

ARTICLE VII – CONGREGATE LIVING FACILITY

Sec. 12-400.- Purpose and policy.

The purpose of this section is to protect public health, safety, and welfare; prevent unsafe residential overcrowding; preserve the residential character of neighborhoods lacking deed restrictions; and establish clear, uniform standards with regards to congregate living arrangements that are otherwise not regulated by State statutes, or the Code of Ordinances of the City of Port Lavaca as amended. This Article shall be administered to carry out this purpose. This Article is use- and safety-based, not tenant-based, and shall be enforced uniformly. Nothing in this Article shall be applied to living facilities contrary to the regulations established by Federal Law or State Laws.

Sec. 12-401. – Definitions.

Unless the context clearly indicates otherwise, in this Article:

Congregate Living Facility shall mean a building or structure in which three (3) or more sleeping rooms are rented or offered for rent separately, or where occupants do not function as a single house unit, including properties with separate leases, individual room locks, and shared kitchen or bath facilities. Congregate Living Facility shall also mean the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the International Residential Code in accordance with Section 101.2 of the International Building Code and be a Residential Group R-1 occupancy containing sleeping units where the occupants are primarily transient in nature with more than 10 occupants or as otherwise defined in Chapter 2 of the 2021 International Fire Code or any subsequent International Fire Code adopted by the City of Port Lavaca.

Dwelling Unit shall mean a structure or part of a structure containing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation as defined by chapter 2, section 202 of the International Building Code.

Sec. 12-402. – Change of use.

Any existing properties, whether residential or commercial that are modified or remodeled to increase the number of sleeping rooms, and/or the number of occupants, or otherwise modified or remodeled in such a way for the purposes of leasing individual rooms under separate rental agreements shall constitute a change of use to a commercial property, thus requiring all relevant building, electrical, plumbing, mechanical permits and inspections,

fire inspections and permits, compliance with all commercial property standards and codes, and a reissuance of the property's certificate of occupancy.

Sec. 12-403. – Permit required.

No property shall be used or occupied as a congregate living facility without a Congregate Living Facility Permit issued by the City of Port Lavaca.

Sec. 12-404. – Permit application.

To obtain a permit to operate a congregate living facility, a person must submit an application to the Building Department on a form provided for that purpose. The applicant must be the owner or operator of the congregate living facility. If the owner or operator is not an individual, an authorized officer or agent of the owner or operator must file the form. The application must contain the following information before it is complete:

(1) The name, street address, mailing address, e-mail address, telephone number, a legible copy of the driver's license or other official state or federal identification card, and date of birth of the applicant or authorized officer or agent filing the form on behalf of the applicant. The street address may not be the address of the congregate living facility unless the applicant actually resides full-time at the congregate living facility.

(2) The form of business of the applicant; if the owner or operator is a legal entity, such as a corporation or association, a copy of the documents establishing it as such;

(3) The street address and telephone number of the congregate living facility;

(4) Documentary evidence of payment of ad valorem taxes, fees, fines, and penalties owed to the city in connection with the congregate living facility;

(5) The maximum number of tenants that may occupy the congregate living facility at any singular point in time;

(6) A statement that, by filing the application, the applicant swears or affirms under penalty of perjury that, to the best of the applicant's knowledge, all information contained in the application is true and correct and that the application is complete and includes all information required to be disclosed under this section;

(7) Such additional information as the applicant desires to include or that the city manager or the city manager's designee deems necessary to aid in the determination of whether the requested permit should be granted.

Sec. 12-405. - Fees.

The fee for a permit to operate a congregate living facility shall be \$100.00 and shall be paid on an annual basis after the permit is approved. No refund of a permit fee will be made.

Sec. 12-406. – Issuance and denial of a permit.

Upon payment of all required fees and the submission of a complete application, the Building Department shall issue a permit to operate a congregate living facility once the department determines that:

- (1) The applicant has complied with all requirements for issuance of the permit;
- (2) The applicant, owners, or operators of the congregate living facility do not own or operate another permitted congregate living facility in the city for which the permit is currently suspended or has been revoked;
- (3) The applicant has not made false statement as to a material matter in the application for a permit;
- (4) The condition and use of the congregate living facility comply with the minimum standards of all applicable city codes and the standards in this article that are applicable to the property;
- (5) The applicant, owners, and operators do not owe the city any ad valorem taxes, fees, fines, or penalties. If the Building Department determines that the above requirements have not been satisfied, the department shall deny the license. The applicant shall be notified in writing that the application is denied and include in the notice the reason for the denial and a statement.

