



# **CITY COUNCIL AGENDA REPORT**

MEETING DATE: OCTOBER 4, 2011

ITEM NUMBER:

**SUBJECT: SECOND READING OF ORDINANCE 11-10: ZONING CODE AMENDMENT CO-10-06 TO AMEND TITLE 13, ARTICLE 2 DEFINITIONS, AND CHAPTERS III, IV, V, VI, AND XII OF THE COSTA MESA MUNICIPAL CODE RELATING TO RESIDENTIAL SECOND UNITS**

**DATE: SEPTEMBER 21, 2011**

**FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT**

**PRESENTATION BY: CLAIRE FLYNN, ACTING ASST. DEVELOPMENT SERVICES DIRECTOR**

**FOR FURTHER INFORMATION CONTACT: CLAIRE FLYNN, AICP, (714) 754-5278  
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## **RECOMMENDATION**

Give second reading to Ordinance 11-10 amending Title 13 of the Costa Mesa Municipal Code related to second units.

## **BACKGROUND/ANALYSIS**

### ***Final Changes to the Ordinance***

On September 20, 2011, the City Council gave first reading of the ordinance to amend the regulations related to the processing and construction of second units in the R1 (Single Family Residential) zone.

At the public hearing, Council requested the following additional changes which have been incorporated into the Ordinance (Attachment 1).

- *Change the minimum lot size requirement to 8,500 square feet, or about 10% of the R1 lots in Costa Mesa.*

As amended by Council action at the September 20<sup>th</sup> meeting, eligible R1 properties shall be limited to those equal to or greater than 8,500 square feet. This represents approximately 10% of R1 lots.

The change is as follows:

“(b) A second unit shall be limited to a lot in the R1 zone with a minimum lot size of ~~7,260~~ 8,500 square feet.” [Chapter V, Development Standards, Section 13-35]

- Require that the primary dwelling unit and the proposed second unit comply with current Code requirements for parking.

Code currently requires two open parking spaces for a second unit in an R1 zone. No change to this parking requirement for the second unit is proposed. However, the Ordinance includes a change which requires that the existing primary residence comply with the City's current off-street parking requirements. The offstreet parking requirements in the R1 zone are attached for reference purposes (Attachment 2).

The changes are as follows:

"g) Two open parking spaces shall be provided for the second unit. In conjunction with a second-unit application, the parking required for the primary dwelling unit shall be in compliance with the current parking requirements as specified in pursuant to CHAPTER VI OFF-STREET PARKING STANDARDS and shall not be attributed to the second unit. The parking for the second unit does not need to not be covered."

*[Chapter V, Development Standards, Section 13-35; and Chapter VI, Off-Street Parking Standards, Section 13-85(d)]*

## CONCLUSION

The attached Ordinance reflects changes made by the City Council at their September 20, 2011 meeting regarding the minimum lot size requirement (8,500 square feet) and compliance with current parking requirements for the second unit (two open parking spaces required) and the existing residence (off-street parking requirements as established by the Zoning Code).

  
 CLAIRE L. FLYNN, AICP  
 Acting Asst. Development Services Director

  
 KHANH NGUYEN  
 Interim Development Services Director

cc: Chief Executive Officer  
 City Attorney  
 Public Services Director  
 Transportation Svs. Manager  
 City Engineer  
 City Clerk  
 Staff (4)  
 File (2)

Attachment: 1. Ordinance  
 2. Excerpt of Off-Street Parking Requirements in R1 Zone

**ORDINANCE NO. 11-10**

**AN ORDINANCE OF THE CITY COUNCIL OF COSTA MESA, CALIFORNIA ADOPTING ZONING CODE AMENDMENT CO-10-06, AMENDING TITLE 13, ARTICLE 2 DEFINITIONS, AND CHAPTERS III, IV, V, VI, AND XII OF THE COSTA MESA MUNICIPAL CODE RELATING TO RESIDENTIAL SECOND UNITS, GRANNY UNITS, AND ACCESSORY APARTMENTS.**

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

**WHEREAS**, the State Second Unit Law in California Government Code Section 65852.2 intends to promote the creation of second units in residential zones and to require ministerial consideration of second-unit applications to streamline the development review process for second units;

