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**Sec. 122-1198. Assisted living facilities and transitional recovery facilities.**

- (a) An assisted living facility shall be permitted in the R-2 district as a special exception, per section 122-1182, subject to the following provisions:
- (1) A minimum of 300 square feet of indoor living space shall be provided for each occupant of the structure.
  - (2) Occupancy of the structure is not to exceed eight persons, including the owner or resident operator of the facility.
  - (3) An assisted living facility with R-2 zoning is allowed in the city's low, medium and high density residential land use designations.
  - (4) Parking requirements shall be as follows:
    - a. One parking space for each three persons occupying the structure;
    - b. One parking space for each employee; and
    - c. One parking space for each owner or resident operator of the structure.
  - (5) The structure shall meet the city building code requirements, life safety code requirements and housing code requirements pertaining to the intended use.
  - (6) The board of adjustment may place any reasonable special conditions on the applicant to ensure that the proposed use conforms with the residential character of the neighborhood; especially, the prevailing dwelling unit density, the anticipated number of nonresident employees, the availability of parking, and the use of fencing and landscaping of service areas to shield the facility from the surrounding neighborhood.
  - (7) The applicant must either be in possession of any license required by the state to operate such a facility, or be in the posture to receive a license. Under no circumstances will permits or occupational licenses be issued by any city department until such state license is presented to the building official.
- (b) An assisted living facility shall be a permitted use in the R-3, O-1, OP, B-2, B-2A and B-4 districts, subject to the following provisions:
- (1) A minimum of 300 square feet of indoor living space shall be provided for each occupant of the structure.
  - (2) Parking requirements shall be as follows:
    - a. One parking space for each three beds; and
    - b. One parking space for each two employees.
  - (3) An assisted living facility with R-3 zoning is allowed in the city's medium and high density residential land use designations.
  - (4) The number of units for an assisted living facility is based on the following: Two persons equals one unit for a facility with elderly residences that have some limitations for social and personal care, and three beds equals one unit for a facility for children, disabled adults and the elderly in nursing homes.
  - (5) The structure shall meet the city building code requirements, life safety code requirements and housing code requirements pertaining to the intended use.
  - (6) The applicant must either be in possession of any license required by the state to operate such a facility, or be in the posture to receive a license. Under no circumstances will permits or occupational licenses be issued by any city department until such state license is presented to the building official.

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- (c) A transitional recovery facility shall be a permitted use in the B-2, B-2A and B-4 districts, subject to the following provisions:
- (1) A minimum of 300 square feet of indoor living space shall be provided for each occupant of the structure.
  - (2) Parking requirements shall be as follows:
    - a. One parking space for each three beds; and
    - b. One parking space for each two employees.
  - (3) All structures shall meet the city building code requirements, life safety code requirements, and housing code requirements pertaining to the intended use.
  - (4) If a license to operate the facility is required by federal, state or local law, the applicant must either be in possession of such a license to operate such a facility, or be in the posture to receive a license. Under no circumstances will permits or occupational licenses be issued by any city department until such license is presented to the building official.
  - (5) A transitional recovery facility shall adhere to all site plan requirements as per article IV of this chapter.
- (d) A transitional recovery facility shall be permitted in the R-3 zoning district as a special exception, subject to the following provisions:
- (1) The city council shall consider the application for a special exception pursuant to the provisions of:
    - a. This subsection; and
    - b. Article II, division 3 of this chapter but all references therein to the "zoning board of adjustment" or the "board of adjustment" shall be deemed to refer to the city council.
  - (2) A minimum of 300 square feet of indoor living space shall be provided for each occupant of a structure.
  - (3) Minimum parking requirements shall be as follows:
    - a. One parking space for each three beds; and
    - b. One parking space for each two employees.
  - (4) A transitional recovery facility shall not be permitted in the city's low density residential land use designation.
  - (5) A transitional recovery facility shall not be permitted in a historic district created or designated as such under chapter 94 of this Code or by United States Department of Interior National Park Service.
  - (6) All structures shall meet the city building code requirements, life safety code requirements, and housing code requirements pertaining to the intended use.
  - (7) If a license to operate the facility is required by federal, state or local law, the applicant must either be in possession of such a license to operate such a facility, or be in the posture to receive a license. Under no circumstances will permits or occupational licenses be issued by any city department until such license is presented to the building official.
  - (8) No transitional recovery facility shall be located within 1,000 feet of any other transitional recovery facility. The expansion of a facility under the same ownership that is permitted under subsection 122-1198(c) and contiguous (i.e., not separated by public right-of-way) to an R-3 zoned property, is not subject to this requirement. The distance requirements between two transitional recovery facilities shall be measured from property line to property line.

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- (9) City council may place any reasonable special conditions, in addition to those provided in this subsection and article II, division 3, of this chapter, on the special exception to ensure that the proposed use conforms with the residential character of the neighborhood; especially concerning: The prevailing dwelling unit density, the anticipated number of nonresident employees, lighting, service facilities, the type of activities and time limits regarding outdoor activities.
  - (10) A transitional recovery facility shall adhere to all site plan requirements as per article IV of this chapter.
  - (11) This special exception shall be limited to the proposed applicant or owner to whom the special exception is granted and shall be subject to the requirements of this subsection and article II, division 3 of this chapter. Any changes in ownership or to the use of the property will require a new special exception application.

