



TO: Development Services Customers

SUBJECT: **INFORMATION BULLETIN 126**  
Certificate of Occupancy for Commercial Construction  
Temporary Certificate of Occupancy for Commercial Construction

DATE: November 27, 2006, *Revised: October 16, 2007; January 22, 2010, June 30, 2010, February 3, 2011, December 7, 2011, March 1, 2013/August 1, 2014, September 6, 2016/December 21, 2017*

CREATED BY: Plan Review Division

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**Purpose:**

As a customer service initiative, the Development Services Department (DSD) created this **revised** bulletin to update IB 126 to assist you with the process of obtaining a certificate of occupancy (CofO) for commercial construction or temporary certificate of occupancy for commercial construction. This bulletin has been updated to link to the department's new Commercial Project Application.

**Scope:**

The currently adopted International Building Code states in part that no building or structure shall be used or occupied until the building official has issued a Certificate of Occupancy (CofO).

**Certificate of Occupancy Customer Submittal documents:** the type of application the customer submits is based upon whether the business is associated with (1) [new construction](#) or (2) [an existing building](#).

- **New Construction** – Upon completion of the project, the department will issue the certificate of occupancy from the [Commercial Project Application and Guide](#) submitted for the project.
  - **Interior Finish-out** – new construction includes interior finish-out.
  - **Multiple Suites in a Shell Building** - a new shell building with multiple suites to be finished-out for a specific use(s) requires separate permits for each tenant space created. If the spaces are to be only partially completed by the owner/contractor, but not fully ready for occupancy (“white box” type completions), then a single permit can be used for the submittal and the Customer Assistance Team (CAR) shall make notes in the description box indicating that only a Certificate of Completion will be issued, or that “No Certificate of Occupancy” is to be issued.
    - Please ensure the suite number is included in the “Description of Work” field for all permits. This information will assist staff in ensuring all trade permits are properly linked to the parent permit and will expedite the issuance of the Certificate of Occupancy.
- **Automatic Issuance of CofO** - the CofO will be automatically issued when:
  - The occupancy classification is identified on the plans and application.

All applicable permits are secured such as building, electrical, plumbing, mechanical, and fire system permits.

- All inspections, to include special inspections, if applicable, have been performed and approved with the exception of sign permits and inspections, which may be obtained after issuance of the CofO.
- All children permits (trade permits) are linked to the parent permit (building permit).
- All outstanding fees such as permit fees, plan review fees, and re-inspection fees have been paid.
- **Shell Buildings** - on shell buildings a letter of certification shall be issued, upon request, when all permits have been issued and all applicable inspections to include special inspections have been approved.
- **Annexation**- Annexation is the process by which cities extend their municipal services, regulations, voting privileges and taxing authority to new territory. Specific annexation rules and regulations may be found in the adopted annexation ordinance. Please see the following link for Frequently Asked Questions and specific Ordinances.

<http://www.sanantonio.gov/Planning/PlanningUrbanDesign/Annexation.aspx>

Businesses that have been affected through the Annexation process are required to apply for a CofO with Development Services. Businesses that cannot produce a valid or current CofO previously issued by the County or other Municipality must apply for a new CofO as if they were applying for the first time.

Businesses that can produce a valid and current CofO previously issued by the County or other Municipality will be granted a Development Services CofO. However, prior to issuance of a CofO DSD will confirm whether or not an applicant needs to provide additional information that will assist in determining if the existing building is subject to retroactive modifications that meet current code requirements.

The following table gives examples of facilities that would normally require additional documentation through the Occupancy Classification Letter, OCL (a.k.a., "Commodities Letter") process outlined in Information Bulletin 192a and 192b.

Please note that this is not intended to be a complete list of all facilities. Also, there may be circumstances which are different than that listed below and an OCL may or may not be required to determine code compliance. If you still have questions on whether or not your facility requires an OCL, please contact DSD's Fire Protection Engineer at 210-207-8056.

FACILITIES THAT GENERALLY DO REQUIRE AN OCL VERIFICATION	FACILITIES THAT GENERALLY DO NOT REQUIRE AN OCL VERIFICATION
Warehouses	Assembly occupancies
Manufacturing facilities	Restaurants
Repair & maintenance shops	Business offices
Laboratories	Schools
Hospitals	Daycares (including adult day care and assisted living facilities)
	Residential uses (motels, hotels, apartments, live/work units, etc.)

Please refer to [Information Bulletin 192b](#), which contains Frequently Asked Questions (FAQ's), as well as definitions pertinent to High-Piled Combustible Storage and Hazardous Materials Inventory Statements.

- **Existing Building** – Development Services amended Section 111.1 of the 2015 International Building Code whereby the requirements for a [Certificate of Occupancy Permit Application](#), which is attached as Appexdix 1, will not be required for any existing building or structure that already has a CofO unless the business use is one of the following:
  - **Live Entertainment - the definition of Live Entertainment is as follows:**

<b>Chapter 35, Appendix A., Definition and Rules of Interpretation</b>	
Bar	See "Tavern"
Cover Charge	A fee levied by a food service establishment, nightclub or tavern in addition to the charge for food and/or drink.
Live Entertainment	A use which includes any and all of the following activities, either principal or accessory: performance by musicians, dancers, stand-up comedians or other performance artists, karaoke, live bands or musical actions; or the amplification of recorded music/entertainment by live disk jockeys.
Nightclub	A tavern with more than two thousand (2,000) square feet of the building area excluding kitchen, restrooms and storage areas. A nightclub use may include, in addition to the provisions of alcohol, a dance hall and/or live entertainment as an accessory use.
Tavern	Any use in which seventy-five (75) percent or more of its gross revenue is derived from the on-premises sale and consumption of alcoholic beverages. A tavern use may include, in addition to the provision of alcohol, food services, and/or live entertainment as an accessory use.

