



# AGENDA REPORT

Meeting Date

03/25/2025

**Prepared By:** Larry Longenecker, Director of Community Development  
**Budgetary Review By:** Ellis Chang, Director of Administrative Services / City Treasurer  
**Submitted By:** Elaine Lister, City Manager

## Agenda Title

Group Home and Sober Living Home Regulations

## Recommended Action

(1) Find that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to state CEQA guidelines Section 15061(b)(3); and (2) adopt Ordinance 25-XXX Rescinding and Revoking the Existing Chapter 5.06 Of Title 5 of the Mission Viejo Municipal Code and Adopting a New Chapter 5.06 of Title 5 of the Mission Viejo Municipal Code Titled "Group Home And Sober Living Home Regulations" and Related Findings

## Executive Summary

### A. Discussion

Operation of some sober living homes in the City of Mission Viejo, and throughout the region, has created numerous challenges over the years within the community and in residential neighborhoods. The State of California has repeatedly declined to adopt regulations or exercise oversight over some group homes, and particularly sober living homes. Beginning in 2022, the City of Mission Viejo spearheaded an effort to address the growing challenges associated with the proliferation of sober living homes, which led to formation of the California Sober Living and Recovery Task Force ("CASLAR"), organized by local elected officials at the municipal and county levels to offset the State of California's lack of regulation addressing sober living homes.

CASLAR is comprised of cities, the County of Orange, and interested public members who have united to craft regulations and policies to protect the patrons of sober living homes, the neighborhoods they are in, and the City in which they are located. The County of Orange, led by Supervisor Foley, consolidated the concerns of all involved and drafted a model ordinance for consideration and adoption by CASLAR members. That model ordinance, amended only to conform to the City of Mission Viejo codification format, is attached for consideration of adoption by this City Council.

### B. Environmental Determination

The proposed Development Code Amendment is exempt from the California Environmental Quality Act ("CEQA") pursuant to Article 5 (Preliminary Review of Projects and Conduct of Initial Study), State CEQA Guidelines Section 15061(b)(3), which states: "Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." The proposed Ordinance establishes regulations for sober living homes and makes no changes to land use, development intensities, or the rate at which development is expected to occur. Therefore, the adoption of this ordinance would not result in any significant environmental impacts.

### C. Public Notice

A notice of a public hearing was published in the Orange County Register on March 15, 2025, and was posted as required by State and local law.

## Fiscal Impact:

**Amount Requested:** \$

**Sufficient Budgeted Funds Available?:** (If no, see attached fiscal analysis)

**Prog/Fund #: Category: Pers. Optg. Cap. -or- CIP#: Fund#:**

## Previous Relevant Council Actions for This Item

None

## Attachments

Draft Ordinance No. 25-XXX

## **ORDINANCE NO. 25-XXX**

### **AN ORDINANCE OF THE CITY OF MISSION VIEJO, CALIFORNIA, RESCINDING AND REVOKING THE EXISTING CHAPTER 5.06 OF TITLE 5 OF THE MISSION VIEJO MUNICIPAL CODE AND ADOPTING A NEW CHAPTER 5.06 OF TITLE 5 OF THE MISSION VIEJO MUNICIPAL CODE TITLED “GROUP HOME AND SOBER LIVING HOME REGULATIONS” AND RELATED FINDINGS.**

#### **I. INTENT OF THE CITY COUNCIL**

A. The State of California has repeatedly declined to adopt regulations or exercise oversight over some group homes, and especially those group homes commonly referenced as Sober Living Homes. This steadfast lack of care and attention by the State of California has resulted in several unsafe, life threatening, neighborhood threatening, and other customer/occupant life safety risks to persist in communities across California.

B. Local elected officials at the municipal and county levels have organized to offset the State of California’s negligent omission of regulation by creating an entity known as the California Sober Living and Recovery Task Force (“CASLAR”).

CASLAR is comprised of cities, the County of Orange and interested public members who have united to craft regulations and policies to protect the patrons of sober living homes, the neighborhoods they are in, and the City in which they are located. The County of Orange, led by Supervisor Foley, consolidated the concerns of all involved and drafted the model ordinance for consideration and adoption by CASLAR members. That model ordinance, amended only to conform to the City of Mission Viejo codification format, is attached for consideration of adoption by this City Council.