Sec. 12.407. – Permit renewal.

A permit for congregate living facilities shall be valid through the 31st of December and shall be renewed on or before the 31st of January. A permit can be renewed following the prescribed application process and payment of fees provided by this article.

Sec. 12-408. – Revocation of permit.

A permit for congregate living facilities may be revoked if it is determined that:

- (1) The permittee intentionally made a false statement as to a material matter in the application or in a hearing concerning the permit;
- (2) The permittee failed to pay a fee required by this article at the time it was due;
- (3) The permittee violates any provision of this Article.

Before revoking a permit, the Building Department shall notify the permittee in writing by certified mail, return receipt requested, that the permit is being considered for revocation. The notice must include the reason for the proposed revocation, action the permittee must take to prevent the revocation, and a statement that the permittee has ten (10) days to comply with the notice. If after ten (10) days from the date the notice required in by this section was sent or delivered, the permittee has not complied with the required actions listed in the notice, the department shall revoke the permit and notify the permittee of the revocation. The notice must include the reason for the revocation. If a permit has been revoked, the permittee has ten (10) days to relocate the tenants of the facility and cease operations.

Sec. 12-409. – Inspections; fees.

The following inspections shall be required to be in compliance with this Article:

(1) A congregate living facility must pass all required inspections, including but not limited to electrical, plumbing, mechanical, fire and life safety, permit/permit renewal, kitchen inspections, a gas pipe pressure test performed once every three years by the local gas company or a licensed plumber for a facility that receives natural gas service, annual inspection of liquefied or natural gas systems performed by an inspector certified by the state railroad commission for a facility with a liquified natural gas system.

(2) The permittee shall keep a current file of reports and other documentation on site that is needed to demonstrate compliance with applicable ordinances, laws, and regulations. Inspection records must be signed and dated by the appropriate authority and there must be no pending corrective actions.

(3) The Building Department or Fire Marshal's Office may inspect any congregate living facility for the purpose of ascertaining whether violations of this article or any other city ordinances exist. The department is authorized at a reasonable time to inspect:

a. The exterior of a structure and the surrounding premises; and

b. The interior of a structure if the permission of the owner, occupant, or person in control is given or a search warrant is obtained.

(4) If the owner, occupant or person in control denies permission to search any part of the interior or exterior of the structure or the surrounding premises, the department may suspend the permit to operate the congregate living facility.

(5) Whenever a congregate living facility is inspected by the department and a violation of this code is found, the building or premises will, after the expiration of any time limit for compliance given in the notice or order issued because of the violation, be reinspected by the department to determine that violation has been eliminated.

(6) The permittee shall pay \$40.00 to the city for each reinspection after the first reinspection by the department that must be conducted before the violation is determined to be eliminated.

Sec. 12-410. – Occupancy.

(a) A maximum of four (4) unrelated persons shall be permitted per dwelling unit.

(b) A maximum of two (2) persons shall be permitted per bedroom.

(c) A minimum of 150 sq. ft. in total floor area of the structure shall be required per occupant.

Sec. 12-411. – Parking.

There shall be a minimum of one (1) off-street parking space per bedroom; no parking on an unimproved surface shall be allowed.

Sec. 12.412. – Violations; penalty.

(a) A person who violates any provision of this article, or who fails to perform a duty required by this article, commits an offense.

(b) A permittee, employee, or other person in control of a congregate living facility commits an offense if the person knowingly operates an unsafe facility that represents an immediate threat to the health or safety of a tenant, including a situation that has caused, or is likely to cause, serious injury, harm, impairment, or death to a tenant.

(c) An offense under this article is punishable by a fine not to exceed:

(1) \$2,000.00 if the provision violated governs fire safety, public health, or sanitation; or

(2) \$500.00 for all other offenses.

(d) A separate offense occurs each day or part of a day that the violation is committed, continued or permitted.

(e) The city attorney may petition a district court or a county court of law for civil penalties and for injunctive relief to restrain a continuing violation of the standards or licensing requirements for a congregate living facility under this article if the violation creates an immediate threat to the health or safety of the facility tenants.

(f) The remedies and procedures in this section and in other laws are cumulative law, and the use of any particular remedy or procedure does not prevent the enforcement of any other law.

Sec. 12.413. 12-450 – Reserved.”