- **Sexually oriented businesses (SOB)** - Chapter 35, Section A101 of the Unified Development Code defines a SOB to include any type of the following businesses: Adult arcade, adult bookstore, adult video store, adult cabaret (topless club), adult motel, adult mini-theatre, escort agency, nude modeling studio and an unlicensed massage parlor.
- **For older buildings** where an existing Certificate of Occupancy cannot be found in the City computer records or the customer is unable to provide a valid Certificate of Occupancy.
- **Special Events (Temporary) CofO** – the Unified Development Code requires the following temporary uses be issued a Certificate of Occupancy:

[Tents more than 1200 square feet](#)

Christmas tree sales

Promotional circuses and carnivals

Parking of oversized vehicles in non-residential zoned districts

- **Metro Health Department's Requirements for Changes in Use** - the Health Code in Chapter 13 of the City Code requires that any of the establishments listed below require an inspection and new license if there are name changes, owner changes or other situations where the existing food license is no longer valid. Even though a new Certificate of Occupancy may not be required, a new Health license and inspection would still be required. Those establishments that require this inspection and licensing are:

Restaurants, Fast Food Establishments, Grocery Stores, Bingo Parlors, Bars, Bowling Alleys, Convenience Stores. Child Care facilities, School (public or private), Nursing Homes, Swimming Pools, Paint and Body Shop, Hotels and Motels that have food and drink and/or a swimming pool, Mobile Living Parks if they have any type of food and drink or swimming pool. Any other type of establishment that serves food or drink, whether open or pre-packaged or pre-bottled, including video stores, thrift stores, auto supply, drug stores, flea markets, liquor stores.

**Additional Submittal Documents for Business Uses with Locational Requirements** - certain businesses have distance requirements pursuant to the Unified Development Code, Chapter 16, Article VII of the City Code, the Texas' Alcoholic Beverage Code or Human Resources Code. In order to ensure the distance requirements are met, the department requires customers to submit an [Affidavit](#) stating the proposed business meets the locational requirements and a certified site map prepared by a state licensed engineer or state licensed surveyor. In addition, if the applicant is not the owner of the property, the department requires authorization by the property owner. Appendix 2 contains the Affidavit and

excerpts from the various codes regarding locational requirements. The uses with locational requirements include:

- **Alcohol Sales** – Section 109.33 of the Texas’ Alcoholic Beverage Code provides that no alcoholic beverages shall be sold for consumption on or off the premises where sold, when such premises are located within 300 feet of any church, school or hospital. Note: If the applicant submitted these documents in connection with their TABC pre-qualification package within the last six months, those documents may be submitted to verify the locational requirements have been met. For additional information regarding TABC Applications, please review [Information Bulletin 168](#).
- **Bed and Breakfasts** – Section 35-374 of the Unified Development Code provides that no bed and breakfast establishment may be permitted within 300 ft. laterally and 150 feet perpendicular to any other property authorized for a bed and breakfast use.
- **Boarding Homes** – [Ordinance 2012-12-13-0971](#) provides that a boarding home facility cannot be within ½ mile of an existing boarding home facility. In addition, owners or operators of a boarding home facility must obtain a Boarding Home License issued by the City of San Antonio, Development Services. The Boarding Home License Application and the Certificate of Occupancy Application will be processed by the Code Enforcement Section of Development Services Department.
- **Community Homes and Assisted Living Facilities** – Chapter 123.008 of the Human Resources Code provides that a community home or assisted living facilities may not be established within 1/2 mile of an existing community home.
- **Head Shops** – Section 35-377 of the Unified Development Code provides that no head shop shall be established or maintained within 1000 feet of property which is temporarily or permanently zoned residential, churches, hospitals, community centers, museums, parks or schools.
- **Transitional Homes** – Section 35-390 of the Unified Development Code provides that a transitional home shall not be located within 1000 ft of any public/private elementary, middle or high school, public/private children’s day care facility regarding a certificate of occupancy and/or public park.
- **Sexually Oriented Businesses** - Section 35-424(c) of the Unified Development Code requires verification of the distance separation requirement of 1000 feet from a residential zoned property, churches, schools, parks or licensed child care facility. In addition to the locational requirements, customers must submit a sworn [affidavit](#) stating the name and mailing address of all owners of the planned or existing SOB, and, if a corporate owner, the current name and street address of the corporate president and registered agent for service on file with the Texas Secretary of State. In addition, the applicant must obtain an SOB license issued by the San Antonio Police Department.
- **Salvage Yards and Metal Recycling Facilities** – Chapter 16, Article VII of the City Code of San Antonio requires purchasers of regulated metal property for resale or recycling obtain a license from the City, whether the purchaser operates as a metal recycling facility or a salvage yard. For additional information regarding the procedures for obtaining a license to operate a Salvage Yard (Auto Dismantlers) and Metal Recycling Facility, please review [Information Bulletin 800](#).
- **Existing Businesses with Locational Requirements**– For existing businesses, applicant may verify [continuous operations](#) in lieu of submitting an Affidavit with the survey.

**Certificate of Occupancy for Business with Gaming Devices** – the department requires owners of businesses with a proposed use of gaming to submit an [Affidavit](#) acknowledging the proposed business will only be used for “gaming” and not “gambling.”

**Certificate of Occupancy for Automotive Repair and Body Shops** – the department requires owners of businesses with a proposed use of automotive repairs or body shop to submit an [Affidavit](#) acknowledging the proposed use will not entail the dismantling and crushing of vehicles or the purchase of regulated metals or materials for resale or recycling, which would require a license from the City as a salvage yard and/or metal recycling facility pursuant to Chapter 16, Article VII of the City Code of San Antonio.

