

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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March 4, 2026

Omar Dadabhoy, Community Development Director
City of Fountain Valley
10200 Slater Avenue
Fountain Valley, CA 92708

Dear Omar Dadabhoy:

RE: City of Fountain Valley – Regulation of Group Homes – Letter of Technical Assistance

On January 30, 2024, the City of Fountain Valley (City) adopted Ordinance 1607 (Ordinance),¹ which took effect March 1, 2024. The Ordinance regulates group homes, including sober living homes. The California Department of Housing and Community Development (HCD) received multiple inquiries regarding the Ordinance, including an inquiry regarding a recovery residence located at 8985 Yuba River Avenue (Yuba River).

HCD also notes that the City's own website states that, as of September 22, 2025, the City had permitted 12 group homes, denied special use permits for four group homes, and issued citations to 24 group homes, at least six of which had a reasonable accommodation request denied.² While the website does not provide the reasons for the citations and denials, the sheer number raises concerns about the City's group home regulations and enforcement. This letter provides technical assistance to the City regarding regulation of group homes.

Definitions³

Various laws use the term "group homes" to refer to different types of housing for different populations. For the purposes of state fair housing and planning and zoning laws, the following terms refer to various types of residences in which unrelated persons share the residence:

¹ Available at <https://www.fountainvalley.gov/DocumentCenter/View/21987/Ordinance-1607>.

² Available at <https://www.fountainvalley.gov/1576/Group-Homes-and-Sober-Living-Homes>.

³ Much of the content of this section is based on HCD's Group Home Technical Advisory (Group Home TA) available at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/group-home-technical-advisory-2022.pdf>.

- **Shared Living Residences**—any housing shared by unrelated persons, including, for example, communal homes, group homes, recovery residences,⁴ some community care residential facilities, some supportive and transitional housing, emergency shelters, boardinghouses, and dormitories.
- **Group Homes**—housing shared by unrelated persons with disabilities that provide peer and other support for their residents’ disability-related needs and in which residents share cooking, dining, and living areas, and may, in some group homes, participate in cooking, housekeeping, and other communal living activities and that do not provide services that require licenses under state law.
- **Licensed Facilities**—shared living residences that provide services that require licenses under state law.

The Fountain Valley Municipal Code (FVMC) broadly mirrors these definitions, particularly in terms of whether the facility is or is not licensed by the state:

- **“Group home”** means a facility that is being used as a supportive living environment for persons who are considered disabled under state or federal law. A group home operated by a single operator or service provider (whether licensed or unlicensed) constitutes a single facility, whether the facility occupies one or more dwelling units. Group homes shall not include the following: (1) residential care facilities; (2) any group home that operates as a single housekeeping unit.⁵
- **“Residential care facility”** means a residential facility licensed by the state where care, services, or treatment is provided to persons living in a supportive community residential setting.⁶

Statutory Background⁷

Anti-Discrimination in Land Use (ALU) Law

ALU Law⁸ prohibits jurisdictions from engaging in discriminatory land use and planning activities. Specifically, the law deems any action taken by a city to be null and void if it denies an individual or group of individuals the enjoyment of residence, landownership,

⁴ Individuals recovering from alcoholism or addiction are recognized as people with disabilities (see Gov. Code, § 12926, subd. (j)), and “sober living homes and other dwellings intended for occupancy by persons recovering from alcoholism and drug addiction are protected from illegal discrimination against the disabled.” *SoCal Recovery, LLC v. City of Costa Mesa* (“*SoCal Recovery*”) (9th Cir. 2023) 56 F.4th 802, 814.

⁵ FVMC, § 4.35.010.

⁶ *Id.*

⁷ Much of the content of this section is based on HCD’s Group Home TA.

