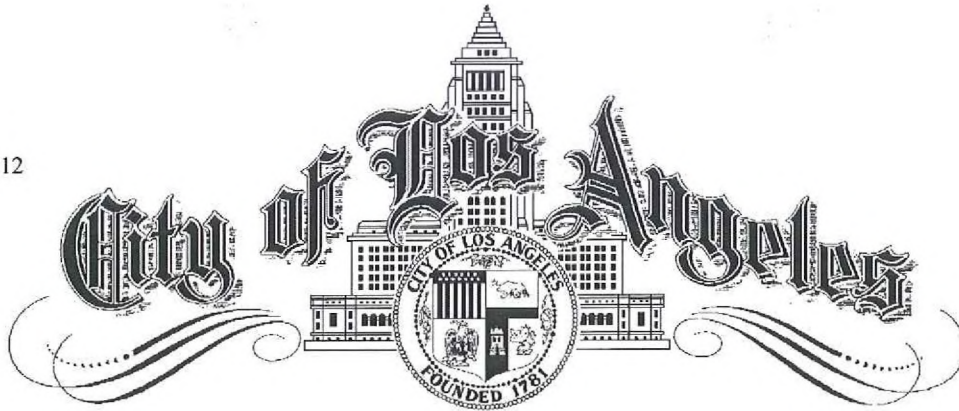


City Hall East
200 N. Main Street
Room 800
Los Angeles, CA 90012

(213) 978-8100 Tel
(213) 978-8312 Fax
CTrutanich@lacity.org
www.lacity.org/atty



CARMEN A. TRUTANICH
City Attorney

REPORT NO. R 1 3 - 0 0 1 4
JAN 0 3 2013

REPORT RE:

REVISED DRAFT ORDINANCE AMENDING SECTIONS 12.03, 12.21, 12.22, 12.24 AND 14.00 OF THE LOS ANGELES MUNICIPAL CODE REGULATING STATE LICENSED COMMUNITY CARE AND RESIDENTIAL CARE FACILITIES; DEFINING SINGLE HOUSEKEEPING UNIT AND PAROLEE-PROBATIONER HOME; AND AMENDING DEFINITIONS FOR BOARDING OR ROOMING HOUSE AND FAMILY

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 11-0262
CPC-2009-800-CA

Honorable Members:

We transmit to you for your consideration, approved as to form and legality, a revised draft ordinance amending Sections 12.03, 12.21, 12.22, 12.24 and 14.00 of the Los Angeles Municipal Code (LAMC), relating to community care facilities, which incorporates changes requested by the Public Safety Committee on December 10, 2012.

On June 1, 2011, the City Council approved the Planning Department report and requested that the City Attorney prepare and present an ordinance substantially similar to the proposed ordinance previously prepared by this Office and transmitted to you by the PLUM Committee.

On September 13, 2011, the City Attorney transmitted the draft ordinance to the PLUM Committee. The proposed draft ordinance added definitions of Community Care Facilities, Licensed; Residential Care Facilities for the Elderly, Licensed, and Alcoholism or Drug Abuse Recovery or Treatment Facilities, Licensed; and regulated facilities serving seven or more residents as public benefit projects, subject to performance standards. The draft ordinance also amended the definitions of Boarding or Rooming House, not amended since 1956, and Family, and added a definition of Single Housekeeping Unit, to enhance the City's enforcement capabilities concerning unauthorized boarding houses. The proposed ordinance also added a definition of Parolee-Probationer Home, to be authorized by conditional use permit.

On April 24, 2012, the PLUM Committee considered the ordinance transmitted by the City Attorney. The PLUM Committee moved the ordinance out of Committee without recommendation.

On December 10, 2012, the Public Safety Committee considered the draft ordinance transmitted by the City Attorney on September 13, 2011. The Public Safety Committee voted to recommend adoption of the ordinance with changes to the definitions of Single Housekeeping Unit, Boarding or Rooming House and Parolee-Probationer Home, as well as with the addition of a severability clause.

Summary of Revised Ordinance Provisions

The draft ordinance revises the definition of "Single Housekeeping Unit." A "Single Housekeeping Unit" is now defined as a non-transient group of people living together and sharing monetary responsibilities, chores and experiences, where residents have control over the makeup of the household, rather than a third party. Under the revision, the definition no longer relies upon a "single lease" requirement to define Single Housekeeping Unit. The revised definition further makes clear that a single housekeeping unit is not a Boarding House.

The definition of Boarding or Rooming House has also been revised. The revision eliminates the previous requirement that a dwelling, for lodgers living under two or more leases, is a Boarding or Rooming House. Under this definition, a use is not a Boarding House unless an owner or operator offers lodging to four or more individuals who do not live as a single housekeeping unit, for consideration.

Finally, the ordinance revises the definition of Parolee-Probationer Home. This definition no longer requires a multi-unit dwelling with just two or more parolee-probationers throughout the entire structure to obtain a conditional use permit. Rather, under the revision, a conditional use permit is only required where one or more units within the multi-unit structure have three or more parolee-probationers.