**Live Entertainment** – the following matrix is an excerpt from the Unified Development Code to provide information on what zoning allows live entertainment:

Type of Live Entertainment	O-1 & O-1.5	O-2	NC	C-1	C-2	C-3	D	L	I-1	I-2	ERZD
<b>Alcohol</b> – bar and/or tavern without cover charge 3 or more days per week	*	*	S	S	S	P	P	P	*	*	P
<b>Alcohol</b> – bar and/or tavern with cover charge 3 or more days per week	*	*	*	*	*	S	P	*	*	*	P
<b>Alcohol</b> – nightclub without cover charge 3 or more days per week	*	*	*	*	*	P	P	P	*	*	*
<b>Alcohol</b> – nightclub with cover charge 3 or more days per week	*	*	*	*	*	S	P	*	*	*	*
<b>Live entertainment</b> without cover charge 3 or more days per week (not including food service establishments)	*	*	*	*	*	S	P	*	*	*	P
<b>Live entertainment</b> with cover charge 3 or more days per week (not including food service establishments)	*	*	*	*	*	S	P	*	*	*	P
<b>Food service establishments</b> without cover charge 3 or more days per week	*	P	P	P	P	P	P	P	P	*	P
<b>Food service establishments</b> with cover charge 3 or more days per week	*	*	*	*	*	S	P	*	*	*	P
<b>* - Zoning does not allow the business use</b> <b>S- Specific use authorization is required</b> <b>P – business use is permitted</b>											

**Change of Ownership** - when a change of ownership of an existing building or tenant space within a building occurs, and the use group classification remains the same and the occupancy classification and/or proposed use does not fall into one of the classifications above or is not a Boarding Home, an application for a Certificate of Occupancy is not required. If so desired, the new owner may request a copy of the existing Certificate of Occupancy, or they may request a name change on the existing Certificate of Occupancy. The [fee schedule](#) contains those fees. If you remodeled the space, the department will automatically issue a new Certificate of Occupancy if you indicated on your Commercial Remodel Permit Application that you would like a new Certificate of Occupancy and you submitted building plans that showed the full building with dimensions and uses of all spaces and rooms.

**Temporary Certificate of Occupancy** - upon receipt of an [Application for Temporary Certificate of Occupancy](#) (TCO), a TCO may be issued when all necessary permits have been obtained and all inspections preceding the final inspection are approved. On those inspections that are not ready for final inspection, for whatever reason, it is the responsibility of the permit holder to request from the appropriate [inspector](#) an approval for TCO. The inspector must document the approval on the yellow TCO inspection slip and indicate the number of days approved. If the number of days approved by each inspector varies, then the lesser shall apply. Prior to the issuance of the TCO, all outstanding fees such as permit fees, plan review fees, re-inspection fees and TCO fee shall be paid.

The TCO will be put on a suspense file until the permanent CofO is issued or the TCO expires, at which time the permit holder is required to apply for an extension of the TCO and pay the required [fee](#). Occupying a building prior to the issuance of a CofO or with an expired TCO will be viewed as a violation of the building code and result in application of the move-in penalty fee identified in the adopted [fee schedule](#).

The [Application for Temporary Certificate of Occupancy](#) is attached as Appendix 3.

## **Tips to Expedite the Issuance of the Certificate of Occupancy**

- For new construction, ensure all of the child permits (trade permits) are linked to the parent permit (building permit)
- For projects with multiple buildings, please put the suite number in the “description of work.” This step will help staff link permits.
- Call 207-1111, Option 0 and request the Call Center run a checklist to see if your project is ready for the issuance of the CofO.
  - If your project is ready for the issuance of the CofO, the Call Center will prepare your CofO and have it ready for you to pick up. They also will mail the CofO to you, which will save you a trip to the DBS Center.


For additional information, please contact Development Services Department at 207-1111, option 0.

### **Summary:**

This Information Bulletin is for informational purposes only.

**Prepared by:** Andrew Espinoza, CBO, MCP  
**Reviewed by:** Terry Kannawin, Assistant Director  
**Authorized by:** Michael Shannon, PE, CBO, Assistant Director

## Appendix I

		City of San Antonio Development Services Department 1901 S. Alamo San Antonio, Texas 78204		(210) 207-1111 <a href="http://www.sanantonio.gov/dsd">www.sanantonio.gov/dsd</a>	
		<b>Certificate of Occupancy Application **Must be processed in person**</b>			
Name of Business					
Address of Business		Bldg No.:		Suite No.:	
Owner of Business					
Contact Name (Primary Contact)		Telephone Number		Email:	
Applicant Name					
Description of Business (be specific)					
Function of Space (be specific)					
Is the business currently in operation?		Y N	Is this a change of "use" of the building or site? If yes, a traffic review of a parking site plan may be required.		Y N
Is there an existing shared parking agreement? (Parking must comply with UDC section 35-526)					Y N
<b>Related Building Permits</b>					
Y N	Is a Building Permit required in conjunction with this application? If yes, please list the AP No.				
Y N	Are there any open permits at the location? <b>Any "open" permit will require clearance.</b>				
Y N	If open permits exist, do you want the inspectors to inspect the work performed as part of the Certificate of Occupancy inspection process?				
Y N	Is there an existing <b>Fire Sprinkler System</b> ?				
Y N	Is there an existing <b>Fire Alarm System</b> ?				
<b>Type of Business</b>					
	TYPE OF BUSINESS	REQUIRED ITEMS		REQUIRED ITEMS	
Y N	Will there be any gaming devices?	Gaming Device Affidavit		Parking Site Plan	
Y N	Will there be food or drink?	Health Inspection		Parking Site Plan if a change of use	
Y N	Childcare, school or nursing home?	Health Inspection		Parking Site Plan	
Y N	Will alcohol be sold?	Locational Affidavit and Survey - Chapter 4 City Code (TABC License required to sell alcohol)		Parking Site Plan	
Y N	Is this a Bed and Breakfast?	Locational Affidavit and Survey - Section 35-374 UDC		Parking Site Plan	
Y N	Community Home or Assisted Living Facility?	Locational Affidavit and Survey - Section 35-376 UDC		Parking Site Plan	
Y N	Headshop?	Locational Affidavit and Survey - Section 35-377 UDC		Parking Site Plan	
Y N	Transitional Home?	Locational Affidavit and Survey - Section 35-390 UDC		Parking Site Plan	
Y N	Sexually Oriented Business?	SOB License issued by San Antonio Police Department, <a href="#">SOB Affidavit (with survey)</a> , and traffic review of site plan are required		Parking Site Plan	