⁸ Gov. Code, § 65008.

tenancy, or any other land use in the state due to illegal discrimination.⁹ ALU Law prohibits discrimination based on any characteristic, including disabilities, protected by other state or federal laws, while adding its own prohibitions of discrimination against individuals or households who have very low, low, moderate, or middle incomes.¹⁰ The law further recites multiple categories of actions that are determined to be discriminatory, including enactment or administration of ordinances that prohibit or discriminate based on a protected characteristic¹¹ and imposition of requirements on a residential use for persons with protected characteristics that are not generally imposed upon other residential uses.¹²

Fair Employment and Housing Act (FEHA)

FEHA, which is enforced by the Civil Rights Department, similarly prohibits cities, counties, or any local government agency from discriminating based on a protected characteristic in their land use practices, decisions, or policies.¹³ These include zoning, denials of use permits, and other actions that make housing unavailable to persons with protected characteristics.¹⁴ Prohibited land use practices include not only those which intentionally discriminate, but also those which have a discriminatory effect on members of a protected class.¹⁵

Disability discrimination in violation of FEHA in this context often manifests in cities' refusal to make reasonable accommodations to their land use practices. FEHA's implementing regulations prohibit such refusals.¹⁶ Some cities have a practice of funneling reasonable accommodation requests into their land use processes (e.g., the variance or conditional use process), which may take into consideration different criteria and use different procedures than the reasonable accommodation process; the regulations prohibit this.¹⁷ These regulations also prohibit land use practices that "impose[] different requirements" on housing for people with disabilities than on other people,¹⁸ as well as specific land use practices, including requiring landlords to take action against tenants based on improperly broad definitions of nuisance activities (e.g., based on calls for emergency services) which have a discriminatory impact.¹⁹

⁹ Gov. Code, § 65008, subd. (a)(1).

¹⁰ Gov. Code, § 65008, subds. (a)(1)(A), (a)(1)(B)(3), (b)(1)(B)-(C), (b)(2)(B), (b)(3), and (d)(2)(A).

¹¹ *Id.* at subd. (b)(1)(B).

¹² *Id.* at subd. (d)(2)(A).

¹³ Gov. Code, § 12955, subd. (I).

¹⁴ *Ibid.*

¹⁵ Cal. Code Regs., tit. 2, § 12161, subd. (a).

¹⁶ *See id.* at subd. (b)(8).

¹⁷ *Ibid.*

¹⁸ Cal. Code Regs., tit. 2, § 12161, subd. (b)(3).

¹⁹ Cal. Code Regs., tit. 2, § 12162, subd. (a).

Affirmatively Furthering Fair Housing (AFFH) Law

AFFH Law²⁰ requires all California public agencies, including cities, “to administer their programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and take no action that is materially inconsistent with [this] obligation”²¹ AFFH means:

taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.²²

Moreover, the “duty to affirmatively further fair housing extends to all of a public agency’s activities and programs relating to housing and community development.”²³

Housing Element Law

In addition to the general AFFH requirements in AFFH Law, Housing Element Law includes more specific AFFH requirements for cities. Government Code section 65583 requires cities to thoroughly analyze fair housing issues related to housing for people with disabilities and set forth a program of actions that protect and promote such housing. Through their housing elements, cities must “remove governmental constraints that hinder . . . meeting the need for housing for persons with disabilities,” which requires “remov[ing] constraints to, and provid[ing] reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.”²⁴ Section 65583 also requires cities to “promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities all persons regardless of . . . disability” or “other protected characteristics.”²⁵ And cities’ housing elements must include a fair housing assessment with specific goals, implementation strategies, and “metrics and milestones” for evaluating results.²⁶ In complying with these AFFH duties, cities are required to analyze data and set measurable objectives and milestones.²⁷

²⁰ Gov. Code, § 8899.50.

²¹ Gov. Code, § 8899.50, subds. (a)(2)(B) and (b)(1), (2).

²² *Id.* at subd. (a)(1).

²³ *Id.*

²⁴ *Id.* at subds. (a)(7) and (c)(3).

²⁵ *Id.* at subd. (c)(5).

²⁶ *Id.* at subd. (c)(10)(A)(iv).

²⁷ See, e.g., Gov. Code, § 65583, subds. (a)(5), (a)(7), (b)(1) and (c)(10)(A)(ii).

