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September 27, 2012

Karl Schwing
Supervisor, Regulation & Planning
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

[Click here to go to the original staff report.](#)

Dear Mr. Schwing:

This letter is in response to the August 23, 2012 Coastal staff report regarding the City's **LCP Amendment Request No. 2-11B (Agenda Item W22b)**. After reviewing the report, the City is requesting two amendments.

First, on page 7, Coastal staff is requesting to retain short-term lodging as an allowed use subject to the granting of a CUP. After internal discussion, the City is not opposed to retaining short-term lodging as an allowed use in the SLV - South Laguna Village Zone, but we think the proposed suggested modification language is not clear and confusing. We propose that it simply read (see below) as an allowed use in Section 25.25.006 subject to the approval of a CUP, as was previously indicated in the ordinance before the City's proposed deletion:

“(M) Short-term lodging as defined and specified in Chapter 25.23 of this Title.”

Second, on page 8 there is confusion in the existing ordinance that the City would like to clean-up. We have been requiring only an Administrative Use Permit for short-term lodging in the R-1 Zone, not an additional Conditional Use Permit. The existing language somehow was adopted to require both an AUP and CUP for short-term lodging in the R-1 Zone. It does not make sense to require two use permits, so we have only been requiring an AUP in the R-1 Zone. Coastal staff's proposed suggested modification would also require an AUP and CUP for short-term lodging in the SLV Zone. The City proposes the following language to clear-up this confusion:

25.23.030 Administrative Use Permit Required.

Short-term lodging units shall only be allowed within the R-1, R-2, R-3, LB/P, C-N, C-1, CH-M and VC Zoning Districts subject to the approval of an Administrative Use permit as provided for in Section 25.05.020 of this Title and ~~R-1~~SLV Zoning District subject to the approval of a CUP as provided in Section 25.05.030, issued pursuant to this Chapter. No owner of a dwelling unit or units located outside of those zoning districts shall rent that unit or units for short-term. No owner of a lodging unit or units within those zoning districts shall rent that unit or units for a short-term without a valid Administrative Use Permit or Conditional Use Permit, as applicable, issued pursuant to this Chapter.

If you have any questions about these requests, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "John Montgomery". The signature is fluid and cursive, with the first name "John" being more prominent and the last name "Montgomery" written in a more compact, cursive style.

John Montgomery
Director
Community Development

cc: Planning Manager

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



ADDENDUM

W22b

September 10, 2012

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: ADDENDUM TO **ITEM W22b**, LOCAL COASTAL PROGRAM
AMENDMENT **LGB-MAJ-2-11B** FOR THE COMMISSION MEETING OF
September 2012.

Recommended Revisions to Staff Report

The deletions proposed by the City in their original submittal are shown in ~~plain text, lined out~~
The insertions proposed by the City in their original submittal are shown in plain text, underlined

The Commission's suggested additions (as depicted in the staff report dated 8/23/12) are shown in ***bold, italic, underlined text***.

The Commission's suggested deletions (as depicted in the staff report dated 8/23/12) are shown in ~~***bold, italic, underlined, strike out text***~~.

The additions suggested **in this addendum** are shown in ***bold italic double underlined text***

The deletions suggested **in this addendum** are shown in ~~***bold, italic, double underlined, double strike out text***~~

On page 7 of the staff report for Item W22b, revise the Suggested Modification No. 2, as follows:

2. Suggested Modification No. 2

Modify Laguna Beach Municipal Code Section 25.25.006 Uses permitted subject to a conditional use permit in the SLV South Laguna Village Zone:

The following uses may be permitted subject to the granting of a conditional use permit as provided in Section 25.05.030. The existing balance of resident-serving uses in the same vicinity and zone shall be a consideration when reviewing conditional use permit applications:

- (A) Café, restaurant, delicatessen and tea room, with outdoor seating, serving of alcoholic beverages, and/or entertainment only as authorized under the conditional use permit. (Drive-in restaurants are not permitted);
- (B) Market or grocery store, or mini-market;
- (C) Dry cleaning/laundry facilities;
- (D) Office uses, when a conversion of ground-floor retail space is proposed;

- (E) Residential uses (excluding time shares) as an integral part of commercial development, but limited to not more than fifty percent of the gross floor area;
- (F) Veterinary clinic, including overnight boarding for care;
- (G) Outdoor display of merchandise;
- (H) Liquor sales;
- (I) Artists' joint living and working units, as defined in Chapter 25.16;
- (J) Philanthropic and charitable institutions;
- (K) Automobile service stations;
- (L) Health clubs;
- ~~(M) Short term lodging as defined and specified in Chapter 25.23 of this title;~~
- (M) Short-term lodging as defined and specified in Chapter 25.23 of this title, but only in residential units where, as of the effective date of the ordinance adopting this provision, the use has already been legally permitted, and in new residential units constructed after the effective date of the ordinance adopting this provision;** [NOTE: City proposed deletion of 'short term lodging' as an allowable use, staff is recommending retaining this as an allowable use]
- ~~(MN) Extended care facility;~~
- (NO) Residential care facility, general subject to: (1) no outdoor smoking, (2) fire and building code inspection and compliance, (3) one thousand feet separation from any other general residential care facility, and (4) being an integral part of commercial development, but limited to not more than fifty percent of the gross floor area;**
- (OP) Residential care facility, small unlicensed subject to: (1) no outdoor smoking, (2) fire and building code inspection and compliance, (3) maximum occupancy of six persons, and (4) being an integral part of commercial development, but limited to not more than fifty percent of the gross floor area;**
- (PO) Residential care facility, small licensed, subject to: (1) no outdoor smoking, (2) fire and building code inspection and compliance, (3) maximum occupancy of six persons, and (4) being an integral part of commercial development, but limited to not more than fifty percent of the gross floor area; and**
- (OR) Residential housing, special needs as an integral part of commercial development, but limited to not more than fifty percent of the gross floor area; and**
- ~~(RS) Other uses the planning commission deems, after conducting a public hearing, to be similar to and no more obnoxious or detrimental to the public, health, safety and welfare of the neighborhood than any use listed above.~~

On page 8 of the staff report for Item W22b, revise the Suggested Modification No. 3, as follows:

3. Suggested Modification No. 3

Modify Laguna Beach Municipal Code Section 25.23.030 related to administrative permit requirements for short term lodging:

25.23.030 Administrative use permit or conditional use permit required.
Short-term lodging units shall only be allowed within the R-1, R-2, R-3, LB/P, C-N, C-1, CH-M, ~~SLV~~ and VC zoning districts subject to the approval of an administrative use permit

as provided for in Section 25.05.020 of this title and ~~R-1 and~~ SLV zoning district subject to the approval of a CUP as provided in Section 25.05.030, issued pursuant to this chapter. No owner of a dwelling unit or units located outside of those zoning districts shall rent that unit or units for a short-term. No owner of a lodging unit or units located within those zoning districts shall rent that unit or units for a short-term without a valid administrative use permit or conditional use permit, as applicable, issued pursuant to this chapter.

On page 13, make the following changes to the findings:

As submitted, the proposed IP amendment gives equal priority to residential care and residential housing for special needs as it does to retail service and visitor serving commercial uses. Therefore, the IP amendment as submitted is inconsistent with Section 30222 of the Coastal Act/Land Use Element and Policy 6.12 of the Land Use Element of the Land Use Plan. Currently, in the Commercial-Neighborhood (CN) zone and the South Laguna Village (SLV) zone, residential uses are only allowed "...as an integral part of commercial development..." and are "...limited to not more than fifty percent of the gross floor area and there shall be at least two thousand square feet of lot area for each dwelling unit..." of the development. The Commission could find the IP amendment adequate to carry out the requirements of the certified Land Use Plan if the newly added residential uses (i.e. residential care facilities and residential housing for special needs) are subject to the same limitations as other residential uses in the CN and SLV zones. Therefore, the Commission **suggests modification No. 1 and 2**. As modified, this IP amendment implements the Land Use Plan policies that protect retail service commercial uses and visitor serving commercial uses.

On page 14, make the following changes to the findings:

As proposed, the amendment would eliminate a source of one type of lower cost overnight visitor accommodations, a higher priority use. The short term lodging use would also promote visitor use and public access. Thus, the proposed elimination cannot be found to be consistent with or adequate to carry out the City's certified LUP policies regarding visitor serving use, lower cost overnight accommodations, and public access. However, if the amendment is modified as recommended to allow short term lodging use only in residential units where the use has already been legally permitted, and in new residential units subject to approval of a Conditional Use Permit, then the amendment could be found to be consistent with and adequate to carry out the certified LUP policies regarding visitor serving use, lower cost overnight accommodations, and public access. Therefore, only if modified as suggested (Suggested Modification No. 2 & 3) could the proposed amendment be found to be consistent with and adequate to carry out the certified Land Use Plan policies regarding visitor serving use, lower cost overnight accommodations, and public access.

~~The City has indicated that one issue which has arisen in Laguna Beach relative to short term lodging is the displacement of longer term renters. The City states that property owners have chosen to offer residential units as short term lodging rather than for longer term rentals because of significant financial incentives. The City has said this had lead to a loss to their supply of more affordable residential rentals. In order to avoid affecting the existing rental inventory, the suggested modification makes clear it applies only to new residential units that are constructed after the date of adoption of the ordinance, as revised by the suggested modifications.~~

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

August 23, 2012

**W 22b**

TO: Commissioners and Interested Persons

FROM: Sherilyn Sarb, Deputy Director
Teresa Henry, District Manager
Karl Schwing, Supervisor, Regulation & Planning

SUBJECT: Major Amendment Request No. 2-11B to the City of Laguna Beach Certified Local Coastal Program (For Public Hearing and Commission Action at the September 2012 meeting in Caspar, CA).

SUMMARY OF LCP AMENDMENT REQUEST NO. 2-11B

The City of Laguna Beach proposes to amend its Local Coastal Program (LCP) Implementation Plan (IP) to identify the zones in which residential care facilities and residential housing for people with special needs are allowed to operate. Residential care facilities are generally those in which individuals with a disability reside together but are not living together as a single housekeeping unit. Individuals with a disability are defined by the City as a person who has a physical or mental impairment that limits or substantially limits one or more major life activities. There are various categories of such facilities including those with six or fewer individuals or seven or more individuals, and those that are licensed to offer treatment and those that are unlicensed (treatment not offered). Unlicensed facilities with six or fewer individuals are sometimes known as 'sober living' facilities. The proposed amendment responds to State legislation that requires that the use of family dwellings (including single-family dwellings, multi-family dwellings, condominiums, townhouses, etc.) as residential care facilities for six or fewer persons be considered a residential use of property with respect to all local ordinances (Health and Safety Code Section 1566.3).

The proposed addition of residential care facilities as allowable uses in residences in residential zoning districts and in those commercial zoning districts that already have an allowance for residential use would not result in significant adverse impacts to coastal resources because the existing LCP would continue to govern the appropriateness of residential use in the relevant zoning district, and residential care would only be allowed in residential uses that are themselves consistent with the LCP. In other words, these facilities could only be permitted as part of residential uses that meet all other applicable provisions of the LCP. This is particularly important with respect to the commercial districts, where specific siting and design criteria limit residential development as a conditional use to protect visitor serving uses.

There are various other changes involved in the proposed LCP amendment that the City has identified as 'clean up'. These include some modifications, additions and deletions in the definitions (along with edits to the allowable uses to make use of the deleted/added definitions) and shifting certain uses from permitted to permitted with a conditional use permit (CUP). However, one of the 'clean-up' items includes deleting 'short term lodging' from the list of uses allowed with a CUP in the South Laguna Village Zone, which would prohibit that use in that zone. The Commission has generally tried to protect short term lodging uses where they exist because they are a source of overnight accommodations for visitors.

The issues raised by the amendment request are: 1) whether uses required to be prioritized in the coastal zone would be displaced in certain commercial districts by lower priority uses, as proposed; and, 2) the whether the elimination of short term lodging as an allowable use in the South Laguna Village zone will adversely affect the availability of overnight accommodations in the City.

The proposed amendment will affect Title 25 *Zoning* which is contained in the City's certified Implementation Plan. Only the Implementation Plan portion of the City's certified LCP is affected by the proposed amendment. No changes are proposed to the Land Use Plan.

Laguna Beach LCP Amendment No. 2-11 contained three separate ordinances, No. 1548, No 1550, and No. 1551. Ordinance No.s 1548 and 1551 are packaged together as Part A, and are the subject of a separate staff report. Part B contains Ordinance No. 1550 and is the subject this staff report.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission, after public hearing:

Deny the amendment request to the Implementation Plan **as submitted**.

Approve the amendment request to the Implementation Plan **if modified as recommended**.

The proposed amendment, if modified as recommended, would be in conformance with and adequate to carry out the provisions of the certified Land Use Plan. **The motions to accomplish this recommendation are found on pages 5.**

STANDARD OF REVIEW

The standard of review for the proposed amendment to the LCP Implementation Plan is conformance with and adequacy to carry out the provisions of the certified Laguna Beach Land Use Plan.

SUMMARY OF PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in Local Coastal Program development. It states:

During the preparation, approval, certification, and amendment of any local coastal program, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of a local coastal program for approval, local governments shall hold a public hearing or hearings on that portion of the program which has not been subjected to public hearings within four years of such submission.

For Ordinance No. 1550 the City held three public hearings, one before the Planning Commission (April 27, 2011), and two before the City Council (June 7, 2011 & June 21, 2011). Public Notice for the hearings was given via newspaper and via mailed notification to interested agencies.

STAFF NOTE: The LCP amendment request was originally submitted on 7/22/2011. A time extension for Commission action on this amendment was granted, and the time limit for Commission action is October 4, 2012.

ADDITIONAL INFORMATION

Copies of the staff report are available on the Commission's website at www.coastal.ca.gov and at the South Coast District office located in the ARCO Center Towers, 200 Oceangate, Suite 1000, Long Beach, 90802. To obtain copies of the staff report by mail, or for additional information, contact *Karl Schwing* in the Long Beach office at (562) 590-5071.

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EXHIBITS:

Exhibit 1 - City Council Resolution No. 11.060

Exhibit 2 - Ordinance No. 1550

Exhibit 3 – City staff report on Ordinance No. 1550

Exhibit 4 – California Public Health and Safety Code Section 1566

I. MOTIONS AND RESOLUTIONS

Motion#1:

I move that the Commission reject Implementation Plan Amendment No. 2-11B for the City of Laguna Beach as submitted.

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Plan amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution#1:

The Commission hereby denies certification of the Implementation Plan Amendment No. 2-11 submitted for the City of Laguna Beach and adopts the findings set forth below on grounds that the Implementation Plan amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Plan amendment as submitted.

