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March 18, 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:

In response to a March 5, 2014 request by the Chair of the Ad Hoc Committee, Councilman Mitchell Englander, the Department of City Planning has conducted a statewide review of zoning code definitions that typically regulate shared or group housing arrangements. These include definitions of family, single-housekeeping unit, boarding house, community residence and related terms.

**Background**

In the City of Los Angeles, like most cities, the ability to reside in a particular building or neighborhood is governed by the Zoning Code (Chapter 1 of the Municipal Code). The purpose of the Zoning Code is to protect the health, safety and welfare of citizens, while implementing the intent of the City's General Plan.

The Zoning Code defines a dwelling unit as "a group of two or more rooms, one of which is a kitchen, designed for occupancy by *one family* for living and sleeping purposes" (emphasis added). If a group household meets the Code's definition of family, it has the right to reside in any residential zone and precludes the group from

being defined as something else, such as a boarding or rooming house. The notion of a family is therefore central to establishing legal residential occupancy, particularly in one- and two-family zones (where *boarding or rooming houses* are prohibited<sup>1</sup>).

### **Discussion of Key Issues**

Finding the right balance between providing a variety of housing opportunities and protecting neighborhood character is an important but difficult task. This report attempts to further the discussion by analyzing the City's current definitions of *family* and *boarding or rooming house* and then laying forth possible alternatives.

### **Definition of Family**

In 2006, the Zoning Code's definition of *family* was changed in response to concerns that it was not in compliance with state law. The definition of *family*, which had previously included limits on unrelated persons, was changed to the following:

**Family:** One or more persons living together in a dwelling unit, with common access to, and common use of all living, kitchen, and eating areas within the dwelling unit.

This definition allows for a diversity of alternative family arrangements in residential zones. However, concern has been raised for many years by neighbors and enforcement agencies about impacts on single-family neighborhoods from housing types associated with group living and community care that may be covered by this definition.

For example, a household must only demonstrate that common areas of the unit (living, kitchen and eating) are being accessed and used by all. The Department of Building and Safety and Office of City Attorney have reported that this definition blurs the line between a *family* residence and a commercial *boarding or rooming house*, leading to enforcement challenges.

### **Family and Single Housekeeping Units – Definition Options**

Unlike other states, allowable definitions of *family* in California are limited by a 1980 State Supreme Court decision (*Adamson v. Santa Barbara*). Combined with federal and state fair housing law, cities in California are left with a relatively narrow range of options for differentiating a legitimate group *family* arrangement from a commercial group boarding or rooming house. A great many creative options have already been considered throughout this process.

As a result of the *Adamson* decision, a definition of *family* in California cannot limit the numbers of persons but must instead rely on whether the household unit functions as a family. Factors such as the household's social, economic, and psychological

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<sup>1</sup> Boarding or rooming houses are permitted by-right in R3 or more permissive residential zones, or in R2 zones having a side lot line adjoining a lot in a commercial or industrial zone, under certain conditions.

commitments to each other, or whether they shared expenses, rotated chores, and ate evening meals together were critical to the *Adamson* decision. A group that meets the functional equivalent of a *family* is often referred to as a “single housekeeping unit” in zoning codes.

Most California cities have explicitly included a definition of *single housekeeping unit* or have incorporated its meaning into their definition of *family*. Determining the actual function of a household living in a shared housing arrangement becomes the key point around which to search for alternative provisions to potentially add to the City’s definition of *family*.

To gain a better appreciation of the various definition options available to the City, staff surveyed the zoning code of eleven local jurisdictions (see Exhibit A). The following is a list of individual concepts, or “markers”, that are used in *family* or single-housekeeping unit definitions in those jurisdictions:

1. Shared household activities and responsibilities such as meals, chores, and expenses (experiences, etc.) (SJ, F, O, P, NB, CoO, CM)\*
2. An interactive group of persons (P, SJ, NP, CoO, CM)\*
3. Residents are relatively permanent or non-transient (O, P, SJ, CoO, CM)\*
4. The residents themselves must decide who will be a member of the household (NB)\*
5. Living together based on personal relationships (LB)
6. Residents represent an integrated economic unit (SD)
7. Residents are the functional equivalent of a traditional family (SJ, P, NB)<sup>2</sup>
8. (or) Residents have the character of a generic family (O)
9. In compliance with the provisions of the California Uniform Housing Code (regarding occupancy limits) (S)
10. Residents have access to all areas of the unit (SD)
11. Six (6) or fewer persons living together within the meaning of California Health and Safety Code Sections 1267.8, 1530.5, 1566.3, 1569.85 or any other statute or regulation which expressly requires that six (6) or fewer persons living together shall be considered a family for the purposes of any law or zoning ordinance which is related to the residential use of property. (F)
12. Includes a Domestic Violence Safe House (SL)
13. The existence of individuals to facilitate the functions of a single housekeeping unit does not disqualify the group from being a single housekeeping unit. (F)
14. Has a single, written lease (NB)
15. Members have some control over who becomes a member of the single housekeeping unit (CM, N)

