DEPARTMENT OF
CITY PLANNING
200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801
AND
6262 VAN NUYS BLVD., SUITE 351
VAN NUYS, CA 91401

CITY PLANNING COMMISSION
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PRESIDENT
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JOHN W. MACK
MARTA SEGURA

JAMES K. WILLIAMS
COMMISSION EXECUTIVE ASSISTANT II
(213) 978-1300

# CITY OF LOS ANGELES
CALIFORNIA

ERIC GARCETTI
MAYOR

EXECUTIVE OFFICES

MICHAEL J. LOGRANDE
DIRECTOR
(213) 978-1271

ALAN BELL, AICP
DEPUTY DIRECTOR
(213) 978-1272

LISA M. WEBBER, AICP
DEPUTY DIRECTOR
(213) 978-1274

EVA YUAN-MCDANIEL
DEPUTY DIRECTOR
(213) 978-1273

FAX: (213) 978-1275

INFORMATION
www.planning.lacity.org

June 25, 2014

Los Angeles City Council
C/O City Clerk's Office
200 N. Spring Street, Room 395
Los Angeles CA 90012

Council File No. 14-0118

Attention: Ad Hoc Committee on Community Care Facilities

**RE: COMMUNITY CARE FACILITIES ORDINANCE**

Dear Honorable Members of the Ad Hoc Committee on Community Care Facilities:

For your consideration, this report identifies possible revisions to the proposed Community Care Facilities ordinance. At the April 2, 2014 Committee meeting, Council members instructed Planning Department staff to prepare a report recommending options for the regulation of both licensed Community Care Facilities and unlicensed group living arrangement. The Department of City Planning (DCP) therefore submits this Recommendation Report, which includes revised Zoning Code definitions of *family*, *boarding and rooming house* and *dwelling unit* and new definitions of *single housekeeping unit* and *residential high occupancy unit.*

A discussion draft ordinance that shows the changes made to the City Attorney proposed ordinance, dated January 3, 2014 (*1/13 Draft CCFO Ordinance*), is attached (Exhibit A). This discussion draft highlights aspects of the ordinance that are recommended to be changed, those that have remained the same, and presents an additional policy option - the Residential High Occupancy Permit (RHOP), which has been used by other cities to address problems associated with high occupancy group homes. The Department of City Planning recommends that the Ad Hoc Committee takes the following actions:

1) **Approve** this report as the Ad Hoc Committee's report.
2) **Approve** the draft discussion ordinance in Exhibit A and instruct the City Attorney's office to prepare a draft ordinance, for City Council consideration.
3) **Direct** the Department of City Planning, Department of Building and Safety, the Housing and Community Investment Department (in consultation with the City Attorney's office) to prepare a Group Housing Guidebook.
4) **Recommend** that the City Council adopt the Uniform Housing Code of the International Conference of Building Officials, pursuant to California Health and Safety Code 17922.

**Project Summary**

The City has struggled for many years to come up with ways to address the concerns that have been associated with large group living arrangements. Finding the right balance between fostering a variety of housing opportunities and protecting single-family neighborhoods, as well as the rights of residents and property owners, has been a significant challenge.

After thoughtful discussion and consultation with the Ad Hoc Committee, other City agencies and members of the public, the DCP is proposing a series of interrelated changes to the Zoning Code dealing with group or shared housing, including:

1) Establishing regulations for State-licensed community care residential facilities;
2) Introducing the *single housekeeping unit* definition of family and differentiate small-scale bedroom rentals from commercial boarding houses; and
3) Considering the addition of the *Residential High Occupancy Permit* to regulate parking for large households.

The first set of changes, relating to State licensed community care facilities, is largely unchanged from the *1/13 Draft CCFO Ordinance*. The proposed regulations would align the City's Zoning Code with existing State Law. As such, it would make clear that State-licensed residential community care facilities are considered a *family* for the purposes of the Zoning Code if they have six or fewer persons. For seven or more persons, a ministerial administrative process is recommended to ensure basic compatibility with several key performance standards (parking, density, noise, etc.). The only change from the *1/13 Draft CCFO Ordinance* is the removal of the two-person per bedroom occupancy limits, as these standards are enforced by the State as a condition of their license. This provision was therefore duplicative and unnecessary.