C. All legal preconditions to this Ordinance have occurred as required by law.

#### **II. ORDINANCE**

The City Council of the City of Mission Viejo, California does ordain as follows:

1. In all respects as are set forth in Part I, Intent of the City Council, which are hereby fully incorporated by reference into this Ordinance.
2. The current Chapter 5.06 of Title 5 of the Mission of City Viejo, California Municipal Code is hereby repealed and rescinded and all present prosecution thereunder is to be ceased for all purposes.
3. A new Chapter 5.06 of Title 5 of the Municipal Code of the City of Mission Viejo, California is hereby adopted, to read in words and figures, as is set forth in Attachment 1, which is hereby incorporated by reference.
4. This Ordinance shall take effect immediately upon its adoption.

PASSED, APPROVED, and ADOPTED by the City Council of the City of Mission Viejo at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Robert J. Ruesch  
Mayor

STATE OF CALIFORNIA   )  
COUNTY OF ORANGE    )  
CITY OF MISSION VIEJO )

I, Kimberly Schmitt, City Clerk of the City of Mission Viejo, HEREBY DO CERTIFY that the foregoing Ordinance was introduced for first reading on the \_\_\_\_ day of \_\_\_\_\_, 2025 and duly adopted at a regular meeting of the City Council of the City of Mission Viejo, held on the \_\_\_\_ day of \_\_\_\_\_, 2025.

AYES  
NOES:  
ABSENT:

\_\_\_\_\_  
Kimberly Schmitt  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
William P. Curley III  
City Attorney

## 5.06 Group Homes and Sober Living Home Regulations

### Sec. 5.06.010 - Definitions.

- (a) The following definitions apply for community care facilities and group home purposes in addition to any applicable definitions found in the Mission Viejo Municipal Code, and those definitions incorporated from the City of Mission Viejo's adoption of the California Building Code and International Building Code, from time to time.
- (1) *Alcoholism or drug abuse recovery/treatment facilities.* Pursuant to Health and Safety Code Section 11834.02, as may be amended, alcoholism or drug abuse recovery/treatment facilities shall be state-licensed and/or certified and includes any premises, place, or building that provides residential nonmedical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery treatment or detoxification services.
  - (2) *Community care facility.* Community care facilities shall be licensed by the California Department of Social Services (CDSS). These facilities provide non-medical, residential care, and supervision to children or adults in need of a supportive living environment. The services provided may include assistance in dressing and bathing; supervision of client activities; monitoring of food intake; or oversight of the client's property. Pursuant to Health and Safety Code Section 1502, as may be amended, from time to time, community care facilities include the following: residential facility providing 24-hour care; adult day program; therapeutic day services facility; foster family agency; foster family care home; small family home; social rehabilitation facility; community treatment facility; full-service adoption agency; noncustodial adoption agency. This definition does not include In-home Family Child Care or Child Care Centers/Early Education Facilities.
  - (3) *Congregate living health facility.* A facility, which is licensed by the State of California pursuant to Section 1250 of the Health and Safety Code, as may be amended, from time to time, to provide inpatient care, including the following basic services: medical supervision, 24-hour skilled nursing and supportive care, pharmacy, dietary, social recreational, and other services for persons who are terminally ill, ventilator dependent, or catastrophically and severely disabled.
  - (4) *Disabled.* See "handicapped."
  - (5) *Group home.* A facility that is being used as a supportive living environment for persons who are considered handicapped 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 (1) or more dwelling units. Group homes shall not include the following: (1) community care facilities; (2) any group home that operates as a single housekeeping unit.
  - (6) *Handicapped.* As more specifically defined under the fair housing laws, a person who has a physical or mental impairment that limits one or more major life activities, a person who is regarded as having that type of impairment, or a person who has a record of that type of impairment, not including current, illegal use of a controlled substance.

