



CITY COUNCIL AGENDA ITEM

Date: April 9, 2013

To: Brian Kischnick, City Manager

From: Mark F. Miller, Director of Economic & Community Development
R. Brent Savidant, Planning Director

Subject: PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (File Number: ZOTA 245) – Sober Living Facilities

The text amendment will regulate sober living facilities in the City of Troy, including a definition for sober living facilities. Sober living facilities with 6 or fewer residents are treated as single family residential uses, similar to adult foster care small group homes. Sober living facilities with 7 or more residents are permitted subject to special use approval in the R-1A through R-1E, RT, MR, UR, IB and OM districts. As such, they will require special use approval by Planning Commission, including submission of a Preliminary Site Plan and meeting all related standards for sober living facilities.

The attached memos prepared by Carlisle\Wortman Associates, Inc. provide additional background.

The Planning Commission discussed this item at four public meetings. The Planning Commission held a public hearing on this item on March 26, 2013, and recommended approval of the text amendment.

Attachments:

1. Zoning Ordinance Text Amendment Public Hearing Draft
2. Report prepared by CWA dated February 6, 2013
3. Report prepared by CWA dated March 8, 2013
4. Planning Commission minutes from March 26, 2013 Special/Study meeting (excerpt)

CITY OF TROY

AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY
CITY COUNCIL PUBLIC HEARING DRAFT

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 39, Zoning Ordinance, of the Code of the City of Troy.

Section 2. Amendment

Chapter 39 of the Code of the City of Troy is amended as follows

Add the following definition to Section 2.02 DEFINITIONS:

SOBER LIVING FACILITY: A temporary residential living arrangement for seven (7) or more adult persons leaving an institutional setting recovering from drug or alcohol addiction and in need of a supportive living arrangement in order to readjust to living outside the institution. These are persons who are receiving therapy and counseling from licensed or certified professional staff and trained non-professional or paraprofessional support staff who are present when residents are present, to help them recuperate from the effects of drug or alcohol addiction. Sober living facility may provide limited supportive services to residents only, including: mental health services; clinical rehabilitation services; social services; financial management services; legal services; and other similar supportive services. Residency is limited to a specific number of weeks or months, typically 24 months or less. This definition does not constitute halfway houses for those released from prison or a homeless situation.

Add the following to Section 4.21 SCHEDULE OF USE REGULATIONS:

Institutional

	R1A- R1E	RT	MF	UR	MHP	CF	EP	CB	GB	IB	O	OM	RC	PV	P
<u>Sober Living Facilities</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>S</u>	<u>NP</u>	<u>S</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>

Add Section 6.33 to read as follows:

SECTION 6.33 SOBER LIVING FACILITIES:

- A. Sober Living Facilities serving six (6) persons or less. A Sober Living Facility serving six (6) persons or less shall be considered a single-family use of property.
- B. Sober Living Facilities serving seven (7) or more adult persons.
 - 1. All residents shall be eighteen (18) years of age or older.
 - 2. Frontage on either a major or minor arterial street shall be required.
 - 3. Appropriate licenses with the State of Michigan shall be maintained.
 - 4. The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located provided there is a minimum site area of twenty-five hundred (2,500) square feet per adult, excluding employees and/or caregivers.
 - 5. Facilities may include ancillary facilities such as multi-purpose recreational rooms and meeting rooms.

Add the following to Table 13.06-A to read as follows:

Institutional and Places of Gathering

<u>Sober Living Facilities</u>	<u>1 space for each 1 per bed and 1 space per employee and/or caregiver at largest shift</u>
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Section 3. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 4. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 5. Effective Date

This amendment to the Zoning Ordinance shall take effect seven (7) days after publication, which shall be published within 15 days of adoption, as required the Michigan Zoning Enabling Act (Act 110 of 2006).

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, 2013.

Dane Slater, Mayor

Aileen Bittner, City Clerk



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MEMORANDUM

TO: R. Brent Savidant, AICP, Planning Director

FROM: Ben Carlisle, AICP

DATE: February 6, 2013

RE: Sober Living Zoning Ordinance Amendments

An organization, Great Lakes Recovery Community, is interested in using a property in Troy as a structured and professionally administered residential treatment facility to serve infirmed persons suffering from a primary substance use disorder diagnosis or dual diagnoses of substance use disorder/addiction and psychiatric illness. The use is not specifically listed in the Schedule of Regulations of the City of Troy Zoning Ordinance.

