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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.

The Ordinance makes a clear distinction between *family* residences and *boarding or rooming houses* by incorporating the *single housekeeping unit* concept used in many other California cities. DCP is recommending a revised *single housekeeping unit* definition based on the best practices identified in our previous March 13, 2014 report. The definition would introduce several commonly used familial characteristics including being non-transient and interactive with one another, as well as sharing meals, chores, expenses and maintenance.

The changes would essentially require a household to function as a cohesive unit, rather than separate households who happen to occupy the same building. This requirement of a functional relationship between individuals living together is the basis of every definition of *family or single housekeeping unit* surveyed by the Department in our March 13, 2014 report. The change will better protect the character of low density neighborhoods by reinforcing the long-held notion that purely commercial and transient types of multiple-occupancies are distinct from single-family units.

In order to protect legitimate small scale shared housing opportunities that might be affected by this change, DCP recommends amending the definitions of *dwelling unit and boarding and rooming house* to explicitly permit the rental of one or two bedrooms (habitable rooms) within a single unit. Without this change, the current 1956 *boarding or rooming house* definition would preclude the rental of a room to a person(s) outside the confines of the *family/single housekeeping unit* in single or two-family zones. This is contrary to housing market realities in Los Angeles and what the Department has heard from Ad Hoc Committee members. The change would also create a much clearer distinction between a commercial *boarding or rooming house* and an empty nester renting an extra room or two to help pay the mortgage.

Given the complexity of these issues, the DCP, LADBS, HCID (in consultation with the City Attorney's Office) will work together to develop a Group Housing Guidebook that could be used by staff interpreting or enforcing group home regulations.

### Part 3 - The Residential High Occupancy Permit

The Department believes the first two changes would represent a significant improvement in the way group and shared residential housing is treated in Los Angeles. Combined with recently increased prosecutorial resources (see Enforcement, pg. 11) and the proposed Group Housing Guidebook, the City would be better positioned to enforce its Zoning Code and prevent multiple-family uses in single-family zones. These two changes do not address previous concerns expressed regarding parking for high occupancy residences. To address this issue the DCP has conducted research on other approaches and has identified the Residential High Occupancy Permit (RHOP) as a possible policy option. The RHOP is a type of over-the-counter permit that has been used in several California cities, including San Diego. An example of San Diego's RHOP application form is provided as Exhibit B.

In San Diego, the RHOP is designed to ensure that residential uses with high numbers of adults 18 and over provide additional off-street parking spaces. Today, a single-family home is required to provide two on-site parking spaces regardless of the household size, or the number of cars or drivers. Large group or shared housing arrangements are considerably more likely to have more than two vehicles, which negatively impacts neighbors and neighborhoods. The Ordinance would require owners of single-family properties to apply for a RHOP if the unit houses seven or more persons age 18 or older (whether rented or owner occupied). In order to receive a RHOP permit, the owner must demonstrate adequate parking spaces exist on site.

If the Council decides that the RHOP is an appropriate new regulatory measure, then the DCP recommends a parking requirement of .4 parking spaces for every additional resident of a high occupancy residence, beginning with the seventh adult resident. San Diego's standard is significantly higher, requiring one parking space per adult, minus one; however the DCP believes in Los Angeles this would effectively restrict high occupancy uses from average sized lot as the higher parking requirement could not be feasibly met. Under a .4 space standard, an 8 or 9 adult household would need to provide 3 parking spaces, 10 and 11 would need to provide 4 spaces, etc. The Ordinance would exempt licensed community care facilities from the parking requirements (they have their own parking requirements under the Ordinance) as well as those residents who demonstrate to the satisfaction of the City permitting agency<sup>1</sup>, they don't have a driver's license or vehicle<sup>2</sup>. Like any land use regulation, persons with disabilities would be able to request a reasonable accommodation from the permit requirements. Areas with more restrictive parking regulations, such as those subject to the Neighborhood Stabilization Ordinance, would rely on the more restrictive parking calculation.

### **Key Issues**

Finding the right balance between expanding housing opportunities and protecting neighborhood character is an important but difficult task. The DCP believes the Draft Ordinance finds the right balance. This section highlights and discusses the key issues that have arisen during the substantial public process associated with the Ordinance.