Government Code section 11135

Government Code section 11135 (section 11135), also enforced by the Civil Rights Department, prohibits discrimination in, and ensures equal access to, programs, services, or activities that receive funding from the state.²⁸ Local governments are included in the statute's coverage.²⁹ Section 11135's implementing regulations prohibit covered entities from, among other things, making permitting decisions regarding facilities in a manner that discriminates against members of protected classes.³⁰ Those regulations also provide that local measures which are less protective than section 11135 are preempted.³¹ Prohibited practices include not only those which facially or intentionally discriminate, but also those which have a discriminatory effect on members of a protected class.³²

Discrimination against people with disabilities or their associates is expressly prohibited under the regulations.³³ A covered entity's failure or refusal to provide a reasonable accommodation to provide people with disabilities "a full and equal opportunity to use or enjoy programs or activities" violates the regulations, and covered entities must "engage in a good faith interactive process to determine an effective reasonable accommodation" when requested.³⁴

State Constitutional Protections for Shared Living Residences

Ordinance standards, policies, or regulations for group homes must also be viewed in the context of the state Constitution's protections for communal homes shared by residents with or without disabilities. In *City of Santa Barbara v. Adamson*, the California Supreme Court held that the right to privacy under Article, Section 1 of the California Constitution prohibited a city ordinance that prevented more than five persons unrelated by blood or marriage from occupying a house where the owner was renting out rooms for a group of unrelated adults to live together in a communal setting.³⁵ Applying *Adamson*, a state appellate court in *City of Chula Vista v. Pagard* invalidated for the same reason a city's permitting requirement and added regulations (e.g., occupancy limits, parking, spacing, periodic inspections) for several communal homes in single family zones that were run by the same operator.³⁶

²⁸ Gov. Code, §§ 11135-11139.8; see also Cal. Code Regs., tit. 2, §§ 14000-14343.

²⁹ See Gov. Code, §§ 11136-11137 (discussing "local agenc[ies]" as potential violators of § 11135).

³⁰ Cal. Code Regs., tit. 2, § 14026, subd. (10)(A).

³¹ Cal. Code Regs., tit. 2, § 14002.

³² Cal. Code Regs., tit. 2, § 14027, subd. (b)(3).

³³ Cal. Code Regs., tit. 2, § 14326.

³⁴ Cal. Code Regs., tit. 2, § 14327.

³⁵ *City of Santa Barbara v. Adamson* (1980) 27 Cal.3d 123, 127-128, 130, 134-135; see also *City of Santa Barbara v. Adamson* (1979) 90 Cal.App.3d 606, 153 Cal.Rptr. 507, 509 (confirming that Adamson was charging rent to her home's other occupants).

³⁶ *City of Chula Vista v. Pagard* (1981) 115 Cal.App.3d 785, 791, 793-780.

These same protections under the state Constitution apply to group homes, which are a form of communal homes intended for occupancy by persons with disabilities. And this more generally applicable constitutional doctrine informs and reinforces the specific protections for group homes under the ALU Law, FEHA, AFFH Law, Housing Element Law, and section 11135.

Analysis

HCD finds that certain elements of the City's group home Ordinance and associated regulations are inconsistent with ALU Law, FEHA, AFFH Law, Housing Element Law, section 11135, and state constitutional protections by failing to meet the City's obligations to affirmatively further, protect, and remove constraints on housing for persons with disabilities, and also by discriminating against this housing.

Permitting Requirements

The Ordinance establishes permitting requirements for group homes:

- A special use permit is required for group homes of six or fewer occupants located in the R1, GH, R2, R3, or R4 zones.³⁷
- Group homes of seven or more occupants are prohibited in R1 (single-family) zones.³⁸
- Group homes of seven or more occupants located in the GH, R2, R3, or R4 zones must apply for both an operator's permit³⁹ and a conditional use permit.⁴⁰

The City's permitting requirements for group homes and its application and enforcement of these requirements are inconsistent with ALU Law, FEHA, AFFH Law, Housing Element Law, section 11135, and state constitutional protections by, among other things, discriminating against housing for persons with disabilities, constraining and failing to promote this housing, and restricting the fair housing choices of persons with disabilities (their right to housing of their choice and the housing they find most suitable for their disability-related needs). The ordinances do not impose similar restrictions on other dwellings located in the zones listed above.

