



CITY COUNCIL AGENDA REPORT

MEETING DATE: January 20, 2009

ITEM NUMBER: VIII-1

SUBJECT: AMENDMENT TO TITLE 11, CHAPTER 12 OF THE COSTA MESA MUNICIPAL CODE

DATE: January 8, 2009

FROM: CITY ATTORNEY'S OFFICE

PRESENTATION BY: KIMBERLY HALL BARLOW, CITY ATTORNEY

FOR FURTHER INFORMATION CONTACT: KIMBERLY HALL BARLOW, 714-754-5399

RECOMMENDATION:

Give second reading and adopt the attached Ordinance No. 09-1 Amending Chapter XII of Title 11, more specifically, section 11-194(a), attached hereto as Attachment 1.

BACKGROUND:

The City first adopted a crime eviction ordinance in 2002, now codified in Title 11, Chapter XII, Sections 11-191 through 11-200. The ordinance was enacted in order to address the harm caused by such criminal behavior on other tenants' use and quiet enjoyment of their residences and the deterioration of the surrounding neighborhoods.

The intent of Section 11-195 of Title 11 (Offenses - Miscellaneous) is to compel landlords to take abatement action against tenants who are convicted of gang or drug related activity upon thirty (30) days' notice to evict the offending tenants. However, section 11-194, which relates to the Notice of Violation, is inconsistent with section 11-195(a), which states that a landlord is not in violation of Section 11-195 unless and until he/she fails to take abatement action within thirty (30) days of the notice by the chief of police;

ANALYSIS:

The intent of the ordinance is reflected by Section 11-195(a), which provides a landlord with notice and an opportunity to correct before being found in violation of the ordinance. Amending Section 11-194(a) will clarify Section 11-195's intent and make Sections 11-194 and 11-195 consistent.

ALTERNATIVES CONSIDERED:

City Council could choose not to make the recommended change.

FISCAL REVIEW:

None required.

LEGAL REVIEW:

The City Attorney's office has prepared the Ordinance amendment for City Council's consideration.

CONCLUSION:

The proposed amendment to the Ordinance prepared by the City Attorney is intended to clarify the intent of section 11-195 and provide consistency between sections 11-195 and 11-194. The City Attorney recommends that City Council give second reading to and adopt the Ordinance.



ALLAN E. ROEDER
City Manager



KIMBERLY HALL BARLOW
City Attorney



CHRISTOPHER SHAWKEY
Chief of Police

DISTRIBUTION: City Manager
Chief of Police

ATTACHMENTS: 1 Ordinance 09-1

File Name

Date

Time

ORDINANCE NO. 09-1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 11 (OFFENSES-MISCELLANEOUS) OF THE COSTA MESA MUNICIPAL CODE REGARDING NARCOTICS AND GANG RELATED CRIME EVICTIONS

WHEREAS, the City Council finds that the intent of Section 11-195 of Title 11 (Offenses - Miscellaneous) is to compel landlords to take abatement action against tenants who are convicted of gang or drug related activity upon thirty (30) days' notice to evict the offending tenants;

WHEREAS, the City Council finds that Section 11-194(a) currently reads that the chief of police must make a determination that the landlord is in violation of 11-195 prior to giving the landlord notice and thirty (30) days to evict the tenants, and that this language is inconsistent with Section 11-195(a), which states that a landlord is not in violation of Section 11-195 unless and until he/she fails to take abatement action within thirty (30) days of the notice by the chief of police;

WHEREAS, the City Council finds that the intent of the ordinance is reflected by Section 11-195(a), which provides a landlord with notice and an opportunity to correct before being found in violation of the ordinance, and that amending Section 11-194(a) will clarify Section 11-195's intent and make Sections 11-194 and 11-195 consistent.

THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Subdivision (a) of Section 11-194 of Chapter XII of Title 11

(Offenses-Miscellaneous) is hereby amended to read as follows:

(a) To enforce the provisions of this chapter, the chief of police may cause to be delivered to any landlord a written notice of violation advising that the landlord of the rental unit will be in violation of section 11-195 of this chapter, unless the landlord takes abatement action within thirty (30) days of the date of the notice, pursuant to the provisions of section 11-195.

Section 2. Inconsistencies. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

Section 3. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 4. This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof, and prior to the expiration of fifteen (15) days from its passage shall be published once in the DAILY PILOT, a newspaper of general

circulation, printed and published in the City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

PASSED AND ADOPTED this 20th day of January, 2009.

Allan R. Mansoor, Mayor

ATTEST:

APPROVED AS TO FORM:

Julie Folcik, City Clerk

Kimberly Hall Barlow, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing Ordinance No. 09-1 was duly introduced for first reading at a regular meeting of the City Council held on the 6th day of January, 2009, and that thereafter, said Ordinance was duly passed and adopted at a regular meeting of the City Council held on the 20th day of January, 2009, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 21st day of January, 2009.

JULIE FOLCIK, CITY CLERK

(SEAL)

I hereby certify that the above and foregoing is the original of Ordinance No. 09-1 duly passed and adopted by the Costa Mesa City Council at the regular meeting held January 20, 2009, and that Summaries of the Ordinance were published in the Newport Beach-Costa Mesa Daily Pilot on January 14, and _____, 2009.

JULIE FOLCIK, CITY CLERK