### **Conserving Low-Density Residential Character**

Protecting and conserving neighborhood character has been the focus of the City Council motions and much of the public testimony calling for new regulations on group housing. The primary concern is that multiple-family uses are proliferating in single-family areas causing various negative impacts to the integrity of these neighborhoods. Difficulty in enforcing these distinctions is largely due to a very broad definition of *family* that was adopted in 2006 (see Background discussion above).

The proposed ordinance would require that occupants of a single dwelling unit have a non-transient, interactive relationship among one another based on shared activities and responsibilities. The change will make clear that a commercial *boarding or rooming house* may not locate within single-family areas. These changes support the City's goals of preserving single-family neighborhoods from incompatible intrusions.

The associated change to the definition of *dwelling unit*, which would explicitly allow the rental of one or two bedrooms, is not expected to have an impact on single-family neighborhoods as this type of arrangement is permitted today, given the broad definition of *family*. As stated earlier, the current definition of *family* allows any group to live together in a *dwelling unit* as long as they share access to common living areas such as living rooms, kitchens or eating areas. Small scale bedroom rentals would almost always meet today's standard given the need to share common areas to prepare food, eat and recreate. The change will clearly distinguish small scale room rentals from major commercially-oriented *boarding or rooming houses* or *hotels*.

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<sup>1</sup> Should the City Council wish to pursue the RHOP policy, it should identify an appropriate City permitting authority.

<sup>2</sup> The City of San Diego requires the applicant to provide a notarized declaration from each of the tenants who has no vehicle or drivers licensed, signed under penalty of perjury, stating the fact and to immediately notify the department of a status change.



### Shared Housing Opportunities

The “shared economy” has gotten a lot of attention of late as a way to more optimally allocate resources. In the realm of housing, it can be a way to match vacant bedrooms with those needing a more affordable place to live, as well as intentional communities of people occupying a home, with each person (or family) having a private area. Shared housing usually involves a private space for sleeping combined with common areas including a shared kitchen, dining room and living room plus outdoor spaces.

Given the severe lack of affordable housing in Los Angeles, facilitating shared housing types such as congregate living, co-housing and other group arrangements is something that is promoted by the City through the Housing Element of the General Plan (specifically in Program 67 - *Amend the Zoning Code to Facilitate Non-Conventional Housing*). State and Federal law has set forth a largely adequate framework to regulate occupancy and overcrowding standards around group housing.

Taken as a whole, the Draft Ordinance expands shared housing opportunities in important areas, including for persons with disabilities and the small scale rental of bedrooms. However, there has understandably been concern as to how changes to the definition of *family* and *boarding or rooming house* might impact a range of housing types and arrangements. Advocates for persons with disabilities, renters and the poor have been wary of any moves that would limit what is seen as an important source of affordable housing. The Draft Ordinance is mindful of these concerns.

The change to the definition of *family* and the addition of the *single housekeeping unit* concept into the Zoning Code could be seen as a modest narrowing of shared housing opportunities. This is because the City’s current definition of *family*, which determines who can legally occupy a single dwelling unit, allows almost any type of group and/or shared housing arrangement. However, the current definition of *family* has been found to be so broad that it has created overlap and confusion with uses not permitted in single-family zones such as *boarding or rooming houses*.

The previously proposed definitions of *single housekeeping unit* have been of particular concern for housing advocates. The new proposal would ensure that families are defined by their relationship to each other and not how they came together or how leases are structured, which had been the strongest concerns in the past. The new definition includes commonly used, mainstream characteristics to define when a group household is the functional equivalent of a family. It is derived from a careful analysis of the type of approach taken by other cities in California.

In order to ensure shared housing opportunities are protected further, DCP is recommending an explicit allowance for the small-scale shared housing arrangements. The Ordinance would explicitly permit the rental of one or two bedrooms as part of any dwelling unit without being considered a commercial *boarding or rooming house*. The change will protect the ability of a property owner with an empty bedroom or two the ability to rent them out, without needing to establish that they are part of the newly defined *single housekeeping unit*. The rental of three or more rooms outside of a *single housekeeping unit* relationship is considered by most cities in California to be a *boarding or rooming house*. These uses will continue to be precluded in single-family neighborhoods.