Group homes that operate as single-family residences and that do not provide licensable services must be allowed in single-family neighborhoods, subject only to the generally applicable, nondiscriminatory health, safety, and zoning laws that apply to all single-family residences.⁴¹ This is true even if these homes have more than six residents. Because these homes do not provide licensable services, they must be treated the same as other residences.

³⁷ FVMC, §§ 21.29.030, subd. (a) and 21.29.040, subd. (a).

³⁸ FVMC, § 21.29.030, subd. (b)(2).

³⁹ FVMC, §§ 4.35.025 and 4.35.030.

⁴⁰ FVMC, § 21.29.050.

⁴¹ The same principles apply to group homes operating as multifamily residences in multifamily zones.

Requirements that group homes of seven or more occupants obtain special permits appear to be based on a faulty application of Health and Safety Code statutes that allow local governments to subject *licensed* facilities with more than six residents to conditional use or other discretionary approval processes but require local governments to treat many types of licensed facilities with six or fewer residents the same as single-family homes and prohibit requiring these small, licensed group homes to obtain conditional use permits or other special approvals to locate in single-family zones.⁴²

The City, however, cannot justify its restrictions on group homes through statutes designed to protect small, licensed facilities, which provide higher levels of support and care that require state licenses. These statutes specifically apply to licensed facilities, not to unlicensed group homes. In effect, the City is inappropriately transforming state laws designed to prevent local constraints on small, licensed facilities into constraints on group homes that do not provide services requiring state licenses.

Prohibition of Integral Facilities

The City prohibits “integral” group home facilities,⁴³ defined as follows:

“Integral facilities” means any combination of two or more group homes which may or may not be located on the same or contiguous parcels of land, that are under the control and management of the same owner, operator, management company or licensee or any affiliate of any of them, and are integrated components of one operation shall be referred to as integral facilities and shall be considered one facility for purposes of applying federal, state and local laws to its operation. Examples of such integral facilities include, but are not limited to, the provision of housing in one facility and recovery programming, treatment, meals, or any other service or services to program participants in another facility or facilities or by assigning staff or a consultant or consultants to provide services to the same program participants in more than one licensed or unlicensed facility.⁴⁴

State law allows the same owner to operate licensed recovery facilities and group homes, while also establishing rules and conditions for such operations.⁴⁵ Furthermore, as mentioned above, group homes that operate as single-family residences and that do not provide licensable services must be subject only to the generally applicable, nondiscriminatory health, safety, and zoning laws that apply to all single-family residences.⁴⁶ For example, the City does not prohibit a business entity or individual from owning multiple homes in the city and renting those homes to tenants. For these reasons, the City must not prohibit “integral” group home facilities.

⁴² See, e.g., Health & Saf. Code, §§ 1566.3, 1569.85, 11834.23.

⁴³ FVMC, §§ 4.35.035, subd. (b)(4) and 21.29.030, subd. (b)(7).

⁴⁴ FVMC, § 4.35.010.

⁴⁵ See, e.g., Health & Saf. Code, §§ 11831.6, 11831.65.

⁴⁶ The same principles apply to group homes operating as multifamily residences in multifamily zones.

Definition of Single Housekeeping Unit

The City defines Single Housekeeping Unit as follows:

“Single housekeeping unit” means that the occupants of a dwelling unit have established ties and familiarity with each other, jointly use common areas, interact with each other, share meals, household activities, and expenses and responsibilities; membership in the single housekeeping unit is fairly stable as opposed to transient, members have some control over who becomes a member of the household, and the residential activities of the household are conducted on a nonprofit basis. There is a rebuttable presumption that integral facilities do not constitute single housekeeping units. Additional indicia that a household is not operating as a single housekeeping unit include, but are not limited to: the occupants do not share a lease agreement or ownership of the property; members of the household have separate, private entrances from other members; members of the household have locks on their bedroom doors; members of the household have separate food storage facilities, such as separate refrigerators.