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<sup>2</sup> The initials stand for various California jurisdictions that include each marker in their definition of family, including San Jose (SJ), Fresno (F), Oakland (O), Pasadena (P), Newport Beach (NB), Long Beach (LB), San Diego (SD), State of CA (S), Santa Monica (SM), Los Angeles (LA), San Leandro (SL), Orange County (OC), City of Orange (CoO), Costa Mesa (CM).

Each of the above “markers” attempts to add detail as to what it means to operate as a functional family unit. Some jurisdictions have also attempted to say explicitly what does not constitute a family. Examples include:

- A. Does not include a state-licensed Community Care Facility with seven or more persons. (SL)
- B. Does not include larger institutional group living situations such as dormitories, fraternities, sororities, monasteries, nunneries, residential care facilities or military barracks, nor does it include such commercial group living arrangements as boardinghouses, lodginghouses and the like. (LB)
- C. Does not include incidental domestic servants and temporary non-paying guests (O)

\* These markers are included in the 2013 City Council proposed Community Care Facilities Ordinance.

Compared to other cities in California, Los Angeles’ definition of *family* is simpler and more clear cut, but is also more permissive. Householders only need to share use of shared living and dining areas to be considered a *family*, despite their personal relationship (or lack thereof). Most other cities surveyed above included at least one or more statements about the actual bonds (economic and/or emotional) between householders. A more detailed analysis of potential changes to the City’s *family* definition is located in the final section of the report.

### **Definition of Boarding or Rooming House**

The current zoning code definition of *boarding or rooming house (BRH)* dates from 1956. *BRHs* have changed significantly since that time. A *BRH* used to be associated with (usually) older homes, where rooms or beds were rented out, sometimes along with meals or other services. They often accommodated new arrivals to town or migrant labor and were much more common than today. *BRHs* usually include shared dining, kitchen and bath facilities.

The current (1956) Zoning Code definition of boarding or rooming house is:

**Boarding or Rooming House (BRH):** *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.*

The following is a list of common concepts, or “markers”, that are used in boarding or rooming house definitions across the State (in no particular order):

- A. Three or more rooms are rented individually or separately (SD, O, P, CoO)
- B. Rented to tenants under separate rental agreements (SD, P, CoO)
- C. Provisions for five but not more than fifteen guests (Fresno)
- D. A house, or portion thereof, where food and lodging are provided for long-term occupancy (LB)
- E. Where lodging is provided with or without meals for compensation (F)

- F. Whether or not an owner, agent, or rental manager is in residence (P)
- G. With or without individual or group cooking facilities (P)
- H. A residential building with common cooking and eating facilities (SM)
- I. Where a room or any portion of a room is rented for periods of generally at least thirty days (SM)
- J. Where there is on-site facility management (SM)
- K. Means a room or suite of rooms, not including a kitchen, designed or occupied as separate living quarters (O)
- L. Access may be had to all such rooms (O)
- M. Access through common entrance (OC)

Some jurisdictions have also attempted to say explicitly what does not constitute a BRH. Examples include:

- A. Housing protected by federal or state law, including housing for persons protected under the Fair Housing Act (42 USC section 3604 (f)) and the California Fair Housing Act (California Government Code section 12920 et seq.), or housing otherwise subject to the City's Separately Regulated Use regulations in Chapter 14, Article 1, shall not constitute a boarding and rooming house. (SD)
- B. Does not provide care service (LB)
- C. Not to include a hotel, motel, emergency residential shelter, group housing facility or rest home. (F)
- D. Excluding such rooms where they accommodate a total of three or fewer paying guests within a One-Family Dwelling Residential Facility (O)
- E. Not a single-family unit (or single-housekeeping unit) (S)

By the standards of other California cities, the current definition of BRH is fairly encompassing in that it captures any dwelling unit with at least one guest room<sup>3</sup> for rent. BRHs in other cities often begin with a minimum of three guest rooms or, in some cases, the number of guests. While many definitions have no upper limit on guest rooms, the Los Angeles definition stops at five, after which the dwelling is defined as a hotel or apartment hotel. A more detailed analysis of potential changes to the City's BRH is located in the final section of the report.