**WHEREAS**, California Government Code Section 65583.1 (a portion of State Housing Element Law) allows identification of the realistic capacity for second units in addressing a locality's share of the regional housing need;

**WHEREAS**, the City of Costa Mesa General Plan indicates that the City will continue to promote second units as an alternative affordable housing option for seniors and lower-income individuals as part of the Year 2008 to 2014 Housing Element;

**WHEREAS**, the Costa Mesa City Council finds that the amendments to Title 13 of the Costa Mesa Municipal Code regarding second units (also referred to as granny units, accessory apartments, in-law apartments) are consistent with the intent of the State Second Unit Law;

**WHEREAS**, the Costa Mesa City Council acknowledges that Government Code Section 65852.2(e) limits parking requirements to one parking space per unit or bedroom; however, this subsection allows a locality to make specific findings for additional parking requirements. In this case, Title 13, Chapter VI, Off-Street Parking Requirements, of the Costa Mesa Municipal Code requires a minimum of two parking spaces for a studio apartment. The Costa Mesa City Council finds it appropriate to apply this minimum standard of two parking spaces for a second unit, and this would be in addition to the parking required for the primary dwelling unit.

**WHEREAS**, the new regulations shall not be applicable to second-unit applications that are submitted to the City on or before the effective date of this Ordinance.

**SECTION 1: TITLE 13 (ZONING CODE) AMENDMENTS.** Title 13 of the Costa Mesa Municipal Code is hereby amended as follows:

- A. Article 2, Definitions, is amended to remove definition of accessory apartment.
- B. Article 2, Definitions, is amended to include a new definition for a second unit to read as follows:

**“Second unit.** A second dwelling unit established in conjunction with and subordinate to a primary dwelling unit. The second unit may be attached to the primary dwelling unit or located in a detached accessory building on the same lot. It may also be referred to as an accessory apartment, granny unit, granny flat, or in-law apartment.”

- C. Chapter III, Planning Applications, Section 13-28(e) is amended to read as follows:

**“(e) Development review.** The following shall be subject to development review:

- (1) Single-story residential construction: In the R2-MD, R2-HD, and R3 zones, any single-story construction of 2 or fewer new single-story dwelling units. *Exception:* New single-story accessory buildings, such as garages or carports, single-story room additions, and other minor construction that comply with all applicable development standards shall not be subject to development review but shall be reviewed by the Planning Division.
- (2) Two-story residential construction: In the R2-MD, R2-HD, and R3 zones, any two-story construction on a lot where there are 2 or fewer dwelling units or any second-story addition on a lot with more than 2 dwelling units that complies with any residential design guidelines adopted by City Council.
- (3) Construction of new buildings or additions to existing buildings in the AP, CL, C1, C2, C1-S, MG, or MP zones. However, building additions that do not exceed 2,000 square feet or 50% of the existing building area, whichever is less, and comply with all applicable development standards shall not be subject to development review.
- (4) Lot line adjustment; and
- (5) Any other use specified in this Zoning Code as requiring development review.”

- D. Chapter IV, City Land Use Matrix, Table 13-30 City of Costa Mesa Land Use Matrix, Row 12, Row 15.1, Row 20, Row 22.2, and Row 22.3 are hereby amended as shown in Exhibit “A.”

E. Chapter V, Development Standards, Article 1, Residential Districts, Section 13-31 is hereby amended to read as follows:

**“Sec. 13-31. PURPOSE**

The purpose of this article is to achieve the following:

- (a) Ensure adequate light, air, privacy and open space for each dwelling unit.
- (b) Minimize traffic congestion and avoid overloading of public services and utilities.
- (c) Protect residential neighborhoods from excessive noise, illumination, unsightliness, odor, smoke and other objectionable influences.
- (d) Locate development which retains the scale and character of existing residential neighborhoods and facilitates the upgrade of declining and mixed-density residential neighborhoods.
- (e) Provide for the creation and ministerial consideration of second units in the R1 zone (Single-Family Residential District) at the allowable General Plan density for the lot.”