(Ord. No. 1616, § 22-8(17), 12-13-83; Code 1985, § 7-1018; Ord. No. 2275, § 74, 5-5-92; Ord. No. 2730, § 12, 6-3-97; Ord. No. 4053, § 2, 6-5-01; Ord. No. 5043, § 16, 4-9-02; Ord. No. 2015-36, § 4, 6-2-15)

### **Sec. 122-1207. Transitional treatment facility.**

- (a) A transitional treatment facility shall be a permitted use in the B-2, B-2A and B-4 districts, subject to the following provisions:
  - (1) A minimum of 300 square feet of indoor living space shall be provided for each occupant of the structure.
  - (2) Parking requirements shall be as follows:
    - a. One parking space for each three beds; and
    - b. One parking space for each two employees.
  - (3) All structures shall meet the city building code requirements, life safety code requirements, and housing code requirements pertaining to the intended use.
  - (4) If a license to operate the facility is required by federal, state or local law, the applicant must either be in possession of such a license to operate such a facility or be in the posture to receive a license. Under no circumstances will permits be issued by any city department until such license is presented to the building official.
  - (5) A transitional treatment facility shall adhere to all site plan requirements as per article IV of this chapter.
  - (6) No transitional treatment facility shall be located within 300 feet of any other transitional treatment facility or transitional recovery facility. This does not include a medical campus that may include these uses. The distance requirements shall be measured from property line to property line.
  - (7) A new transitional treatment facility shall not be located within 500 feet of any school. The distance requirements shall be measured from property line to property line.
  - (8) A transitional treatment facility shall adhere to the requirements of chapter 15, article 1 (Sexual predators and offenders).

(Ord. No. 2020-20, § 7, 2-18-20)

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**Sec. 122-1210. Criteria for rooming/boarding house.**

- (a) A rooming/boarding house shall be permitted, subject to the other provisions of this chapter and the following provisions:
  - (1) The owner or manager must live on premises or provide sufficient supervision to ensure compliance with applicable laws.
  - (2) The building must pass annual inspections by the building official.
  - (3) The owner obtains an occupational license pursuant to this code. Such license:
    - a. Shall only be issued and maintained if the building passes its annual inspections;
    - b. Shall state the number of occupants allowed in the building; and
    - c. Shall be conspicuously displayed in the building.
- (b) A rooming/boarding house shall be permitted in the R-3 zoning district as a special exception, subject to the provisions in subsection (a) of this section and the following:
  - (1) A minimum of 300 square feet of indoor living space shall be provided for each occupant of a structure.
  - (2) Minimum parking requirements shall be as follows:
    - a. One parking space for each three beds; and
    - b. One parking space for each two employees.
  - (3) A rooming/boarding house shall not be permitted in the city's low density residential land use designation.
  - (4) A rooming/boarding house shall not be permitted in a historic district created or designated as such under chapter 94 of this code or by United States Department of Interior National Park Service.
  - (5) All structures shall meet the city building code requirements, life safety code requirements, and housing code requirements pertaining to the intended use.
  - (6) No rooming/boarding house shall be located within 1,000 feet of any other rooming/boarding house. The distance requirements between two rooming/boarding houses shall be measured from property line to property line.
  - (7) The board of adjustment may place any reasonable special conditions, in addition to those provided in this subsection and article II, division 3, of this chapter, on the special exception to ensure that the proposed use conforms with the residential character of the neighborhood; especially concerning: the prevailing dwelling unit density, the anticipated number of nonresident employees, lighting, service facilities, the type of activities and time limits regarding outdoor activities.
  - (8) A rooming/boarding house shall adhere to all site plan requirements as per article IV of this chapter.
  - (9) This special exception shall be limited to the proposed applicant or owner to whom the special exception is granted and shall be subject to the requirements of this subsection and article II, division 3 of this chapter. Any changes in ownership or to the use of the property will require a new special exception application.

(Ord. No. 5043, § 17, 4-9-02)

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## **Sec. 122-1216. Community work release facility criteria.**