Y N	Boarding Home	License issued by Code Enforcement	
Y N	Automobile Repair or Body Shop,	Affidavit for Automobile Repair	
Y N	Salvage Yard, Metal Recycling	License issued by Code Enforcement	

**NOTE: For existing businesses, Applicant has the option of submitting a Verification of Operation Certificate issued by Land Development (Zoning) in lieu of the Affidavit.**

**Live Entertainment – If you answer “yes” to any of the following items, you must have the applicable zoning listed in the following table to apply for a Certificate of Occupancy.**

**\*\*\* In addition, traffic review of site plan is required. \*\*\***

**To determine whether your business could be considered a nightclub, indicate square footage of building (excluding kitchen, restrooms and storage area)** \_\_\_\_\_ **sq. ft**

		Type of Live Entertainment	O-1 & O-1.5	O-2	NC	O-1	O-2	O-3	D	L	I-1	I-2	ERZD
Y	N	<b>Alcohol</b> – bar and/or tavern without cover charge 3 or more days per week	*	*	S	S	S	P	P	P	*	*	P
Y	N	<b>Alcohol</b> – bar and/or tavern with cover charge 3 or more days per week	*	*	*	*	*	S	P	*	*	*	P
Y	N	<b>Alcohol</b> – nightclub without cover charge 3 or more days per week	*	*	*	*	*	P	P	P	*	*	*
Y	N	<b>Alcohol</b> – nightclub with cover charge 3 or more days per week	*	*	*	*	*	S	P	*	*	*	*
Y	N	<b>Live entertainment</b> without cover charge 3 or more days per week (not including food service establishments)	*	*	*	*	*	S	P	*	*	*	P
Y	N	<b>Live entertainment</b> with cover charge 3 or more days per week (not including food service establishments)	*	*	*	*	*	S	P	*	*	*	P
Y	N	<b>Food service establishments</b> without cover charge 3 or more days per week	*	P	P	P	P	P	P	P	P	*	P
Y	N	<b>Food service establishments</b> with cover charge 3 or more days per week	*	*	*	*	*	S	P	*	*	*	P

\* - Zoning does not allow the business use      S- Specific use authorization is required      P – business use is permitted

**Chapter 35, Appendix A., Definition and Rules of Interpretation**


Bar	See “Tavern”
Cover Charge	A fee levied by a food service establishment, nightclub or tavern in addition to the charge for food and/or drink.
Live Entertainment	A use which includes any and all of the following activities, either principal or accessory: performance by musicians, dancers, stand-up comedians or other performance artists, karaoke, live bands or musical actions; or the amplification of recorded music/entertainment by live disk jockeys.
Nightclub	A tavern with more than two thousand (2,000) square feet of the building area excluding kitchen, restrooms and storage areas. A nightclub use may include, in addition to the provisions of alcohol, a dance hall and/or live entertainment as an accessory use.
Tavern	Any use in which seventy-five (75) percent or more of its gross revenue is derived from the on-premises sale and consumption of alcoholic beverages. A tavern use may include, in addition to the provision of alcohol, food services, and/or live entertainment as an accessory use.

Y N	<p><b>Will this proposed business have any of the following uses?</b></p> <p>Restaurant, Fast Food, Grocery Store, Bar, Liquor store, Bingo Parlor, Bowling Alley, Convenience Store, Child Care Facility, School (public or private), Swimming Pool, Paint and Body Shop, Hotel or Motel, or any type of retail establishment that sells or serves food or drinks whether open, or pre-packaged or pre-bottled. <b>If yes, a health inspection is required to obtain a Certificate of Occupancy.</b></p>
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**The information included in this application is true and accurate.**

**Date:** \_\_\_\_\_ **Owner/Authorized Agent Signature:** \_\_\_\_\_



	<b>City of San Antonio</b> <b>Development Services Department</b> <b>1901 S. Alamo</b> <b>San Antonio, Texas 78204</b>	<b>(210) 207-1111</b> <a href="http://www.sanantonio.gov/dsd">www.sanantonio.gov/dsd</a>
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**AFFIDAVIT IN SUPPORT OF CERTIFICATE OF OCCUPANCY (Alcohol Sales, Bed & Breakfast, Community Home, Assisted Living Facility, Head Shop, and Transitional Home)**

<b>Name of Business</b>	
<b>Address of Business</b>	
<b>Proposed Use of Property</b>	

By my signature below, I acknowledge that I am aware of the locational requirements related to the proposed use of the property. I further affirm that violations may result in suspension and/or revocation of this certificate of occupancy.

I hereby submit a certified survey map prepared by state licensed engineer or a state licensed surveyor that shows the required minimum distances from properties with protected uses or protected zoning. Said survey map shows the proposed use of the property meets the City's locational requirements.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Applicant's Signature)

STATE OF TEXAS           §  
  §  
COUNTY OF BEXAR       §

Before me, the undersign authority, on this day personally appeared \_\_\_\_\_, the affiant who, after being duly sworn on oath, deposed and states the facts herein set forth are true and correct.