If Council wishes to adopt the Residential High Occupancy Permit (RHOP), which focuses on the higher incidence of car usage created by occupancies with large number of

residents, the DCP is recommending several protections for legitimate shared housing arrangements. First, housing for seniors and persons with disabilities (including State-licensed residential facilities) should be exempt from the RHOP provisions. These populations drive less and licensed facilities have their own parking standards in the Draft Ordinance. Second, persons able to demonstrate they do not drive and/or own a vehicle should be exempt from the requirements. Third, the parking standard should be set at a point where it should not pose a reasonable barrier to the vast majority of shared housing – only the most egregious cases of over-parking. The proposed RHOP requirements would take effect at the seventh person, but only require an additional parking space when a household reached eight adult drivers, at which point .4 extra parking spaces would be needed.

It is not known exactly how many households would qualify under the proposed RHOP provisions, but it is believed to be relatively small. The City of San Diego has utilized the RHOP since 2007 and has reported processing about 50 RHOP permits – mostly due to neighborhood complaints. The 2012 American Community Survey identifies approximately 35,000 households in Los Angeles with more than 7 persons (the maximum number counted). However the vast majority of these (34,500) are considered “family households” by the Census, which means they consist of people related by birth, marriage, or adoption. Many 7 person or more family households are likely to have children or senior citizen residents, which would be exempt from the count of adults. The estimated number of 7 adult households subject to the regulations therefore likely runs from a few hundred to a few thousand.

#### Housing Opportunities for Persons with Special Needs

The protection of housing opportunities for those with special needs has been a consistent concern from those who had been opposed to additional regulations. The process has been informed by much scrutiny and debate, which has helped yield specific information on the ways certain definitions of a *single housekeeping unit* could indeed impact legitimate shared housing, even if in minor ways, including existing government-assisted housing. The DCP, having worked closely with the City Attorney’s office, believes the current Ordinance presents no barrier to housing for persons with special needs or otherwise.

The Ordinance would expand housing opportunities for the elderly and persons with disabilities by explicitly permitting state-licensed residential care facilities (for persons with disabilities and/or the elderly) with 6 or fewer persons by right in all residential zones, as well as by creating a streamlined Public Benefit process for licensed facilities with more than 7 persons (taking the place of a Variance procedure). This provision has been widely supported and is far superior to the current situation.

The new definition of *single housekeeping unit* is squarely in line with most cities in California and consistent with fair housing law. Potential negative impacts on small scale shared housing have been mitigated through additional changes, including the expressed permission of one and two-room rentals within a dwelling unit.

Under a possible Residential High Occupancy Permit (RHOP) process senior housing and residential care facilities housing persons with disabilities are specifically exempted from the provisions, as are persons able to demonstrate they do not drive and/or own a vehicle. Reasonable accommodation procedures will be in place to ensure flexibility in providing housing opportunities for persons with disabilities.

### Occupancy Standards (Overcrowding)

A major concern about group living arrangements has been the issue of overcrowding. In order to prevent overcrowding, California has adopted the floor area occupancy standards found in the 1997 Uniform Housing Code (UHC). Locally adopted occupancy limits cannot be more restrictive than the UHC unless justified based on local climatic, geological, or topographical conditions. Efforts by cities to adopt more restrictive standards have been overturned in California. The UHC standards form an objective standard to enforce substandard housing.

The State requires cities to enforce the UHC; however it has not been officially adopted by the City of Los Angeles, unlike other federal codes. The DCP and LADBS also recommends that the City Council adopt the UHC (see Recommendation #4 on page 1). Other than that, the Ordinance is silent on occupancy and therefore defers to the Federal standards.

### Enforcement

Many of the complaints from residents about group living arrangements in their neighborhoods involve issues already illegal under City law. These include excessive noise, overcrowding, aggressive behavior, drug and alcohol use and illegal construction. Complaints regarding the zoning and building code are handled by the Department of Building and Safety (for buildings with 2 units or less) and the Housing and Community Investment Department (the Police Department has jurisdiction over criminal matters). Complaints are systematically investigated and violation notices are sent when verified. Owners or other responsible parties are given a set amount of time to resolve the violation or fees are enforced. Violation of the LAMC is a misdemeanor and code enforcement cases must therefore be prepared for the possibility of being resolved in Los Angeles Superior Court.