Motion#2:

I move that the Commission certify the Implementation Plan Amendment No. 2-11B for the City of Laguna Beach if it is modified as suggested by staff.

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Plan amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution#2:

The Commission hereby certifies the Implementation Plan Amendment 2-11B for the City of Laguna Beach if modified as suggested and adopts the findings set forth below on grounds that the Implementation Plan amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan amendment has on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts the Implementation Plan amendment has on the environment.

II. SUGGESTED MODIFICATIONS

Certification of City of Laguna Beach LCP Amendment Request No. 2-11B is subject to the following modifications.

The City's proposed deletions are shown in ~~plain text, lined-out~~
The City's proposed insertions are shown in plain text, underlined

The Commission's suggested additions are shown in **bold, italic, underlined text.**
The Commission's suggested deletions are shown in ~~**bold, italic, underlined, strike out text.**~~

1. Suggested Modification No. 1

Modify Laguna Beach Municipal Code Section 25.19.006 Uses permitted subject to conditional use permit in the C-N Commercial-Neighborhood Zone, as follows:

The following uses may be permitted subject to the granting of a conditional use permit as provided in Section 25.05.030. The existing balance of resident-serving uses in the same vicinity and zone shall be a consideration when reviewing conditional use permit applications:

- (A) Automobile service stations and mini-markets, provided that all sales and service other than gasoline and oil dispensing shall be conducted and confined within enclosed buildings;
- (B) Cafés, full-service restaurants, delicatessens and tea rooms with or without outdoor seating serving alcoholic beverages. (Drive-in restaurants are not permitted);
- (C) Take-out restaurants, with indoor and/or outdoor seating only as authorized under the conditional use permit;
- (D) Car wash;
- (E) Health clubs;
- (F) Hotels and motels;
- (G) Outdoor display of merchandise;
- (H) Plant nursery, including outdoor display of merchandise;
- (I) Residential uses (excluding time shares) as an integral part of commercial development, but limited to not more than fifty percent of the gross floor area and there shall be at least two thousand square feet of lot area for each dwelling unit;
- (J) Veterinary clinics, including overnight boarding for care;
- (K) Liquor sales;
- (L) Artists' joint living and working units, as defined in Chapter 25.16;
- (M) Extended care facility;
- (N) Residential care facility, general ***as an integral part of commercial development, but limited to not more than fifty percent of the gross floor area and there shall be at least two thousand square feet of lot area for each dwelling unit*** subject to: (1) no outdoor smoking, (2) fire and building code inspection and compliance, and (3) one thousand feet separation from any other general residential care facility;
- (O) Residential care facility, small unlicensed ***as an integral part of commercial development, but limited to not more than fifty percent of the gross floor area and there shall be at least two thousand square feet of lot area for each dwelling unit*** subject to: (1) no outdoor smoking, (2) fire and building code inspection and compliance, and (3) maximum occupancy of six persons;

(P) Residential care facility, small licensed **as an integral part of commercial development, but limited to not more than fifty percent of the gross floor area and there shall be at least two thousand square feet of lot area for each dwelling unit,** subject to: (1) no outdoor smoking, (2) fire and building code inspection and compliance, and (3) maximum occupancy of six persons;

(Q) Residential housing, special needs **as an integral part of commercial development, but limited to not more than fifty percent of the gross floor area and there shall be at least two thousand square feet of lot area for each dwelling unit;** and

(~~M~~ R) Other uses the planning commission deems, after conducting a public hearing, to be similar to and no more obnoxious or detrimental to the public, health, safety and welfare of the neighborhood than any use listed above. Such uses shall be inclusive of uses expressly allowed in the C-1 zone, but shall not include those uses listed exclusively as industrial or light industrial uses in the M-1 or M-1A zones.

2. **Suggested Modification No. 2**

Modify Laguna Beach Municipal Code Section 25.25.006 Uses permitted subject to a conditional use permit in the SLV South Laguna Village Zone:

The following uses may be permitted subject to the granting of a conditional use permit as provided in Section 25.05.030. The existing balance of resident-serving uses in the same vicinity and zone shall be a consideration when reviewing conditional use permit applications:

- (A) Café, restaurant, delicatessen and tea room, with outdoor seating, serving of alcoholic beverages, and/or entertainment only as authorized under the conditional use permit. (Drive-in restaurants are not permitted);
- (B) Market or grocery store, or mini-market;
- (C) Dry cleaning/laundry facilities;
- (D) Office uses, when a conversion of ground-floor retail space is proposed;
- (E) Residential uses (excluding time shares) as an integral part of commercial development, but limited to not more than fifty percent of the gross floor area;
- (F) Veterinary clinic, including overnight boarding for care;
- (G) Outdoor display of merchandise;
- (H) Liquor sales;
- (I) Artists' joint living and working units, as defined in Chapter 25.16;
- (J) Philanthropic and charitable institutions;
- (K) Automobile service stations;
- (L) Health clubs;
- ~~(M) Short term lodging as defined and specified in Chapter 25.23 of this title;~~

(M) Short-term lodging as defined and specified in Chapter 25.23 of this title, but only in residential units where, as of the effective date of the ordinance adopting this provision, the use has already been legally permitted, and in new residential units constructed after the effective date of the ordinance adopting this provision; [NOTE: City proposed deletion of 'short term lodging' as an allowable use, staff is recommending retaining this as an allowable use]

~~(MN)~~ Extended care facility;

~~(NO)~~ Residential care facility, general subject to: (1) no outdoor smoking, (2) fire and building code inspection and compliance, (3) one thousand feet separation from any other

general residential care facility, and (4) being an integral part of commercial development, but limited to not more than fifty percent of the gross floor area;

(OP) Residential care facility, small unlicensed subject to: (1) no outdoor smoking, (2) fire and building code inspection and compliance, (3) maximum occupancy of six persons, and (4) being an integral part of commercial development, but limited to not more than fifty percent of the gross floor area;

(PO) Residential care facility, small licensed, subject to: (1) no outdoor smoking, (2) fire and building code inspection and compliance, (3) maximum occupancy of six persons, and (4) being an integral part of commercial development, but limited to not more than fifty percent of the gross floor area; and

(OR) Residential housing, special needs *as an integral part of commercial development, but limited to not more than fifty percent of the gross floor area;* and

(NRS) Other uses the planning commission deems, after conducting a public hearing, to be similar to and no more obnoxious or detrimental to the public, health, safety and welfare of the neighborhood than any use listed above.

3. Suggested Modification No. 3

Modify Laguna Beach Municipal Code Section 25.23.030 related to administrative permit requirements for short term lodging:

25.23.030 Administrative use permit required.

Short-term lodging units shall only be allowed within the R-1, R-2, R-3, LB/P, C-N, C-1, CH-M, SLV and VC zoning districts subject to the approval of an administrative use permit as provided for in Section 25.05.020 of this title and R-1 and SLV zoning district subject to the approval of a CUP as provided in Section 25.05.030, issued pursuant to this chapter. No owner of a dwelling unit or units located outside of those zoning districts shall rent that unit or units for a short-term. No owner of a lodging unit or units located within those zoning districts shall rent that unit or units for a short-term without a valid administrative use permit issued pursuant to this chapter.

III. FINDINGS

The following findings support the Commission's denial as submitted and approval of the proposed LCP Implementation Plan amendment if modified. The Commission hereby finds and declares as follows:

A. AMENDMENT DESCRIPTION

The City of Laguna Beach proposes to amend its Local Coastal Program (LCP) Implementation Plan (IP) to identify the zones in which residential care facilities and residential housing for people with special needs are allowed to operate. Residential care facilities are generally those in which individuals with a disability reside together but are not living together as a single housekeeping unit. Individuals with a disability are defined by the City as a person who has a physical or mental impairment that limits or substantially limits one or more major life activities. There are various categories of such facilities including those with six or fewer individuals or seven or more

individuals, and those that are licensed to offer treatment and those that are unlicensed (treatment not offered). Unlicensed facilities with six or fewer individuals are sometimes known as ‘sober living’ facilities. The amendment also proposes to make use of a general term, ‘extended care facility’ in place of ‘rest home’, ‘nursing home’, ‘home for the aged’, etc. Following is the proposed description of the various facility types:

“Extended care facility” means an establishment devoted to: (1) providing medical, nursing or custodial care for individuals over a prolonged period, such as during the course of a chronic disease or the rehabilitation phase after an acute illness or injury, and/or (2) provides or coordinates oversight and services to meet the residents’ individualized scheduled needs and assistance with activities of daily living, based on the residents’ assessments and service plans and their unscheduled needs as they arise. An extended care facility includes an intermediate care facility, a skilled nursing facility, a convalescent home, a nursing home, a rest home, a recovery center and an assisted living facility.

“Residential care facility, general” means any facility licensed or unlicensed, in which seven or more individuals with a disability reside who are not living together as a single housekeeping unit. An individual with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment, not including current, illegal use of a controlled substance;

“Residential care facility, small licensed” means a facility licensed by the state of California that provides care, services or treatment in a community residential setting for six or fewer adults and/or children with a disability and that is required by state law to be treated as a single housekeeping unit. An individual with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment, not including current illegal use of a controlled substance. Small licensed residential care facilities shall be subject to all land use and property development regulations applicable to single housekeeping units;

“Residential care facility, small unlicensed” means any building that is not licensed by the state of California and is not required by law to be licensed by the state, in which six or fewer individuals with a disability reside who are not living together as a single housekeeping unit. An individual with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment, not including current, illegal use of a controlled substance;

“Residential housing, special needs” means dwelling units that accommodate specific demographic or occupational groups which call for specific housing types. Such groups include the elderly (age sixty-five and above), the disabled, female headed households, large families, farmworkers, homeless persons or families (including transitional and supportive housing), and extremely low, very low, low and moderate-income persons, as defined in the city’s housing element;

The following chart describes the zoning districts affected by the amendment and the type of facility to be allowed in each district (empty cell = not permitted):

	Extended Care Facility	Residential care facility, general	Residential care facility, small licensed	Residential care facility, small unlicensed	Residential housing, special needs
R-1 – Residential Low Density			Permitted		Permitted
R-2 – Residential Medium Density	Permitted with CUP*		Permitted		Permitted
R-3 – Residential High Density	Permitted with CUP*		Permitted		Permitted
R/HP – Residential/Hillside Protection			Permitted		Permitted
LBP – Local Business Professional	Permitted with CUP*	Permitted with CUP	Permitted	Permitted with CUP	Permitted with CUP
CN – Commercial neighborhood	Permitted with CUP	Permitted with CUP	Permitted with CUP	Permitted with CUP	Permitted with CUP
C-1 – Local Business District	Permitted with CUP*	Permitted with CUP [#]	Permitted with CUP [#]	Permitted with CUP [#]	Permitted with CUP [#]
SLV- South Laguna Village	Permitted with CUP	Permitted with CUP	Permitted with CUP	Permitted with CUP	Permitted with CUP
I - Institutional	Permitted with CUP*				Permitted with CUP

The proposed amendment responds to State legislation that requires that the use of family dwellings (including single-family dwellings, multi-family dwellings, condominiums, townhouses, etc.) as residential care facilities for six or fewer persons be considered a residential use of property with respect to all local ordinances (Health and Safety Code Section 1566.3)(Exhibit 2).

There are various other changes involved in the proposed LCP amendment that the City has identified as ‘clean up’. These include some modifications, additions and deletions in the definitions (along with edits to the allowable uses to make use of the deleted/added definitions) and shifting certain uses from permitted to permitted with a conditional use permit (CUP). However, one of the ‘clean-up’ items includes deleting “short term lodging’ from the list of uses allowed with a CUP in the South Laguna Village Zone, which would prohibit that use in that zone. The South Laguna Village (SLV) zone is one lot deep, located on either side of Coast Highway toward the southerly end of the City and includes approximately 45 lots of varying size. The zone is surrounded by residential development.

* Change in terminology only, use already permitted in this zone (i.e. change from ‘home for the aged’, ‘rest home’, ‘nursing home’ etc. to ‘extended care facility’)

Uses are not to exceed 50% of the gross floor area of the entire structure and shall be located above the ground floor level

B. DENIAL OF IMPLEMENTATION PLAN AMENDMENT NO. 2-11A AS SUBMITTED

The standard of review for amendments to the Implementation Plan (IP) of a certified Local Coastal Program (LCP) is whether the Implementation Plan, as amended by the proposed amendment, will be in conformance with and adequate to carry out, the policies of the certified Land Use Plan (LUP).

Below are the relevant City of Laguna Beach certified LUP policies:

The Coastal Land Use Plan Technical Appendix, a part of the certified LUP, incorporates the following Coastal Act policies:

Section 30210

In carrying out the requirement of Section 2 of Article XV of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30212.5

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

The Land Use Element of the City's Land Use Plan, contains the following policy:

Policy 6.12 Promote mixed-use development in commercial zones, where appropriate, to encourage the provision of lower-cost housing and to reduce traffic trips. Encourage ground floor uses to be commercial and where appropriate, visitor serving.

Priority Uses

Section 30213 of the Coastal Act (adopted by the City as a Land Use Plan policy) requires that lower cost visitor and recreational facilities be protected, encouraged and where feasible provided. Section 30222 of the Coastal Act/Land Use Plan places a higher priority on the provision of retail service commercial and visitor service commercial uses designed to enhance public opportunities for coastal recreation than on residential, industrial, or general commercial uses. The City's Land Use Element encourages ground floor uses to be commercial and where appropriate, visitor serving.

Retail service commercial uses and visitor service commercial uses provide greater public benefit than general commercial (i.e. office uses) and residential uses because a larger segment of the population is able to take advantage of and enjoy those uses. In addition, retail service commercial and visitor service commercial areas provide services to the visiting beach user, including providing places to stay overnight, dine and shop.

Retail service commercial uses and more so visitor serving commercial uses are strongly preferred under the Coastal Act/Land Use Plan. These types of uses are preferred because they maximize the number of people who can enjoy the unique experience available only along the coast. Private residential development along the coast is of highly limited use, being usable only by those able to afford coastal living. Furthermore, lesser priority uses, such as residential and general commercial, are not dependent upon being located within the coastal zone. Such uses can accomplish their functions virtually anywhere; whereas the coastal visitor experience is available only along the coast. Moreover, population growth in general creates greater demand for visitor serving amenities within the Coastal Zone.