Sworn to and subscribed before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

Type of Business	Code References for Locational Requirements
Alcohol Sales	Section 109.33 of the Texas' Alcoholic Beverage Code
Bed & Breakfast	Section 35-374 of the Unified Development Code
Community Home Assistant Living Facility	Section 123.008 of the Human Resources Code and Section 35-376 of the Unified Development Code
Head Shop	Section 35-377 of the Unified Development Code
Transitional Home	Section 35-390 of the Unified Development Code



City of San Antonio  
 Development Services Department  
 1901 S. Alamo  
 San Antonio, Texas 78204

(210) 207-1111  
[www.sanantonio.gov/dsd](http://www.sanantonio.gov/dsd)

**Authorization by Property Owner  
 (Required if Applicant is not the owner of the subject property)**

<b>Property Owner</b>	
<b>Address of Business</b>	
<b>Proposed Use of Property</b>	

By my signature below, I swear and affirm that I am the owner of the property. As the owner of the property, I give \_\_\_\_\_ permission to submit all necessary documentation in support of a Certificate of Occupancy Application for the above-listed proposed use of the property and to serve as my representative for this request. I further affirm that any violation may result in suspension and or revocation of the Certificate of Occupancy.

\_\_\_\_\_  
 (Date)

\_\_\_\_\_  
 Property Owner Signature (and title, if  
 Signing for a Partnership, Corporation or Trust)

STATE OF TEXAS           §  
   §  
 COUNTY OF BEXAR       §

Before me, the undersign authority, on this day personally appeared \_\_\_\_\_, the affiant who, after being duly sworn on oath, deposed and states the facts herein set forth are true and correct.

Sworn to and subscribed before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_\_.

\_\_\_\_\_  
 NOTARY PUBLIC, STATE OF TEXAS

**Locational Requirements**  
**EXCERPT FROM THE TEXAS ALCOHOLIC BEVERAGE CODE**  
TITLE 4. REGULATORY AND PENAL PROVISIONS  
CHAPTER 109. MISCELLANEOUS REGULATORY PROVISIONS

Sec. 109.33. SALES NEAR SCHOOL, CHURCH, OR HOSPITAL.

(a) The commissioner's court of a county may enact regulations applicable in areas in the county outside an incorporated city or town, and the governing board of an incorporated city or town may enact regulations applicable in the city or town, prohibiting the sale of alcoholic beverages by a dealer whose place of business is within:

(1) 300 feet of a church, public or private school, or public hospital;

(2) 1,000 feet of a public school, if the commissioner's court or the governing body receives a request from the board of trustees of a school district under Section 38.007, Education Code; or

(3) 1,000 feet of a private school if the commissioner's court or the governing body receives a request from the governing body of the private school.

(b) The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school shall be:

(1) in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or

(2) if the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.

## Excepts from the Unified Development Code Regarding Uses with Locational Requirements

### Sec. 35-374. Bed and Breakfast.

#### STATEMENT OF PURPOSE

*The purpose of this section is to regulate bed and breakfast establishments within the city. Such establishments as specified by zoning district are subject to the conditions of this section.*

(a) Applicability. The provisions of this section shall apply to the establishment of any bed and breakfast in the city.

(b) Definitions. Definitions which appear below apply only to this section and shall prevail if in conflict with definitions found elsewhere within this chapter.

(1) Distressed structure means a structure which has been certified by the historic preservation officer as being more than fifty-one (51) percent uninhabitable or vacant, and/or in disrepair for more than two (2) years.

(2) Owner of the property means a natural person directly owning at least fifty (50) percent fee simple interest in the property and who shall also occupy the premises as his place of residence.

(c) Number of Guest Rooms per Structure. The maximum number of permitted guest rooms per bed and breakfast establishment within each zoning district shall be as indicated in the following table. Any bed and breakfast establishment with more than twelve (12) guest's rooms shall be considered a hotel and shall be required to comply with the zoning provisions for such uses.

TABLE INSET:

Zoning District	Number of Guest Rooms
RE, R-20, NP-15, NP-10, NP-8, R-6, RM-6	2
R-4, R-5, RM-5	1
RM-4, MH	3
MF-18, MF-25	5
MF-33, MF-40, MF-50, O-1, O-1.5, O-2	10
NC, C-1, C-2, D	12

(d) Certificate of Occupancy. A certificate of occupancy shall be required for all bed and breakfast establishments.

(e) Guest Register Required. The owner/operator shall maintain a current guest register to include names, addresses, fees collected and dates of occupancy of all guests.

(f) Signage Requirements. No signs shall be permitted within residential districts except for a nameplate not exceeding one (1) square foot in size and consisting of the name of the establishment only. This nameplate may be attached to the building, gatepost, gate, or other permanent fixture to allow visibility from the street.

(g) Parking Space Requirements. One (1) off-street parking space per guest room shall be provided in addition to the required off-street parking for the owner/operator. Tandem parking is allowed; however, except for the driveway, the front yard shall not be used for parking.

(h) Cleaning Requirements. The owner/operator shall provide clean linens and towels as necessary, as well as adequate heating, ventilation, water, and sewage disposal. The owner/operator shall maintain the outside area in a clean and sanitary manner and shall properly clean the premises and facilities during the guest's stay and after each guest has departed.

(i) Regulations Pertaining to Bed and Breakfast Establishments Within Any Zoning District. Except as provided for by subsection (3) of this section, no bed and breakfast establishments within these zoning districts may be permitted within three hundred (300) feet laterally and one hundred fifty (150) feet perpendicularly (as below) of any other property authorized for a bed and breakfast use within any zoning district. Such measurements shall be made from the property line of the proposed bed and breakfast to the nearest property line of the existing bed and breakfast. (See Figure 374-1)

Measurement for the location of a proposed bed and breakfast establishment shall be in a straight line (without regard to intervening structures or objects) in three (3) directions. The first measurement shall be from the nearest front property line of the proposed bed and breakfast establishment one hundred fifty (150) feet outward towards the street. The second and third measurements shall be from the two (2) side

property lines of the proposed bed and breakfast three hundred (300) feet laterally to the side lot line(s) of adjacent properties.