The enhanced definitions should assist in the enforcement of existing zoning regulations by explicitly requiring a household relationship amongst occupants of a *family* (or *single housekeeping unit*) and differentiating true *boarding and rooming houses* from regular dwelling units. However, the definition of *single housekeeping unit* will continue to rely on qualitative criteria requiring often difficult assessments by enforcement agencies. None of the definitions of family used by other surveyed jurisdictions in California used more quantitative criteria. Given the various laws and court decisions that apply in the State, some difficulty in enforcing definitions of *family* and *single housekeeping unit* appears to be unavoidable.

With regards to the RHOP option, it should be stated that this type of regulation is more difficult to enforce than more quantifiable types of building and zoning codes such as setback or floor area. To determine the validity of a complaint a Code Enforcement inspector may need to collect information on number of occupants or vehicles. With non-compliant owners, this may require assistance from neighborhood prosecutors in the City Attorney's Office who may find it necessary to pursue a court warrant to initiate an interior inspection, or obtain copies of utility bills, tax records, DMV records, etc. The process could be contentious and take up a significant amount of City staff time. For that reason, it is important to recognize there are significant potential costs associated with the proposal.

It is worth noting that the City has recently devoted significant new resources to code enforcement and neighborhood prosecution. For example, the City Attorney's office recently doubled the number of Neighborhood Prosecutors (from 8 to 16), who work with communities to address local quality of life and nuisance activity. Neighborhood prosecutors are empowered to prosecute misdemeanors but also know how to use code enforcement or other city resources as alternative ways to address a problem.

**Conclusion**

The attached Ordinance (Exhibit A) attempts to take a comprehensive approach to the issue of group or shared housing due to its importance and complexity. The DCP believes the proposed Ordinance strikes the correct balance between protecting neighborhoods from multiple-family intrusions as well as protecting and expanding shared housing arrangements.

For state licensed community care facilities, the Ordinance would create a streamlined approval process focused on the mitigation of potential neighborhood impacts. For the contentious issues around definitions of *family* and regulations on *boarding or rooming houses*, the Ordinance would move the City towards the mainstream of major California cities. Families would need to have a functional relationship to be defined as a *single housekeeping unit* and the boarding house regulations would not apply to the rental of one or two bedrooms. Finally, a parking permit for high occupancy residences may also be considered by Council.

If you have questions on this matter, please do not hesitate to contact Matthew Glesne in the Department of City Planning at (213)978-2666.

Sincerely,



Alan Bell, AICP  
Deputy Director of Planning

Attachments: Exhibit A – Discussion Draft Ordinance  
Exhibit B – City of San Diego Residential High Occupancy Permit Application

*Please note: The tracked changes below illustrate modifications to the proposed City Attorney ordinance text, dated January 3, 2013. Please refer to the tracked changes shown on page 6 of the accompanying Department of City Planning report (dated June 25, 2014) to see the proposed changes in relation to current zoning code definitions.*

ORDINANCE NO. \_\_\_\_\_

An ordinance amending Sections 12.03, 12.21, 12.22, 12.24, and 14.00 of, and adding Article 4.1 to, Chapter 1 of the Los Angeles Municipal Code consistent with the California Community Care Facilities Act to add definitions of residential Community Care Facilities for adults and the elderly, Licensed; Residential Care Facility for the Elderly, Licensed; and Alcoholism or Drug Abuse Recovery or Treatment Facility, Licensed; to permit State licensed facilities with seven or more residents as public benefit projects subject to performance standards in any zone; to amend the definitions of Boarding or Rooming House, Dwelling Unit and Family , and to add the definition of Single Housekeeping Unit in order; to provide clear guidelines for the appropriate enforcement of boarding houses with transient characteristics; and to prohibit Boarding or Rooming Houses in one-family dwellings in low-density RD Zones. The discussion ordinance also adds a regulation for a High Dwelling Unit Occupancy permit, which would require dwellings with 7 or more adults age 18 or over to receive an administrative permit and meet higher parking requirements.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. Section 12.03 of the Los Angeles Municipal Code is amended by adding the following definitions in alphabetical order to read as follows:

**ALCOHOLISM OR DRUG ABUSE RECOVERY OR TREATMENT FACILITY, LICENSED.** As defined in Section 11834.02 of the Health and Safety Code, any premises, place or building licensed by the State of California that provides 24-hour residential non-medical services to adults who are recovering from problems related to alcohol, drug or alcohol and drug 'misuse or abuse, and who need alcohol and drug recovery treatment or detoxification services.