An overly restrictive definition of single housekeeping unit risks violating not only state housing laws, but the California Constitution’s protection of the rights of unrelated persons to live together in communal housing. Pages 24-25 of HCD’s Group Home Technical Advisory (Group Home TA)⁴⁷ provide guidance on policies to avoid when creating a definition of a single housekeeping unit. These problematic policies include requiring all residents to share a common lease or deed, excluding for-profit group homes or group homes where an operator selects residents, and overly scrutinizing living arrangements (e.g., not allowing for locks on rooms, separate food storage facilities, or separate entrances).

The term “fairly stable as opposed to transient” is also problematic; when determining whether a group home constitutes a single housekeeping unit, the City’s focus should be on whether the group home is an individual’s primary residence while they are living there because courts have recognized that homes may be protected under fair housing laws when people live in them on average for as little as one month, and sometimes less than that.⁴⁸

⁴⁷ Available at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/group-home-technical-advisory-2022.pdf>.

⁴⁸ See *Lakeside Resort Enters., LP v. Board of Supervisors of Palmyra Twp.* (3d Cir. 2006) 455 F.3d 154, 156–160 (reviewing cases holding that group homes and licensed facilities that were designed for residents to stay in them for 30 days or longer were protected under the federal fair housing laws and holding that a drug and alcohol treatment facility where residents stayed on average for about two weeks was protected because many of the residents stayed significantly longer than that and treated the facility as their home during their stays).

Finally, the rebuttable presumption that integral facilities do not constitute single housekeeping units is also problematic. A single operator may operate multiple group homes within the city, and each of those homes may still constitute a single housekeeping unit.

Lack of Grandfathering

Typically, when a zoning code changes, preexisting, nonconforming uses are “grandfathered” in and allowed to continue operating under the requirements that were in place before the amendments.⁴⁹ The City’s zoning code follows this well-established practice by allowing preexisting, nonconforming uses to continue operating unless they are discontinued for at least 180 consecutive days or 12 non-consecutive months, as long as the use is not expanded or extended.⁵⁰ But the City departs both from general grandfathering practices and its own grandfathering code provisions by requiring preexisting group homes to apply for permits in the same fashion as new ones to remain operational.⁵¹ This imposes discriminatory and constraining conditions on preexisting group homes, while creating displacement impacts that AFFH duties and Housing Element Law require the City to consider and avoid.⁵² The City must apply its generally applicable grandfathering provisions to preexisting group homes, subject to reasonable accommodations requirements.

Separation Requirement

The City imposes a separation requirement of 650 feet between sober living homes in the R1 zone⁵³; group homes with six or fewer occupants in the GH, R2, R3, and R4 zones⁵⁴; and group homes, state-licensed residential care facilities, or state-licensed drug and alcohol treatment facilities with seven or more occupants in the GH, R2, R3, and R4 zones.⁵⁵

The City’s separation requirements have a particularly severe impact on group homes, severely limiting where they can locate, causing group homes to close, and preventing others from opening. For example, Yuba River is within 650 feet of another sober living home or treatment facility. Despite filing a reasonable accommodation request on April 1, 2025, seeking relief from the 650-foot separation requirement, Yuba River received a citation and fine on April 12, 2025, for operating a sober living home without a special use permit, followed by an additional citation and fine on July 22, 2025.

⁴⁹ See, e.g., *Edmonds v. Los Angeles County* (1953) 40 Cal.2d 642, 651 (“The rights of users of property as those rights existed at the time of the adoption of a zoning ordinance are well recognized and have always been protected.”).

⁵⁰ FVMC, §§ 21.56.030, subds. (1) and (4), and 21.56.040, subd. (a)(1).

⁵¹ FVMC, §§ 21.29.030, subd. (c)(6), 21.29.035, and 21.29.060.

⁵² Gov. Code, § 65583, subds. (c)(10)(A)(ii), (v).

⁵³ FVMC, § 21.29.030, subds. (b)(14)(A) and (c)(6)(C).

⁵⁴ FVMC, § 21.29.040, subd. (a)(3).

⁵⁵ FVMC, § 21.29.050, subd. (b).

The City has not shown that these separation requirements are necessary or that there are health, safety, or similar justifications for the spacing requirements, or that if these were actual issues, that the City could not address them through less restrictive and discriminatory policies.