- (7) *Household*. Includes all people occupying a single dwelling unit. A household shall also mean all people occupying two (2) dwelling units on the same site if both units are used as group homes owned or operated by the same operator.
- (8) *Integral facilities*. Any combination of two (2) 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 (1) operation shall be referred to as Integral Facilities and shall be considered one (1) 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 (1) 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 (1) licensed or unlicensed facility.
- (9) *Integral Uses*. Any two (2) or more residential care programs commonly administered by the same owner, operator, management company or licensee, or any affiliate of any of them, in a manner in which participants in two (2) or more care programs participate simultaneously in any care or recovery activity or activities so commonly administered. Any such integral use shall be considered one (1) use for purposes of applying Federal, State and local laws to its operation.
- (10) *Operator*. A company, business or individual who provides residential services, i.e., the placement of individuals in a residence, setting of house rules, and governing behavior of the residents. Operator does not include a property owner or property manager that exclusively handles real estate contracting, property management and leasing of the property, and that does not otherwise meet the definition of operator.
- (11) *Referral facility*. A community care facility or a group home where one (1) or more person's residency in the facility is pursuant to a court order or directive from an agency in the criminal justice system.
- (12) *Single housekeeping unit*. Means that the occupants of a dwelling unit have established ties and familiarity with each other, jointly use common areas, regularly 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 indications 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.
- (13) *Sober living home*. A type of group home operated as a cooperative living environment providing an alcohol and drug-free home for persons recovering from alcoholism and/or drug abuse, which are not required to be licensed by the State. Sober living homes for six (6) or fewer residents are allowed in residential districts, subject to a Group Home Permit.

Sober living homes of seven (7) or more residents shall be permitted in any district, planned community, or specific plan area zoned for multifamily residential uses subject to the issuance of a Use Permit by the Planning Commission per the Mission Viejo municipal code and compliance with certain conditions. Residents may actively participate in recovery programs outside of the home such as detoxification, educational counseling, individual or group counseling sessions, or treatment/recovery planning. A sober living home may provide services to the residents such as dining, housekeeping, security, medical, transportation, and recreation, but shall not dispense medications of any type or nature to the residents. Sober living homes shall not include the following: (1) community care facilities; (2) any sober living home that operates as a single housekeeping unit.

(b) The foregoing definitions apply to all sections of Chapter 5.06.

#### **Sec. 5.06.020 – Group Homes.**

(a) Purpose. This section is intended to preserve the residential character of residential neighborhoods and to further the purposes of the California Fair Employment and Housing Act (FEHA), the Fair Housing Act Amendments (FHAA), and the Lanterman Act by, among other things: (1) ensuring that group homes are entitled to the special accommodation and/or additional accommodation provided under the Mission Viejo municipal code; (2) limiting the secondary impacts of group homes by reducing noise and traffic, preserving safety, and providing adequate on-street parking; (3) providing an accommodation for the handicapped that is reasonable to the opportunities afforded nonhandicapped individuals to use and enjoy a dwelling unit in a single-family neighborhood; and (4) to provide comfortable living environments that will enhance the opportunity for the handicapped and for recovering addicts to be safe, well treated and successful in their programs.

(1) Group Home Permit required. A group home that may otherwise be considered an unpermitted use shall be permitted in any district, planned community, or specific plan area zoned for residential districts with a Group Home Permit provided:

a. An application for a group home is submitted to the Director of Community Development by the owner/operator of the group home. The application shall provide the following: (1) the name, address, phone number and driver's license number of the owner/operator; (2) the name, address, phone number and driver's license number of the house manager; (3) a copy of the group home rules and regulations; (4) written intake procedures; (5) the relapse policy; (6) an affirmation by the owner/operator that only residents (other than the house manager) who are handicapped as defined by state and federal law shall reside at the group home; (7) blank copies of all forms that all residents and potential residents are required to complete; (8) if the group home operator is not the property owner, written approval from the property owner to operate a group home shall be submitted with the application; and (9) any applicable fee or deposit as approved by the City of Mission Viejo City Council or designees. No person shall open a group home prior to issuance of a Group Home Permit.

b. If the group home is located in a single-family zoned residential district, the group home shall have six (6) or fewer residents, not counting a house manager, but in no event shall have more than seven (7) total residents. If the dwelling unit has an accessory dwelling unit, residents of both units shall be combined to determine whether or not the limit of six