Specific use permit approval to operate a bed and breakfast establishment within the above measurement formula of one hundred fifty (150) feet and three hundred (300) feet of another bed and breakfast establishment as defined in subsection (b) above may be granted for the following structures:

(1) Distressed Structure. The applicant must demonstrate, and the city council must find:

- The restoration of a historic landmark or structure is a valuable addition to the quality and the character of the city; or
- There is proof that a bed and breakfast use is the only economically feasible way to finance the preservation of the structure; and
- The granting of a special city council approval will not adversely impact the residential quality of the neighborhood in which the structure is located.

(2) Non-Distressed Structure. The applicant must demonstrate, and the city council must find:

- The public welfare and convenience will be served, as demonstrated by subsections (1) and (2), below.

(3) That nearby streets will not be substantially impacted by the proposed bed and breakfast. To make this determination, the city council shall consider input from the city traffic engineer.

(4) The residential character of the neighborhood will not be disrupted in a manner to prevent the adjacent owners from the quiet enjoyment of their property.

- The neighboring property will not be substantially injured by such proposed use.

(j) Regulations Pertaining to Bed and Breakfast Establishments Within the Residential Zoning districts. Bed and breakfast establishments within residential zoning districts shall be managed and occupied by the owner of the property. Permission shall be granted by the director of development services for an on-site manager to be employed by the owner for a time not to exceed one hundred twenty days (120) of a calendar year. If circumstances require the absence of the owner for a period exceeding one hundred twenty (120) days, the director of development services may grant an extension for good cause.

(k) Nonconforming Rights. Properties which are used as bed and breakfast establishments as of May 6, 1999, as well as properties properly zoned for use as bed and breakfast establishments, may be registered as nonconforming uses at the department of development services and upon such registration shall continue as long as the establishment remains in operation as per article VII of this chapter. Any property currently zoned for use as a bed and breakfast, but not used as such, shall within one (1) year from the May 6, 1999 begin to be used as a bed and breakfast for this subsection to apply.

(Ord. No. 95573 § 6, Amendment "F") (Ord. No. 98697 § 4 and 5) (Ord. No. 2009-01-15-0001, § 2, 1-15-09)

## **Community Homes**

### HUMAN RESOURCES CODE

#### TITLE 8. RIGHTS AND RESPONSIBILITIES OF PERSONS WITH DISABILITIES CHAPTER 123. COMMUNITY HOMES FOR DISABLED PERSONS LOCATION ACT

Sec. 123.001. SHORT TITLE. This chapter may be cited as the Community Homes for Disabled Persons Location Act.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 12.01(a), eff. Aug. 26, 1991.

Sec. 123.002. DEFINITION. In this chapter, "person with a disability" means a person whose ability to care for himself, perform manual tasks, learn, work, walk, see, hear, speak, or breathe is substantially limited because the person has:

- (1) an orthopedic, visual, speech, or hearing impairment;
- (2) Alzheimer's disease;
- (3) pre-senile dementia;
- (4) cerebral palsy;
- (5) epilepsy;
- (6) muscular dystrophy;
- (7) multiple sclerosis;
- (8) cancer;
- (9) heart disease;
- (10) diabetes;
- (11) mental retardation;
- (12) autism; or
- (13) emotional illness.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 12.01(a), eff. Aug. 26, 1991.

Sec. 123.003. ZONING AND RESTRICTION DISCRIMINATION AGAINST COMMUNITY HOMES PROHIBITED. (a) The use and operation of a community home that meets the qualifications imposed under this chapter is a use by right that is authorized in any district zoned as residential.

(b) A restriction, reservation, exception, or other provision in an instrument created or amended on or after September 1, 1985, that relates to the transfer, sale, lease, or use of property may not prohibit the use of the property as a community home.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 12.01(a), eff. Aug. 26, 1991.

Sec. 123.004. QUALIFICATION AS COMMUNITY HOME. To qualify as a community home, an entity must comply with Sections 123.005 through 123.008 and be:

(1) a community-based residential home operated by:

(A) the Texas Department of Mental Health and Mental Retardation;

(B) a community center organized under Subchapter A, Chapter 534, Health and Safety Code, that provides services to persons with disabilities;

(C) an entity subject to the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes); or

(D) an entity certified by the Texas Department of Human Services as a provider under the medical assistance program serving persons in intermediate care facilities for persons with mental retardation; or

(2) an assisted living facility licensed under Chapter 247, Health and Safety Code, provided that the exterior structure retains compatibility with the surrounding residential dwellings.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 12.01(a), eff. Aug. 26, 1991. Amended by Acts 1997, 75th Leg., ch. 491, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 233, Sec. 6, eff. Sept. 1, 1999.

Sec. 123.005. REQUIRED SERVICES. A community home shall provide the following services to persons with disabilities who reside in the home:

(1) food and shelter;

(2) personal guidance;

(3) care;

(4) habilitation services; and

(5) supervision.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 12.01(a), eff. Aug. 26, 1991.

Sec. 123.006. LIMITATION ON NUMBER OF RESIDENTS. (a) Not more than six persons with disabilities and two supervisors may reside in a community home at the same time.

(b) The limitation on the number of persons with disabilities applies regardless of the legal relationship of those persons to one another.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 12.01(a), eff. Aug. 26, 1991.

Sec. 123.007. LICENSING REQUIREMENTS. A community home must meet all applicable licensing requirements.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 12.01(a), eff. Aug. 26, 1991.

Sec. 123.008. LOCATION REQUIREMENT. A community home may not be established within one-half mile of an existing community home.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 12.01(a), eff. Aug. 26, 1991.