Section 4.05 of the Zoning Ordinance gives the Zoning Administrator the authority to determine which district a use is permitted in. The Zoning Administrator may refer a proposed use to the Planning Commission for determination of the appropriate district(s) in which said use may be permitted. Furthermore, the Adult Foster Care Facility Licensing Act, 218 of 1979, clearly states that an establishment commonly described as an alcohol or a substance abuse rehabilitation center is not classified as an adult foster care facility. Thus this type of facility is not defined nor regulated under that act. Though the applicant notes they are working with the State, currently this is essentially a non-state regulated group home facility. However, since persons recovering from alcohol and drug addiction are considered to be handicapped, they have certain protections under the Americans with Disabilities Act and the Federal Fair Housing Act. Thus, any regulation that treats sober living homes less favorably than similar uses may be considered exclusionary and difficult to justify.

On January 22, 2013 the Planning Commission met to discuss the interpretation and appropriate districts of such use. After lengthy discussion, the Planning Commission directed staff to define the use; add the use to the schedule of uses (Section 4.21) as not-permitted, permitted, or special use based on appropriateness in each district; and add any necessary specific use regulations. This memo is a recommendation of draft language based on the best practices and the direction of the Planning Commission:

BEST PRACTICES:

Zoning studies and associated regulations for sober living or recovery centers were limited. Through research we identified three communities that defined similar uses and adopted associated regulations:

Saint Paul, Minnesota

The City Council directed a Sober House Zoning Study in May 2005, after the Council was informed that the number of sober houses locating in the city was on the rise. The study found that similar to Troy, the Ordinance did not list the use nor provide a similar use. As a result of the study, the City Council passed an ordinance addressing the following:

- Added definition:

A dwelling unit occupied by more than four persons, all of whom are in recovery from chemical dependency and considered handicapped under the Federal Fair Housing Act Amendments of 1988. It provides a non-institutional residential environment in which the residents willingly subject themselves to written rules and conditions, including prohibition of alcohol and drug use (except for prescription medications obtained and used under medical supervision), intended to encourage and sustain their recovery. The residents of a sober house are similar to a family unit, and share kitchen and bathroom facilities and other common areas of the unit. Sober houses are financially self-supporting. This definition does not include facilities that receive operating revenue from governmental sources. Sober houses do not provide on-site supportive services to residents, including the following: mental health services; clinical rehabilitation services; social services; medical, dental, nutritional and other health care services; financial management services; legal services; vocational services; and other similar supportive services.

- Added application procedure
- Limited sober houses in residential districts to ten or less residents
- Requires a Special Use for any facility over 17 residents
- Incorporated parking standards of 1.5 parking space per resident
- Created minimum lot area as the minimum lot area of the district plus 800 sq/ft per resident
- Set concentration distance: No sober living facility may be located within 300 of another

Los Angeles, CA

In 2011, Los Angeles adopted an ordinance that defined sober houses and similar facilities as “Alcoholism or Drug Abuse Recovery or Treatment Facility.” Defined as *any premises, place or building licensed by the State of California that provides 24-hour residential nonmedical services to adults who are recovering from problems related to alcohol, drug or alcohol and drug misuse or abuse, and who need alcohol and drug recovery treatment or detoxification services.* In addition to the definition, the ordinance adopted the following standards:

- If located in residential neighborhood, the facility is consistent with the residential character
- Security lighting must be shielded
- Occupancy limit of two residents for every bedroom

Champaign County, IL

In 2010, the County adopted an ordinance allowing recovery centers. These facilities were limited to agricultural zoning districts as a special use and they must be operated by and located on the same property as a church or temple. The following additional standards were adopted:

- Must be served by public transportation

- The maximum number of residents allowed at one time shall be the smaller of the following numbers:
 - 10% of the maximum occupancy of the main worship area of the associated church or temple
 - 30 persons
- The minimum required lot area shall be:
 - 20,000 square feet if served by a connected to sanitary sewer system
 - 30,000 square feet plus 7,000 square feet per resident if not served by a connected sanitary sewer system
- Facility shall include 24 hour supervision

It appears that these regulations were adopted for a specific property and/or applicant.