**COMMUNITY CARE FACILITY, LICENSED.** Any facility, place or building licensed by the State of California that is maintained and operated as a residential facility or as a social rehabilitation facility, as defined in Sections 1502(a)(1) and 1502(a)(7) of the Health and Safety Code, respectively, to provide non-medical residential care for persons in need of services, supervision or assistance essential for sustaining the activities of daily living.

**RESIDENTIAL CARE FACILITY FOR THE ELDERLY, LICENSED.** As defined in Section 1569.2 of the Health and Safety Code, a housing arrangement licensed by the State of California and chosen voluntarily by persons 60 years of



age or over, or their authorized representative, where varying levels of intensities of care and supervision, protective supervision, or personal care, or health-related services are provided, based upon the varying needs of the residents, as determined in order to be admitted and to remain in the facility. A Residential Care Facility for the Elderly, Licensed, may house residents under 60 years of age with compatible needs pursuant to Section 1569.316 of the Health and Safety Code and provide health-related services pursuant to Section 1569.70 of the Health and Safety Code.

**SINGLE HOUSEKEEPING UNIT.** Any household whose members are a non-transient interactive group of one or more persons jointly occupying a dwelling unit, including joint access to and use of all common areas, including living, kitchen, and eating within the dwelling unit, and sharing household activities and responsibilities such as meals, chores, expenses and maintenance, ~~and whose makeup is determined by the members of the unit rather than by the landlord, property manager, or other third party.~~ This does not include a Boarding or Rooming House. This definition includes any state licensed residential care facility serving six or fewer persons which, under California Health and Safety Code, must be considered a family.

Sec. 2. The following definitions set forth in Section 12.03 of the Los Angeles Municipal Code are amended to read as follows:

**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 to four or more persons for monetary or non-monetary consideration 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. This definition does not include any state licensed facility serving six or fewer persons which, under state law, is not considered a boarding house. For purposes of calculating parking requirements, every 250 square feet of floor area shall be considered the same as a separate guest room.~~

**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.

**FAMILY.** One or more persons living together in a dwelling unit as a single housekeeping unit.

Sec. 3. Subparagraph (d) of Paragraph 4 of Subsection A of Section 12.21 of the Los Angeles Municipal Code is amended by adding a new Sub-subparagraph (6) to read as follows:

(6) Any Alcoholism or Drug Abuse Recovery or Treatment Facility, Licensed; Community Care Facility, Licensed; Residential Care Facility For The Elderly, Licensed, shall provide a minimum of two automobile parking spaces, with 0.2 automobile parking space provided for each additional resident over the number seven. The parking spaces are calculated based on the maximum number of residents authorized by the state license.

(7) Any Residential High Occupancy use, as defined in Section 14.1.1, shall comply with the regular parking requirements for the underlying residential use. In addition, .4 automobile spaces that need not be covered shall be provided on-site for each additional resident beginning with the seventh adult over 18 years of age.

#### **~~PAROLE-PROBATIONER HOME.~~**

Sec. 4. Subsection 0 of Section 12.21 of the Los Angeles Municipal Code is amended to read as follows:

##### **D. (None)**

Sec. 5. Subsection A of Section 12.22 of the Los Angeles Municipal Code is amended by adding a new Subdivision 31 to read as follows:

31. Boarding or Rooming Houses in the RD Zone. Notwithstanding the provisions of Section 12.09.1 of this Code, any one-family dwelling located on a lot zoned RD3, RD4, RD5 or RD6 shall not be used as a boarding or rooming house.