As submitted, the proposed IP amendment gives equal priority to residential care and residential housing for special needs as it does to retail service and visitor serving commercial uses. Therefore, the IP amendment as submitted is inconsistent with Section 30222 of the Coastal Act/Land Use Element and Policy 6.12 of the Land Use Element of the Land Use Plan. Currently, in the Commercial-Neighborhood (CN) zone and the South Laguna Village (SLV) zone, residential uses are only allowed "...as an integral part of commercial development..." and are "...limited to not more than fifty percent of the gross floor area..." of the development. As proposed, the newly added residential uses (i.e. residential care facilities and residential housing for special needs) would not be subject to these same limitations as other residential uses in the CN and SLV zones. Instead, the residential use could be stand-alone (no commercial component). As submitted, this IP amendment does not implement the Land Use Plan policies that protect retail service commercial uses and visitor serving commercial uses. Therefore, the IP amendment must be denied, as submitted.

Overnight Visitor Accommodations

Short term lodging opportunities are important in the coastal zone as they provide a source for visitor serving overnight accommodations. So it is important that an LCP amendment avoids creating a disincentive to provide such use or would prohibit the use entirely without establishing a substantial basis for eliminating the use. Short term is defined in the City's LCP as 30 days or less. Residential uses are allowed within the SLV zone, subject to approval of a conditional use permit, as follows:

"Residential uses (excluding time shares) as an integral part of commercial development, but limited to not more than fifty percent of the gross floor area."

Currently, short term lodging is an allowed use subject to a conditional use permit. The proposed amendment would remove short term lodging as an allowed use. The amendment request file does not address the proposed removal of the short term lodging use in this area.

Short term lodging often allows for extended vacation stays that would otherwise be cost prohibitive at a hotel. Lower cost overnight accommodations promote visitor use and public access in the area. This use is a visitor serving use that can be lower cost, which is a priority use in the

City's certified LUP. The use could be accommodated in any residential units that exist or that might be proposed within the SLV zone. The proposed elimination of a type of lower cost overnight visitor accommodations cannot be found to be consistent with the City's certified LUP policies regarding visitor serving use, lower cost overnight accommodations, and public access. Therefore, the amendment must be denied as submitted.

C. FINDINGS FOR APPROVAL OF IMPLEMENTATION PLAN AMENDMENT 2-11B IF MODIFIED AS RECOMMENDED

Incorporation of Findings for Denial of Implementation Plan Amendment 2-11B as Submitted

The findings for denial of the Implementation Plan amendment as submitted are incorporated as if fully set forth herein.

Priority Uses

As submitted, the proposed IP amendment gives equal priority to residential care and residential housing for special needs as it does to retail service and visitor serving commercial uses. Therefore, the IP amendment as submitted is inconsistent with Section 30222 of the Coastal Act/Land Use Element and Policy 6.12 of the Land Use Element of the Land Use Plan. Currently, in the Commercial-Neighborhood (CN) zone and the South Laguna Village (SLV) zone, residential uses are only allowed "...as an integral part of commercial development..." and are "...limited to not more than fifty percent of the gross floor area..." of the development. The Commission could find the IP amendment adequate to carry out the requirements of the certified Land Use Plan if the newly added residential uses (i.e. residential care facilities and residential housing for special needs) are subject to the same limitations as other residential uses in the CN and SLV zones. Therefore, the Commission **suggests modification No. 1 and 2**. As modified, this IP amendment implements the Land Use Plan policies that protect retail service commercial uses and visitor serving commercial uses.

The proposed addition of residential care facilities as allowable uses in existing residences in those residential zoning district and commercial zoning district that already have an allowance for residential use would not result in significant adverse impacts to coastal resources because the existing LCP would continue to govern the appropriateness of residential use in the relevant zoning district, and residential care would only be allowed in residential uses that are themselves consistent with the LCP. In other words, these facilities could only be permitted as part of residential uses that meet all other applicable provisions of the LCP. This is particularly important with respect to the commercial districts, where specific siting and design criteria limit residential development as a conditional use to protect visitor serving uses. Adding residential care facilities within existing residential development or new residential development that is permitted consistent with the LCP would be expected to have negligible resource impacts past the residential impacts themselves, and can, with the exceptions noted in the paragraph above, be found consistent with the LCP's Land Use Plan (LUP).

Public Access/Overnight Visitor Accommodations

The proposed amendment would result in the elimination of short term lodging as an allowable use within the South Laguna Village (SLV) zone. Short term lodging opportunities are important in the

coastal zone as they provide a source for visitor serving overnight accommodations. Lower cost overnight accommodations promote visitor use and public access in the area. The use could be accommodated in any new residential units which are proposed within the SLV zone.

As proposed, the amendment would eliminate a source of one type of lower cost overnight visitor accommodations, a higher priority use. The short term lodging use would also promote visitor use and public access. Thus, the proposed elimination cannot be found to be consistent with or adequate to carry out the City's certified LUP policies regarding visitor serving use, lower cost overnight accommodations, and public access. However, if the amendment is modified as recommended to allow short term lodging use only in residential units where the use has already been legally permitted, and in new residential units subject to approval of a Conditional Use Permit, then the amendment could be found to be consistent with and adequate to carry out the certified LUP policies regarding visitor serving use, lower cost overnight accommodations, and public access. Therefore, only if modified as suggested (Suggested Modification No. 2 & 3) could the proposed amendment be found to be consistent with and adequate to carry out the certified Land Use Plan policies regarding visitor serving use, lower cost overnight accommodations, and public access.

The City has indicated that one issue which has arisen in Laguna Beach relative to short term lodging is the displacement of longer term renters. The City states that property owners have chosen to offer residential units as short term lodging rather than for longer term rentals because of significant financial incentives. The City has said this had lead to a loss to their supply of more affordable residential rentals. In order to avoid affecting the existing rental inventory, the suggested modification makes clear it applies only to new residential units that are constructed after the date of adoption of the ordinance, as revised by the suggested modifications.

Conclusion

For the reasons described above, only if modified as suggested can the proposed IP amendment be found to be consistent with and adequate to carry out the policies of the City's certified Land Use Plan. Therefore, the Commission finds that, as modified the proposed Implementation Plan amendment is consistent with and adequate to carry out the provisions of the certified Land Use Plan (LUP).

D. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 21080.9 of the California Public Resources Code – and the California Environmental Quality Act (CEQA) - exempts local governments from the requirement of preparing environmental impact reports (EIRs), among other things, in connection with their activities and approvals necessary for the preparation and adoption of local coastal programs (LCPs). The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an EIR for each LCP. Nevertheless, the Commission is required, in approving an LCP submittal, to find that the proposal does conform with the provisions of CEQA, and to base any certification on a specific factual finding supporting the conclusion that the proposal "meets the requirements of [CEQA] Section 21080.5(d)(2)(i) ... , which requires that an activity will not be approved or adopted as proposed if there are feasible alternative or feasible mitigation measures available which would substantially lessen any

significant adverse impact which the activity may have on the environment.” 14 C.C.R. Section 13555(b), 13542(a), and 13540(f). The City of Laguna Beach LCP amendment 2-11B consists of an amendment to the Implementation Plan (IP) only.

As outlined in this staff report, the proposed Implementation Plan amendment would result in potential impacts to the loss of lower cost overnight visitor accommodations and higher priority uses.

However, if modified as suggested, the IP amendment is in conformity with and adequate to carry out the visitor serving use and lower cost overnight accommodations policies of the certified LUP. Therefore, the Commission finds that approval of the Implementation Plan amendment as modified will not result in significant adverse environmental impacts under the meaning of CEQA. Therefore, the Commission certifies LCP amendment request 2-11b if modified as suggested herein.

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RESOLUTION NO. 11.060

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH, CALIFORNIA, ADOPTING LOCAL COASTAL PROGRAM AMENDMENT 11-04 AND REQUESTING ITS CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION

WHEREAS, after notice duly given pursuant to Government Code Section 65090 and Public Resources Code Sections 30503 and 30510, the Planning Commission of the City of Laguna Beach held at least one public hearing to consider the adoption of Laguna Beach Local Coastal Program Amendment 11-04; and

WHEREAS, the City Council, after giving notice as prescribed by law, held at least one public meeting regarding the proposed Laguna Beach Local Coastal Program Amendment 11-04, and the City Council finds that the proposed amendment is consistent with the Certified Laguna Beach Coastal Land Use Plan and Chapter 6 of the California Coastal Act; and

WHEREAS, the City Council of the City of Laguna Beach intends to implement the Local Coastal Program in a manner fully consistent and in conformance with the California Coastal Act;

NOW, THEREFORE, the City Council of the City of Laguna Beach does hereby resolve as follows:

SECTION 1. That the Laguna Beach Local Coastal Program Amendment 11-04 is hereby approved, consisting of Ordinance No. 1550 pertaining to amendments to Title 25 – Zoning. Copies of the aforesaid Ordinance are attached hereto as Exhibit A, and are incorporated by this reference as though fully set forth herein.

SECTION 2. That the California Coastal Commission is hereby requested to consider, approve and certify Laguna Beach Local Coastal Program Amendment No. 11-04.

1 SECTION 3. That pursuant to Section 13551(b) of the Coastal Commission
2 Regulations, Laguna Beach Local Coastal Program Amendment No. 11-04 will automatically
3 take effect immediately upon California Coastal Commission approval, as provided in Public
4 Resources Code Sections 30512, 30513 and 30519.
5

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7 ADOPTED this 21st day of June, 2011.
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11 Toni Iseman, Mayor

12 ATTEST:

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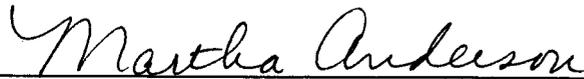
14 City Clerk

15 I, MARTHA ANDERSON, City Clerk of the City of Laguna Beach, California, do
16 hereby certify that the foregoing Resolution No. 11.060 was duly adopted at a Regular
17 Meeting of the City Council of said City held on June 21, 2011, by the following vote:

18 AYES: COUNCILMEMBER(S): Boyd, Egly, Rollinger, Pearson, Iseman

19 NOES COUNCILMEMBER(S): None

20 ABSENT COUNCILMEMBER(S): None

21 

22 City Clerk of the City of Laguna Beach, CA

ORDINANCE 1550

AN ORDINANCE OF THE CITY OF LAGUNA BEACH, CALIFORNIA AMENDING PORTIONS OF TITLE 25 OF THE LAGUNA BEACH MUNICIPAL CODE REGARDING DEFINITIONS OF "EXTENDED CARE FACILITIES," "LIVING QUARTERS," DIFFERENT TYPES OF "RESIDENTIAL CARE FACILITIES," "SPECIAL RESIDENTIAL HOUSING" AND USES EITHER PERMITTED OR ALLOWED SUBJECT TO A CONDITIONAL USE PERMIT IN THE R-1, R-2, R-3, R/HP, LBP, CN, C-1, LAGUNITA, SLV AND I ZONES.

THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Section 25.08.010 (Words beginning with "E") of the Laguna Beach Municipal Code is amended by adding, in alphabetical order, the following definition to read in its entirety as follows:

"Extended Care Facility" means an establishment devoted to 1) providing medical, nursing or custodial care for individuals over a prolonged period, such as during the course of a chronic disease or the rehabilitation phase after an acute illness or injury and/or 2) provides or coordinates oversight and services to meet the residents' individualized scheduled needs and assistance with activities of daily living, based on the residents' assessments and service plans and their unscheduled needs as they arise. An extended care facility includes an intermediate care facility, a skilled nursing facility, a convalescent home, a nursing home, a rest home, a recovery center and an assisted living facility;

SECTION 2: Section 25.08.016 (Words beginning with "H") is hereby amended by the deletion of the definition of "Home for the aged" in its entirety.

SECTION 3: Section 25.08.022 (Words beginning with "L") of the Laguna Beach Municipal Code is amended by adding, in alphabetical order, the following definition to read in its entirety as follows:

"Living Quarters" means a room or rooms within a structure designed and used for residential use and occupancy, but does not include a kitchen or a bathroom with a bathtub and/or shower;

SECTION 4: Section 25.08.032 ("Words beginning with "R") of the Laguna Beach Municipal Code is hereby amended to read in its entirety as follows:

The following are definitions for words beginning with "R":

"Recreation facility, municipal" means a recreation facility owned by a public agency and available for the use of the general public. Special events subject to temporary use permit procedure;

"Recreation facilities, open" means uncovered recreation spaces;

“Recreation facility, private” means a recreation facility not open to or intended for the use of the general public, except memberships. Special events subject to temporary use permit procedure;

“Recreation facility, public” means a recreation facility not under public ownership but available for the use of the general public. Special events subject to temporary use permit procedure;

“Residential care facility, general” means any facility licensed or unlicensed, in which seven or more individuals with a disability reside who are not living together as a single housekeeping unit. An individual with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment, not including current, illegal use of a controlled substance.

“Residential care facility, small licensed” means a facility licensed by the State of California that provides care, services or treatment in a community residential setting for six or fewer adults and/or children with a disability and that is required by State law to be treated as a single housekeeping unit. An individual with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment, not including current illegal use of a controlled substance. Small licensed residential care facilities shall be subject to all land use and property development regulations applicable to single housekeeping units.

“Residential care facility, small unlicensed” means any building that is not licensed by the State of California and is not required by law to be licensed by the State, in which six or fewer individuals with a disability reside who are not living together as a single housekeeping unit. An individual with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment, not including current, illegal use of a controlled substance.

“Residential housing, special needs” means dwelling units that accommodate specific demographic or occupational groups which call for specific housing types. Such groups include the elderly (age 65 and above), the disabled, female headed households, large families, farmworkers, homeless persons or families (including transitional and supportive housing), and extremely low, very low, low and moderate-income persons, as defined in the City’s Housing Element.

~~“Rental room” means a room designed, arranged or intended for rent or hire. A rental room shall contain no cooking facilities;~~

~~“Rental suite” means two or more connecting rooms designed, arranged or intended for rent or hire. Such rooms shall be so arranged that no more than one access is available to a public area. A rental suite shall contain no cooking facilities;~~

~~“Rental unit” means a room with efficiency cooking unit, designed, arranged or intended for rent or hire. Such room shall be so arranged that no more than one access is available to a public area;~~

“Residential use” means a use for permanent or quasi-permanent dwelling purpose in a single family dwelling, two family dwelling or multiple family dwelling and all of the incidental uses thereto;

“Residential zone” means the R-1, R/HP, R-2, R-2.4 and R-3 zones;

"Restaurant, drive-in" means a business which prepares food primarily intended for consumption in vehicles which may or may not be parked on the premises and where the business transaction is performed from the vehicle. Such restaurant may or may not provide seating.