Shelby Township:

Great Lakes Recovery Center operates a six-woman facility in Shelby Township, which the Planning Commission visited. I contacted Glenn Wynn, Planning Director of Shelby Township. Mr. Wynn was not aware of the facility and noted that there are no specific use and regulations of this facility in the ordinance. Since they are under seven (7) persons, they are considered a State Regulated Adult Residential facility. Mr. Wynn also noted that they have not received any complaints or any correspondence from the neighborhood regarding the use.

TROY ZONING AMENDMENT:

Based on the direction of the Planning Commission and review of best practices, we recommend naming these facilities “recovery center” and adding following zoning amendments:

Definition:

Recovery Center: A temporary residential living arrangement for seven (7) or more persons leaving an institutional setting recovering from drug or alcohol addiction and in need of a supportive living arrangement in order to readjust to living outside the institution. These are persons who are receiving therapy and counseling from support staff who are present when residents are present, to help them recuperate from the effects of drug or alcohol addiction. Recovery center may provide limited supportive services to residents only, including: mental health services; clinical rehabilitation services; social services; financial management services; legal services; and other similar supportive services. Residency is limited to a specific number of weeks or months. This definition does not constitute halfway houses for those released from prison or a homeless situation.

The intent of the definition is to distinguish between recovery center and more service-intensive, government-licensed housing facilities occupied by residents with a higher level of dependence, and to reduce the existing lack of clarity about what constitutes a “legitimate” recovery center. This definition would not include dwelling units occupied by six (6) or less residents, which are covered by the standard definition of family, and by-right in single-family residential.

Use Table:

	R1A-R1E	RT	MR	UR	MHP	CF	EP	CB	GB	IB	O	OM	RC	PV	P
Recovery Center	S	S	S	S	NP	NP	NP	NP	NP	S	NP	S	NP	NP	NP
For Comparison Purposes only															
Senior assisted/independent living	P	P	P	P	NP	P	NP	P	P	P	NP	P	NP	NP	NP
Multiple-family dwellings (2-8 stories)	NP	NP	P	P	NP	NP	NP	NP	NP	P	NP	NP	NP	NP	NP
Convalescent centers	NP	NP	S	S	NP	P	NP	P	P	P	P	P	NP	NP	NP
Adult foster care, family home	P	P	P	P	P	P	NP								
Adult foster care, Small group home	S	S	S	S	S	S	NP								
Adult foster care, large group home	S	S	S	S	S	S	NP								
Adult foster care, congregate facility	S	S	S	S	S	S	NP								

Specific Use Provisions:

Recovery Center:

- A. Recovery Center serving six (6) persons or less. A Recovery Center serving six (6) persons or less shall be considered a single-family use of property.
- B. Recovery Center Adult serving between seven (7) or more persons.
 1. A site plan, prepared in accordance with Article 8 shall be required to be submitted.
 2. Frontage on either a major or minor arterial street shall be required.
 3. Parking: 1 space per bed and (1) off-street parking space per employee and/or caregiver at largest shift shall be provided.
 4. Appropriate licenses with the State of Michigan shall be maintained.
 5. The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located provided there is a minimum site area of twenty-five hundred (2,500) square feet per adult, excluding employees and/or caregivers.
 6. Facility may include ancillary facilities are allowed such as multi-purpose recreational rooms and meeting rooms.

Benjamin R. Carlisle

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Benjamin R. Carlisle, LEED AP, AICP



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MEMORANDUM

TO: R. Brent Savidant, AICP, Planning Director

FROM: Ben Carlisle, AICP

DATE: March 8, 2013

RE: Sober Living Zoning Ordinance Amendments

On February 12, the Planning Commission first considered zoning language regarding sober living facilities. The revised language below considers the comprehensive discussion between staff and the Planning Commission, as well as input from a Sober Living facility provider. Changes to the zoning ordinance language since the February 12 consideration is either underlined or ~~struckthrough~~ accordingly.