- (6) residents has been exceeded.
- c. The group home shall not be located in an accessory dwelling unit unless the primary dwelling unit is used for the same purpose.
  - d. The group home shall have a house manager who resides at the group home or any multiple of persons acting as a house manager who are present at the group home on a 24-hour basis and who are responsible for the day-to-day operation of the group home. The group home shall at all times have a house manager on-site and available for all purposes.
  - e. All garage and driveway spaces associated with the dwelling unit shall, at all times, be available for the parking of vehicles. Residents and the house manager may each only store or park a single vehicle at the dwelling unit or on any street within three hundred (300) feet of the dwelling unit. The vehicle shall be operable and currently used as a primary form of transportation for a resident of the group home.
  - f. Residents shall not require and operators shall not provide “care and supervision” as those terms are defined by Section 80001(c)(3) of title 22, California Code of Regulations, as may be amended from time to time.
  - g. Integral facilities shall not be permitted. Applicants shall declare, under penalty of perjury, that the group home does not operate as an integral facility.
  - h. The property shall be fully in compliance with all building codes, codified ordinances, and the Development Code of the City of Mission Viejo.
  - i. At least forty-eight (48) hours prior to a resident’s emergency eviction from or involuntary termination of residency in a group home, the Operator shall:
    - (i) Notify the person designated as the resident’s emergency contact or contact of record that the resident will no longer be residing at the home.
    - (ii) Contact the Orange County Health Care Agency OC Links Referral Line and/or another entity designated by the County to determine the services available to the resident, including, but not limited to, alcohol and drug inpatient and outpatient treatment.
    - (iii) Provide the information obtained regarding services available to the resident (see paragraph i-2 of this subsection) and any other treatment provider or service to the resident prior to his or her release on a form provided by the City of Mission Viejo and obtain the resident’s signed acknowledgement thereon.
    - (iv) Provided, however, that if the resident’s behavior results in immediate termination of residency pursuant to rules approved by the City of Mission Viejo as part of the Group Home Permit for that facility, the operator shall comply with paragraphs (i) through (iii) of this subsection (1)i as soon as possible.
  - j. Prior to a resident’s eviction from or involuntary termination of residency in a group home, the Operator thereof shall also:

- (i) Make available to the resident transportation to the address listed on the resident's driver license, state-issued identification card, or the permanent address identified in the resident's application or referral to the group home.
  - (ii) Provided, however, that should the resident decline transportation to his or her permanent address or otherwise has no permanent address, then the operator shall make available to the resident transportation to another group home or residential care facility that has agreed to accept the resident.
- k. The group home operator shall maintain, preserve and make available records for a period of one (1) year following eviction from or involuntary termination of residency of an resident that documents compliance with section i and j or this section; provided, however, that nothing herein shall require an operator of a group home to violate any provision of State or Federal law regarding confidentiality of health care information. The group home operator may not satisfy the obligations set forth in this section by providing remuneration to the resident for the cost of transportation.
- l. In addition to the regulations outlined above, in subsections (1)(a) through (1)(k), of this section, the following shall also apply to sober living homes:
  - (i) The sober living home shall not be located within one thousand (1,000) feet, as measured from the closest property lines, of any other sober living home or from any state licensed and/or certified alcoholism or drug abuse recovery/treatment facility.
  - (ii) All residents, other than the house manager, shall be actively participating in legitimate recovery programs, including, but not limited to, Alcoholics Anonymous or Narcotics Anonymous, and the sober living home shall maintain current records of meeting attendance. Under the sober living home's rules and regulations, refusal to actively participate in such a program shall be cause for eviction.
  - (iii) The sober living home's rules and regulations shall prohibit the use of any alcohol or any non-prescription drugs at the sober living home or by any resident either on- or off-site. The sober living home shall also have a written policy regarding the possession, use, and storage of prescription medications. The facility cannot dispense medications but shall make them available to the residents. The possession or use of prescription medications is prohibited except for the person to whom they are prescribed, and in the amounts/dosages prescribed. These rules and regulations shall be posted on-site in a common area inside the dwelling unit. Any violation of this rule shall be cause for eviction under the sober living home's rules for residency and the violator cannot be re-admitted for at least ninety (90) days. Any second violation of this rule shall result in permanent eviction. Alternatively, the sober living home shall have provisions in place to remove the violator from contact with the other residents until the violation is resolved.
  - (iv) The number of residents subject to the sex offender registration requirements of Penal Code Section 290, as may be amended, shall not exceed the limit set forth in Penal Code Section 3003.5, as may be amended, and shall not violate the distance provisions set forth in Penal Code Section 3003, as may be amended.