"Restaurant, full-service" means a business devoted to the serving of prepared food to patrons where the food is consumed on the premises and the customer's order and are served while seated at tables;

"Restaurant, take-out" means a business which primarily prepares food cooked on the premises intended for off-site consumption but which may also provide seating;

~~"Rest home" – see "Extended care facility;" means an institution housing more than five aged or infirm persons all of whom are ambulatory and do not require restraint, nursing or medical care on the premises. There shall be no medical care, surgery, physical therapy, or other similar activities such as are customarily provided in hospitals;~~

"Right-of-way" means the right of use or to cross over the property of another;

"Room" means a room enclosure or a portion of a room enclosure within a dwelling unit, room rental or hotel. Bathrooms, hallways, closets and service porches are not rooms;

"Room enclosure" means an area within a building, which area is entirely enclosed by walls from floor to ceiling;

~~"Roominghouse" means a building used, arranged or designed so as to provide three, four or five rooms, without cooking facilities, for rent or hire. "Roominghouse" includes boardinghouse and lodging house.~~

SECTION 5: Section 25.10.004 ("Uses permitted") of the Laguna Beach Municipal Code regarding the R-1 Residential Low Density Zone is amended to read in its entirety as follows:

25.10.004 Uses permitted.

Buildings, structures and land shall be used and buildings and structures shall hereafter be erected, designed, structurally altered or enlarged only for the following purposes:

- (A) Single-family dwelling except those devoted to time-share use;
- (B) Child care, subject to the standards in Chapter 25.08;
- (C) Guest house or guest room, subject to the following conditions:
 - (1) The lot contains not less than seven thousand square feet.
 - (2) There is not more than one guest house or one guest room on any one lot.
 - (3) There is no kitchen within such guest house or guest room.
 - (4) The floor area of the guest house is not in excess of three hundred square feet.
 - (5) Such guest house or room is used by the occupants of the main building or their guests or servants and is not rented, let or hired out whether the compensation for hire is paid directly or indirectly in money, goods, wares or merchandise.
 - (6) Such guest house shall utilize the same vehicular access as serves the main dwelling unit;
- (D) Home occupations subject to the standards in Chapter 25.08;

(E) Public parks, playgrounds and beaches, and such recreation, refreshment and service buildings as are purely accessory, and incidental thereto;

(F) Mobilehomes and factory built housing not meeting Uniform Building Code standards (subject to downtown specific plan Ch. 25.40 herein and located only where specified in the housing element of the general plan of Laguna Beach, and not being subject to lot design and setback requirements unless required pursuant to design review deliberations);

(G) Residential care facility, small licensed, subject to: 1) no outdoor smoking, 2) fire and building code inspection and compliance and 3) maximum occupancy of 6 persons;

~~(G) — Such other uses as the planning commission may deem, after a public hearing, to be similar to and no more obnoxious or detrimental to the health, safety and welfare, than the permitted uses.~~

(H) Residential housing, special needs; and

(I) Second residential units, subject to the provisions of Chapter 25.17.

SECTION 6: Section 25.10.006 (“Uses permitted subject to conditional use permit”) of the Laguna Beach Municipal Code regarding the R-1 Residential Low Density Zone is amended to read in its entirety as follows:

25.10.006 Uses permitted subject to conditional use permit.

The following uses may be permitted subject to the granting of a conditional use permit as provided for in Section 25.05.030 of this title.

(A) Recreation facilities, municipal and public;

(B) Church;

(C) Horse stables;

(D) Nursery school;

(E) Planned residential development. (The conditional use permit must be approved by the city council after the planning commission makes a recommendation regarding the project. A subdivision proposal shall be processed in conjunction with the conditional use permit application for the planned residential development);

(F) Public and private schools;

~~(G) Rest home; and~~

(HG) Utility substation; and

(H) Such other uses as the planning commission may deem, after a public hearing, to be consistent with the intent and purpose of this zoning district and similar to and no more obnoxious or detrimental to the public health, safety and welfare, than other permitted uses.

SECTION 7: Section 25.12.004 (“Uses permitted”) of the Laguna Beach Municipal Code regarding the R-2 Residential Medium Density Zone is amended to read in its entirety as follows:

25.12.004 Uses permitted.

Buildings, structures and land shall be used and buildings and structures shall hereafter be erected, designed, structurally altered or enlarged only for the following purposes:

- (A) Single-family dwellings, except those devoted to time-share use;
- (B) Child care, subject to the standards in Chapter 25.08, “Definitions and Standards”;
- (C) Guest houses and guest rooms, subject to the density standards as set forth in Section 25.12.008;
- (D) Home occupations, subject to the standards in Chapter 25.08, “Definitions and Standards”;
- (E) Two-family dwellings, except those devoted to time-share use;
- (F) Public parks, playgrounds and beaches, and such recreation, refreshment and service uses and buildings as are purely accessory and incidental thereto;
- (G) Residential care facility, small licensed, subject to: 1) no outdoor smoking, 2) fire and building code inspection and compliance and 3) maximum occupancy of 6 persons; and
- (H) Residential housing, special needs.

SECTION 8: Section 25.12.006 (“Uses permitted subject to conditional use permit”) of the Laguna Beach Municipal Code regarding the R-2 Residential Medium Density Zone is amended to read in its entirety as follows:

25.12.006 Uses permitted subject to conditional use permit.

The following uses may be permitted subject to the granting of a conditional use permit as provided for in Section 25.05.030 of this title:

- (A) Church;
- (B) Nursery school, preschool;
- (C) Recreation facilities, municipal and public;
- (D) Public and private schools;
- (E) ~~Rest home~~ Extended care facility;
- (F) Structures attached at common lot lines;
- (G) Utility substation;
- (H) Bed and breakfast inn, as defined and specified in Chapter 25.22 of this title;
and
- (I) Artists’ joint living and working units, as defined and specified in Chapter 25.16 of this title; and

(J) Such other uses as the planning commission may deem, after a public hearing, to be consistent with the intent and purpose of this zoning district and similar to and no more obnoxious or detrimental to the public health, safety and welfare, than other permitted uses.

SECTION 9: Section 25.14.004 ("Uses permitted") of the Laguna Beach Municipal Code regarding the R-3 Residential High Density Zone is amended to read in its entirety as follows:

25.14.004 Uses permitted.

Buildings, structures and land shall be used and buildings and structures shall hereafter be erected, designed, structurally altered or enlarged only for the following uses:

- (A) Single-family and two-family dwellings, except those devoted to time-share use;
- (B) Child care, subject to the standards in Chapter 25.08, Definitions and Standards;
- (C) Guest houses and guest rooms, subject to the density standards of Section 25.14.008;
- (D) Home occupations, subject to the standards in Chapter 25.08, Definitions and Standards;
- ~~(E) Multiple family dwellings, except those devoted to time share use;~~
- ~~(FE)~~ Public parks, playgrounds and beaches, and such recreation, refreshment and service uses and buildings as are purely accessory and incidental thereto; and
- (F) Residential care facility, small licensed, subject to: 1) no outdoor smoking, 2) fire and building code inspection and compliance and 3) maximum occupancy of 6 persons.

SECTION 10: Section 25.14.006 ("Uses permitted subject to conditional use permit") of the Laguna Beach Municipal Code regarding the R-3 Residential High Density Zone is amended to read in its entirety as follows:

25.14.006 Uses permitted subject to conditional use permit.

The following uses may be permitted subject to the granting of a conditional use permit as provided for in Section 25.05.030:

- (A) ~~Home for the aged, rest home, nursing home~~ Extended care facility;
- (B) Lodges;
- (C) Nursery school;
- (D) Recreation facilities, municipal and public;
- (E) Public and private schools;
- (F) Structures crossing subdivided lot lines, or structures attached at common lot lines. See criteria established in Section 25.14.008(B)(2);
- (G) Utility substation;

- (H) Artists' joint living and working units, as defined in Chapter 25.16;
- (I) Bed and breakfast inn, as defined and specified in Chapter 25.22 of this title;
and
- (J) Church-;
- (K) Multi-family dwellings, except those devoted to time-share use;
- (L) Residential housing, special needs; and
- (M) Such other uses as the planning commission may deem, after a public hearing, to be consistent with the intent and purpose of this zoning district and similar to and no more obnoxious or detrimental to the public health, safety and welfare, than other permitted uses.

SECTION 11: Section 25.15.006 ("Uses permitted") of the Laguna Beach Municipal Code regarding the R/HP Residential/Hillside Protection Zone is amended to read in its entirety as follows:

25.15.006 Uses permitted.

Buildings, structures and land shall be used, and buildings and structures shall hereafter be erected, designed, structurally altered or enlarged only for the following purposes:

- (A) Single-family dwellings;
- (B) Accessory buildings and uses as defined in Section 25.08.002, including swimming pools and recreation courts for noncommercial use, consistent with the development standards set forth in Section 25.10.008 and Chapter 25.50, and subject to design review board approval;
- (C) Child care and other similar uses set forth in the State Health and Safety Code;
- (D) Guest house or guestroom, subject to the following conditions:
 - (1) The lot is a minimum of fourteen thousand five hundred square feet in size,
 - (2) There is no more than one guest house on any one lot,
 - (3) There is no kitchen within such guest house,
 - (4) The floor area of the guest house does not exceed three hundred square feet,
 - (5) Such guest house is used only by the occupants of the main building or their guests or domestic staff and shall not be rented separately, let or hired out, whether the compensation is paid directly or indirectly in money, goods, wares or merchandise,
 - (6) Such guest house is located entirely within one hundred feet of the main dwelling unit but does not encroach into any required setback area. Access to the guest house shall be provided from the same access driveway serving the main residence,
 - (7) Any guest house shall be subject to design review board approval,
 - (8) Unless superseded by the above conditions, all development standards for guest houses, as set forth in Section 25.10.008, shall apply;
- (E) Home occupations, subject to the standards in Chapter 25.08;

(F) Raising of non-invasive vegetables, field crops, fruit and nut trees and horticultural specialties used solely for personal or educational, noncommercial purposes. The location of such agricultural uses should be restricted to areas where the slope does not exceed thirty percent;

(G) Residential care facility, small licensed, subject to: 1) no outdoor smoking, 2) fire and building code inspection and compliance and 3) maximum occupancy of 6 persons;

(H) Residential housing, special needs; and

(I) Second residential units, subject to the provisions of Chapter 25.17.

SECTION 12: Section 25.15.008 (“Uses permitted subject to conditional use permit”) of the Laguna Beach Municipal Code regarding the R/HP Residential/Hillside Protection Zone is amended to read in its entirety as follows:

25.15.008 Uses permitted subject to conditional use permit.

The following uses may be permitted subject to the granting of a conditional permit as provided for in Section 25.05.030:

(A) Passive natural parks, such as view platforms, mini-parks, hiking and walking trails;

(B) Public utility and public service pumping stations, power stations, drainage ways and structures, storage tanks and transmission lines;

~~(C) Second residential units subject to the provisions of Chapter 25.17;~~

~~(D)~~ (DC) Planned residential developments subject to the standards of Chapter 21.14, Planned Residential Developments. (The conditional use permit must be approved by the city council after the planning commission makes a recommendation regarding the project. A subdivision proposal shall be processed in conjunction with the conditional use permit application for the planned residential development);

~~(E)~~ (ED) Churches; and

~~(F)~~ (FE) Special residential housing projects, (for example, senior or low income);

~~(G)~~ (GE) Such other uses as the planning commission may deem, after a public hearing, to be consistent with the intent and purpose of this zoning district and similar to and no more obnoxious or detrimental to the public health, safety and welfare, than other permitted uses.

SECTION 13: Section 25.18.002 (“Uses permitted”) of the Laguna Beach Municipal Code regarding the LBP Local Business Professional Protection Zone is amended to read in its entirety as follows:

25.18.002 Uses permitted.

Buildings, structures and land shall be used, and buildings and structures shall hereafter be erected, designed, structurally altered or enlarged only for the following purposes, conducted entirely within an enclosed building:

(A) Personal service shops (barber/beauty, etc.);

- (B) Medical or dental offices and clinics;
- (C) Drugstore/pharmacy;
- (D) Business and professional offices;
- (E) Interior design services;
- (F) Laundry and/or dry cleaning establishments (coin- or attendant-operated);
- (G) Health clubs;
- (H) Custom dressmaking, millinery, tailoring, shoe repair and similar trades;
- (I) Philanthropic and charitable institutions other than those of a correctional nature;
- (J) Paper reproduction or copy service;
- (K) Packaging and postal services;
- (L) Furniture and antique sales, including home furnishing;
- (M) Child day care; and
- (N) Commercial home occupations, subject to the standards in Section 25.08.016;
- ~~(O) Residential uses (excluding time share uses) subject to the following standards:~~

~~(1) There shall be at least two thousand square feet of lot area for each dwelling unit; however, historically significant houses which appear on the city's historical resource inventory as an "E" exceptional or "K" key rated structure may add residential units at a density of one unit per one thousand square feet of lot area, provided the "E" or "K" rated structure is preserved. Residential density credit for historically significant buildings shall be based on the lot size on which the structure is located, and shall not include adjoining parcels or lots under the same ownership; these residential density credits shall not apply if the historically significant building is demolished.~~

~~(2) The allowable number of dwelling units shall be reduced by one dwelling unit for each one thousand square feet (or fraction thereof) of commercial floor area contained within a building.~~

~~Such other uses as the planning commission may deem, after public hearing, to be similar to, and no more obnoxious or detrimental to, the public health, safety and welfare than the permitted uses.~~

SECTION 14: Section 25.18.006 ("Uses permitted subject to conditional use permit") of the Laguna Beach Municipal Code regarding the LBP Local Business Professional Zone is amended to read in its entirety as follows:

25.18.006 Uses permitted subject to conditional use permit.

The following uses may be permitted subject to the granting of a conditional use permit as provided for in Section 25.05.030.

- (A) Retail supply stores, including but not limited to toys, yardage, hardware, auto parts, plumbing, sporting goods, home decorating, appliances, garden supplies, etc., all of a neighborhood scale and orientation with no open storage of materials or equipment;

- (B) Bakery, retail wherein all bakery goods are baked on the premises and are sold at retail on the premises;
- (C) Bookshop/sales;
- (D) Handicraft/hobby shops including retail sales;
- (E) Florist;
- (F) Clothing, retail sales;
- (G) Musical instrument sales and supplies;
- (H) Plant nursery, including outdoor display of merchandise;
- (I) Financial offices: banks, savings and loan, etc.;
- (J) Cafes, full-service and take-out restaurants and tea rooms. (Drive-in restaurants are not permitted.);
- (K) Establishments serving alcoholic beverages;
- (L) Establishments with dancing and/or entertainment;
- (M) Delicatessen;
- (N) Market, food and beverage;
- (O) Liquor sales;
- (P) Galleries, art, photographic, etc.;
- (Q) Art studios and supplies, including artists' joint living and working units, as defined in Chapter 25.16;
- (R) Outdoor display of merchandise;
- (S) Pet grooming and supplies store excluding overnight boarding of animals;
- (T) ~~Nursing homes/convalescent hospital~~ Extended care facility;
- (U) Nursery school;
- (V) Churches;
- (W) Bed and breakfast inn, as defined and specified in Chapter 25.22 of this title;
- (X) Auto parking lot/garage;
- (Y) Residential uses (excluding time-share uses) subject to the following standards:

(1) There shall be at least two thousand square feet of lot area for each dwelling unit; however, historically significant houses that appear on the city's historical resource inventory as an "E" exceptional or "K" key rated structure may add residential units at a density of one unit per one thousand square feet of lot area, provided the "E" or "K" rated structure is preserved. Residential density credit for historically significant buildings shall be based on the lot size on which the structure is located, and shall not include adjoining parcels or lots under the same ownership; these residential density credits shall not apply if the historically significant building is demolished.