Findings under Charter Section 558

When the City Planning Commission has failed to act on a Council-initiated ordinance, as it has here, the City Council must make several findings under Charter Section 558.

First, Council must make a finding that the draft ordinance is consistent with what it intended when it requested preparation of this ordinance. See Charter Section 558(b)(3)(C). ("if the Commission fails to make any recommendation within the time specified by ordinance, an ordinance ... in conformity with that which was initiated by the Council... shall be prepared and presented to Council and may be adopted by majority vote.")

Second, in order to adopt this revised ordinance, under Charter Sections 556 and 558(b)(2), the Council must also find (a) that the proposed ordinance is in substantial conformance with the purposes, intent and provisions of the General Plan and (b) that the adoption of the proposed ordinance will be in conformity with public necessity, convenience, general welfare and good zoning practice.

CEQA Determination

Regarding the California Environmental Quality Act (CEQA), you may find that this project will not have a significant effect on the environment pursuant to the City's Environmental Guidelines, and is in compliance with the California Environmental Quality Act; that the Negative Declaration reflects the independent judgment of the lead agency in the City of Los Angeles; that the documents constituting the record of proceedings in this matter are located in Council File No. 11-0262 in the custody of the City Clerk and in the files of the Department of City Planning in the custody of the Environmental Review Section; and ADOPT the Negative Declaration [ENV 2009-801-ND]. You must make this determination prior to or concurrent with your action on the ordinance. If the subject ordinance is enacted, it is also recommended that the City Clerk file a Notice of Determination in accordance with Section 15075 of the State CEQA Guidelines.

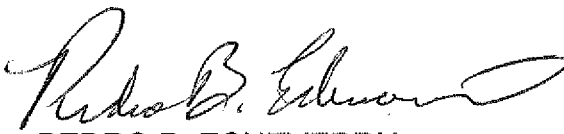
Council Rule 38 Referral

The revised ordinance was sent, pursuant to Council Rule 38, to the City Planning Department, the Department of Building and Safety, the Department of Housing, the Los Angeles Police Department, the Fire Department and the Department on Disability. The departments were requested to forward any comments concerning the revised ordinance directly to the City Council.

If you have any questions regarding this matter, please contact Deputy City Attorney Amy Brothers at (213) 978-8069. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By 
PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

PBE/AB:gl
Transmittal

ORDINANCE NO. _____

An ordinance amending Sections 12.03, 12.21, 12.22, 12.24, and 14.00 of the Los Angeles Municipal Code consistent with the California Community Care Facilities Act to add definitions of *Community Care Facility, 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* and *Family* 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 the RD Zone. The proposed ordinance also adds a definition of *Parolee-Probationer Home* and permits them by conditional use in all zones except the RW2 or more restrictive zones.

**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.

PAROLEE-PROBATIONER HOME. Any dwelling, Apartment House, Hotel, or Apartment Hotel, which, whether owned and/or operated by a person or a for-profit or not-for-profit entity, contains a dwelling unit or guest room that houses three or more parolees-probationers unrelated by blood, marriage, foster care status, or legal adoption, in exchange for monetary or non-monetary consideration given and/or paid by the parolee-probationer and/or any public or private entity or person on behalf of the parolee-probationer. A parolee-probationer includes: (i) any person who has been convicted of a federal crime, sentenced to a United States prison, and received conditional and revocable release in the community under the supervision of a federal parole officer; (ii) any person who has served a term of imprisonment in a State prison and who is serving a period of supervised community custody, as defined in Penal Code

Section 3000, and is under the jurisdiction of the California Department of Corrections, Parole and Community Services Division; (iii) an adult or juvenile sentenced to a term in the California Youth Authority and who has received conditional and revocable release in the community under the supervision of a Youth Authority Parole Officer; or (iv) any person who has been convicted of a felony, sentenced to any correctional facility, including county correctional facilities, and is under the jurisdiction of any federal, state, or county parole or probation officer. For the purposes of this paragraph, "felony" means a felony as defined by any California or United States statute.

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 persons jointly occupying a dwelling unit, including joint access to and use of all living, kitchen, and eating areas 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.

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 where lodging is provided to four or more persons for monetary or non-monetary consideration. 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.

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; or 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.

Sec. 4. Subsection D 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 RD 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. 9. 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. 10. 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 façade, 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 residents for every bedroom or guest room 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, R and 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. 11. **Severability.** If any part, section, subsection, subdivision, paragraph, subparagraph, sentence, phrase, clause, term, or word of this ordinance is declared invalid or unconstitutional by a valid court judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the constitutionality or lawfulness of the remainder of this ordinance.

Sec. 12. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

JUNE LAGMAY, City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By 
AMY BROTHERS
Deputy City Attorney

Date January 3, 2013

File No. CF11-0262; CPC 2009-800-CA