F. Chapter V, Development Standards, Sections 13-35 and 13-36 are hereby amended to read as follows:

**“Sec. 13-35. SECOND UNITS**

Pursuant to Government Code § 65852.2, local governments have the authority to adopt regulations designed to promote second units. A second unit which conforms to the requirements of this Section shall not be considered to exceed the allowable density for the lot upon which it is located and shall be deemed to be a residential use which is consistent with the General Plan designation and zoning classification for the lot.

The following criteria constitute the standards that the City shall use to evaluate a proposed second unit.

- (a) A Land Use Restriction requiring that the primary dwelling unit be owner occupied shall be recorded on the property prior to the issuance of a building permit for the second unit and shall be valid as long as the second unit exists.
- (b) A second unit shall be limited to a lot in the R1 zone with a minimum lot size of 8,500 square feet.
- (c) A second unit shall not be intended for sale but may be rented.

- (d) The primary dwelling unit shall be a single-family residence.
- (e) If detached from the primary dwelling unit, the second unit size shall not exceed 1,200 square feet.
- (f) If attached to the primary dwelling unit, the second unit size shall not exceed 30 percent of the existing living area of the primary dwelling unit.
- (g) Two open parking spaces shall be provided for the second unit. In conjunction with a second-unit application, the parking required for the primary dwelling unit shall be in compliance with the current parking requirements as specified in CHAPTER VI OFF-STREET PARKING STANDARDS and shall not be attributed to the second unit. The parking for the second unit does not need to be covered.
- (h) A second unit shall comply with the residential development standards shown in TITLE 13, CHAPTER V, TABLE 13-32 and shall be subject to all applicable residential design guidelines.
- (i) An application for a second unit shall be considered ministerially by the Development Services Director or his/her designee. Exception: Where deviations from the residential development standards are requested, the second unit application is subject to the application processing procedures as set forth in TITLE 13, CHAPTER III PLANNING APPLICATIONS. An appeal shall be in accordance with TITLE 2, CHAPTER IX APPEAL, REHEARING AND REVIEW PROCEDURE.
- (j) An application for a second unit involving second story construction may be subject to minor design review pursuant to TITLE 13, CHAPTER III PLANNING APPLICATIONS.

**Sec. 13-36.** Reserved for future use.”

G. Chapter VI, Off-Street Parking Standards, Section 13-85(d) is hereby amended to read as follows:

“(d) **Parking for second units.** Two open parking spaces shall be provided for the second unit. In conjunction with a second-unit application, the parking required for the primary dwelling unit shall be in compliance with the current parking requirements as specified in CHAPTER VI OFF-STREET PARKING STANDARDS and shall not be attributed to the second unit. The parking for the second unit does not need to be covered.”

H. Chapter XII Special Fee Assessments, Section 13-276(a)(1) is hereby amended to read as follows:

“**Sec. 13-276. EXEMPTIONS**

(a) **Exempt development projects.** Projects which fall within any of the categories listed below shall be exempt from the provisions of this article:

- (1) Any residential construction that does not increase the number of permanent housing units on the lot where the construction takes place, such as remodeling or rebuilding an existing house or units. Second units are also exempt.”

**SECTION 2: ENVIRONMENTAL DETERMINATION.** The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City's environmental procedures, and has been found to be exempt pursuant to Section 15061 (b) (3) (general rule) of the CEQA Guidelines, in that the City Council hereby finds that it can be seen with certainty that there is no possibility that the passage of this ordinance amending the Zoning Code will have a significant effect on the environment..

**SECTION 3: 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 or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

**SECTION 4: SEVERABILITY.** If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

**SECTION 5: PUBLICATION.** 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 \_\_\_\_\_ day of \_\_\_\_\_ 2011.

\_\_\_\_\_  
GARY MONAHAN  
Mayor of the City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk of the City of Costa Mesa

\_\_\_\_\_  
City Attorney



Costa Mesa Zoning Code

CHAPTER VI. OFF-STREET PARKING STANDARDS  
ARTICLE 1. RESIDENTIAL DISTRICTS

Sec. 13-84. PURPOSE

The purpose of this article is to establish parking requirements for the residential zones. The provisions of this article shall apply to the R1, R2-MD, R2-HD and R3 zones, and to the residential portions of the Planned Development and Institutional and Recreational zones. *Exception:* These parking standards do not apply to high-rise residential developments in the North Costa Mesa Specific Plan; see the specific plan for applicable parking rates.