(2) The allowable number of dwelling units shall be reduced by one dwelling unit for each one thousand square feet (or fraction thereof) of commercial floor area contained within a building.

(Z) Residential care facility, general subject to 1) no outdoor smoking, 2) fire and building code inspection and compliance and 3) 1000 feet separation from any other general residential care facility;

(AA) Residential care facility, small unlicensed subject to: 1) no outdoor smoking, 2) fire and building code inspection and compliance and 3) maximum occupancy of 6 persons;

(BB) Residential care facility, small licensed subject to: 1) no outdoor smoking, 2) fire and building code inspection and compliance and 3) maximum occupancy of 6 persons.

(CC) Residential housing, special needs; and

(YDD) Other uses the planning commission deems, after conducting a public hearing, to be similar to and no more obnoxious or detrimental to the welfare of the neighborhood than any use listed above.

SECTION 15: Section 25.19.006 ("Uses permitted subject to conditional use permit") of the Laguna Beach Municipal Code regarding the C-N Commercial-Neighborhood Zone is amended to read in its entirety as follows:

25.19.006 Uses permitted subject to conditional use permit.

The following uses may be permitted subject to the granting of a conditional use permit as provided in Section 25.05.030. The existing balance of resident-serving uses in the same vicinity and zone shall be a consideration when reviewing conditional use permit applications.

- (A) Automobile service stations and mini-markets, provided that all sales and service other than gasoline and oil dispensing shall be conducted and confined within enclosed buildings;
- (B) Cafes, full-service restaurants, delicatessens and tea rooms with or without outdoor seating serving alcoholic beverages. (Drive-in restaurants are not permitted);
- (C) Take-out restaurants, with indoor and/or outdoor seating only as authorized under the conditional use permit;
- (D) Car wash;
- (E) Health clubs;
- (F) Hotels and motels;
- (G) Outdoor display of merchandise;
- (H) Plant nursery, including outdoor display of merchandise;
- (I) Residential uses (excluding time shares) as an integral part of commercial development, but limited to not more than fifty percent of the gross floor area and there shall be at least two thousand square feet of lot area for each dwelling unit;
- (J) Veterinary clinics, including overnight boarding for care;
- (K) Liquor sales;
- (L) Artists' joint living and working units, as defined in Chapter 25.16;
- (M) Extended care facility;

(N) Residential care facility, general subject to 1) no outdoor smoking, 2) fire and building code inspection and compliance and 3) 1000 feet separation from any other general residential care facility;

(O) Residential care facility, small unlicensed subject to: 1) no outdoor smoking, 2) fire and building code inspection and compliance and 3) maximum occupancy of 6 persons;

(P) Residential care facility, small licensed, subject to: 1) no outdoor smoking, 2) fire and building code inspection and compliance and 3) maximum occupancy of 6 persons; and

(Q) Residential housing, special needs; and

(MR) Other uses the planning commission deems, after conducting a public hearing, to be similar to and no more obnoxious or detrimental to the public, health, safety and welfare of the neighborhood than any use listed above. Such uses shall be inclusive of uses expressly allowed in the C-1 zone, but shall not include those uses listed exclusively as industrial or light industrial uses in the M-1 or M-1A zones.

SECTION 16: Section 25.20.006 ("Uses permitted subject to conditional use permit") of the Laguna Beach Municipal Code regarding the C-1 Local Business District Zone is amended to read in its entirety as follows:

25.20.006 Uses permitted subject to conditional use permit.

The following uses may be permitted subject to the granting of a conditional use permit as provided for in Section 25.05.030:

- (A) Automobile service stations; provided that all sales and service other than gasoline and oil dispensing shall be conducted and confined within enclosed buildings. Furthermore, no tire retreading or recapping, battery rebuilding or manufacture, steam cleaning or painting shall be permitted;
- (B) Automobile, motorized bicycle and bicycle repair facilities; provided, that all activities are conducted within an enclosed building;
- (C) Cafes, full-service restaurants and dining rooms serving alcoholic beverages and/or providing entertainment to customers;
- (D) Churches;
- (E) Commercial automobile parking lots and structures;
- (F) Take-out restaurants, with indoor and/or outdoor seating only as authorized under the conditional use permit;
- (G) Drive-in restaurants;
- (H) Establishments for the sale of alcoholic beverages for consumption on the premises and/or providing entertainment to customers;
- (I) Hospitals and nursing homes extended care facilities;

- (J) Hotels and motels, excluding those devoted to time-share uses, limited to one room or suite for each six hundred square feet of land area. No added residential density shall be allowed. Hotel units may include kitchen facilities when approved as part of a conditional use permit. The conditional use permit shall formally establish the number of units permitted to have kitchen facilities and the permitted type and extent of kitchen facilities. All hotel units may include refrigeration facilities;
- (K) Massage establishments;
- (L) Recreation facilities, all;
- (M) Public and private schools;
- (N) Temporary arts and crafts festivals and sales, either within buildings or open-air, limited to not more than sixty days' duration;
- (O) Trailers occupied for uses other than habitation;
- (P) Commercial home occupation, subject to the standards in Chapter 25.08, Definitions and Standards;
- (Q) Outdoor display of merchandise, subject to the following conditions:
- (1) Required parking is not reduced by the display,
 - (2) All display is confined to ground or street floor level on the site,
 - (3) Every portion of a lot used for outdoor displays shall be considered as a part of the gross floor area in use, except where vehicles are displayed for sale or rent,
 - (4) Location of another activity utilizing outdoor display of merchandise within one thousand feet may be grounds for denial of a conditional use permit;
- (R) Car washes;
- (S) Other uses the planning commission deems, after conducting a public hearing, to be similar to and no more obnoxious or detrimental to the welfare of the neighborhood than any use listed above;
- (T) The following uses may be permitted subject to the granting of a conditional use permit as provided in Section 25.05.030 and shall not exceed fifty percent of the gross floor area of the entire structure and shall be located above the ground floor level:
- (1) Business colleges,
 - (2) Custom dressmaking, millinery, tailoring, shoe repairing and similar trades,
 - (3) Lodges, fraternities and sororities, with no living accommodations,
 - (4) Medical and dental clinics and treatment rooms,
 - (5) Musical, theatrical and dancing schools,
 - (6) Nursery schools,
 - (7) Offices, business and professional,
 - (8) Paint, paper hanging, decorating, carpentry, plumbing, electrician, reupholstering and handyman shops, all of a neighborhood service and repair nature and with no open storage of materials or equipment,
 - (9) Philanthropic and charitable institutions other than those of a correctional nature,
 - (10) Private clubs (not including nightclubs), with no living accommodations, except for one caretaker unit,

- (11) Sign painting, not including the business of sign manufacturing,
- (12) Studios, except for producing motion pictures,
- (13) Utility offices, exchanges and substations,
- (14) Residential uses, subject to the following minimum conditions:
 - (a) It shall meet the density provisions and yard and open space provision of the R-3 zone,
 - (b) It shall be designed as a part of a commercial development, and shall not exceed fifty percent of the gross floor area used for commercial activities, exclusive of parking,
- (15) Residential housing, special needs; and
- ~~(1516)~~ Such uses as the planning commission may deem, after public hearing, to be similar to and no more obnoxious or detrimental to the welfare of the neighborhood in which it is located than any use listed above. This does not mean to include any type of use which is specifically relegated to or prohibited in the M-1 or M-1A zones.

SECTION 17: Section 25.24.003 ("Uses permitted") of the Laguna Beach Municipal Code regarding the Lagunita Zone is amended to read in its entirety as follows:

25.24.003 Uses Permitted.

Buildings, structures and land in the Lagunita Zone shall be used, and buildings and structures shall be hereafter be erected, designed, structurally altered or enlarged only for the following purposes:

- (A) Single-family dwelling;
- (B) Child care (family day care home, small) subject to the standards in Chapter 25.08; and
- (C) Residential care facility, small licensed.

SECTION 18: Section 25.25.006 ("Uses permitted subject to conditional use permit") of the Laguna Beach Municipal Code regarding the SLV South Laguna Village Commercial Zone is amended to read in its entirety as follows:

25.25.006 Uses permitted subject to conditional use permit.

The following uses may be permitted subject to the granting of a conditional use permit as provided in Section 25.05.030. The existing balance of resident-serving uses in the same vicinity and zone shall be a consideration when reviewing conditional use permit applications.

- (A) Cafe, restaurant, delicatessen and tea room, with outdoor seating, serving of alcoholic beverages, and/or entertainment only as authorized under the conditional use permit. (Drive-in restaurants are not permitted.);
- (B) Market or grocery store, or mini-market;
- (C) Dry cleaning/laundry facilities;
- (D) Office uses, when a conversion of ground-floor retail space is proposed;

- (E) Residential uses (excluding time shares) as an integral part of commercial development, but limited to not more than fifty percent of the gross floor area;
- (F) Veterinary clinic, including overnight boarding for care;
- (G) Outdoor display of merchandise;
- (H) Liquor sales;
- (I) Artists' joint living and working units, as defined in Chapter 25.16;
- (J) Philanthropic and charitable institutions;
- (K) Automobile service stations;
- (L) Health clubs;
- ~~(M) Short term lodging as defined and specified in Chapter 25.23 of this title;~~
- (M) Extended care facility;
- (N) Residential care facility, general subject to 1) no outdoor smoking, 2) fire and building code inspection and compliance, 3) 1000 feet separation from any other general residential care facility and 4) being an integral part of commercial development, but limited to not more than fifty percent of the gross floor area;
- (O) Residential care facility, small unlicensed subject to: 1) no outdoor smoking, 2) fire and building code inspection and compliance, 3) maximum occupancy of 6 persons and 4) being an integral part of commercial development, but limited to not more than fifty percent of the gross floor area;
- (P) Residential care facility, small licensed, subject to: 1) no outdoor smoking, 2) fire and building code inspection and compliance, 3) maximum occupancy of 6 persons and 4) being an integral part of commercial development, but limited to not more than fifty percent of the gross floor area; and
- (Q) Residential housing, special needs; and
- ~~(NR)~~ Other uses the planning commission deems; after conducting a public hearing, to be similar to and no more obnoxious or detrimental to the public, health, safety and welfare of the neighborhood than any use listed above.

SECTION 19: Section 25.28.020 ("Uses permitted subject to conditional use permit") of the Laguna Beach Municipal Code regarding the I Institutional Zone is amended to read in its entirety as follows:

25.28.020 Uses permitted subject to a conditional use permit.

All uses in this zone shall require a conditional use permit due to the potential impacts of institutional uses on adjacent properties and uses. The following uses may be permitted subject to the granting of a conditional use permit as provided for in Section 25.05.030.

- (A) Civic and government buildings;
- (B) Educational institutions;
- (C) Public/private parks and playgrounds;
- ~~(D) Residential units which are committed to long term low income, senior citizens' housing, i.e., as defined under the Federal Government Section 8 Housing Program or its equivalent~~Residential housing, special needs;

- (E) Child care, preschools and nursery schools;
- (F) Churches;
- (G) Hospitals and related medical uses;
- (H) Medical or dental offices and clinics;
- (I) Public utility buildings and structures;
- (J) ~~Repealed;~~
- (~~K~~J) ~~Nursing homes/convalescent hospital~~Extended care facilities;
- (~~L~~K) Philanthropic and charitable institutions other than those of a correctional nature; and
- (~~M~~L) Other uses the planning commission deems, after conducting a public hearing, to be similar to and no more obnoxious or detrimental to the welfare of the neighborhood than any use listed above.

SECTION 20: The City Council finds that the adoption and implementation of this Ordinance are exempt from the provisions of the California Environmental Quality Act in that the City Council finds there is no possibility that such action may have significant effects on the environment.

SECTION 21: This Ordinance shall take effect and be in full force and effect thirty days after final adoption.

SECTION 22: If any portion of this Ordinance, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Ordinance to the extent it can be given effect, of the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to the extent the provisions of this Ordinance are severable.

SECTION 23: All ordinances and provisions of the Laguna Beach Municipal Code and Sections thereof inconsistent with this Ordinance shall be and the same are hereby repealed to the extent of such inconsistency and no further.

SECTION 24: The City Clerk shall certify to the passage of this Ordinance and shall cause this Ordinance to be published or posted as required by law.

ADOPTED this 21st day of June, 2011.

Toni Iseman, Mayor

ATTEST: _____
City Clerk

I, MARTHA ANDERSON, City Clerk of the City of Laguna Beach, California, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council on June 7, 2011, and was finally adopted at a regular meeting of the City Council of said City held on June 21, 2011, by the following vote:

AYES: COUNCILMEMBER(S):

NOES: COUNCILMEMBER(S):

ABSENT: COUNCILMEMBER(S):

City Clerk, of the City of Laguna Beach, CA

**CITY OF LAGUNA BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

AGENDA ITEM: No. 8 **DATE:** 4/27/2011

TO: PLANNING COMMISSION

CASE: Zoning Ordinance/Local Coastal Program Amendment 2011-04
Residential Care Facilities Ordinance

APPLICANT: City of Laguna Beach

LOCATION: Citywide

**ENVIRONMENTAL
STATUS:** Categorically Exempt, Classes 1 and 4

PREPARED BY: John Montgomery, Community Development Director
(949) 497-0361

REQUESTED ACTION: Review the draft Residential Care Facilities Ordinance, hear and consider public comments and recommend City Council adoption of the draft Zoning Ordinance and Local Coastal Program amendments.

BACKGROUND: State law provides for certain types of group homes to be treated as equivalent to permissible single family residential uses under specified criteria, and the authority of local agencies to regulate the location and operational aspects of such facilities is limited. These facilities are frequently established in single-family or multi-family dwelling units and are often occupied by clients recovering from drug and alcohol abuse. Neighbors of such facilities have expressed concerns with smoking, noise, trash, increased deliveries, additional traffic, etc. These uses can be very lucrative in coastal communities because of the desirable location and insurance parameters, and owners are reportedly able to charge monthly fees of several hundreds or thousands of dollars per person, although such economic matters are not proper subjects of or justification for an exercise of local land use regulatory powers.