Please remember that since persons recovering from alcohol and drug addiction are considered to be disabled, they have certain protections under the Americans with Disabilities Act and the Federal Fair Housing Act. Thus, any regulation that treats sober living homes less favorably than similar uses may be considered exclusionary and difficult to justify. See our February 6, 2013 memo for more details regarding project background and zoning best practices.

If the Planning Commission agrees with the following Zoning Ordinance language, a public hearing will be scheduled.

TROY ZONING AMENDMENT:

Based on the direction of the Planning Commission and review of best practices, we recommend adding the following definition and zoning provisions:

Definition:

Sober Living Facility ~~Recovery Center~~: A temporary residential living arrangement for seven (7) or more adult persons leaving an institutional setting recovering from drug or alcohol addiction and in need of a supportive living arrangement in order to readjust to living outside the institution. These are persons who are receiving therapy and counseling from licensed or certified professional staff and trained non-professional or paraprofessional support staff who are present when residents are present, to help them recuperate from the effects of drug or alcohol addiction. Recovery center may provide limited supportive services to residents only, including:

mental health services; clinical rehabilitation services; social services; financial management services; legal services; and other similar supportive services. Residency is limited to a specific number of weeks or months, typically 24 months or less. This definition does not constitute halfway houses for those released from prison or a homeless situation.

The intent of the definition is to distinguish between sober living facility and more service-intensive, government-licensed housing facilities occupied by residents with a higher level of dependence, and to reduce the existing lack of clarity about what constitutes a “legitimate” sober living facility. This definition would not include dwelling units occupied by six (6) or less residents, which are covered by the standard definition of family, and by-right in single-family residential.

Use Table:

	R1A-R1E	RT	MR	UR	MHP	CF	EP	CB	GB	IB	O	OM	RC	PV	P
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Multiple-family dwellings (2-8 stories)	NP	NP	P	P	NP	NP	NP	NP	NP	P	NP	NP	NP	NP	NP
Convalescent centers	NP	NP	S	S	NP	P	NP	P	P	P	P	P	NP	NP	NP
Adult foster care, family home	P	P	P	P	P	P	NP								
Adult foster care, Small group home	S	S	S	S	S	S	NP								
Adult foster care, large group home	S	S	S	S	S	S	NP								
Adult foster care, congregate facility	S	S	S	S	S	S	NP								

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 6. The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located provided there is a minimum site area of twenty-five hundred (2,500) square feet per adult, excluding employees and/or caregivers.
 7. Facility may include ancillary facilities are allowed such as multi-purpose recreational rooms and meeting rooms.
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Benjamin R. Carlisle, LEED AP, AICP

ZONING ORDINANCE TEXT AMENDMENT

12. **PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (File Number ZOTA 245) – Sober Living Facilities**

Mr. Carlisle gave an update on the proposed Zoning Ordinance Text Amendment, confirming recent revisions made at the suggestions of Board members and sober living facilities in the area.

Mr. Savidant informed the Board that the proposed text was revised to correct any reference to “recovery center” to “sober living facility”.

Mr. Carlisle said with approval tonight, the process going forward would be:

- Announcement of Public Hearing at City Council, April 8.
- City Council Public Hearing, April 15.
- With City Council approval, text language would be in effect 10 days after adoption.
- Applicant would proceed with Rezoning Request and Special Use Approval on potential site.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2013-03-027

Moved by: Kempen

Seconded by: Schepke

RESOLVED, That the Planning Commission hereby recommends to the City Council that Articles 2, 4, 6, and 13 of Chapter 39 of the Code of the City of Troy, which includes provisions related to sober living facilities, be amended as printed on the proposed Zoning Ordinance Text Amendment.

Yes: All present (5)

Absent: Edmunds, Sanzica, Strat, Tagle

MOTION CARRIED

Mr. Schultz said he believes the City is “putting the cart before the horse” because sober living facilities are not recognized by the State of Michigan. He indicated his affirmative vote is to allow the item to go forward due to the absence of four Board members this evening.