



# RECOVERY RESIDENCES: Revised Draft Ordinance

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October 14, 2025*





## Presentation Overview

- The Story So Far...
- Revised Draft Ordinance
  - Summary of Proposed Changes
  - Setting Expectations
- Questions





## The Story So Far...

- Earlier this year, I presented an initial draft ordinance that would locally regulate recovery residences concurrently with state statutes
- Mindful of the restrictions of federal law (specifically, the Fair Housing Act and the Americans with Disabilities Act), the draft ordinance would:
  - Adopt state law requirements for recovery residences
  - Require operators to provide proof of certification to LFUCG
  - As a vehicle for proving certification, operators shall obtain a Recovery Residence License, renewable annually, and provide documents to examine compliance
  - Create an enforcement scheme and penalties for non-compliance





## Revised Draft Ordinance - Summary of Proposed Changes

- Addition of the NARR levels (types) of recovery residences, adopted by Kentucky Alliance of Recovery Residences (KYARR), to the definition of “recovery residence”:
  - Level I/Type P (Peer-Run)
  - Level II/Type M (Monitored)
  - Level III/Type S (Supervised)
  - Level IV/Type C (Clinical Provider)
- Rationale for change: This change makes clear that the definition of “recovery residence” adopted locally incorporates the same meaning adopted by NARR/KYARR





## Revised Draft Ordinance - Summary of Proposed Changes

- Addition of definition for “recovery support services”:
  - Activities directed primarily toward recovery from substance use disorders, including but not limited to mutual aid self-help meetings, recovery coaching, spiritual coaching, group support, and assistance in achieving and retaining gainful employment
  - Does not include any medical, clinical, behavioral health, or other substance use treatment service for which a license or other approval is required under state law
- Rationale for change: This definition is included in state statute and its inclusion here is intended to mirror state statute





## Revised Draft Ordinance - Summary of Proposed Changes

- Forbearance language for certifications in process:
  - A recovery residence operating without certification on the effective date of the ordinance shall be permitted to operate for a period of six (6) months, if it provides proof that it initiated a certification process prior to the effective date
  - A recovery residence that seeks to begin operating after the effective date of this ordinance shall be permitted to operate for a period of six (6) months, if it provides proof that it has initiated a certification process with a certifying organization
- Rationale for change: This change clarifies how the ordinance will apply to existing residences that have initiated certification (as of the effective date) and new residences who initiate certification (after the effective date)





## Revised Draft Ordinance - Summary of Proposed Changes

- License Requirement: Pre-Certification Operations

*Subject to the provisions of Section 13-94(c), no person or entity shall operate a recovery residence at any locations in Lexington-Fayette County unless that person or entity has obtained a valid business license and the required Recovery Residence License for each recovery residence operating at those locations, as provided in Section 13-13 of the Code and as further specified in this article.*

- Rationale for change: KYARR, and all NARR affiliates, require a recovery residence to be open and operational with occupancy prior to certification; by cross-referencing the six-month forbearance window in which certification is in process, the license requirement will better align with state law certification procedures by allowing new residences six months in which to operate and obtain certification





## Revised Draft Ordinance - Summary of Proposed Changes

- License Application: Occupancy

*The number of bedrooms in the recovery residence and maximum occupancy of the recovery residence, up to the occupancy limit of eight (8) persons consistent with the definition of “family or housekeeping unit” under Section 1-11 of the Zoning Ordinance*

- Rationale for change: This addition cross-references the occupancy limit set forth in the Zoning Ordinance applied to recovery residences based upon the definition of “family or housekeeping unit” set forth therein







## **Revised Draft Ordinance - Summary of Proposed Changes**

- License Application: Deletion of requirement for house rules to be provided
- Rationale for change: Review of housing standards is a function of the certification process administered by the Cabinet's designee and the certifying organization, not by LFUCG





