





# City of Sierra Madre Agenda Report

*Gene Goss, Mayor*  
*Rachelle Arizmendi, Mayor Pro Tem*  
*John Capoccia, Council Member*  
*Denise Delmar, Council Member*  
*John Harabedian, Council Member*

*Melinda Carrillo, Secretary*  
*Michael Amerio City Treasurer*

TO: Honorable Mayor Goss and Members of the City Council

FROM: Elaine I. Aguilar, City Manager 

INITIATED BY: Vincent Gonzalez, Planning & Community Preservation Director 

PREPARED BY: Vincent Gonzalez

DATE: June 14, 2016

**SUBJECT: RECOMMENDATION THAT THE CITY COUNCIL SUBMIT A LETTER IN SUPPORT OF PROPOSED LEGISLATION SB 1283 REGARDING REGISTRATION REQUIREMENTS FOR GROUP HOMES.**

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## SUMMARY

The Planning Commission (Commission) is currently discussing the regulation of unlicensed group homes and licensed group homes with greater than six (6) persons. The Commission is also updating the definitions section of the zoning code to conform to current Health and Safety Code definitions. There are many specific types of group living facilities, both licensed and unlicensed, but they fall largely within the following four categories for regulatory purposes: "licensed group homes," unlicensed group homes," "supportive housing," and "transitional housing."

### Licensed Group Homes

There are at least two California statutory programs which regulate and license group homes. The first is the California Community Care Facilities Act (California Health and Safety Code Section 1500 et seq). This Act, specifically excludes "recovery houses from regulation or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction while the facility provides care or supervision" such as a sober living home. [Health and Safety Code Section 1505(I).]

The second statutory framework is the California Department of Alcohol and Drug Programs (DADP). This program provides for group living homes for alcohol and drug abuse recovery or treatment facilities. Such licensed facilities that provide "24 hour

residential services” and have six (6) or fewer persons must be treated under zoning laws as a single family residence (Health and Safety Code Section 11834.23). In order to provide “24 hour residential services,” these facilities must include certain counseling services. Note that a “sober living home” is not a licensed facility under either DADP or the Community Care Facilities Act because it provides no care (treatment) or supervision.

A licensed group home serving six (6) or fewer residents is considered a residential use as a matter of state law under either the Community Care Facilities Act or the DADP, and is therefore exempt from local regulation. Group homes licensed through either the state Department of Social Service (Community Care Facilities Act) or the DADP may locate within any residential zone as a matter of right, without any use permit or notice to the neighborhood. The only constraint on location of a group home licensed through the Community Care Facilities Act is a finding of “overconcentration” by the state Department of Social Services, e.g. when the new proposed licensed group home would be within 300 feet of an existing licensed group home, the state Department of Social Services shall not approve the license application without the approval of the City. (Health & Safety Code Section 1520.5(a, b); however, the “overconcentration” limitation does not apply to group living homes for alcohol and drug abuse recovery or treatment facilities.

By contrast, licensed group homes with greater than six (6) persons, excluding the licensee or member of the licensee’s family or persons employed as facility staff are subject to local zoning regulations and may be required to obtain a conditional use permit.

While a city may establish reasonable zoning regulations and discretionary permit requirements applicable to licensed group homes serving greater than six persons, it is important to note that such regulations may not have a discriminatory impact on the disabled. The Federal Fair Housing Act (42 USC Section 3601 et seq) (“FFHA”) prohibits a local government from enacting zoning legislation that excludes or otherwise discriminates against protected persons. Under the Act it is unlawful to utilize land use policies or actions that treat groups of persons with physical or intellectual disabilities less favorably than groups of non-disabled persons. The U.S. Supreme Court has held that alcoholism and drug addictions are disabilities for purposes of the FFHA. Similarly, the Americans with Disabilities Act also prohibits governmental entities from implementing or enforcing housing policies in a discriminatory manner against persons with disabilities.

#### Unlicensed Group Homes

Unlicensed group homes, regardless of the number of persons served are not preempted by state law and are subject to regulation by the City. An unlicensed group home, which is in the nature of a boarding house, is more commercial in nature, and is

subject to zoning regulation and the requirement of a conditional use permit, if required by a local agency municipal code. A “sober living home,” which provides no care (treatment services) or supervision on site, is a kind of unlicensed group home. As with licensed group living facilities serving greater than six persons, such regulations must be carefully drafted to avoid a discriminatory impact on the disabled, under either state or federal law.

#### Supportive housing

Supportive housing means housing with no limit on length of stay that is occupied by the “target population” (low income population with one or more disabilities) as defined in the Health and Safety Code 53260(d), and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing for six or fewer persons does not require state licensing and is considered a residential use as a matter of right. Accordingly, a city may not regulate its zoning placement or require a conditional use permit.