The second set of regulations concern shared or group housing arrangements that do not require a State license. The overall aim of the changes is to create a greater distinction between single-family dwelling units and commercial boarding houses, providing enhanced ability to enforce these regulations. It would do this in two ways. First, the proposal would introduce the *single housekeeping unit* definition to essentially replace the current broad definition of *family* in determining what types of groups may reside in a single-dwelling unit. Second, it would ensure that small-scale (one or two bedroom) shared housing opportunities are permitted, while further differentiating them from commercial *boarding and rooming houses*. The change is needed to reflect the reality of shared housing in the 21st Century, as well as to respond to the proposed *definition* changes that could cloud the current status of many room rental arrangements.

The third part describes an additional option for consideration - the *High Occupancy Residential Use* Permit (RHOP). The RHOP would apply when 7 or more (non-exempt) adults are living together in a single dwelling unit and would require conformance with higher parking standards. This type of permit would reflect the added parking burden created when large groups of adults live together in a single dwelling unit.

**Background**

Group or shared housing arrangements come in all sizes and types in Los Angeles. The majority occur in the private rental housing market through the rental of rooms, beds or entire homes by groups of individuals or families. Group living arrangements often serve specific populations like students, the elderly, artists, recovering addicts, disabled and the

ecologically minded. One specific, but significant subset of group homes for persons with special needs (that are licensed by the State) are community care facilities. This report makes comprehensive recommendations regarding multiple issues around both licensed and unlicensed group/shared housing.

As a testament to the importance and complexity of these matters, the City has been engaged with this issue in different ways for at least 20 years. The efforts have been largely spurred by reports of different types of disturbances and nuisance-related complaints associated with large group housing arrangements and the difficulty in addressing the concerns given current regulations. These include concerns regarding excessive noise, secondhand smoke, overcrowding, insufficient off-street parking and other types of nuisances or illegalities that degrade the character of single-family residential areas.

At the same time, many fair housing advocates and members of the public who live in or operate group living residences have commented that the City should not take any action that would restrict housing options or somehow limit the effectiveness of shared housing as a way to prevent homelessness.

While some parts of the previous *1/13 Draft CCFO Ordinance* were well received by much of the public (particularly Part 1 below), certain aspects proved extremely controversial (such as Part 2). The most divisive sections of the previous proposal have been removed or significantly changed. However, a significant new parking proposal is put forward for City Council consideration - the Residential High Occupancy Permit (Part 3).

Legislative History

An October 24, 2007 motion by (then) Councilman Smith directed the Planning Department to report back on this issue. In 2008, the Planning and Land Use Management (PLUM) committee directed staff to craft an ordinance. On February 10, 2011, following a public hearing, the City Planning Commission (CPC) failed to take an action on the proposed ordinance. On February 16, 2011, the PLUM Committee moved to forward the ordinance to City Council as the CPC had not acted in 75 days. On June 1, 2011, the City Council voted 12-1-2 to request the City Attorney to draft an ordinance. The City Attorney draft ordinance was released on September 13, 2011. The draft ordinance was forwarded back to the PLUM committee, where it was voted out of committee with no recommendation. On December 10, 2012 the matter was referred to the Public Safety Committee, which unanimously voted to approve the transmitted ordinance with a few suggested changes. On January 3, 2013 the City Attorney transmitted an amended ordinance. The matter went before City Council on January 30, 2013, where the matter was not called for a vote (only 10 members were present). However, the Council did vote 11-0 on the motion to create an ad hoc committee to review the matter.

Part 1. State Licensed Residential Community Care Facilities

For over 40 years, state and federal governments have favored de-institutionalizing persons with disabilities and encouraged their living in homes in residential neighborhoods. In California, the Community Care Facilities Act of 1973 (and later amendments) created regulations for homes for persons with special needs who require personal services, supervision, or assistance but can function outside of an institutional setting. It also specified that local jurisdictions must treat licensed residential facilities with six or fewer persons the same as any other family in the zoning code. The State gives greater leeway to create regulations for those facilities with seven or more persons.

