



Report from Closed Session:

Sober Living, Recovery and Care Facilities



What Are Group Homes?

Sober living homes

- Group living arrangements for persons recovering from substance abuse and addiction. These facilities do not provide supervision, care or treatment. Residents generally cohabit the residence as a single housekeeping unit.

Recovery and treatment facilities

- Group living arrangements for persons recovering from alcoholism or drug abuse. These facilities provide supervision, care and treatment.

Residential care facilities

- Group living arrangements for persons in need of non-medical residential care.



Licensing

- Sober living homes: **None**
- Recovery and treatment facilities: **State regulated and licensed**
- Residential care facilities: **State regulated and licensed**



Municipal Role

Sober living homes

- No occupancy restrictions.
- No State or Federal preemption.

Recovery and treatment facilities

- Local regulation is preempted by State law if the facility houses six or fewer individuals.

Residential care facilities

- Local regulation is preempted by State law if the facility houses six or fewer individuals.

All of the above remain subject to Federal and State regulations aimed at preventing discrimination, regardless of occupancies. Disabled individuals are a "protected class." The City of Dana Point respects the Federal and State rights of those with disabilities, but also seeks to strike a balance between those rights and the interests of preserving the characteristics of Dana Point's neighborhoods and community.



Federal/State Regulations

- Fair Housing Act
- Americans with Disabilities Act
- Fair Employment and Housing Act
- Health and Safety Code §1566.3: *The current legal framework requires that the local agency treat these living arrangements as equivalent to a single family home when the residential facility serves six or fewer persons.*
 - As a result, city zoning ordinances must treat licensed facilities for six or fewer individuals as a residential use of property, and their inhabitants (disabled persons and operators) as a family. Generally, a city is precluded from placing special restrictions that do not apply to all residential land uses, or which may result in a reduced diversity of housing options for the disabled.



Tracking Other Cities' Efforts

- City staff has kept close watch on efforts by other cities to address concerns that sober living home concentrations detract from the character of the community, as it is a current issue of Statewide concern.
- The courts have limited what a city can do based largely on concerns about discrimination against disabled persons.
- Newport Beach: Adopted regulatory ordinance that imposed permit requirements with various restrictions. City was sued, and Court of Appeal issued injunction. Case ultimately settled at a cost of approximately \$10.2 Million between damages and legal fees.
- Costa Mesa: Adapted a variation of the Newport ordinance that attempted to regulate sober living homes with changes to resolve issues raised by Court of Appeal in the Newport Beach case. Same Court of Appeal issued injunction against enforcement. Settlement with one operator, but litigation is ongoing.
- Malibu: City sued State for not enforcing licensing requirements. Court dismissed case on demurrer (even if facts in complaint were true, Court found there was no legal right to pursue).
- San Clemente / San Juan Capistrano: Adopted moratorium (San Clemente's expired and they amended their zoning code with intended effect to allow city to regulate in a manner that we believe can be accomplished under existing DPMC).



