

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

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December 8, 2025

Angelica Frausto-Lupo, Community Development Director
City of Moreno Valley
14177 Frederick St.
PO Box 88005
Moreno Valley, CA 92552

Dear Angelica Frausto-Lupo:

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

The California Department of Housing and Community Development (HCD) received multiple inquiries regarding the City of Moreno Valley's (City) group home regulations. This letter provides technical assistance to the City regarding the City's regulation of group homes.

Definitions

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:

- **Shared Living Residences**—any housing shared by unrelated persons, including, for example, communal homes, group homes, recovery residences,¹ 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,

¹ 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.

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 Moreno Valley Municipal Code (MVMC) regulates group homes (which do not provide services that require licenses under state law) in section 9.09.330. State licensed residential care facilities are regulated under 9.09.160. This letter focuses on the regulations of group homes in section 9.09.330.

Statutory Background

Anti-Discrimination in Land Use (ALU) Law

ALU Law² 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, tenancy, or any other land use in the state due to illegal discrimination.³ 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.⁴ 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 characteristic⁵ and imposition of requirements on a residential use for persons with protected characteristics that are not generally imposed upon other residential uses.⁶

Affirmatively Furthering Fair Housing (AFFH) Law

AFFH Law⁷ 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....”⁸ 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.

² Gov. Code, § 65008.

³ *Id.* at subd. (a)(1).

⁴ *Id.* at subds. (a)(1)(A), (a)(1)(B)(3), (b)(1)(B)-(C), (b)(2)(B), (b)(3), (d)(2)(A).

⁵ *Id.* at subd. (b)(1)(B).

⁶ *Id.* at subd. (d)(2)(A).

⁷ Gov. Code, § 8899.50.

⁸ *Id.* at subds. (a)(2)(B), (b)(1), (2).

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.⁹

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.”¹⁰

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.”¹¹ 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.”¹² And cities’ housing elements must include a fair housing assessment with specific goals, implementation strategies, and “metrics and milestones” for evaluating results.¹³ In complying with these AFFH duties, cities are required to analyze data and set measurable objectives and milestones.¹⁴

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

⁹ *Id.* at subd. (a)(1).

¹⁰ *Id.*

¹¹ Gov. Code, § 65583, subds. (a)(7), (c)(3).

¹² *Id.* at subd. (c)(5).

¹³ *Id.* at subd. (c)(10)(A)(iv).

¹⁴ See, e.g., Gov. Code, § 65583, subds. (a)(5), (a)(7), (b)(1), (c)(10)(A)(ii).

for a group of unrelated adults to live together in a communal setting.¹⁵ 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.¹⁶ 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, AFFH Law, and Housing Element Law.

Analysis

HCD finds that certain elements of the City's group home regulations violate ALU Law, AFFH Law, and Housing Element Law 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.

Conditional Use Permit (CUP) Requirement

According to MVMC 9.09.330 C.6, a group home for more than six residents is subject to a CUP.

This requirement appears 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 CUPs or other special approvals to locate in single-family zones.¹⁷

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.¹⁸ 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.

¹⁵ *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).

¹⁶ *City of Chula Vista v. Pagard* (1981) 115 Cal.App.3d 785, 791, 793-780.

¹⁷ See, e.g., Health & Saf. Code, §§ 1566.3, 1569.85, 11834.23.

¹⁸ See HCD's Group Home Technical Advisory (Group Home TA) at pp. 25-26, available at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/group-home-technical-advisory-2022.pdf>.

The CUP requirement, and the City's application and enforcement of this requirement, violates ALU Law, AFFH Law, and Housing Element Law 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 City does not impose similar restrictions on other dwellings with more than six residents located in residential districts. The discriminatory effects and constraints these permitting requirements impose include the costs and burdens imposed on group homes, the displacement of persons with disabilities from housing of their choice, and the disruptions of their lives.

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. 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.¹⁹

MVMC 9.09.330 C.2 states: "A group home, limited, that serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution, or home for the care of minors, the aged, or persons with mental health disorders, foster care home, guest home, rest home, community residence, or other similar terms that imply that the residential facility is a business run for profit or differs in any other way from a family dwelling."

MVMC 9.09.330 C.3 states: "A group home, limited, that serve six or fewer persons are allowed in all residential zoning districts a permitted use without a conditional use or other discretionary permit."

These protections must be extended to group homes for more than six residents. The City may not require a CUP for group homes regardless of the number of residents served.

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.²⁰ Moreno Valley's zoning code follows this well-established practice by allowing preexisting, nonconforming uses to continue

¹⁹ See Group Home TA at p. 26.

²⁰ 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.").

operating²¹ unless they are discontinued for a continuous period of 12 months or more.²² But the City departs both from general grandfathering practices and its own grandfathering code provisions by requiring preexisting group homes of more than six residents to apply for permits in the same fashion as new ones to remain operational. 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.²³ The City must apply its generally applicable grandfathering provisions to preexisting group homes, subject to reasonable accommodations requirements.

Separation Requirement

MVMC 9.09.330 C.7 requires a group home for more than six residents to have a minimum distance from any other group home of more than six residents of 300 feet. MVMC references Health and Safety Code section 1267.9, subdivision (b) to justify the separation requirement.