#### Transitional housing

Transitional housing means rental housing provided to facilitate the movement of homeless individuals or families to conventional housing. Transitional housing may take the form of single-family or multi-family units, and may include supportive services operated under program requirements to allow individual or families to gain necessary life skills in support of independent living. Transitional housing may or may not require a state license. This type of housing may be occupied by a program recipient for a minimum of six months up to a maximum of two years, at which time the living quarters will be recirculated to another eligible program recipient. Transitional housing is treated the same as any residential use.

#### Pending State Legislation

The State Legislature is considering registration requirements of sober living facilities authorizing a city, county, or city and county to adopt by ordinance health and safety standards and enforcement mechanisms for structured sober living homes that comply with state and federal housing laws and the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.). This proposed legislation is helpful because “sober living facilities” are not regulated by either the Community Care Facilities Act or the DADP and require no licensing or oversight, or on-site care or supervision. According to the proposed legislation, a local ordinance shall include, but need not be limited to, all of the following:

1. Mandatory registration requirements for all structured sober living homes, to ensure that the residents are living in a safe environment. The registration requirements, at a minimum, shall include the following:
  - (A) The name and address of the structured sober living home.
  - (B) Information regarding the property.
  - (C) If the property is leased.
  - (D) In-home supervision requirements.
  - (E) Establishment and maintenance of an operation plan including discharge planning, and that addresses maintenance of the property and noise abatement.

Senate Bill 1283 (SB-1283) Substance abuse: structured sober living homes (2015-2016), is attached for your reference as Exhibit A.

#### City Council Action

The City Council has the authority to submit a letter supporting efforts authorizing cities and counties to require mandatory local registration requirements for all sober living facilities located in the State of California. Attached is a draft letter for City Council consideration offering support of the proposed legislation.

#### **FINANCIAL REVIEW**

There is no financial impact related to the discussion item. Staff time was incurred in the preparation of the report and draft letter in support of legislation SB 1283.

#### **PUBLIC NOTICE PROCESS**

This item has been noticed through the regular agenda notification process. Copies of the report are available via the City's website at [www.cityofsierramadre.com](http://www.cityofsierramadre.com), at the City Hall public counter, and the Sierra Madre Public Library. Notice of the hearing was published consistent with the requirements of Government Code Section 65090.

#### **ALTERNATIVES**

1. Direct staff to prepare a letter of support for Senate Bill (SB 1283) – Substance abuse: Structured Sober Living Homes by Senator Patricia Bates.
2. The City Council could request additional information and direct that this matter be placed on a future agenda.
3. The City Council could take no action.

4. Any other alternative the Council desires.

### **STAFF RECOMMENDATION**

Staff Recommends Alternative No. 1, that the City Council direct staff to prepare a letter of support for Senate Bill (SB 1283) – Substance abuse: Structured Sober Living Homes by Senator Patricia Bates, and authorize the Mayor to execute and staff to send the letter of support, when determined to be appropriate by the City Manager pending advancement of the Bill through the legislative process.

#### **Attachment(s):**

Exhibit A – Senate Bill 1283

Exhibit B – Letter from City Council in Support of Senate Bill 1283



**SB-1283 Substance abuse: structured sober living homes. (2015-2016)**

BILL START

AMENDED IN SENATE APRIL 07, 2016

AMENDED IN SENATE APRIL 04, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

**SENATE BILL**

**No. 1283**

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**Introduced by Senator Bates  
(Principal coauthor: Assembly Member Brough)**

February 19, 2016

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An act to add Chapter 5 (commencing with Section 11759.70) to Part 1 of Division 10.5 of the Health and Safety Code, relating to substance abuse.

LEGISLATIVE COUNSEL'S DIGEST

SB 1283, as amended, Bates. Substance abuse: structured sober living homes.

Existing law provides for the licensure and regulation of alcoholism or drug abuse recovery or treatment facilities serving adults by the State Department of Health Care Services, as prescribed.

