



CITY OF HARRISONBURG OFFICE OF THE CITY ATTORNEY

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TO: Ande Banks, City Manager
FROM: Chris Brown, City Attorney, Wesley Russ, Deputy City Attorney
DATE: February 8, 2024
RE: Additional information related to recovery residences and children

At its December 12, 2023, meeting, City Council considered and tabled a zoning text amendment to add “Recovery Residence” as a use and modify the definition of “family,” requesting additional information regarding child family members who reside in a recovery residence.

Virginia law recognizes two credentialing organizations for recovery residences: Oxford House and the Virginia Association of Recovery Residences (VARR). Each organization has unique approaches to addressing recovery residences that allow children, discussed below.

Most Oxford Houses in Virginia allow only adult men or adult women; however, a limited number of Oxford Houses allow children under specific conditions. Where the layout of a house is appropriate, Oxford House may have space designated for up to two residents who have children. No resident may have more than two children. A resident’s child(ren) share the parent’s bedroom. Oxford House reports that to date no chartered Oxford House in Virginia has had more than three children at a single time. Oxford House also limits the ages of children: children may be no older than 12 if the same sex as the residents of the house, or no older than 8 if the opposite sex as the residents of the house.

VARR requires operators to identify the target population to be served by each recovery residence, including the age range for children that will be accepted. To date, all three VARR-credentialed recovery residences that allow children limit children to five years old and under. VARR requires all operators to agree to report any incidents involving health and safety, including any involving children who reside at the site.

As part of our research, we contacted several people. We spoke to the Director of the Office of Recovery Services in the Virginia Department of Behavioral Health and Developmental Services (DBHDS), which oversees recovery residences in Virginia. The Director told us that at this time there is no regulation requiring a recovery residence to report incidents involving health and safety beyond what is required by the credentialing agencies. However, there are two bills pending in the General Assembly, one of which would require recovery residences to report to DBHDS any death or serious injury that occurs in a recovery residence. The other is a budget amendment directing DBHDS to develop recommendations on how to provide better oversight over the VARR and Oxford Homes and to submit such report by December 1, 2024.



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We also spoke to Beth Lawler, who directs the Child Protective Services Unit with the Harrisonburg Rockingham Social Services Department. She supports allowing children in recovery houses in appropriate situations. The local DSS has placed parents with a child in recovery houses outside of Harrisonburg and would welcome having a local recovery house which accepts children. Permitting a parent to have their child while in a recovery house is an incentive for the parent to enter the recovery house and to stay sober. Separating a child from a parent is a traumatic event with potential long term adverse effects on the child. While residing in a recovery residence may not be the ideal situation for a child, it is often better than available alternatives.

Ms. Lawler also said that she is not aware of any database which tracks incidents of child abuse or neglect which occur in recovery houses. She confirmed that a parent with a child in a recovery house is probably already working with CPS and is monitored. Also, there are not many recovery houses in Virginia which allow children so there would not be many (if any) abuse or neglect reports generated from such a small population.

We also spoke with the Commonwealth's Attorney's office. The Deputy Commonwealth's Attorney said that Courts don't sentence defendants to recovery houses but may make residing in a recovery residence a condition of a defendant's probation. The defendant could choose to remain incarcerated. Anyone who enters a recovery residence as part of their probation would be a non-violent, low-level offender whose charges were related to their addiction.

Definition of Recovery House

The staff report dated December 12, 2023, included a proposed definition of Recovery Residence. The Code of Virginia and the Virginia Administrative Code now contain an updated definition of Recovery Residence. That definition, modified slightly to function in our ordinance, reads as follows:

Recovery Residence: a dwelling unit that is (i) certified by the Virginia Department of Behavioral Health and Developmental Services or for which the certification process has been initiated, (ii) provides alcohol-free and illicit-drug-free housing to individuals with substance abuse disorders and individuals with co-occurring mental illnesses and substance abuse disorders and, (iii) does not include clinical treatment services. A recovery residence must be certified by the Virginia Department of Behavioral Health and Developmental Services with 12 months of opening to meet this definition.

Staff recommends adopting this definition in the City's zoning ordinance.



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We hope this address Council's questions. If there are other questions or concern please let us know and we will try to address them promptly.