However, that section of the Health and Safety Code applies only to specific types of *licensed facilities*. Specifically, community care facilities, intermediate care facilities serving persons with developmental disabilities who require intermittent but recurring skilled nursing care, and pediatric day health and respite care facilities that provide licensed services to children with particularly acute or chronic healthcare needs and their parents or guardians must be separated by at least 300 feet.²⁴ This requirement is not applicable to group homes (which do not provide services that require licenses under state law) and should not be included in MVMC 9.09.330.

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. Yet 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.

²¹ MVMC 9.02.180 E.1.

²² MVMC 9.02.180 D.

²³ Gov. Code, § 65583, subds. (c)(10)(A)(ii), (v).

²⁴ Health & Saf. Code, § 1267.9, subds. (b) and (b)(1).

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, the Attorney General's Office, and the Civil Rights Department (CRD) 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).²⁵

Other Permitting Requirements

MVMC 9.09.330 C.4 states: "Any sized group home shall not be located in an accessory dwelling unit (ADU), unless the primary dwelling unit is used for the same purpose."

MVMC 9.09.330 C.10 states: "Fences or walls may be required to ensure privacy and neighborhood compatibility."

MVMC 9.09.330 C.11 states: "Such other conditions and standards necessary to preserve and safeguard the public health, safety or welfare of the occupants and the community may be imposed."

If these requirements are not imposed equally on other dwelling units, they can burden group homes with additional, unjustified costs, while perpetuating fears and stereotypes about persons with disabilities. To avoid liability for a law or policy that facially discriminates against persons with disabilities, a local government must show that the policy:

- (1) either
 - (a) actually benefits persons with disabilities or
 - (b) is justified by individualized safety concerns raised by the persons the policy affects, and
- (2) is "the least restrictive means of achieving" one or both of these goals.²⁶

These justifications for facial discrimination are "extremely narrow exception[s]," and jurisdictions should be wary of relying on them.²⁷ Jurisdictions must support them with

²⁵ Available at <https://oag.ca.gov/system/files/media/amicus-brief-25-2.pdf>. For the reasons the department 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 <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/san-jose-hau-1749-group-home-TA-092625.pdf>.

²⁶ Cal. Code Regs., tit. 2, §§ 12042, subd. (f), 12161, subd. (d); see, also, e.g., *Larkin v. State of Mich. Dept. of Social Services* (6th Cir. 1996) 89 F.3d 285, 290.

²⁷ *Dothard v. Rawlinson* (1977) 433 U.S. 321, 334; *Bangerter v. Orem City Corp.* (10th Cir. 1995) 46 F.3d 1491, 1504; see also *Koire v. Metro Car Wash* (1985) 40 Cal.3d 24, 31 nn. 7, 8 (explaining that public policy exceptions to Unruh Act's prohibitions of discrimination are "rare" and "should be carefully and narrowly construed").

at least, if not more than, the specific and thorough analysis and evidence required by Housing Element Law, including its AFFH provisions.²⁸ Generalized concerns or ones based on stereotypes will not suffice.²⁹ Jurisdictions should also consider less discriminatory alternatives.³⁰ And in light of jurisdictions' obligations to "protect[] existing residents from displacement" and otherwise affirmatively further fair housing, laws or policies that displace group home occupants from their current, chosen residences warrant especially thorough scrutiny.³¹

In addition, with respect to C.11, conditions and standards that cannot be known in advance to an applicant are not objective and present a barrier to approval of group homes.

Required Remedy and Resource Materials

To comply with state law, the City must immediately stop enforcing the elements of its group home regulations that are in conflict with state law and must amend those regulations to conform with state law.

In amending its regulations, the City should consider HCD's Group Home TA, its AFFH Guidance Memorandum (AFFH Memo),³² and the Amicus Brief. The guidance documents and Amicus Brief discuss relevant statutes, regulations, and case law, as well as HCD's and other government agencies' earlier guidance documents, academic papers, and demographic and statistical analyses.

Moreno Valley 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.³³

²⁸ See, e.g., Gov. Code, § 65583, subds. (a)(5), (a)(7), (b)(1), (c)(10)(A)(ii).

²⁹ See, e.g., *Larkin, supra*, 89 F.3d at 291-292 (rigorously examining and rejecting an agency's justifications and evidence for spacing and community notice requirements for group homes and holding that they violate the federal Fair Housing Act (FHA), 42. U.S.C. §§ 3601-3619.).

³⁰ Cal. Code Regs., tit. 2, § 12042, subd. (f).

³¹ See, e.g., Gov. Code, § 65583, subds. (c)(10)(A)(iv), (v).

³² Available at https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf.

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

This may still require considering if reasonable accommodations are appropriate in some circumstances. And the City should avoid overbroad or discriminatory applications of nuisance laws, such as those basing civil nuisance actions on 911 calls for emergency services.³⁴ 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.

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 are in conflict with state law, including, but not limited to, the requirement that group homes of seven or more residents must obtain a CUP. In addition, the City must amend those 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.³⁵

HCD requests a written response from the City by January 8, 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,



David Zisser
Assistant Deputy Director
Local Government Relations and Accountability

³⁴ 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.

³⁵ Gov. Code, § 65585, subds. (i) and (j).