Newport Beach experienced an influx of group residential uses several years ago and has since been working on resolving issues related to these uses. These efforts have led to extensive public participation and legal battles. Given the importance of preventing problems associated with residential group homes, on May 18, 2010, the Laguna Beach City Council asked staff, including the City Attorney, to review the efforts made by Newport Beach and to determine if any changes to the Laguna Beach Municipal Code were appropriate. Since that time staff has met with both the former Newport Beach City Attorney (Robin Zur Schmiede) and the present Deputy City Attorney (Catherine Wolcott) to learn more about the history of residential group home regulation in Newport Beach.

INFORMATION ABOUT TERMS AND STATE LAW:

It is important to understand the following information, terms and California State law provisions underlying this staff report and the attached ordinance:

- The **California Department of Alcohol & Drug Programs (ADP)** is responsible for the licensing and certifying of adult, non-medical alcohol and/or other drug recovery or treatment facilities (programs) in the State of California.
- There are five (5) types of **“Treatment”** that, if offered on-site, require a State license from the ADP: 1) detoxification, 2) group counseling, 3) one-on-one counseling, 4) development of a treatment plan, and 5) educational sessions. State law prohibits the provision of **“Treatment”** at an unlicensed facility.
- A **“Licensed 6 and Under”** facility is a group residential use, housing six or fewer persons needing treatment, and that offers one or more of the five types of rehabilitation treatment at the residence. To prevent discrimination against persons in recovery and to allow residential recovery statewide, California Health and Safety Code Section 11834.23 requires that a local government agency treat a **“Licensed 6 and Under”** facility – standing alone and not networked with other facilities – in the same matter as the local agency treats any single family use.
- An **“Unlicensed 6 and Under”** facility is considered a small **“sober living”** residence where persons in the house agree to stay sober during their residency, and are often (but not necessarily) involved in a treatment program where treatment is provided outside of the home in which they live. None of the five types of treatment can be provided on-site. ADP does not consider AA meetings **“treatment,”** because they typically do not involve a licensed counselor. Unlicensed facilities are not regulated by the state and it is not a violation of state law to operate an unlicensed facility.
- **“Large Group Residential Uses”** – with seven or more residents – can either be sober houses or treatment facilities (the latter being licensed, the former not). State and federal law allows local agencies to subject these larger uses to use conditions and permits.

(continued)

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STAFF ANALYSIS: The following table summarizes the present Laguna Beach zoning code regulations relating to residential type uses within the City:

Legend

P = Permitted; AUP = Administrative Use Permit; CUP = Conditional Use Permit; --- = Not Listed

<u>RESIDENTIAL ZONES</u>	<u>R-1</u>	<u>R/HP</u>	<u>R-2</u>	<u>R-3</u>	<u>Additional Regulations</u>
<u>Residential Uses</u>					
Single Family Dwelling	P	P	P	P	
Two-Family Dwellings	---	---	P	Not listed, but should be.	
Multiple-Family Dwellings (3 or more D.U.s.)	---	---	---	P	
Second Residential Units	P	CUP (Note: Not consistent with State law and Chapter 25.17)	---	---	See Chapter 25.17.
Guest House or Guest Room	P	P, if lot is a minimum of 14,500 sq. ft.	P	P	Lot ≥ 7,000 sq. ft. No kitchen. Can't exceed 300 sq. ft. Not rented. No separate vehicular access than for the main dwelling.
Special Residential Housing (such as senior or low-income)	Not listed but should be an allowed use per State law.	CUP, but should be listed as an allowed use per State law.	Not listed but should be an allowed use per State law.	Not listed, but should be.	
Child Care (6 or fewer children)	P	P	P	P	
Large Family Day Care Home (7 to 12 children)	AUP	AUP	AUP	AUP	State and City licensed. No signage. 7am to 7 pm operating limit. Fire and Building Code compliance.
Short-Term Lodging	AUP	---	AUP	AUP	See Chapter 25.23.
Nursery School	CUP	---	CUP	CUP	
Preschool & Public and Private Schools	CUP	---	CUP	CUP	
Rest Home (more than 5 persons)	CUP	---	CUP	CUP	
Bed and Breakfast Inns	---	---	CUP	CUP	
Artists' Joint Living and Working Units	---	---	CUP	CUP	See Chapter 25.16.
Home for the Aged (5 or less persons)	---	---	---	CUP	
Nursing Home (not defined)	---	---	---	CUP	
Lodges	---	---	---	CUP	

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<u>COMMERCIAL ZONES</u>	<u>LB-P</u>	<u>C-N</u>	<u>C-1</u>	<u>CH-M</u>	<u>SLV</u>	<u>Additional Regulations</u>
Child Care (6 or fewer)	P	---	---	---	---	
Residential Uses (single-, two- and multi-family dwelling units)	P	CUP, limited to not more than 50% of g.f.a. and minimum of 2,000 sq. ft. of lot area per dwelling unit.	CUP, limited to R-3 standards and not more than 50% of g.f.a. and located above the ground floor.	---	CUP, limited to not more than 50% of g.f.a.	Minimum of 2,000 sq. ft. of lot area per dwelling unit. Minimum of 1,000 sq. ft. of lot area per dwelling unit, if historical. Allowable number of dwelling units shall be reduced by one dwelling unit per 1,000 sq. ft. (or fraction thereof) of commercial floor area contained within a building.
Large Family Day Care Home (7 to 12 children)	AUP	---	---	---	---	State and City licensed. No signage. 7am to 7 pm operating limit. Fire and Building Code compliance.
Short-Term Lodging	AUP	AUP	AUP	AUP	CUP, (Note: should be deleted.)	See Chapter 25.23.
Nursery School	CUP	---	CUP, limited to not more than 50% of g.f.a. and located above the ground floor.	---	---	
Bed and Breakfast Inns	CUP	---	---	---	---	See Chapter 25.22.
Nursing Home/Convalescent Hospital	CUP	---	---	---	---	
Artists' Joint Living and Working Units	CUP	CUP	CUP	---	CUP	See Chapter 25.16.
Lodges with no living accommodations	---	---	CUP, limited to not more than 50% of g.f.a. and shall be located above the ground floor.	---	---	

<u>INDUSTRIAL/INSTITUTIONAL ZONES</u>	<u>M-1A</u>	<u>M-1B</u>	<u>I</u>	<u>Additional Regulations</u>
Artist's Studios	P	P	---	
Artists' Joint Living and Working Units	CUP	---	---	See Chapter 25.16.
Residential Uses (single-, two- and multi-family dwelling units)	---	---	---	
Commercial Uses	---	---	---	
Low-income or senior citizens' residential housing	---	---	CUP	
Child Care (6 or fewer)	---	---	CUP	
Large Family Day Care Home (7 to 12 children)	---	---	CUP	
Nursery School	---	---	CUP	
Preschool & Public and Private Schools	---	---	CUP	
Hospitals and Related Medical Uses	---	---	CUP	
Nursing Homes/Convalescent Hospitals	---	---	CUP	

After reviewing the above, it is clear that residential care facilities (of all types) are not defined and are not listed as allowable uses in any zones. This does not necessarily mean that under state law certain residential facilities are not allowed, it just means that the City's zoning code doesn't address them directly. Therefore, under the present City Zoning Code if a residential care facility was proposed in the City, questions arise as to what type of residential care facility would be allowed and under what type of entitlement permit process.

One possibility is to take the stance that the City does not permit either a licensed or an unlicensed residential care facility of seven or more persons *and* an unlicensed residential care facility serving six or fewer in any zone because they are not listed as permitted uses. However, this may have unknown legal issues and does not directly address the impacts that such uses might have on a typical single-family neighborhood. In addition, per State law, *licensed* residential care facilities serving six or fewer persons are allowed by right in any zone where a single family residential use is permitted by right, such as in the R1, RHP, R2, R3 and LBP Zones.

Another possibility is that the City could allow either a licensed or an unlicensed residential care facility of seven or more persons or an unlicensed residential care facility serving six or fewer persons in any zone that allows residential uses (R1, RHP, R2, R3, LBP, CN, C1 and SLV Zones) subject to obtaining a CUP. It is assumed the City could require a CUP, if a licensed residential care facility serving six or fewer persons was proposed in the CN, C1 or SLV Zones, because those zones presently require a CUP for residential uses. Again this approach does not directly address the impacts that such uses might have on a typical single-family neighborhood. After considering the input from Newport Beach and the above analysis, staff is proposing the following in the attached ordinance regarding residential care facilities:

- Define *General* Residential Care Facility (seven or more persons) and only allow in the LBP, CN, C1 and SLV Zones subject to obtaining a Conditional Use Permit.
- Define Small *Licensed* Residential Care Facility (six or fewer persons) and allow as a permitted use in the R1, R2, RHP, R3 and LBP Zones and in the CN, C1 and SLV Zones subject to obtaining a Conditional Use Permit.
- Define Small *Unlicensed* Residential Care Facility (six or fewer persons) and only allow in the LBP, CN, C1 and SLV Zones subject to obtaining a Conditional Use Permit.
- Add regulations which specifically target the Residential Care Facility impacts, such as overconcentration, maximum occupancy, fire and building code compliance, outdoor smoking, etc.

Staff is also proposing the following matters in the same ordinance as partially related cleanup measures:

- Add two-family dwellings to the R3 Zone as a permitted use.
- Eliminate the CUP requirement in the RHP Zone for second residential units because of State law mandate and add as a permitted use in the R1 and R/HP Zones.
- Clarify that the definitions of “guest house” and “guest room” do not include a full bathroom by adding a definition of “living quarters” with that limitation.
- Define and list “special needs residential housing” (low-income, senior, etc.) as allowed use that requires a CUP in the R3, LBP, CN, C1, SLV and I Zones, and as an allowed use in the R1, R2 and RHP Zones.
- Require multi-family dwellings (3 or more units) to obtain a CUP in the R3 and LBP Zones.
- Define Nursing Homes and Convalescent Hospital/Recovery Centers, etc. as Extended Care Facilities.
- Review and make consistent all references in the definitions to “rooming house” and “boarding house.”
- Delete the reference to the non-existent “R-2.4” Zone and add the “R/HP” Zone in the “residential zone” definition.
- Amend the SLV ordinance by deleting “short-term lodging” as an allowed use subject to a CUP.
- Amend the I Zone Ordinance regarding Extended Care Facilities and Special Needs Residential Housing.

RECOMMENDATION: Staff recommends that the Planning Commission review the draft Municipal Code/Local Coastal Program Amendments regarding the Residential Care Facility Ordinance, hear and consider public comments and recommend City Council adoption.

ATTACHMENTS: Exhibit A – Various Fact Sheets from the Department of Alcohol & Drug Enforcement
Exhibit B – List of Licensed Residential Facilities and/or Certified Alcohol and Drug Programs
Residential Care Facility Ordinance

Fact Sheet:

**Licensing and Certification Division
Alcohol and/or Other Drug
Recovery or Treatment Facilities:
Most Frequently Asked Questions**



The Licensing and Certification Division (LCD) is responsible for the licensing and certifying of adult, non-medical alcohol and/or other drug (AOD) recovery or treatment facilities (programs), Drug Medi-Cal certification of clinics in the State of California, and the licensing of Narcotic Treatment Programs.

Information can be obtained about Narcotic Treatment Programs at <http://www.adp.ca.gov/FactSheets>.

**Licensing and Certification of
AOD Facilities
Frequently Asked Questions**

**Licensed vs. Unlicensed
Facilities**

1. What facilities (programs) must the Department of Alcohol and Drug Programs (ADP) license?

California Code of Regulations (CCR), Title 9, Section 10501, defines a "facility" as any building or group of buildings which is maintained and operated to provide on a residential basis, one or more of the following alcoholism or drug abuse recovery or treatment services: detoxification; individual, group or educational sessions; treatment or recovery planning.

2. What facilities do not require licensure by ADP?

- Facilities that provide a cooperative living arrangement (sometimes referred to as a sober living environment, transitional housing, or alcohol and drug free housing) for persons recovering from alcohol and/or other drug problems. It is important to note that while sober living environments or alcohol and drug free housing are not required to be licensed by ADP, business permits or clearances may be required by the local cities or counties in which the houses are located.
- Facilities with licenses from other departments (e.g., group homes licensed by the Department of Social Services; Chemical Dependency Recovery Hospitals licensed by the Department of Health Services).

Licensed vs. Certified Facilities

3. What is the difference between a licensed and a certified facility?

Any residential facility providing one or more of the following services to adults must be licensed: detoxification; group, individual or educational sessions; and/or recovery or treatment planning. Nonresidential programs are not required to be licensed.

In addition to licensure, ADP provides a voluntary certification process to identify programs which exceed a minimal level of service quality and are in substantial compliance with the Department's standards. Certification is available to both residential and nonresidential programs. Obtaining certification is considered advantageous in gaining the confidence of both potential residents and third party payers.

More information may be obtained from the *Licensing and Certification of Alcohol and/or Other Drug (AOD) Recovery or Treatment Program Fact Sheet* by accessing the following ADP web page:

http://www.adp.ca.gov/FactSheets/Licensing_and_Certification_of_Alcoholism_orDrug_Abuse_Recovery_or_Treatment_Programs.pdf

4. What kind of services will I expect to find in a licensed facility?

Residential facilities provide non-medical services to individuals who are working to overcome their addiction to alcohol and/or other drugs. Services include education, group, or individual sessions; recovery or treatment planning; and detoxification services. In addition, a licensed facility may offer individualized services (e.g., vocational and employment search training, community volunteer opportunities, new skills training, peer support, social and recreational activities, and information about and referral to appropriate community services).

5. Who do these facilities serve?

Residential facilities licensed by ADP serve adults 18 years of age and older. Adult facilities may also serve a limited number of adolescents (14 and older) on a waiver basis. Some facilities allow dependent children to reside with their parents. Licensed facilities are mandated to display their license, which indicates the treatment capacity and the population they are allowed to serve, in a public location.

Locating a Facility

6. I am looking for an alcohol and/or drug program. How do I locate one and how can I tell if it is licensed and/or certified?