Sec. 13-85. PARKING REQUIRED

In the residential districts, the following minimum off-street parking spaces shall be provided. The parking spaces shall provide safe and adequate ingress and egress and shall be maintained in connection with the building or structure and use of land.

- (a) **R1 zone and small-lot single-family common interest developments (excluding townhouses).** At the time of the construction of a residence, off-street parking in the form of a garage and open parking shall be provided as follows:

TABLE 13-85(a) Off-Street Parking Standards for Single-Family Detached Residences in R1 zone and Small-Lot, Detached, Residential Common Interest Developments		
<b>Single-Family Detached Residence with 4 Bedrooms or Fewer</b>		
Garage Parking Spaces	Open Parking Spaces <sup>1</sup>	Total Parking Spaces
2	Lots without garage access from alley: 2	4
	Lots with garage access from alley: 1	3
<b>Single-Family Detached Residence with 5 Bedrooms or More<sup>2</sup></b>		
<b>New Construction</b>		
Garage Parking Spaces <sup>2</sup>	Open Parking Spaces <sup>1,2</sup>	Total Parking Spaces
3	Lots without garage access from alley: 2	5
	Lots with garage access from alley: 1	4
<b>Bedroom Additions</b>		
Garage Parking Spaces	Open Parking Spaces <sup>1,2</sup>	Total Parking Spaces
2	Lots without garage access from alley: 2	4
	Lots with garage access from alley: 1	3
<p>1. In R1 zones, required open parking may be provided in a garage or on a minimum 19-foot long, individual driveway leading to a garage. In common-interest developments, required open parking may be provided on an individual unit's driveway or within the common area. Open parking provided as tandem spaces is subject to approval of a minor conditional use permit.</p> <p>2. For single-family detached residences with five bedrooms or more, tandem parking of up to two standard vehicles is permitted in the garage as it relates to new construction. Tandem garage parking shall exclusively consist of two standard parking spaces.</p>		

Costa Mesa Zoning Code

- (1) Required garage dimensions: Each garage space shall have interior dimensions that are a minimum 10 feet wide by 20 feet long, unobstructed inside measurements. Each residence shall have no more than 700 square feet of garage area unless authorized by a minor conditional use permit.
- (2) Application to an existing residence: The off-street parking requirements stated above shall not be applied to an existing residence at the time the residence is increased in size and/or the number of bedrooms is increased unless the total number of bedrooms is increased to 5 or more bedrooms.
- (3) With approval of a minor modification, the Planning Division may allow the retention of an existing driveway access from a street to satisfy open parking requirements, at such time that garage access is proposed from an abutting alley.

(b) **R2-MD, R2-HD, R3, PDR-LD, PDR-MD, PDR-HD, PDR-NCM and residential components of developments in the PDC and PDI zones.** At the time of the construction of any building and/or when a structure is enlarged or increased by adding a bedroom(s), required parking shall be provided per Table 13-85. Exceptions:

- (1) For lots that are zoned multiple-family residential and contain only one single-family detached residence, the parking requirements in Table 13-85(a) shall be applied.
- (2) For individual lots in common-interest developments that contain only one single-family detached residence (excluding townhouses), the parking requirements in Table 13-85(a) shall be applied.

(c) **Reduction of required parking prohibited.** A property owner or property manager shall make available to tenants and guests the parking required by this subsection. No property owner or property manager shall lease, rent, sell, or otherwise make unavailable to residents and guests required parking. Furthermore, the rental of a dwelling unit shall be deemed to include the exclusive use of at least one covered parking space and equal access to the required open spaces reserved for residents.

(d) **Parking for accessory apartments and granny units.** Accessory apartments and granny units as provided for elsewhere in this Zoning Code shall be provided with at least two (2) on-site parking spaces in addition to parking required for the existing single-family residence. The parking need not be covered. City of Costa Mesa Parking Standards shall apply.

**Sec. 13-86. PARKING REQUIRED IN MIXED-USE OVERLAY ZONE**

In the mixed-use overlay zone, residential parking rates are provided in the applicable urban plan.