Sec. 123.009. LIMITATION ON NUMBER OF MOTOR VEHICLES. Except as otherwise provided by municipal ordinance, the residents of a community home may not keep for the use of the residents of the home, either on the premises of the home or on a public right-of-way adjacent to the home, motor vehicles in numbers that exceed the number of bedrooms in the home.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 12.01(a), eff. Aug. 26, 1991.

Sec. 123.010. ENSURING THE SAFETY OF RESIDENTS. The Texas Department of Mental Health and Mental Retardation shall make every reasonable effort to ensure the safety of community home residents and the residents of a neighborhood that is affected by the location of a community home.

Added by Acts 1993, 73rd Leg., ch. 646, Sec. 14, eff. Aug. 30, 1993.

**Sec. 35-377. Head shops.**

(a) Spacing. Notwithstanding any other provisions of this chapter, no head shop shall be established or maintained within one thousand (1,000) feet of any of the following uses:

- (1) Property which is temporarily or permanently zoned residential.
- (2) Churches.
- (3) Hospitals.
- (4) Community centers.
- (5) Museums.
- (6) Parks.
- (7) Schools.

(b) Measurement of Spacing. Measurement shall be made in a straight line from the nearest boundary of property so zoned to the nearest part of the building in which such use is made, if the same commercial activity occupies an entire building; provided, that the case of a building which is divided into separate rental or ownership spaces devoted to different uses or enterprises, measurement shall be made to such space or unit of the building in which such use is made.

(c) Registration and Amortization of Nonconforming Uses. Any properties devoted to such use which are so located due to zoning, rezoning, or annexation may be registered as nonconforming uses at the development services department within sixty (60) days from the date of becoming nonconforming with this chapter, by the owners or any other interested party and upon such registration, such use may thereafter be continued for a period not to exceed three (3) years. After termination of the three-year period, such operation and use must cease.

(Ord. No. 98697 § 5) (Ord. No. 101816, § 2, 12-15-05)

**Sec. 35-390. Transitional Homes.**

A transitional home established after November 17, 1997, shall not be located within one thousand (1,000) feet of any public/private elementary, middle or high school, public/private children's day care facility requiring a certificate of occupancy and/or public park.

(a) Method of Measurement and Survey Requirements.

(1) Measurements shall be in a straight line, without regard to intervening structures or objects, from the nearest point of the platted property line of the lot on which the transitional home is situated to the nearest point on the property line of a public/private elementary, middle or high school, a public/private children's day care facility requiring a certificate of occupancy, and/or public park.

(2) A certified survey prepared by a licensed surveyor or licensed engineer showing distance measurements in accordance with this subsection shall be submitted to the director of development services for all transitional homes as part of the application for the certificate of occupancy. Any certificate of occupancy issued for a building or facility used to conduct a transitional home without submission of the required survey shall be null and void.

(b) Signage. (See sign regulations under chapter 28 of the Municipal Code.)

(c) Building Standards.

(1) Separate beds must be available twenty-four (24) hours a day for each resident housed within the facility.

(2) Bedrooms shall have a minimum of fifty (50) square feet of usable floor space exclusive of closets or other personal storage areas per resident.

(3) Bathroom facilities consisting of a tub and/or shower and one (1) toilet, and one (1) lavatory shall be provided for each eight (8) residents housed.

(4) Areas for leisure activities shall be provided at the rate of twenty (20) square feet for each resident.

(5) If food is prepared on-site a full kitchen must be maintained and will be subject to compliance with applicable codes and inspection by the San Antonio Metropolitan Health District.

(d) Lot Standards. A yard area of fifty (50) square feet per resident housed shall be provided for the occupants.

(e) Staffing. The transitional home shall have an overall client to program staff ratio of not less than eight (8) to one (1) and not less than one (1) attendant to thirty (30) residents on any given shift.


(f) Parking.

(1) All required parking shall be provided off-street.

- (2) One (1) space per attendant and one (1) space per six (6) residents shall be provided.
  - (g) Outdoor Activities. Outdoor leisure activities shall be limited to the hours of 6:00 a.m. until 9:30 p.m. seven (7) days a week.
  - (h) Nuisance. The transitional home may be considered a public nuisance if any of the following occurs:
    - (1) More than two (2) police disturbance calls are recorded within a thirty-day period involving residents housed at any single transitional facility.
    - (2) A code violation that is not brought into compliance within thirty (30) days of receiving notice; or
    - (3) More than five (5) nuisance complaints from adjoining property owners are received and validated by the police department within a six-month period. If the director of code compliance determines that any of the three (3) provisions occur, he shall request that the city attorney take court action to abate the nuisance where appropriate under law.
  - (i) Permissible Tenants.
    - (1) No tenant or resident may occupy a transitional home in any capacity if previously convicted of a sex oriented crime, child molestation, and/or murder in any degree.
    - (2) No tenant or resident may occupy a transitional home without first being screened for tuberculosis. The operator of the transitional home must demonstrate that any tenant or resident testing positive for tuberculosis is of no danger to other tenants or residents relative to possible transference or infection of said residents.
  - (j) Violations. Violation of any provision of this chapter is a Class C misdemeanor and upon conviction violators are subject to the provisions of the City Code of the City of San Antonio, Texas, entitled "Unified Development Code Section 55-1024." If the provisions herein are in conflict with preemptive state or federal law then the transitional home shall be required to comply with the applicable state or federal law rather than those provisions of this section to the extent of such conflict.
- (Ord. No. 98697 § 4 and 6) (Ord. No. 101816, § 2, 12-15-05) (Ord. No. 2009-01-15-0001, § 2, 1-15-09)