### **General Plan Alignment**

In order to adopt a revised ordinance, under Charter Sections 556 and 558(b)(2), the City Council must find that the proposed ordinance is in substantial conformance with the purposes, intent and provisions of the General Plan.

Multiple General Plan policies and objectives align with efforts to protect single-family neighborhoods from out of character uses. They also call for healthy and sanitary housing. However, the Housing Element of the General Plan specifically calls for

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<sup>3</sup> A guest room is defined in the Zoning Code as a "any habitable room except a kitchen, designed or used for occupancy by one or more persons and not in a dwelling unit."

identifying “modifications needed in the Zoning Code to facilitate innovative housing types, such as shared housing, congregate living, cooperative housing, modular and prefabricated housing, and group quarters” (Program 67).

### **Potential Impacts on Housing Opportunity**

Like many cities, agreements between friends or even strangers to share the costs of housing are fairly common in Los Angeles. The typical shared housing situation involves roommates who are jointly responsible for the entire rent and usually select prospective replacement roommates themselves. However, also common (particularly in a down economy) are situations where property owners try to make use of extra bedrooms by renting it out to persons aiming to save money by renting a room rather than an entire unit. A third category may be referred to as cohousing, which is an intentional grouping of often like-minded individuals.

Shared housing arrangements could potentially be impacted by changes to the definition of *family* and *boarding or rooming house*. But predicting potential outcomes from the addition of specific provisions to the definition of *family* (or *BRH*) is exceedingly difficult. However an analysis of census data and current rental market information may give some indication of the scale and scope of current shared housing utilization.

In 2012, according to the Census Bureau, there were about 1.3 million households in Los Angeles. Non-family households (defined by the census as a group unrelated by birth, marriage, or adoption) made up 40 percent of the total. Most of the non-family households were people living alone, but almost 130,000 households were composed of multiple people living together in arrangements where no one was related. An additional 82,000 people in Los Angeles live in group quarters<sup>4</sup>. The group quarters definition takes in the more than 900 licensed community care facilities, but not the array of unlicensed shared housing types.

To gain better insight into the current rental market, DCP staff investigated current shared housing options for rent. On Craigslist, a popular online site for finding housing for rent, a recent search for the central Los Angeles area resulted in about 2,400 listings for apartments for rent. However, a separate section of the site listed more than 1,400 rooms or shared housing for rent. This high ratio of rooms or shared housing for rent gives an indication of the supply and demand for shared housing in the current rental market. Many Angelenos are evidently looking for roommates to share rent or mortgage and there is certainly a high need for affordable places to dwell.

Given the lack of more precise break-downs of the numbers and different types of shared housing arrangements, it is difficult to make assessments on potential impacts of

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<sup>4</sup> Group Quarters is defined by the Census Bureau a place where people live or stay, in a group living arrangement, that is owned or managed by an entity or organization providing housing and/or services for the residents. Group quarters include such places as college residence halls, residential treatment centers, skilled nursing facilities, group homes, military barracks, correctional facilities, and workers' dormitories.

any changes. Similarly, potential benefits of changing the definition of *family* and/or *boarding or rooming house* are also difficult to determine. Generally, there is likely to be an inverse relationship between providing greater enforcement leverage and impacts on shared housing arrangements. Finding that balance is at the heart of the City's efforts on this issue.

### **Analysis of Options**

Changes to the definition of family are needed to clarify the distinction between a single-family residence and a *boarding or rooming house*. However, any change is fraught with important considerations. Unfortunately, fully evaluating potential impacts of any change is difficult. In addition, the serious fair housing, legal and General Plan consistency concerns around any change in definitions must be fully understood before making decisions that could impact many households.

### **Family and Single Housekeeping Unit Options**

With regards to options to alter the definition of *family* or single-housekeeping unit, each of the potential "markers" described on page 3 highlights slightly different aspects of the functional family relationships. While none of the options would give enforcement agencies a simple quantitative measurement to be able to make distinctions between a *family* residence and a *BRH*, adding some combination of additional markers would allow for a more thorough, and therefore usable, definition of what it means to be a single housekeeping unit (and therefore one-family dwelling) in Los Angeles.