- (a) A community work release facility shall be a special exception in the B-5 zoning district subject to the following:
- (1) A minimum of 100 square feet of indoor living space shall be provided for each occupant of the structure.
  - (2) The maximum number of occupants must be identified as part of the special exception application. The applicant must also provide a plan showing the size and location of the building, the proposed parking area, any outdoor area, the floor plan of the indoor living space, and the type of security.
  - (3) Parking requirements shall be as follows:
    - a. One parking space for each five beds; and
    - b. One parking space for each two employees.
  - (4) If a license, or contract with the state, to operate the facility is required by federal, state or local law, the applicant must either be in possession of such a license or contract to operate such a facility, or be in the posture to receive such a license or contract. Under no circumstances will permits or occupational licenses be issued by any city department until such license or contract is presented to the building official.
  - (5) The license or contract to operate a community work release facility by federal, state or local law must be consistent with the approved special exception.
  - (6) A community work release facility shall be separated by a distance of at least 1,500 feet from any other community work release facility. The distance requirements between uses shall be measured from property line to property line.
  - (7) A community work release facility shall be separated by a distance of at least 1,500 feet from a residential use, assistant living facility, transitional recovery facility, school, park, playground or day care. The distance requirements between uses shall be measured from property line to property line.
  - (8) A community work release facility must comply with the city's noise regulations per section 34-171 of this Code.
  - (9) All structures shall meet the city building code requirements, life safety code requirements, and housing code requirements pertaining to the intended use.
  - (10) A community work release facility shall adhere to all site plan requirements as per article IV of this chapter.
  - (11) The board of adjustment may place any reasonable special conditions, in addition to those provided in this subsection and article II, division 3, of this chapter, on the special exception to ensure that the proposed use conforms with surrounding area; especially concerning the size of the building, the proposed outdoor areas, buffers, the number of occupants and security.
  - (12) This special exception shall be limited to the proposed applicant or owner to whom the special exception is granted and shall be subject to the requirements of this subsection and article II, division 3 of this chapter. Any changes in ownership or to the use of the property will require a new special exception application.
- (b) Any transitional recovery facilities that, on the effective date of the adoption of Ordinance No. 5550, meet the definition of a community work release facility under section 122-3:

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- (1) Shall be deemed a community work release facility but shall not be required to obtain a special exception under subsection (a) of this ordinance or meet the requirements of subsections (2), (3), (5), (7), (11), and (12) of subsection (a) of this section; and
  - (2) Shall be a "nonconforming use of a structure pursuant to section 122-175 of this Code".  
Notwithstanding the provisions of sections 122-171 and 122-176 of this Code:
    - a. If the use of the structure changes, the structure shall cease to be a legal nonconforming use.
    - b. If the ownership of the structure changes, the structure shall cease to be a legal nonconforming use.
    - c. If the use of the structure discontinues for a period of more than one month (or 18 months in the event the discontinuance of use is as a result of a fire, storm or other catastrophe), the structure shall cease to be a legal nonconforming use.
    - d. If, pursuant to the foregoing subparagraphs, the structure ceases to be a legal nonconforming use, it may thereafter only be used in conformance with the provisions of subsection (a) of this section.

(Ord. No. 5550, § 6, 8-8-06)

#### **Sec. 122-1219. Fraternity or sorority house criteria.**

- (a) A fraternity or sorority house shall be a special exception in the R-3 zoning district and a permitted use in the B-2, B-2A and B-4 zoning districts subject to the following:
  - (1) A minimum of 300 square feet of indoor living space shall be provided for each occupant of the structure.
  - (2) The applicant must identify the maximum number of occupants and provide a plan showing the size and location of the building, the proposed parking area, any outdoor area, the floor plan of the indoor living space, and the type of security.
  - (3) Minimum parking requirements shall be as follows:
    - a. One parking space for each three beds; and
    - b. One parking space for each two employees.
  - (4) A fraternity or sorority house shall not be permitted in the city's low density residential land use designation.
  - (5) A fraternity or sorority house must be within a two-mile radius of the academic college or university campus affiliated with the fraternity or sorority. A fraternity or sorority house cannot be affiliated with a school that has only an internet presence or is primarily a correspondence, vocational or technical school.
  - (6) A fraternity or sorority house shall not be permitted in a historic district created or designated as such under chapter 94 of this Code or by the United States Department of Interior National Park Service.
  - (7) A fraternity or sorority house must comply with the city's noise regulations per section 34-171 of this Code.
  - (8) All structures shall meet the city building code requirements, life safety code requirements, and housing code requirements pertaining to the intended use.
  - (9) A fraternity or sorority house shall adhere to all site plan requirements as per article IV of this chapter.

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- (10) If required, the Board of Adjustment may place any reasonable special conditions, in addition to those provided in this subsection and article II, division 3 of this chapter, on the special exception to ensure that the proposed use conforms with the surrounding area; especially concerning the size of the building, the proposed outdoor areas, buffers, the number of occupants and security.
  - (11) The special exception shall be limited to the proposed applicant or owner to whom the special exception is granted and shall be subject to the requirements of this subsection and article II, division 3 of this chapter. Any changes in ownership or to the use of the property will require a new special exception application.
- (b) Any fraternity or sorority house that, on the effective date of the adoption of this section:
- (1) Shall be a "nonconforming use of a structure pursuant to section 122-175 of this Code".
  - (2) Notwithstanding the provisions of sections 122-171 and 122-176 of this Code:
    - a. If the use of the structure changes, the structure shall cease to be a legal nonconforming use.
    - b. If the ownership of the structure changes, the structure shall cease to be a legal nonconforming use.
    - c. If the use of the structure discontinues for a period of more than one month, the structure shall cease to be a legal nonconforming use.
    - d. If, pursuant to the foregoing, the structure ceases to be a legal nonconforming use, it may thereafter only be used in conformance with the provisions of subsection (a), of this section.

(Ord. No. 5846, § 9, 4-25-08)