LCD maintains a list, in county order, of licensed and/or certified programs. This information can be obtained by accessing the following ADP web page: www.adp.ca.gov/LCB/pdf/lcb_rprt.pdf

In addition, the County Alcohol and Drug

Administrator in your county has a list of programs that you can obtain by contacting your Alcohol and Drug Program County Office. You may locate your county's contact information at: <http://www.adp.ca.gov/RC/pdf/cadpaac.pdf>

7. Will ADP recommend a facility or program?

ADP will not recommend a facility or program. ADP assures that facilities meet mandated requirements through the licensing and certification process. ADP recommends that individuals research programs or facilities that are being considered to find the one that best meets their needs. You may contact your County Alcohol and Drug Program Administrator for names and descriptions of programs in your county. You may also contact ADP and request any information regarding complaints that have been filed against any particular licensed and/or certified program.

8. How does one pay for services?

Payments for services are arranged by agreement between the resident and the facility. Some facilities receive federal and state funds through contracts with counties. Although costs may vary, any recovery or treatment service fee must be addressed in a written agreement at time of admission.

Starting a Facility

9. What is the process for licensing an alcohol and/or other drug (AOD) facility?

Prospective applicants must first have a location where they plan to provide non-medical alcoholism or drug abuse recovery, treatment, or detoxification services.

The applicant must also complete an initial application, submit an approved fire clearance from the local fire authority and pay an applicable license fee (nonprofit organizations and local governmental entities are exempt from the license fee). Incomplete applications will be returned to the applicant.

Finally, the applicant must pass a facility on-site inspection conducted by ADP to determine compliance with all applicable laws and regulations. When it has been determined that the applicant is in compliance with all requirements, ADP will issue a license valid for two years.

Further information regarding the requirements for AOD licensure and certification, or Drug Medi-Cal certification can be provided to you by calling (916) 322-2911, or by writing to:

*Department of Alcohol and Drug Programs
LCD
1700 K Street, 3rd Floor
Sacramento, CA 95814*

Application packets for AOD licensure and certification, or Drug Medi-Cal certification can also be accessed on the following ADP web pages:

For Initial Licensing Application
<http://www.adp.ca.gov/LCB/InitialLicenseApp.shtml>

For Initial Certification Application
<http://www.adp.ca.gov/LCB/InitialCertificationApp.shtml>

For Initial Drug Medi-Cal Certification
http://www.adp.ca.gov/LCB/Drug_MediCal.shtml

ADP has contracted with the California Association of Addiction Recovery Resources (CAARR) to assist providers with free technical assistance. You may contact CAARR at (916) 338-9460 or by accessing the following web page: www.caarr.org

Information regarding funding that may be available for establishing a facility can be obtained at the federal Substance Abuse and Mental Health Services Administration (SAMHSA) website: www.samhsa.gov.

10. Can I get financial assistance to open an AOD facility?

Funding sources can be located through the ADP's Resource Center website:
<http://www.adp.ca.gov/RC/fundinfo.shtml>

You may also get funding information from Substance Abuse and Mental Health Services Administration (SAMHSA) website: www.samhsa.gov or by calling (301) 443-4111

For nonprofit health care facilities, the Cal-Mortgage Loan Insurance program offers assistance in obtaining private financing for developing or expanding services. You may contact the California Office of Statewide Health Planning and Development, Cal-Mortgage Loan Insurance Division at (916) 324-9957, or write them at 300 Capitol Mall, Suite 1500, Sacramento, California 95814, or by e-mail at cmensure@oshpd.ca.gov

The California Association of Addiction Recovery Resources (CAARR) website can also provide useful information: www.caarr.org

11. What program areas are addressed by AOD licensure and certification?

The licensing application process includes a thorough review of the facility's program in the following areas: fire clearance, water supply clearance, plan of operation, total occupancy and treatment capacity determination, reporting requirements, personnel requirements, personnel records, admission agreements, health screening, resident records, personal rights, telephones, transportation, health-related services, food service, activities, building and grounds, indoor and outdoor activity space, storage space, fixtures, furniture, and equipment.

12. Will I need a zoning permit or local land use permit?

All facilities and programs applying for certification are required to submit approval from the local agency authorized to provide a building use permit. A residential facility that has a

licensed treatment capacity of six beds or less is exempt from this requirement.

Facilities must meet all required city and county local ordinances prior to licensure and certification.

13. What role do other government agencies play in the licensing process?

ADP is the sole licensing authority for residential non-medical alcoholism or drug abuse recovery or treatment facilities.

Local officials are involved in zoning of property for commercial or residential use and issuance of use permits and business licenses. Facilities providing services to six or fewer people are exempt from certain local land use, zoning ordinances (not exempt from ADP licensure), and other restrictions, under the Health and Safety Code, beginning with Section 11834.20. The code states that such facilities cannot be subject to taxes, fees, use permits, or zoning requirements that other single family dwellings are not subject to.

Facilities utilizing central food service may also be subject to special permits issued through the local health department.

Local fire safety inspectors (or a representative from the State Fire Marshal's Office) conduct site visits in every facility applying for licensure to determine compliance with fire safety regulations. Although ADP may issue a license without regard to a conditional use permit, no license can be issued without an appropriate fire safety clearance. A valid fire clearance must be maintained.

The Federal Fair Housing Act of 1988 provides protection from discrimination for facilities serving persons recovering from problems related to the use of alcohol or other drugs.

14. How do I get referrals or clients for my facility?

There are several possible methods for getting referrals or clients. You can contact your County Alcohol and Drug Program Administrator and/or local organized alcohol and/or other drug groups such as Alcoholics Anonymous or Narcotics Anonymous. You may also advertise. ADP does not make referrals to facilities.

Complaints

15. How do I file a complaint about an AOD program?

ADP investigates complaints that deal with violations of the law, regulations, and/or certification standards, including facilities which are alleged to be operating without a license. ADP will initiate an investigation within ten working days of receipt of the complaint.

You can file a complaint by calling (916) 322-2911, or by faxing a completed complaint form to (916) 322-2658. The complaint form can be obtained by accessing the following ADP web page:
<http://www.adp.ca.gov/feedback/ComQad.shtml>. You may also write to:

*Department of Alcohol and Drug Programs
LCD - Complaint Investigations Section
1700 K Street, 3rd Floor
Sacramento, CA 95814
Via email at: LCBcomp@adp.ca.gov*

16. How can I be assured that someone will investigate my complaint?

ADP will investigate all complaints that deal with violation of an alcoholism or drug abuse treatment or recovery law, regulation, and/or certification standard. A program is evaluated according to Division 10.5 of the Health and Safety Code; CCR, Title 9; and/or the Alcohol and/or Other Drug Program Certification Standards, depending on its license or certification. Complaints can be made anonymously.

17. How does the State investigate situations involving unlicensed facilities?

If ADP receives a complaint in which a facility is alleged to be operating without a license, ADP staff shall initiate an investigation within ten working days of receipt of the complaint. If ADP finds that services are being provided unlawfully, ADP will notify the operator to cease operation. ADP also has the authority to assess fines for noncompliance if unlicensed facilities fail to comply, and may ask for court assistance to order closure of a facility.

18. How can a completed/closed ADP inspection report and/or complaint investigation report be requested on a facility?

The Public Records Act provides the public access to certain information following the completion of on-site inspections. You may request a copy of any completed/closed inspection report or complaint investigation by submitting a written request to:

Department of Alcohol and Drug Programs
LCD – Public Information Request
1700 K Street, 3rd Floor
Sacramento, CA 95814
Via fax at: (916)322-2658

Your request must provide the name and location of the facility and the year the report/investigation was completed.

Drug Medi-Cal Facilities

19. What is the difference between being certified for AOD program services and being certified for the Drug Medi-Cal (DMC) program for substance abuse treatment services?

AOD certification indicates that a program exceeds a minimal level of service quality and that the program is in substantial compliance with ADP's certification standards.

A clinic that is DMC certified is authorized to provide services that have been approved by a physician as medically necessary to an individual who is otherwise Medi-Cal eligible.

DMC certified facilities must also be AOD certified.

20. What are the first steps in becoming DMC certified?

Programs must be AOD certified in order to become DMC certified. Prospective applicants for DMC certification should first attend a free DMC orientation session provided by ADP. The DMC orientation will explain the requirements in the application process and the procedures once a provider is DMC certified. The session also serves as a source of technical assistance through the application process. Upon completion of the orientation, the applicant is issued a Certificate of Completion, which must be attached to the DMC application. For more information on an upcoming free DMC orientation sessions, you may contact LCD at (916) 322-2911.

Applicants must also send a letter to the County Alcohol and Drug Program Administrator in which the clinic will be located; the letter should inform the county that the applicant is submitting a DMC Certification application to ADP. A copy of the letter must also be attached to the DMC application.

21. How do I become DMC certified?

Once ADP determines that the provider's application is complete, an on-site review is scheduled to ensure that the clinic is in full compliance with federal and State Medicaid requirements. Once the requirements are met a certification is issued.

For more information on the DMC application process and requirements, you may contact LCD at (916) 322-2911.

22. How can I get reimbursed for my DMC services?

If you have met the State requirements and are certified as a DMC clinic you are eligible to be reimbursed for your services. The services eligible for reimbursement through the DMC system are outpatient drug free, narcotic treatment program (formerly outpatient methadone maintenance), day care rehabilitative, naltrexone, and perinatal residential.

Reimbursement for DMC services will normally be obtained through a contract with the county. Information regarding the contract process can be obtained directly from the County Alcohol and Drug Program Administrator for the county in which the clinic will be located.

Since the DMC program is considered to be a covered entity under the Health Insurance Portability and Accountability Act (HIPAA), claims submitted by the DMC clinic must be HIPAA compliant. The HIPAA 837 Professional (837P) claim transaction is the required claim format for State reimbursement of DMC services provided to eligible patients.

For more information on HIPAA, you may contact the ADP HIPAA Compliance Section at (916) 327-3133, and for more information on DMC billing, you may contact the ADP - Fiscal Management Accounting Branch at (916) 323-2043.

General Questions

23. Do AOD treatment counselors need to be certified?

The Counselor Certification Regulations became effective on April 1, 2005, under California Code of Regulations (CCR), Title 9, Chapter 8, Commencing with Section 13000. Any individual providing intake, assessment of need for services, treatment or recovery planning, or individual or group counseling to participants, patients, or residents in an ADP licensed or certified program are required by the State of

California to be certified.

To obtain certification, counselors must register with one of the 10 certifying organizations listed in the regulations; from the date of registry, counselors have 5 years to become certified. Information on counselor certification and the 10 certifying organizations may be obtained by accessing the following web page:

<http://www.adp.ca.gov/LCB/LCBhome.shtml>

Further information may also be obtained by calling LCD at (916) 322-2911.

24. How can I be assured that information about my participation in a licensed or certified AOD treatment or recovery program remains private?

The federal government enacted regulations in the early 1970's to guarantee the confidentiality of information regarding an individual that is receiving alcohol and/or drug abuse prevention and treatment services. These regulations were enacted to encourage persons with alcohol and/or other drug problems to get help without incurring the risk of adding to their problems. The regulations (Code of Federal Regulations 42, Part 2) apply to any licensed and/or certified recovery/treatment program and all the personnel connected with that program.

In 1996, Congress also enacted Public Law 104-9 known as the Health Insurance Portability and Accountability Act (HIPAA). One of the provisions under HIPAA requires the federal Department of Health and Human Services to adopt national standards for electronic health care transactions, and privacy and security rules to protect individual's identifiable health information. ADP, as well as California's licensed and certified AOD programs are currently required to comply with stringent confidentiality rules under federal regulations. For more information on HIPAA, you may contact the ADP - HIPAA Compliance Section at (916) 327-3133.

25. Are there facilities that provide alcohol and/or other drug treatment or recovery services that are licensed by other agencies?

Programs that have an alcohol and/or other drug recovery/treatment service component and are seeking additional funds from ADP may be required by their funding agency to obtain certification from ADP.

The California Department of Social Services licenses group homes and oversee an array of programs offered by group homes that provide care, supervision, and services for children at risk. The alcohol and/or other drug recovery/treatment services provided by these homes may also be certified by ADP.

The Department of Health Services licenses chemical dependency recovery hospitals that may also have ADP-certified alcohol and/or other drug recovery/treatment services.

26. What are other important information related to alcohol and/or other drug recovery programs?

Information about Alcohol- and Drug-Free Housing, better known as sober living can be obtained by accessing the following web page:
<http://www.adp.ca.gov/FactSheets/Alcohol and Drug-Free Housing/pdf>

Information regarding Social Model Recovery can be accessed at:
<http://www.adp.ca.gov/FactSheets/Social Model Recovery/pdf> and
<http://www.adp.ca.gov/FactSheets/Social Model the Most Frequently Asked Questions/pdf>

Information regarding the Therapeutic Community can be accessed at:
<http://www.adp.ca.gov/FactSheets/Therapeutic Community/pdf> and
<http://www.adp.ca.gov/FactSheets/Therapeutic Community the Most Frequently Asked Questions/pdf>



Fact Sheet:



**Licensing and Certification
of Alcohol and/or Other Drug
Recovery or Treatment Programs**

LICENSING

Residential facilities that provide non-medical alcohol and/or other drug (AOD) recovery, treatment, or detoxification services to adults must be licensed by the Department of Alcohol and Drug Programs (ADP). Health and safety concerns are the primary focus of the licensing process (e.g., fire clearance, food service, personnel requirements, physical environment, and personal rights). Nonresidential programs are not required to be licensed.

Local officials may require use permits, depending on the type of residential facility involved. Licensed residential facilities serving six or fewer residents are exempt from local government regulations.

As of December 2005, 837 facilities are operated under license from ADP.

CERTIFICATION OF RESIDENTIAL PROGRAMS

AOD certification is voluntary. It is considered advantageous to obtain State certification to gain the confidence of both potential residents and third party payers. Certification signifies a program which both meets minimal levels of service quality and is in substantial compliance with State program standards. Participating programs also benefit through the associated technical assistance, training and recommendations for program improvements which are available within the State's alcohol and drug program network.

The majority of the licensed residential facilities are alcohol and/or drug certified. The Residential and Outpatient Programs Compliance Branch (ROPCB) also certifies residential facilities that are licensed by the Department of Social Services, Community Care Licensing Division, the Department of Health Services, and facilities operated by the Department of Corrections.

**CERTIFICATION OF
NONRESIDENTIAL PROGRAMS**

As of December 2005, there were 962 nonresidential programs (nonresidential programs do not require licensure) that have been granted AOD certification.

There are an undetermined number of nonresidential drug or alcohol programs operating in the State. ADP identifies only those nonresidential programs which request certification.

COMPLAINTS

ADP investigates all complaints involving AOD licensed and certified facilities. The Department averages 31 complaints per month.