Pages 27-29 of the Group Home TA provide additional guidance illustrating why the City's separation requirements conflict with its duties under state housing law, as does the amicus brief that HCD and the Civil Rights Department filed in the appeal in *Ohio House, LLC v. City of Costa Mesa (Ohio House)*, (9th Cir. 2025) 135 F.4th 645, Docket No. 25-2 (Amicus Brief).⁵⁶

Vehicle and Parking Requirements

The City imposes special vehicle and parking requirements on group homes. Specifically, each dwelling resident is limited to one vehicle that must be used as the resident's primary form of transportation, and each dwelling resident must park their vehicle on the dwelling premises or within 500 feet of the dwelling.⁵⁷

Concerns about parking and traffic should be addressed through generally applicable rules instead of restrictions that target housing for persons with disabilities.⁵⁸

Examples of Other Permitting and Operational Requirements

The City imposes the following restrictions on group homes but not on other residences in the same zones:

- A house manager must be present 24 hours a day.⁵⁹
- Occupants of sober living homes must be actively participating in a recovery program; the sober living home must maintain records of participation.⁶⁰
- For sober living homes, rules and regulations must prohibit the use of any alcohol or any non-prescription drugs either on or off site. Violation of this rule is cause for eviction.⁶¹

⁵⁶ Available at <https://oag.ca.gov/system/files/media/amicus-brief-25-2.pdf>. For the reasons HCD explained in another recent technical assistance letter, HCD's guidance on how state law applies to local group home regulations remains valid after the Ninth Circuit's *Ohio House* decision. See Letter of Technical Assistance to the City of San Jose (Sept. 26, 2025), available at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/san-jose-hau-1749-group-home-TA-092625.pdf>.

⁵⁷ FVMC, §§ 4.35.035, subd. (b)(2) and 21.29.030, subd. (b)(5).

⁵⁸ See, e.g., *Adamson, supra*, 27 Cal.3d at 133; Group Home TA at p. 31.

⁵⁹ FVMC, §§ 4.35.035, subd. (b)(1) and 21.29.030, subd. (b)(4).

⁶⁰ FVMC, §§ 4.35.035, subds. (b)(11)(A) and (e)(6)(A), 21.29.030, subds. (b)(14)(B) and (c)(6)(B).

⁶¹ FVMC, §§ 4.35.035, subds. (a)(7), (b)(11)(B) and (e)(6)(A), 21.29.030, subds. (a)(1)(G), (b)(14)(C) and (c)(6)(B).

- Visitors to sober living homes who are under the influence of any drug or alcohol are prohibited.⁶²
- Sober living homes must have a good neighbor policy directing residents “to be considerate of neighbors, including refraining from engaging in excessively loud, profane or obnoxious behavior that would unduly interfere with a neighbor’s use and enjoyment of their dwelling unit.”⁶³
- Restrictions on group home staff based on their criminal history records.⁶⁴
- All group home residents must be disabled or handicapped.⁶⁵
- A group home shall not be located in an accessory dwelling unit unless the primary dwelling unit is used for the same purpose.⁶⁶
- Prior to the issuance of a special use permit for a group home, written notice must be mailed to the owner of record and occupants of all properties within 500 feet of the location of the group home.⁶⁷

Singling out group homes for restrictions like these can burden group homes with additional, unjustified costs, while perpetuating fears and stereotypes about persons with disabilities. Pages 30-33 of the Group Home TA provide additional guidance on how to avoid these and other restrictions in the City’s group home ordinances that conflict with the City’s duties under ALU Law, FEHA, AFFH Law, Housing Element Law, section 11135, and state constitutional protections.⁶⁸

Reasonable Accommodations

Failing to make reasonable accommodations to rules or policies in order to allow persons with disabilities the opportunity to access housing is a form of discrimination.⁶⁹ Making reasonable accommodations is also necessary to fulfill the City’s AFFH duties and its duties to remove constraints on housing for persons with disabilities.⁷⁰

⁶² FVMC, §§ 4.35.035, subd. (b)(11)(D) and 21.29.030, subd. (b)(14)(E).

⁶³ FVMC, §§ 4.35.035, subd. (b)(11)(E) and 21.29.030, subd. (b)(14)(F).