Recent Complaints and Response

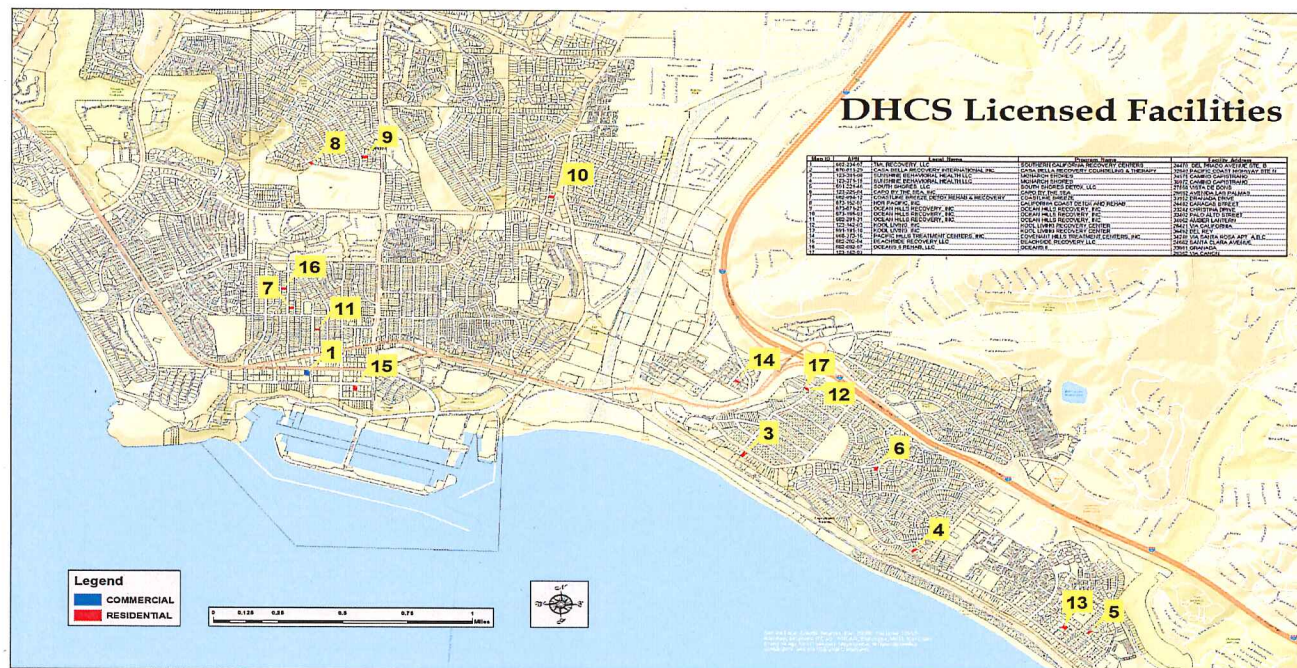
- City staff have received a number of emails and phone calls related to several homes and facilities in town and has been investigating their compliance with City regulations and State licensing regulations.
- City staff has been working with the Department of Health and Orange County Fire Authority to ensure that the 17 licensed facilities in town are operating properly under their license and are being good neighbors.
- As of the most recent inspection by OCFA, all homes were in compliance with their State licensing.
- Also, all successfully completed the required Fire Department inspection.
- City staff is investigating homes (when complaints received) that are not licensed and thus should not be providing treatment per State laws, to ensure that they are not operating unlawfully.
- City staff has been communicating with the State and the District Attorney in connection with concerns over licensing violations.



Tracking Existing Facilities

Request to conduct census of non-licensed group homes could constitute unlawful discrimination.

City has a working list of licensed facilities (below), and is examining non-licensed locations accused of violating City regulations and State licensing regulations.





Recent City Actions

- Continued City participation in regional and State discussions.
 - Sober Living Town Hall meetings with Senator Patricia Bates and Assemblyman William Brough.
- Police and Code Enforcement response to alleged nuisances.
 - E.g., alleged parking, noise and litter violations.
- Working collaboratively with OCFA to ensure proper inspection prior to State licensing.
- Investigating unlicensed homes (when complaints received) to determine if there is treatment occurring onsite or if they are providing residential services as part of a treatment program such that licensing is required.
- Communicating relevant information obtained on unlicensed homes operating without permits to the DA and State.
- 2016 State and Federal Legislative Platform
 - Lobby for more local control over group homes.



What Can The City Do?

- ▶ The City may not and will not discriminate against, nor take actions targeted at disabled persons.
- ▶ The City can take action to ensure licensing requirements are met if it has a legitimate reason to believe that licensing laws are being violated.
- ▶ The City can take action to enforce laws that apply to all residences, provided the laws and its enforcement apply equally to everyone.
- ▶ The City can continue to report unlawful activity to the DA and the State
- ▶ City Council direction to Staff: Report of Closed Session activity.



What Can You Do?

- Notify the Sheriff's Department at (949) 770-6011 any time a violation of law is observed. Call 911 in an emergency.
- Notify the Code Enforcement Department at (949) 248-3559 to investigate complaints of a Municipal Code violation.
- Notify the State licensing agency (Department of Health Care Services) at (877) 685-8333 for any observed non-compliance with licensing requirements and restrictions.