Sec. 6. Paragraph 9 of Subsection X of Section 12.24 of the Los Angeles Municipal Code is amended to read as follows:

##### **9. (None)**

Sec. 7. Subparagraph 5 of Subsection U of Section 12.24 of the Los Angeles Municipal Code is amended to read as follows:

##### **5. (None)**

~~Sec. 8. Paragraph 54 of Subsection W of Section 12.24 of the Los Angeles Municipal Code is added to read as follows:~~

~~54. Parolee Probationer Homes in all zones except the RW2 and more restrictive zones.~~

Sec. 8. The first paragraph of Subsection A of Section 14.00 of the Los Angeles Municipal Code is amended to read as follows:

**A. Public Benefit Projects and Performance Standards.** Where not permitted by right or by Conditional Use Permit pursuant to Subsections U, V or W of Section 12.24, the following public benefit uses are permitted in any zone, unless restricted to certain zones or locations. The uses shall meet the following performance standards or alternative compliance measures approved pursuant to Subsection B.

Upon the Director's determination that the public benefit use meets the stated performance standards, the Director shall record a covenant of the determination with the Office of the County Recorder. The covenant shall be valid as long as the property is used as a public benefit. The covenant shall be terminated when the land is no longer used as a public benefit. Upon recordation with the Department of City Planning of a covenant affirming the performance standards of a public benefit, notification of the public benefit shall be sent to adjoining and 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 and terminate the covenant.

Sec. 9. Subsection A of Section 14.00 of the Los Angeles Municipal Code is amended by adding a new Paragraph 10 to read as follows:

10. Alcoholism or Drug Abuse Recovery or Treatment Facilities, Licensed; Community Care Facilities, Licensed; and Residential Care Facilities For The Elderly, Licensed, serving seven or more residents in the A, R, and C zones.

**(a) Performance standards:**

(1) The use meets the applicable automobile parking space requirements set forth in Section 12.21A 4 (d) (6);

(2) The use avoids interference with traffic by providing access through driveways and/or loading docks for deliveries and pickups;

(3) The use is conducted in conformance with the City's noise regulations pursuant to Chapter 11 of this Code; any household noise or music shall be sufficiently modulated to ensure that adjacent residents are not disturbed;

(4) In the A and R zones, the existing residential character of the building and site are maintained, including the exterior facade, landscaping, fences, walls, lawn areas, and driveways;

(5) Security night lighting is shielded so that the light source cannot be seen from adjacent residential properties;

(6) The use does not create an unreasonable level of disruption or interference with the peaceful enjoyment of adjoining and neighborhood properties; and

~~—(7) Total occupancy of the use does not exceed two persons per bedroom, as shown on the building plans approved by the Department of Building and Safety.~~

(b) **Purposes:** Alcoholism or Drug Abuse Recovery or Treatment Facilities, Licensed; Community Care Facilities, Licensed; and Residential Care Facilities For The Elderly, Licensed, serving seven or more residents in the A, Rand C zones, shall be compatible with the character of the neighborhood and not adversely impact the health, safety and welfare of the persons residing in the facility or the neighborhood. Parking, traffic and transportation impacts shall be insignificant. The operation must comply with State law and must have a State license. The number of residents allowed per facility is limited in order to keep density within acceptable limits.

Sec. 9. A new Article 4.1 is added to Chapter I of the Los Angeles Municipal Code to read:

## ARTICLE 4.1

### RESIDENTIAL HIGH OCCUPANCY PERMIT PROCESS

#### SEC. 14.1.1. RESIDENTIAL HIGH OCCUPANCY PERMIT

**A. Purpose Statement.** The purpose of these procedures is to provide development standards for high occupancy single dwelling units to ensure they provide adequate parking, are safe for occupancy and minimize impacts to adjacent properties.

**B. When a Residential High Occupancy Permit Is Required.** A Residential High Occupancy Permit is required for a single dwelling unit when the occupancy of the dwelling unit would consist of seven or more persons eighteen years of age and older residing in the dwelling unit for a period of 30 or more consecutive days. The requirement shall apply regardless of whether seven or more persons eighteen years of age and older resided in the dwelling unit prior to the effective date of this ordinance.