⁶⁴ FVMC, §§ 4.35.035, subds. (e)(3) and (e)(4), 21.29.030, subds. (c)(3) and (c)(4).

⁶⁵ FVMC, §§ 4.35.035, subds. (e)(5) and (a)(8), 21.29.030, subds. (a)(1)(G) and (c)(5).

⁶⁶ FVMC, § 21.29.030, subd. (b)(3).

⁶⁷ FVMC, § 21.29.030, subd. (c).

⁶⁸ See also *Oconomowoc Residential Programs, Inc. v. City of Milwaukee* (7th Cir. 2002) 300 F.3d 775, 783 (finding that house manager requirement is discriminatory because it effectively mandates an “institutional” arrangement that is not “on par with” housing policies for those who are not disabled); *Potomac Group Home Corp. v. Montgomery County, Md.* (D. Md. 1993) 823 F.Supp. 1285, 1296 (finding that notice requirements discriminate against and stigmatize persons with disabilities).

⁶⁹ See, e.g., Gov. Code, § 12927, subd. (c)(1); Cal. Code Regs., tit. 2, § 12161, subd. (b)(8) (specifying as unlawful an entity’s refusal or failure “to make reasonable accommodations in public . . . land use practices”).

⁷⁰ See, e.g., Gov. Code, §§ 8899.50, 65583, subds. (a)(6), (c)(3), (5).

If the project for which a reasonable accommodation request is being made also requires some other approval, permit, or entitlement, the City requires the applicant to file the reasonable accommodation request together with the application for such approval, permit, or entitlement.⁷¹ However, state regulations state that “[a] request for a reasonable accommodation or modification need not be made in a particular manner or at a particular time.”⁷²

On July 11, 2025, the City denied Yuba River’s request for a reasonable accommodation for relief from the 650-foot separation requirement, stating that the request was “premature” without a special use permit on file. This denial violates the state regulation that a request for a reasonable accommodation need not be made at a particular time. Furthermore, it appears that the City’s own code prohibits issuance of a special use permit to a sober living home located within 650 feet of any other sober living home or a state-licensed alcoholism or drug abuse recovery or treatment facility.⁷³ This prohibition would make it impossible for Yuba River to obtain a special use permit before requesting the reasonable accommodation.

The City requires written notice of a request for a reasonable accommodation to be provided to neighboring property owners.⁷⁴ However, state regulations require that “[a]ll information concerning an individual's disability, request for an accommodation or modification, or medical verification or information must be kept confidential and must not be shared with other persons who are not directly involved in the interactive process or decision making about the requested accommodation”⁷⁵

The City requires a finding to be made regarding “[w]hether the accommodation will create a substantial adverse impact on surrounding land uses, or a public nuisance, that cannot be reasonably mitigated[.]”⁷⁶ This language is not consistent with state regulations, which allow a reasonable accommodation request to be denied if it “would constitute a direct threat to the health or safety of others (i.e. a significant risk of bodily harm) or would cause substantial physical damage to the property of others, and such risks cannot be sufficiently mitigated or eliminated by another reasonable accommodation”⁷⁷

The City requires a finding to be made regarding “[w]hether there are alternative accommodations which may provide an equal level of benefit to the applicant, while minimizing adverse impacts on surrounding land uses and lessening the financial and/or administrative burden of the city[.]”⁷⁸

⁷¹ FVMC, § 21.08.060, subd. (b)(2).

⁷² Cal. Code Regs., tit. 2, § 12176, subd. (f)(3).

⁷³ FVMC, § 21.29.030, subd. (b)(14)(A).

⁷⁴ FVMC, § 21.08.060, subd. (d).

⁷⁵ Cal. Code Regs., tit. 2, § 12176, subd. (e)(1).

⁷⁶ FVMC, § 21.08.060, subd. (e)(4).

⁷⁷ Cal. Code Regs., tit. 2, § 12179, subd. (b)(3).

⁷⁸ FVMC, § 21.08.060, subd. (e)(6).

This language is not consistent with state regulations, which allow a reasonable accommodation request to be denied if “providing the requested accommodation would constitute an undue financial and administrative burden[.]”⁷⁹ The requested reasonable accommodation must first cross the threshold of “undue burden” before the City may consider alternatives to applicants’ requested accommodations.

