

STAFF REPORT
City of Lancaster, California

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Date: January 9, 2007

To: Mayor Hearn and City Council Members

From: David R. McEwen, City Attorney
Elizabeth Brubaker, Housing & Neighborhood Revitalization Director

Subject: **Introduction of an Ordinance regarding Group Home Business Licensing and Consideration of a Resolution for the adoption of a Group Home Business License Fee**

Recommendation:

1. Introduce Ordinance No. 870, adding Chapter 5.44 to the Lancaster Municipal Code to establish the Group Home Business License.
2. Adopt Resolution No. 07-13, adopting the Group Home Business License and Inspection Fee Schedule.

Fiscal Impact:

The proposed business license fee and inspection fee for a non-licensed group home is \$260.00 and \$190.00 to renew the license. It is expected that this fee will cover the cost to administer and operate the program, which is estimated to be \$82,000.00.

Background:

The Lancaster Municipal Code does not provide adequate regulations for the use of Group Homes afforded by State and Federal law for handicapped persons.

Discussion:

Group residential homes have been recognized as providing persons with handicaps the opportunity to experience a family-type environment in single-family zoned neighborhoods. It has been recognized that giving persons with handicaps the opportunity to live in family oriented environments has assisted in their recovery. Their integration into residential neighborhoods has improved their quality of life and, in particular, has given handicapped persons the opportunity to receive and give support and encouragement to each other.

Numerous State statutes pre-empt local zoning laws in connection with licensed group homes. Generally, these laws require that a licensed group home serving six or fewer persons be treated as a single-family residence for all purposes and prohibit the requirements of any conditional use permit, zoning variance, the payment of a business license fee or other discretionary acts not required of a single family residence within the zone. These statutes include:

- (1) Intermediate care facilities for the developmentally disabled (Health & Safety Code §§ 1267.8, 1267.9);
- (2) Community care facilities (Health & Safety Code §§ 1566.3, 1567.1);
- (3) Residential care facilities for the elderly (Health & Safety Code §§ 1568.083, 1568.0831, 1569.85);
- (4) Alcoholism and drug abuse facilities (Health & Safety Code §§ 11834.02, 11834.30);
- (5) Pediatric day health and respite care facilities (Health & Safety Code §§ 1760, et seq.); and
- (6) Family care home, foster home, group home for mentally disordered or otherwise handicapped persons or dependent and neglected children (Welfare & Institutions Code §§ 5115 – 5120).

While the City is not prevented from regulating unlicensed group homes serving six or fewer persons or licensed or unlicensed group homes serving more than six persons, such regulations are subject to Federal and State statutes with respect to discrimination against handicapped persons. Those laws generally require that the City make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford handicapped persons equal opportunities to use and enjoy dwellings.

Businesses have been established as group homes, and have been located in residential neighborhoods and used as “Flop” houses, overcrowded boarding houses, temporary housing for transients and others who do not qualify for the protection provided to handicapped persons.

The draft ordinance provides reasonable regulations for unlicensed group homes (serving six or fewer persons) and unlicensed group facilities (serving more than six persons). Unlicensed group homes are allowed in single-family zones, but must be at least 500 feet from any other group home. Unlicensed group facilities are allowed only in high-density residential zones. The proposed ordinance takes the City of Lancaster to the next level of protection and promotion of the public health, safety and welfare. It is a well-integrated, incentivized program that will enable the City to preserve housing stock and increase the quality of life of the community