Since the Act was passed in 1973, the City has adhered to State law, despite the absence of specific regulations for community care facilities in the Zoning Code. Licensed residential care facilities with six or fewer persons have been treated the same as any type of *family* and therefore have been able to locate anywhere single-family residential uses are permitted (including "R" residential zones, "C" commercial zones and "A" agricultural zones). While it has not been a major concern, the lack of reference in the Zoning Code causes unnecessary confusion. To address this, the new Ordinance (Exhibit A) includes specific reference to these smaller State licensed facilities within the proposed new definition of a *single housekeeping unit*.

Unlike small community care facilities, those with seven or more residents are subject to local land use regulations. Given the lack of specific rules specifying where such uses may be located in Los Angeles, larger facilities have often been subjected to a de-facto variance procedure in low and medium density residential zones. A variance is typically designed for uses that are not permitted in certain areas and therefore requires a demonstration of "practical difficulties or unnecessary hardships" for approval. The process tends to focus the public process on impacts to neighborhoods rather than on ways to accommodate persons with disabilities in residential neighborhoods, which is the expressed purpose of the Community Care Facilities Act. Lack of clarity in the Zoning Code has also led to uneven enforcement of the variance requirement.

The new Ordinance proposes replacing the current variance process for licensed residences with seven or more persons to a significantly more streamlined process that focuses on core potential impacts associated with higher numbers of adult residents. The DCP looked at the most common conditions of approval for these types of variance cases in the past and proposes that they be incorporated into the new process. The Ordinance would include licensed residential facilities serving seven or more residents by utilizing the "Public Benefits" approval process section of the Code (14.00). They would be permitted in residential areas when they meet all of the required performance standards, including basic parking, noise and residential character requirements (see below). Projects where Public Benefits do not meet the performance standards may seek approval through an alternative compliance process that requires a public hearing and Director's determination.

Licensed community care facilities provide a benefit to the public by enabling the elderly and people with disabilities to live together in the community. This has been found to enhance the quality of life and functioning of people with disabilities. Making the process more certain and streamlined obviously helps those able to live in the homes, but also holds all such facilities to standards that ensures that the residential quality of the neighborhood is maintained. The process also respects the taxpayer by not creating a new time consuming, complicated regulatory regime.

The Public Benefit type of use is permitted through a ministerial process that does not require a public hearing or letter of determination. However, basic information on the decision will be sent to abutting property owners, the applicable certified neighborhood council, and the applicable City Council office. Public notification shall identify the applicable performance standards and a statement that, if the public benefit does not adhere to the performance standards, the Director of Planning may revise the performance standards or discontinue the use.

The Ordinance also includes a requirement to record a covenant outlining the determination (with the Office of the County Recorder). The covenant will be valid as long as the property

is used as a public benefit and terminated when the land is no longer used as a public benefit or if the performance standards are not met or kept in place.

The following seven performance standards would apply to licensed community care facilities with seven or more residents:

**Parking:** A minimum of two on-site spaces for each facility, with an additional 0.2 space provided for each resident above the seventh resident. Since disabled and elderly residents of CCFs do not typically have vehicles, the required number of on-site spaces would increase incrementally at the rate of 0.2 per resident. Thus, a facility for seven to nine residents would require two parking spaces; a facility with ten to 14 residents would require three spaces, and a facility with 15 to 19 residents, four spaces, and so on.

**Access:** The facility must avoid interference with traffic by providing access through driveways and/or loading docks for deliveries and pickups.

**Noise:** The facility must conform to the City's noise regulations pursuant to Chapter 11 of the zoning code; any household noise or music shall be sufficiently modulated to ensure that adjacent residents are not disturbed.

**Residential character:** In the agricultural and residential zones, the existing residential character of the building and site shall be maintained, including the exterior facade, landscaping, fences, walls, lawn areas, and driveways.

**Night lighting:** Security night lighting shall be shielded so that the light source cannot be seen from adjacent residential properties.