The City must amend its reasonable accommodation policies to comply with state law and regulations. The City must also ensure that its application of these policies comply with state law and regulations.⁸⁰ For example, the City: (i) must avoid denying requested accommodations based on fears or prejudicial assumptions about people with disabilities, such as that group home residents somehow uniquely cause problematic traffic, noise, or activity; (ii) may not place the burden on reasonable accommodation applicants to demonstrate that their requested accommodations would not create undue burdens on the City or fundamental alterations to its zoning code; and (iii) must engage in good faith with reasonable accommodation requests and avoid delay or burdensome procedural requirements.⁸¹

The City May Still Address Problems that Might Arise at Individual Group Homes

The City has resources to legally address problems that might occur at individual group homes. If group home operators are engaging in activities that constitute public nuisances; violating generally applicable building, housing, or other health and safety laws; committing fraud; or engaging in other illegal activities, the City can address these issues through the same code enforcement and other legal processes it applies to others who violate municipal codes and other laws. If the City has evidence that a group home operator is providing services that require a license without obtaining one, it can contact the state’s Department of Social Services or Department of Health Care Services, which can initiate investigations and take remedial action if appropriate.⁸²

This may still require considering if reasonable accommodations are appropriate in some circumstances. In addition, the City should avoid overbroad or discriminatory applications of nuisance laws, such as those basing civil nuisance actions on 911 calls for emergency services.⁸³ But if a group home is found to have violated local or state law, the City may, for example, seek equitable relief that could include more stringent oversight and other affirmative relief to prevent further violations.

⁷⁹ Cal. Code Regs., tit. 2, § 12176, subd. (c).

⁸⁰ See, e.g., Cal. Code Regs., tit. 2, §§ 12176-12185; Group Home TA at pp. 18-20; Amicus Brief at pp. 21-25.

⁸¹ See, e.g., Cal. Code Regs., tit. 2, §§ 12177-12179; 28. C.F.R. § 35.150(a)(3).

⁸² See Group Home TA, at pp. 33-36, 37.

⁸³ See, e.g., Cal. Code Regs., tit. 2, § 12162, subd. (a); see also California Attorney General Rob Bonta letter to all Cities and Counties in California re Crime Free Housing Policies (Apr. 21, 2023), available at https://oag.ca.gov/system/files/attachments/press-docs/Crime%20Free%20Housing%20Guidance_4.21.23.pdf.

Focusing on individual group homes that are actually causing problems is a better practice than adopting overly broad, constraining, and unlawful regulations for all group homes.

Conclusion

To comply with state law, the City must immediately stop enforcing the elements of its group home regulations that conflict with state law, including, but not limited to, the 650-foot separation requirement. In addition, the City must amend its regulations to conform with state law.

HCD has enforcement authority over ALU Law, AFFH Law, and Housing Element Law. Accordingly, HCD may review local government actions to determine consistency with these laws. If HCD finds that a jurisdiction is in violation of state law, HCD may notify the California Office of the Attorney General.⁸⁴ Further, the Civil Rights Department has enforcement authority over FEHA and Government Code section 11135, and HCD may refer potential violations of these laws to the Civil Rights Department for an administrative investigation and a possible enforcement action in court.⁸⁵

HCD requests a written response from the City by April 3, 2026, indicating how the City plans to implement the guidance provided in this letter. If you have any questions regarding this letter or require additional technical assistance, please contact Stephanie Reyes at stephanie.reyes@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Zisser', with a stylized flourish extending to the right.

David Zisser
Assistant Deputy Director
Local Government Relations and Accountability

⁸⁴ Gov. Code, § 65585, subds. (i) and (j).

⁸⁵ See Gov. Code, §§ 11136 (requiring that state agencies refer to the Civil Rights Department suspected violations of § 11136), 12960, subd. (c) and 12980, subd. (b) (authorizing the Civil Rights Department to file and investigate a director's complaint), 12981, subd. (b) (discussing its authority to initiate civil action regarding "the legality of any zoning or other land use law or ordinance").