## Revised Draft Ordinance - Summary of Proposed Changes

- License Application: Rehousing Transition Plan

*A written transition plan for rehousing residents of the applicant's recovery residence(s), should rehousing become necessary in the event of closure, cessation of operations, or final enforcement action*

- Rationale for change: In the event of closure, cessation of operations, or final enforcement action necessitating rehousing, requiring an applicant to have a written transition plan will minimize the adverse effects on recovery housing residents





## **Revised Draft Ordinance - Summary of Proposed Changes**

- Licenses: Expire on June 30 instead of December 31
- Rationale for change: This change will better align with the administrative needs of the Division of Revenue and align with the fiscal year upon which LFUCG operates





## **Revised Draft Ordinance - Summary of Proposed Changes**

- License Revocation: Deletion of “violation two or more times” as a basis for license revocation
- Rationale for change: Requiring multiple violations as a basis for license revocation appears inconsistent with state law requirement for certification that LFUCG seeks to adopt and enforce locally





## **Revised Draft Ordinance - Summary of Proposed Changes**

- **Duties of a Licensee: Clarifications**
  - Clarifies written notice in writing to LFUCG regarding changes in certified status
  - Incorporates NARR Levels (Types) into information posted on website
  - Deletes posting of “location” on website
  - Adds homeowner’s associations to notice requirement
  - Incorporates posting requirements from state statute (including local emergency contact)
  - Expressly references URLTA obligations
- **Rationale for change:** These changes strengthen notice and posting requirements, reduce concerns about privacy and stigmatization, and reiterates within the ordinance the operator’s ongoing obligation to comply with URLTA requirements (adopted by local ordinance)





## Revised Draft Ordinance - Summary of Proposed Changes

- Enforcement: Other Relief

*[N]othing herein is intended to limit nor shall be construed to limit or otherwise preclude the urban county government from enforcing other violations of the Code, concurrently with its enforcement of this article or otherwise, to the maximum extent authorized by law, including but not limited to structural and nuisance violations under Chapter 12 of the Code and public nuisance violations under Chapter 12 of the Code, including the pursuit of escalating enforcement action, alone or together, regarding same.*

- Rationale for change: There are different tools in LFUCG's toolbelt that can be used to address different types of Code violations, and nothing in this ordinance is intended to foreclose resort to other available enforcement tools, procedures, and remedies to gain compliance with the law





## Revised Draft Ordinance - Summary of Proposed Changes

- Enforcement: Immediate Action by Government
  - Designates Program Coordinator for LFUCG SUDI Program as central coordination point of contact in cases where immediate action is necessary
  - Adds detail about how immediate action by government is pursued and the coordination that will be required with other divisions, departments, and agencies
- Rationale for change: Where there is reason to believe that a violation presents imminent danger, a serious threat to public health and safety, or irreparable harm, LFUCG will need to triage the problem and seek immediate solutions. This change provides a bit more explanation regarding what that effort entails.





## **Revised Draft Ordinance - Summary of Proposed Changes**

- Addition of a Rehousing Section
  - If a recovery residence closes or is unable to continue operating, operator shall provide not less than sixty (60) days advance notice and execute and submit transition plan
  - Failure to do so is grounds for denial of a license and additional enforcement action
  - Program Coordinator for LFUCG SUDI Program works with the Cabinet or its designee (currently, KYARR) to aid the residents in identifying and securing alternative housing
- Rationale for change: This change provides an answer to the concern about how recovery housing residents will locate and obtain alternative housing if operations cease







## Revised Draft Ordinance – Setting Expectations

- Recovery residences are **residential** uses of property – this is **not** a commercial use of property and local regulations should not treat recovery residences differently than other residential uses from a land use perspective
- The revised draft ordinance is not a one-size-fits-all solution designed or intended to solve every conceivable problem involving recovery residences – it is, fundamentally, the local adoption of recovery residence standards (via local administration of the certification requirement) and a framework to ensure that those standards are being followed



# Questions?



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