and Zoning Ordinance.

- The Zoning Ordinance states: "Medical or residential care facility" means a residential care home as licensed by State Department of Social Services, Community Care Licensing Division. This term also includes group living quarters housing persons placed by an authorized agency for rehabilitation purposes and is funded by or licensed by or is operated under the auspices of an appropriate federal, state or county governmental agency.
Zoning Policies and Definitions

- With the exception of unlicensed facilities and hospices, which may or may not be regulated, for land use purposes, in the same manner as a hospital, the following regulations apply to all facilities within a residential zone:

  - **Licensed facilities** are considered a "medical or residential care facility".

  - Consistent with State law, facilities with **6 or fewer residents** are **allowed by right** in all residential zones, and are subject to the same standards as other residential uses within the same zone.

  - Facilities with **7 or more residents** require a **Conditional Use Permit**.
Any proposed regulations for unlicensed facilities would have to comply with the following:

- State and Federal Fair Housing Law
- American’s with Disabilities Act
- Right to Privacy guaranteed in the California Constitution
Questions