Fact Sheet:

Alcohol- and Drug-Free Housing (Sober Living)



General Information

Alcohol- and drug-free houses (also known as sober living homes) are important in supporting treatment and recovery services in a community by helping recovering persons to maintain an alcohol- and drug-free lifestyle. Residents are free to organize and participate in self-help meetings or any other activity that helps them maintain sobriety. The house or its residents: do not and cannot provide any treatment, recovery, or detoxification services; do not have treatment or recovery plans or maintain case files; and do not have a structured, scheduled program of alcohol and drug education, group or individual counseling, or recovery support sessions. Persons typically become residents of an alcohol- and drug-free house after being in a licensed non-medical residential alcohol or other drug recovery or treatment facility. However, participation in a licensed facility is not necessarily a prerequisite for residency.

Alcohol- and drug-free houses are not required to be licensed nor are they eligible for licensure. By definition, they do not provide alcohol or drug recovery or treatment services and are, therefore, not subject to regulation or oversight by the State Department of Alcohol and Drug Programs (ADP).

These houses have three things in common:

- They ensure that a person who is in recovery lives in an environment that is free from alcohol and drug use.
- The residents themselves reinforce their recovery through support with other recovering persons.
- The residents are free to voluntarily pursue activities to support their recovery, either alone or with others.

If you need an alcohol- and drug-free house

General information about alcohol- and drug-free housing is useful; however, personal investigation is essential. If you are interested in a particular house, you may wish to consider whether:

- The house appears clean and well maintained.
- There is a rental agreement for each resident, signed by the owner, representative, or landlord, and the resident, that clearly shows the amount of any deposit, refund policy, rent payment schedule, policy on return of rent if a person leaves, and housekeeping responsibilities.
- There are other conditions of residency.
- There is a written policy dealing with the use of alcohol or other drugs.
- Local planning officials have any record of local ordinance violations at the house.
- Residents, or former residents, who are willing to speak with you about their experience with the house, have good things to say about it.
- It is recommended to you by the staff of a licensed facility, by the county alcohol or drug program administrator, or by other personal contacts knowledgeable about alcohol or drug abuse treatment or recovery.

Landlord/Tenant Rules

Alcohol- and drug-free houses are subject to landlord/tenant laws in California, and may be subject to zoning and other requirements of the local jurisdiction. The "Guide to Housing" referenced below recommends that you check local laws carefully and, with the help of an attorney, determine how the laws might apply to your situation. For example, if you want to start an alcohol- and drug-free living house you might need to know how to design a rental agreement to allow for prompt eviction for violation of house rules when eviction is necessary. You may want to become familiar with the more applicable laws that include the following:

- California Civil Code beginning with Section 53 and California Government Code beginning with Section 12980 (nondiscrimination in housing);
- California Civil Code beginning with Section 1940 (landlord/tenant laws);
- California Code of Civil Procedure beginning with Section 1159 (eviction procedures); and
- United States Code beginning with Section 3604 (Federal Fair Housing Amendments Act; forbids discrimination on basis of disability in sale, rental, zoning, land use restriction, and other rules).

Other sources of information about alcohol- and drug-free houses

- **California Association of Addiction Recovery Resources**
2129 Fulton Avenue
Sacramento, CA 95821
(916) 338-9460

This association has a guideline for establishing and operating an alcohol- and drug-free house.

- **Sober Living Network**
P.O. Box 5235
Santa Monica, CA 90409
(310) 396-5270

The Sober Living Network serves as an information resource for local community sober living coalitions and individual homes.

- **County alcohol and drug programs**

Each county in California has a program which can be found listed in the County Government Section of the telephone directory's white pages or by calling the County Health Department's general information number.

- **Oxford House Inc.**
P.O. Box 994
Great Falls, VA 22066-0994

An Oxford House is a self-governing alcohol- and drug-free house chartered by Oxford House, Inc. The first Oxford House was founded in 1975 by the residents themselves. Oxford House, Inc., will issue a charter to a group wishing to organize an Oxford House. They should be able to direct you to the nearest chartered Oxford House.

- **A Guide to Housing for Low Income People Recovering from Alcohol and Other Drug Problems.** U.S. Department of Public Health Services, National Institute on Alcohol Abuse and Alcoholism, 5600 Fishers Lane, Rockville, MD 20857.

- **Department of Alcohol and Drug Programs (ADP)**
Resident Run Housing Programs
1700 K Street
Sacramento, CA 95814-4037

The Resident Run Housing Program (RRHP) was a loan program offered by ADP whereby a nonprofit organization could apply for a loan of up to \$4,000 to cover start-up expenses for a home with six or more residents; however, the RRHP contract with Ontract Program Resources ended as of March 14, 2008. ADP has chosen not to fund the RRHP but will monitor the remaining loans until they are paid off.

CALIFORNIA CODES
HEALTH AND **SAFETY CODE**
SECTION **1566-1566.8**

1566. The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development of sufficient numbers and types of residential care facilities as are commensurate with local need.

The provisions of this article shall apply equally to any chartered city, general law city, county, city and county, district, and any other local public entity.

For the purposes of this article, "six or fewer persons" does not include the licensee or members of the licensee's family or persons employed as facility staff.

1566.1. Any person licensed under the provisions of this chapter who operates, or proposes to operate a residential facility, the department or other public agency authorized to license such a facility, or any public or private agency which uses or may use the services of the facility to place its clients, may invoke the provisions of this article.

This section shall not be construed to prohibit any interested party from bringing suit to invoke the provisions of this article.

1566.2. A residential facility, which serves six or fewer persons shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other family dwellings of the same type in the same zone are not likewise subject. Nothing in this section shall be construed to forbid the imposition of local property taxes, fees for water service and garbage collection, fees for inspections not prohibited by Section **1566.3**, local bond assessments, and other fees, charges, and assessments to which other family dwellings of the same type in the same zone are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee for enforcing fire inspection regulations pursuant to state law or regulation or local ordinance, with respect to residential facilities that serve six or fewer persons, except for fees authorized pursuant to Section 13235.

For purposes of this section, "family dwellings," includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome

parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

1566.25. If a county of residence agrees to pay a placement county the costs of providing services to a minor pursuant to subdivision (a) of Section 740 of the Welfare and Institutions **Code**, all of the following shall apply:

(a) The county of residence shall agree to pay the placement county the actual costs of providing services to a child placed in a community care facility outside his or her county of residence by a placement agency, as defined in Section 1536.1, that are incurred by the probation department, social services department, health department, or mental health department of the placement county for which the placement county is not otherwise reimbursed.

(b) Claims made by the county of placement to the county of residency pursuant to subdivision (a) shall include documentation and shall be paid within 30 days of submission of these claims.

(c) For the purposes of this section, the county from where the child was placed in the community care facility shall be considered the county of residency.

1566.3. (a) Whether or not unrelated persons are living together, a residential facility that serves six or fewer persons shall be considered a residential use of property for the purposes of this article. In addition, the residents and operators of such a facility shall be considered a family for the purposes of any law or zoning ordinance which relates to the residential use of property pursuant to this article.

(b) For the purpose of all local ordinances, a residential facility that serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution or home for the care of minors, the aged, or the mentally infirm, foster care home, guest home, rest home, sanitarium, mental hygiene home, or other similar term which implies that the residential facility is a business run for profit or differs in any other way from a family dwelling.

(c) This section shall not be construed to prohibit any city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of a residential facility which serves six or fewer persons as long as such restrictions are identical to those applied to other family dwellings of the same type in the same zone.

(d) This section shall not be construed to prohibit the application to a residential care facility of any local ordinance that deals with health and **safety**, building standards, environmental impact standards, or any other matter within the jurisdiction of a

local public entity if the ordinance does not distinguish residential care facilities which serve six or fewer persons from other family dwellings of the same type in the same zone and if the ordinance does not distinguish residents of the residential care facilities from persons who reside in other family dwellings of the same type in the same zone. Nothing in this section shall be construed to limit the ability of a local public entity to fully enforce a local ordinance, including, but not limited to, the imposition of fines and other penalties associated with violations of local ordinances covered by this section.

(e) No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential facility which serves six or fewer persons which is not required of a family dwelling of the same type in the same zone.

(f) Use of a family dwelling for purposes of a residential facility serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent such sections are applicable to residential facilities providing care for six or fewer residents.

(g) For the purposes of this section, "family dwelling," includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

1566.4. No fire inspection clearance or other permit, license, clearance, or similar authorization shall be denied to a residential facility because of a failure to comply with local ordinances from which such facilities are exempt under Section **1566.3**, provided that the applicant otherwise qualifies for such fire clearance, license, permit, or similar authorization.

1566.45. (a) (1) For purposes of this section, "bedridden" means requiring assistance in turning and repositioning in bed or being unable to independently transfer to and from bed, except in a facility with appropriate and sufficient care staff, mechanical devices, if necessary, and **safety** precautions, as determined by the director in regulations.

(2) In developing the regulations for child residential facilities, the department shall take into consideration the size and weight of the child.

(3) For purposes of this section, the status of being bedridden shall not include a temporary illness or recovery from surgery that

persists for 14 days or less.

(4) The determination of the bedridden status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated representative, after consulting the resident's individual **safety** plan. The determination of the bedridden status of all other persons with disabilities who are not developmentally disabled shall be made by the Director of Social Services, or his or her designated representative.

(b) No client shall be admitted to or retained in a residential facility if he or she requires 24-hour skilled nursing care, except for a facility licensed as an Adult Residential Facility for Persons with Special Health Care Needs pursuant to Article 9 (commencing with Section 1567.50).

(c) A bedridden person may be admitted to, and remain in, a residential facility that secures and maintains an appropriate fire clearance. A fire clearance shall be issued to a facility in which one or more bedridden persons reside if either of the following conditions are met:

(1) The fire **safety** requirements are met. Clients who are unable to independently transfer to and from bed, but who do not need assistance to turn or reposition in bed, shall be considered nonambulatory for purposes of this paragraph.

(2) Alternative methods of protection are approved.

(d) Notwithstanding paragraph (3) of subdivision (a), a bedridden client may be retained in a residential facility in excess of 14 days if all of the following requirements are satisfied:

(1) The facility notifies the department in writing that the person is recovering from a temporary illness or surgery.

(2) The facility submits to the department, with the notification required in paragraph (1), a physician and surgeon's written statement to the effect that the client's illness or recovery is of a temporary nature. The statement shall contain an estimated date upon which the illness or recovery is expected to end or upon which the client is expected to no longer be confined to bed.

(3) The department determines that the client's health and **safety** is adequately protected in the facility and that transfer to a higher level of care is not necessary.

(4) This subdivision does not expand the scope of care and supervision of a residential facility.

(e) Notwithstanding the length of stay of a bedridden client, every residential facility admitting or retaining a bedridden client shall, within 48 hours of the client's admission or retention in the facility, notify the fire authority having jurisdiction over the bedridden client's location of the estimated length of time the client will retain his or her bedridden status in the facility.

(f) (1) The department and the Office of the State Fire Marshal, in consultation with the State Department of Developmental Services, shall each promulgate regulations that meet all of the following

conditions:

(A) Are consistent with this section.

(B) Are applicable to facilities regulated under this chapter, consistent with the regulatory requirements of the California Building Standards **Code** for fire and life **safety** for the respective occupancy classifications into which the State Department of Social Services' community care licensing classifications fall.

(C) Permit clients to remain in homelike settings.

(2) At a minimum, these regulations shall do both of the following with regard to a residential care facility that provides care for six or fewer clients, at least one of whom is bedridden:

(A) Clarify the fire and life **safety** requirements for a fire clearance for the facility.

(B) Identify procedures for requesting the approval of alternative means of providing equivalent levels of fire and life **safety** protection. Either the facility, the client or client's representative, or local fire official may request from the Office of the State Fire Marshal a written opinion concerning the interpretation of the regulations promulgated by the State Fire Marshal pursuant to this section for a particular factual dispute. The State Fire Marshal shall issue the written opinion within 45 days following the request.

(g) For facilities that care for six or fewer clients, a local fire official shall not impose fire **safety** requirements stricter than the fire **safety** regulations promulgated for the particular type of facility by the Office of the State Fire Marshal or the local fire **safety** requirements imposed on any other single family dwelling, whichever is more strict.

(h) This section and regulations promulgated thereunder shall be interpreted in a manner that provides flexibility to allow bedridden persons to avoid institutionalization and be admitted to, and safely remain in, community-based residential care facilities.

1566.5. For the purposes of any contract, deed, or covenant for the transfer of real property executed on or after January 1, 1979, a residential facility which serves six or fewer persons shall be considered a residential use of property and a use of property by a single family, notwithstanding any disclaimers to the contrary.

1566.6. The department shall annually prepare, with a quarterly update commencing July 1, 1979, specifying newly licensed facilities, a list or lists of all licensed community care facilities in the state, other than foster family homes, which shall include the information required by Section 1536 and shall additionally specify

as to each such facility the licensed capacity of the facility and whether it is licensed by the state department or by another public agency pursuant to Section 1511. Compliance with this section shall also constitute compliance with Section 1536.

1566.7. The department shall notify affected placement agencies and the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Health and **Safety Code**, whenever the department substantiates that a violation has occurred which poses a serious threat to the health and **safety** of any resident when the violation results in the assessment of any penalty or causes an accusation to be filed for the revocation of a license. If the violation is appealed by the facility within 10 days, the department shall only notify placement agencies of the violation when the appeal has been exhausted. If the appeal process has not been completed within 60 days, the placement agency shall be notified with a notation which indicates that the case is still under appeal. The notice to each placement agency shall be updated monthly for the following 24-month period and shall include the name and location of the facility, the amount of the fine, the nature of the violation, the corrective action taken, the status of the revocation, and the resolution of the complaint. At any time during which a facility is found to have one or more of the following serious deficiencies, the director shall provide an immediate notice of not to exceed five working days to the placement agency:

(a) Discovery that an employee of the facility has a criminal record which would affect the facility's compliance with Section 1522.

(b) Discovery that a serious incident which resulted in physical or emotional trauma of a resident has occurred in a facility.

1566.75. (a) By January 1, 2006, the department's Community Care Licensing Division shall enter into memoranda of understanding with up to 10 local mental health departments that volunteer to participate. Each memorandum of understanding shall outline a formal protocol to address shared responsibilities, monitoring responsibilities, facility closures, training, and a process for mediation of disputes between the local mental health authority and the department's local licensing office relating to adult residential facilities and social rehabilitation facilities.

(b) On or before January 31, 2006, the department shall transmit a copy of each memorandum of understanding that has been signed to the Legislature.

1566.8. Notwithstanding any other provision of law, if according to the rules and regulations of a mobilehome park, the park is designated as a family park or a section of a mixed mobilehome park is designated as a family section, no rule, regulation, rental agreement, or any other provision in existence on the effective date of this section shall, directly or indirectly, prohibit a person from operating in any mobilehome in a family park or designated family section, a licensed foster family home.