Appendix 3

	City of San Antonio Development Services Department 1901 S. Alamo San Antonio, Texas 78204	(210) 207-1111 <a href="http://www.sanantonio.gov/dsd">www.sanantonio.gov/dsd</a>
<b>Application for Temporary Certificate of Occupancy</b>		
AP No.		
Contractor		
Occupant		
Project Name		
Project Address		
Date of Requested Occupancy		
Anticipated Date of Project Completion		
Area(s) Required for Occupancy		
Reason for Request		
Identify All Incomplete/Failed Final Inspections	<input type="checkbox"/> Fire <input type="checkbox"/> Building <input type="checkbox"/> Electrical <input type="checkbox"/> Mechanical <input type="checkbox"/> Plumbing <input type="checkbox"/> Health <input type="checkbox"/> Traffic <input type="checkbox"/> Landscape <input type="checkbox"/> Irrigation <input type="checkbox"/> Tree <input type="checkbox"/> Other _____	
Stipulations/Conditions of Approval		
<b>Affidavit of Fact</b>		
By my signature below, I acknowledge the information contained herein is true and correct and I understand the Temporary Certificate of Occupancy is valid for ____ days, and may be revoked if the above-listed stipulations/conditions are not met. Any continued operation would be in violation of City Ordinance as outlined in the International Building Code. I also realize the City may cause utilities to be discontinued for failure to comply with the Certificate of Occupancy requirements.		
_____ (Date)	_____ (Applicant's Signature)	
STATE OF TEXAS	§	
COUNTY OF BEXAR	§	
Before me, the undersigned authority, on this day personally appeared _____, the affiant who, after being duly sworn on oath, deposed and stated the facts herein set forth are true and correct.		
Sworn to and subscribed before me on this the ____ day of _____, 201____.		
_____ Notary Public, State of Texas Commission Expires: _____		

## Temporary Certificate of Occupancy Information Handout

- The 2012 International Building Code section 111.3 provides for issuance of a Temporary Certificate of Occupancy to use a portion or portions of a building or structure provided that such portion or portions shall be occupied safely. Prior to the issuance of a Temporary Certificate of Occupancy, a \$500.00 commercial issuance fee must be paid. The residential Temporary Certificate of Occupancy fee is \$150.00 (per building, or portion thereof).
- Development Services may suspend or revoke the Temporary Certificate of Occupancy if it is determined that the structure is in violation of any City of San Antonio adopted code or ordinance.
- Prior to the expiration of the Temporary Certificate of Occupancy, it is the responsibility of the contractor to request required inspections for completion of permitted work. Acceptable final inspections are required by all applicable trades prior to issuance of a Certificate of Occupancy. If uncompleted work cannot be finished during the duration of the Temporary Certificate of Occupancy, an extension must be requested at a cost of \$100.00 for commercial, \$75.00 for residential (per Temporary Certificate of Occupancy renewed).
- The Temporary Certificate of Occupancy may be issued when all necessary permits have been obtained and all inspections preceding the final inspection are approved.
- A Temporary Certificate of Occupancy application expires 30 days from the date of application. If a Temporary Certificate of Occupancy is not issued within this timeframe, the application is void. To reapply, the contractor must obtain a new application and pay applicable fees as per the Development Services Department fee schedule. Information Bulletin 126a outlines the Certificate of Occupancy and Temporary Certificate of Occupancy fees and any pertaining penalties involved.
- Applying for a Temporary Certificate of Occupancy does not mean you have authorization to use or occupy the building. Occupancy is authorized upon receipt, by the contractor, of a Temporary Certificate of Occupancy signed by the Building Official.
- To receive a Temporary Certificate of Occupancy, all life and safety construction items must be completed and when all necessary permits have been obtained and all inspections preceding the final inspection are approved. All certification letters from engineers and special inspection reports must be submitted and approved prior to Temporary Certificate of Occupancy. All outstanding fees such as permit fees, plan review fees, re-inspection fees shall also be paid prior to Temporary Certificate of Occupancy.
- It is the responsibility of the contractor to request from the appropriate inspector an approval for Temporary Certificate of Occupancy. The inspector must document the approval on the yellow Temporary Certificate of Occupancy inspection slip and indicate the number of days approved. If the number of days approved by each inspector varies, then the lesser shall apply. Upon completion of this application, a Temporary Certificate of Occupancy will be prepared and handed to the contractor by Development Services Call Center staff located on the 1st floor of the DBS Center. This document will only be handed to the contractor of record or representative.
- Issuance of a Temporary Certificate of Occupancy does not constitute completion of a construction project. It is the contractor's responsibility to control the use and occupancy of a building until all clearances and inspection requirements are completed and a full Certificate of Occupancy is received.
- All construction work must be completed with full clearances and required inspection approvals prior to expiration of the Temporary Certificate of Occupancy. It is the contractor's responsibility to request all necessary inspections and approvals. If the project is not completed, it is the contractor's responsibility to contact the Chief Building Inspector to discuss options, which may include applying for another Temporary Certificate of Occupancy.
- **DO NOT OCCUPY A BUILDING OR PORTION THEREOF WITHOUT A TEMPORARY CERTIFICATE OF OCCUPANCY.** There is a \$500.00 new commercial occupancy without a Certificate of Occupancy penalty fee. The penalty fee for residential is \$300.00. There is also an existing commercial occupancy without Certificate of Occupancy penalty fee of \$200.00. (Plus the Certificate of Occupancy fee).
- **DO NOT ALLOW A TEMPORARY CERTIFICATE OF OCCUPANCY TO EXPIRE.** Occupancy of a building without a Temporary Certificate of Occupancy is a code violation and will immediately result in enforcement by this department, which may include the disconnection of utilities and the filing of a municipal court case.
- If you have any questions related to the Temporary Certificate of Occupancy process or inspection requirements specific to your project, feel free to contact the Chief Building Inspector at (210) 207-8314.

\_\_\_\_\_  
Initial