**C. Exemptions.** The parking requirements for a Residential High Occupancy Permit do not apply to facilities with more specific parking regulations such as Shelters for the Homeless, Senior Independent Housing, Assisted Living Care Housing, Skilled Nursing Care Housing, Alzheimer's/Dementia Care Housing, Housing Development Occupied By Disabled Persons, Community Care Facilities, Alcoholism or Drug Recovery or Treatment Facilities or Residential Care Facilities for the Elderly.

**D. Procedures.** To apply for a Residential High Occupancy Permit, an applicant shall file an application and parking plans with the permitting agency designated by the City Council, on a form provided by the agency, and include all information required by the instructions on the application, including a parking plan.

**E. Decision on Approval.** The permitting agency shall approve a Residential High Occupancy Permit if it finds:

1. Parking spaces conform to the applicable automobile parking space requirements set forth in Section 12.21A 4 (d) (7). An exception is made where persons over 18 are able to demonstrate they do not have a car and/or driver's license to the satisfaction of the permitting agency. If more restrictive parking space requirements are in effect, they shall be applied.

2. No pending code violations exist at the property, to the satisfaction of the permitting agency.

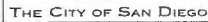
**F. Bi-Annual Review.** Notwithstanding subsection G below, the permit shall remain valid for two years, except when an increase in the number of adults occupying a structure exceeds the number of adults authorized under the permit. In such cases, a new permit application and fees shall be required.

**G. Development of Site.** On any lot or portion of a lot on which an Residential High Occupancy Permit has been approved pursuant to this section, new buildings or structures may be erected and enlargements may be made to existing buildings, provided that development plans are submitted to and approved by the permitting agency and the use continues to be in compliance with the Permit or a new Permit is issued.

**H. Notification.** Prior to the rental or sale of a single dwelling unit, the property owner shall disclose the requirement for a residential high occupancy permit to prospective tenants or buyers.

**I. Fees.** The fee(s) shall be as provided in Section 19.01 X. for the Residential High Occupancy Permit.





# Request for Residential High Occupancy Permit

**FORM**  
**DS-20**  
FEBRUARY 2008

[illegible]

Printed on recycled paper. Visit our web site at [www.sandiego.gov/development-services](http://www.sandiego.gov/development-services).  
Upon request, this information is available in alternative formats for persons with disabilities.

DS-20 (02-08)

**Page 2 of 2      City of San Diego • Development Services Department • Request for Residential High Occupancy Permit****6. Required drawings: Plot Plan and Vicinity Map**

For more information, refer to Information Bulletin 122 "How to Prepare a Single Dwelling Unit Plot Plan and Vicinity Map"

**7. Parking requirement**

The applicant shall demonstrate on submitted plans that one off-street parking space per occupant eighteen years of age and older, less one will be accommodated on the premises in accordance with Section 123.0504.

YES

NO

☐☐

Parking Reduction Requested

Please attach any documents that you feel are necessary to support your request for a lesser parking requirement.

**Owner Declaration:** I \_\_\_\_\_, certify, under penalty of perjury under the laws of the State of California, that there are \_\_\_\_\_ occupants eighteen years of age and older residing on the premises and that there are \_\_\_\_\_ vehicles associated with the premises.

Signature \_\_\_\_\_

Date \_\_\_\_\_

**8. Fee waiver for economic hardship**

YES

NO

☐☐

Fee Waiver Requested

If yes, please attach income tax forms for each property owner to demonstrate that total annual income is less than the Area Median Income for the San Diego Standard Metropolitan Statistical Area as published by the United States Department of Housing and Urban Development.

**9. Code compliance**

YES

NO

☐☐

Pending violation case related to residential high occupancy

☐☐

Other pending violation case at this property \_\_\_\_\_

**10. Owner Declaration:** I \_\_\_\_\_, certify, under penalty of perjury under the laws of the State of California, that the information provided above is correct. Willfully providing false statements or failing to report a material fact on this application is a violation of SDMC Section 11.0401 (b) and may be prosecuted civilly or criminally as a misdemeanor.

Signature \_\_\_\_\_

Date \_\_\_\_\_

**FOR CITY USE ONLY**

YES

NO

☐☐

Lease agreement provided

☐☐

Parking reduction granted

☐☐

Fee waiver granted

Documentation provided to support parking and/or fee waiver request:

Name: \_\_\_\_\_

Staff Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_