- (v) The sober living home shall have a written visitation policy that shall preclude any visitors who are under the influence of any drug or alcohol.
  - (vi) The sober living home shall have a Good Neighbor Policy provided as part of the group home application that shall direct 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. The Good Neighbor Policy shall establish a written protocol for the house manager/operator to follow when a neighbor complaint is received.
  - (vii) The Sober Living Home shall not provide any of the following services as they are defined by Section 10501(a) of Title 9, California Code of Regulations, as may be amended: detoxification; educational counseling; individual or group counseling sessions; and treatment or recovery planning.
- m. An applicant for a Group Home Permit may seek relief from the strict application of this section by submitting an application to the Director setting forth specific reasons as to why accommodation over and above this section is necessary under State and Federal laws, pursuant to Chapter 9.60 of Mission Viejo Municipal Code.
- (2) The Group Home Permit shall be issued by the Director as a ministerial matter if the applicant is in compliance or has agreed to comply with subsections (1)(a) through (1)(k) above, and (1)(l), if applicable. The Group Home Permit shall be denied or revoked, by the Director under any of the following circumstances:
- a. Any owner/operator or staff person has provided materially false or misleading information on the application or omitted any pertinent information.
  - b. Any owner/operator or staff person has an employment history in which he or she was terminated during the past two (2) years because of physical assault, sexual harassment, embezzlement or theft; falsifying a drug test; and selling or furnishing illegal drugs or alcohol.
  - c. Any owner/operator or staff person has been convicted of or pleaded nolo contendere, within the previous seven (7) to ten (10) years, to any of the following offenses:
    - (i) Any sex offense for which the person is required to register as a sex offender under California Penal Code Section 290, as may be amended, (previous ten (10) years).
    - (ii) Arson offenses – violations of Penal Code Sections 451-455, as may be amended, (previous seven (7) years).
    - (iii) Violent felonies, as defined in Penal Code Section 667.5, as may be amended, which involve doing bodily harm to another person (previous ten (10) years).
    - (iv) The unlawful sale or furnishing of any controlled substances (previous seven (7) years).
  - d. Any owner/operator or staff person is on parole or formal probation supervision on the date

of the submittal of the application or at any time thereafter.

- e. The owner/operator accepts residents, other than a house manager, who are not handicapped as defined by the FHAA and FEHA.
  - f. A Group Home Permit for a sober living home shall also be denied or revoked by the Director under any of the following additional circumstances:
    - (i) Any owner/operator or staff person of a sober living home is a recovering drug or alcohol abuser and upon the date of application or employment has had less than one (1) full year of sobriety.
    - (ii) The owner/operator of a sober living home fails to immediately take measures to remove any resident who uses alcohol or illegally uses prescription or non-prescription drugs, or who is not actively participating in a legitimate recovery program from contact with all other sober residents.
    - (iii) The sober living home, as measured from the closest property lines, shall not be located within one thousand (1,000) feet of any other sober living home or state licensed and/or certified alcoholism or drug abuse recovery/treatment facility. If a state licensed and/or certified alcoholism or drug abuse recovery/treatment facility moves within one thousand (1,000) feet of an existing sober living home this shall not cause the revocation of the sober living home's permit.
  - g. For any other significant and/or repeated violations of this section and/or any other applicable laws and/or regulations.
  - h. Revocation shall not apply to any group home, which otherwise would cause it to be in violation of this section, that has obtained a reasonable accommodation pursuant to Chapter 9.65 of the Mission Viejo Municipal Code.
- (3) Use Permit Required. Group and sober living homes serving more than seven (7) persons shall be permitted in any district, planned community, or specific plan area zoned for multifamily residential uses subject to the issuance of a Conditional Use Permit by the Planning and Transportation Commission per Municipal Code Chapter 9-48, subject to the following condition:
- a. Sober living homes shall be located at least one thousand (1,000) feet, as measured from the closest property lines, from any other sober living home, or from any state-licensed and/or certified alcoholism or drug abuse recovery/treatment facility serving seven (7) or more persons, unless the reviewing authority determines that such location will not result in an over- concentration of similar uses.
- (4) Compliance of existing group homes.
- a. Existing group homes shall apply for a Group Home Permit within one hundred eighty (180) days of the effective date of the group home regulations.
  - b. Existing group homes shall have one (1) year from the effective date of the group home

regulations to comply with its provisions, provided that any existing group home, which is serving more than six (6) residents, shall first comply with the six (6) resident maximum.

- c. Existing group homes obligated by a written lease exceeding one (1) year from the effective date of the ordinance, or whose activity involves investment of money in leasehold or improvements such that a longer period is necessary to prevent undue financial hardship, are eligible for up to one (1) additional year grace period pursuant to approval of a Group Home Permit.

(5) Expiration.

- a. A Group Home Permit shall expire and be of no further force or effect if after establishment, the use or activity for which the permit was approved is discontinued or abandoned for a period of six (6) months.