**Peaceful enjoyment:** The facility shall not create an unreasonable level of disruption or interference with the peaceful enjoyment of adjoining and neighborhood properties.

An additional provision that regulated density at two residents per bedroom and was included in the prior *1/13 Draft CCFO Ordinance* has been removed. These density limits for community care facilities are established and enforced by the State regulatory agencies responsible for their licensing. Therefore, a City requirement in this regard is duplicative and unnecessary.

Part 2. Separating the Regulation of Families from Boarding and Rooming Houses

Definitions in the Zoning Code determine exactly who can legally inhabit a dwelling unit. In the City of Los Angeles, like most cities, any group of individuals inhabiting a dwelling unit that meets the definition of a *family (*or *single housekeeping unit)* are permitted to live together in any type of residential unit. This is why the Zoning Code definitions are critical to this issue of (non-licensable) shared housing.

The Zoning Code's definition of *family* was changed in 2006 to reflect the legal and policy trends towards a more expansive view of shared housing. The current definition states that *any group of individuals* that have some "common use of all living, kitchen and eating areas within the dwelling unit" are considered a *family*. As was detailed in a March 13, 2014 report to the Ad Hoc Committee, the City's definition of *family* was found to be more permissive of group living arrangements than any of the other 13 local jurisdictions in California that were

surveyed, including all the major cities. All the other cities were found to require that roommates function together as a cohesive household, or a *single housekeeping unit*. Cities are restricted by state and federal law from enacting definitions that distinguish between related and unrelated individuals or impose numerical limits on the number of persons that may constitute a family.

The city's definition of *family* is meant to work in conjunction with other housing-related Zoning Code definitions, such as *boarding or rooming house.* However, since the definition of *boarding or rooming house* was not changed along with the definition of *family* in 2006, it no longer is clear how the two relate. Compared to other cities in California, the City's definition of *boarding or rooming house* is quite strict as it treats the rental of just one (up to six) *guest rooms* as a commercial *boarding or rooming housing* operation. Most cities define the rental of at least three or more *guest rooms* as boarding or rooming houses.

The combination of an expansive 2006 definition of *family* and a strict 1956 definition of *boarding and rooming house* has led to regulatory overlap and confusion. Under today's definitions, a group of ten individuals renting five separate bedrooms, without any bonds to one another, could be considered both a *boarding or rooming house* and a *family,* insofar as the individuals have common use and access to kitchen and/or living areas. Enforcement of these important zoning classifications has proven difficult given the lack of clarity.

The changes in the proposed Ordinance (Exhibit A) attempt to resolve this overlap between the definitions of *family* and *single housekeeping unit*. To avoid unintended consequences and ensure housing opportunity, several changes are recommended from the prior January 2013 City Council proposal. The Ordinance would make changes to the following definitions:

> **Family -** One or more persons living together in a dwelling unit as a single housekeeping unit.~~, with common access to, and common use of all living, kitchen, and eating areas within the dwelling unit.~~
>
> **(New) Single Housekeeping Unit** - Any household whose members are a non-transient interactive group of persons jointly occupying a dwelling unit, including joint access to and use of all common areas including living, kitchen, and eating areas within the dwelling unit, and sharing household activities and responsibilities such as meals, chores, expenses and maintenance. This does not include a Boarding or Rooming House. This definition includes any State-licensed residential facility serving six or fewer persons which, under the California Health and Safety Code, must be considered a family.
>
> **Boarding or Rooming House**. A dwelling containing a single dwelling unit and not more than five guest rooms or suites of rooms, where lodging is provided with or without meals, for compensation~~.~~; or a dwelling unit where three or more habitable rooms are occupied by renters who are not members of the single housekeeping unit.
>
> **Dwelling Unit**. A group of two or more habitable rooms designed for occupancy by one family for living and sleeping purposes, where one ~~of which~~ of the habitable rooms is a kitchen~~, designed for occupancy by one family for living and sleeping purposes~~ and no more than two habitable rooms are occupied by renters who are not members of the single housekeeping unit.