This bill would authorize a city, county, or city and county to enact an ordinance to register structured sober living homes, consistent with specified state and federal law, and with specified exclusions. The bill would define a structured sober living home as any premises, place, or building that provides groups of unrelated adults recovering from drug or alcohol addiction with alcohol-free and drug-free housing, promotes independent living and life skill development, and provides structured activities that are directed primarily toward recovery from substance use disorders in a supervised setting. The bill would specify registration and other requirements applicable to structured sober living homes. A structured sober living home, as defined by and registered pursuant to the bill, would not be subject to existing state licensure and regulation requirements for alcoholism or drug abuse recovery or treatment facilities. *The bill would provide that it does not establish a new category of state-licensed facility, or otherwise authorize a structured sober living home registered pursuant to an ordinance adopted under the bill to provide any service for which a license is required by state law.*

DIGEST KEY

Vote: MAJORITY Appropriation: NO Fiscal Committee: NO Local Program: NO

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## BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

### SECTION 1.

Chapter 5 (commencing with Section 11759.70) is added to Part 1 of Division 10.5 of the Health and Safety Code, to read:

### **CHAPTER 5. Structured Sober Living Homes**

#### **11759.70.**

(a) (1) For the purposes of this section, "structured sober living home" means any premises, place, or building that provides alcohol-free or drug-free housing, promotes independent living and life skill development, and provides structured activities that are directed primarily toward recovery from substance use disorders in a supervised setting to a group of unrelated adults who are recovering from drug or alcohol addiction, and who are receiving outpatient behavioral health services for substance abuse or addiction treatment while living in the home.

(2) "Structured sober living home" does not include a private residence in which a related family member is required to receive outpatient behavioral health services for substance abuse or addiction treatment as a condition of continuing to reside in the family dwelling.

(b) A structured sober living home registered pursuant to ~~this section~~ *an ordinance adopted under this chapter* is not subject to state licensure and regulation as an alcoholism or drug abuse recovery or treatment facility. *This chapter does not establish a new category of state-licensed facility, or otherwise authorize a structured sober living home registered pursuant to an ordinance adopted under this chapter to provide any service for which a license is required by state law.*

#### **11759.71.**

(a) In accordance with this section, a city, county, or city and county may adopt by ordinance health and safety standards and enforcement mechanisms for structured sober living homes that comply with state and federal housing laws and the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) and amendments thereto. The ordinance shall include, but need not be limited to, all of the following:

(1) Mandatory registration requirements for all structured sober living homes, to ensure that the residents are living in a safe environment. The registration requirements, at a minimum, shall include the following:

(A) The name and address of the structured sober living home.

(B) The following information regarding the property:

(i) ~~If the property is owned, the~~ *The property* owner's name, address, and contact telephone number.

(ii) If the property is leased, a copy of the lease, that includes a statement that the property will be used as a structured sober living home.

(2) In-home supervision requirements for the residents of the structured sober living home during all hours of operation.

(3) The establishment and maintenance of an operation plan that facilitates the rehabilitative process, including discharge planning, and that addresses maintenance of the property and noise abatement consistent with local ordinances.

(b) A city, county, or city and county that adopts health and safety standards and enforcement mechanisms for structured sober living homes pursuant to subdivision (a) may exclude from

regulation any structured sober living home that is subject to adequate oversight by another governmental entity or contractor that meets or exceeds the requirements of this chapter.

**11759.72.**

*This chapter shall not be interpreted to require the adoption of a structured sober living home ordinance by any city, county, or city and county. The authority granted to a city, county, or city and county to adopt an ordinance under this chapter shall be in addition to any other authority that may be exercised by the city, county, or city and county to regulate the use of property within its jurisdiction.*

END OF BILL





# *City of Sierra Madre*

Office of the City Council

June 15, 2016

Senator Patricia Bates  
State Capital, Room 4048  
Sacramento, California 95814

RE: Support of Senate Bill 1283

Dear Honorable Bates:

The City Council of the City of Sierra Madre write in strong support of Senate Bill 1283, State legislation requiring the State Department of Health Care Services to develop and adopt emergency regulations governing the licensing of adult recovery maintenance facilities. The City of Sierra Madre also supports the language of the Bill that would authorize a city or county to adopt by ordinance registration requirements and enforcement mechanisms for structured sober living homes that comply with state and federal housing laws and the federal Americans with Disabilities Act.

Like many cities, the City of Sierra Madre continues to receive complaints from residents on the proliferation of congregate living facilities, such as sober living homes and the impacts to neighborhoods in our City. These impacts can include second-hand smoke, noise, poor property maintenance, and on-street parking impacts. Due to the lack of clarity regarding the ability of state or local laws to regulate sober living facilities, these facilities begin operation without notice to the City or compliance with any reasonable zoning regulations. Sober living facilities may not require state licensing or oversight. Without the specific authority provided by this legislation, local municipalities are powerless to regulate such uses without the risk of a claim of disability discrimination. The Sierra Madre City Council hopes that the passage of SB-1283 will enable the ability to adopt reasonable regulation through the local level.

Thank you for your consideration on this matter. I believe it is an important issue, and would like to see the legislation pass to ensure effective regulation and registration of sober living facilities.

Respectfully Submitted,

Gene Goss, Mayor

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