In January 2013, the last proposal in front of full City Council proposed the following definition for *family* (in strikeout):

**FAMILY** (Proposed) - 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.~~

The proposed change to the definition of *family* would simply defer to the single housekeeping unit concept. The January 2013 proposed definition for single housekeeping unit is:

**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, 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 four markers of a single housekeeping unit: 1) be non-transient (defined as 30 day occupancy or less in the Zoning Code), 2) be an interactive group, 3)

share household activities and responsibilities such as meals, chores, expenses and maintenance, 4) have its makeup determined by the members of the unit rather than a third party. The first three are widely used across California. The fourth marker had been included by Newport Beach in their Ordinance but the impact of their Ordinance is under a legal cloud due to a recent Ninth Circuit case (*Pacific Shores vs. Newport Beach*). The fourth marker would also likely have been the most impactful on shared housing across the city and had drawn the most public criticism.

#### Boarding and Rooming House Options

In our survey of BRH definitions, a variety of markers were used. However, the most common was the presence of three or more guest rooms (used by San Diego, Pasadena, Costa Mesa and City of Orange). This type of definition allows for the rental of one or two rooms to non-family members without being deemed a BRH.

By comparison, the current City definition of *BRH* is encompassing of any dwelling unit that also includes one guest room (or suite of rooms) for rent. By requiring only one guest room to become a BRH, rather than three or four, Los Angeles already has a stricter definition than most jurisdictions. For that reason, it may be determined that no change to the definition of *BRH* is necessary as long as changes are made to the definition of *family*.

On the other hand, Ad Hoc Committee members have stated that it is not their intention to regulate the rental of an extra bedroom. Therefore, City Council may consider changing the definition to align it with other cities that define *BRHs* by the presence of three or more guest rooms.

If Council wishes to take this approach, it may also want to make clear that the functional equivalent of up to two guest rooms are permitted in dwelling units<sup>5</sup>. If so, Council could amend the definition of *dwelling unit*, which would make it clear that up to two bedrooms could be separately rented out as part of a single dwelling unit. The City's current definition of *dwelling unit* could be amended as follows (proposed language in underline):

Dwelling Unit - A group of two or more rooms, one of which is a kitchen, designed for occupancy by one family for living and sleeping purposes or one family and not more than two bedrooms used as guest rooms for use by non-transient renters.

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<sup>5</sup> The term "guest room" has specific connotations in the Los Angeles Zoning Code, including not being located as part of any dwelling unit. Therefore the term "functional equivalent" is proposed at this time, to connote rooms being used for single occupancy (like a guest room) without the requirement to be located outside of a dwelling unit.

### **Optional Shared Housing Definition for Persons with Disabilities**

It should be understood that changes to “tighten” the definition of *family* could potentially cloud the legality of some current living arrangements. Some cities have attempted to explicitly carve out alternative family uses that fill the space between a single-family dwelling and *BRH*, either based on habitation by persons with disabilities or small scale shared housing (addressed above).

If the definition of *family* is made more restrictive, to the point where existing persons with disabilities are likely be affected disproportionately, DCP recommends adding a specific provision making it clear that a group home for persons with disabilities is permitted. Such a definition might look like this:

Community Residence: A single dwelling unit maintained and operated to provide a group living arrangement for persons with disabilities on a non-transient basis, which may also be occupied by professional support staff provided by a sponsoring agency.

If City Council decides to permit shared or community residences, the Department of City Planning would investigate optional methods of permitting them, balancing the needs for protecting neighborhood character and providing housing options.

### **Conclusion**

As the report demonstrates, there are significant considerations and challenges to making changes to fundamental zoning code definitions that determine who can live where. Impacts on housing policy and enforcement capabilities are difficult to assess. Legal and policy concerns restrict the ability to craft “bright line” options with regards to the definition of *family*. And any changes that would impair the ability of persons with disabilities to live in group settings should be offset by specific carve-outs.

Further consideration of definitions should be made in light of broad policy direction provided by the Community Care Facilities Ordinance Ad Hoc Committee. Once the policy directions are set, staff can provide proposed definitions for any Ordinance.

For any questions, please do not hesitate to contact Matthew Glesne in the Department of City Planning, at (213) 978.2666 or [matthew.glesne@lacity.org](mailto:matthew.glesne@lacity.org).

Sincerely,



Alan Bell, AICP  
Deputy Director of Planning

Attachment: Exhibit A –Zoning Code Definitions from other California Jurisdictions