



# CITY COUNCIL AGENDA REPORT

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MEETING DATE: NOVEMBER 3, 2015

ITEM NUMBER: PH-2

**SUBJECT:** CODE AMENDMENT CO-15-04 TO AMEND, REPEAL AND ADD SECTIONS TO TITLE 13 (PLANNING, ZONING AND DEVELOPMENT), RELATING TO GROUP HOMES, SOBER LIVING HOMES, BOARDING HOUSES, AND RESIDENTIAL CARE FACILITIES OF THE COSTA MESA MUNICIPAL CODE

**FROM:** DEVELOPMENT SERVICES DEPARTMENT

**PRESENTATION BY:** MEL LEE, SENIOR PLANNER

**DATE:** OCTOBER 26, 2015

**FOR FURTHER INFORMATION CONTACT:** MEL LEE, AICP (714) 754-5611  
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## **RECOMMENDATION**

The Planning Commission recommends that the City Council take the following actions with regard to the proposed ordinance revising Title 13, of the Costa Mesa Municipal Code with regard to group homes, state licensed facilities and boardinghouses in the Multiple-Family Residential (MFR) zones and Planned Development zones ("MFR Group Home Ordinance"), and Title 9 of the Costa Mesa Municipal Code with regard to operator's permits for group homes in the MFR zones:

- That City Council find that the proposed ordinance is exempt from California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) (General Rule) of CEQA because there is no possibility that the proposed amendment to the Zoning Code will have a significant effect on the environment.
- That City Council approve and give first reading to the proposed ordinances.

## **BACKGROUND**

On October 7, 2014, City Council gave first reading to an ordinance amending Title 13 of the Costa Mesa Municipal Code with regard to group homes, state licensed facilities and boardinghouses in the R1 (Single-Family Residential) zones, including requiring facilities with 6 or fewer residents to obtain a Special Use Permit ("SUP") and to maintain a 650-foot separation between facilities. The ordinance was formally adopted by the City council on October 21, 2014.

The proposed regulation will apply to the following multiple-family residentially zoned properties (MFR), including the following:

- R2-MD – Multiple-Family Residential District
- R2-HD – Multiple-Family Residential District
- R3 - Multiple-Family Residential District
- PDR-LD Planned Development - Low Density (up to 8 DU's/Acre)
- PDR-MD Planned Development - Medium Density (up to 12 DU's/Acre)
- PDR-HD Planned Development - High Density (up to 20 DU's/Acre)
- PDR-NCM Planned Development - North Costa Mesa (up to 25-35 DU's/Acre)
- PDC Planned Development Commercial
- PDI planned Development Industrial
- I&R Institutional and Recreational District

### ***GROUP HOME REGULATION***

#### *Group homes serving six or fewer residents.*

The ordinance would permit group homes, inclusive of sober living homes, serving six or fewer residents to locate in the specified zones. Group homes of six or fewer would be required to obtain a Special Use Permit (“SUP”) pursuant to the existing provisions of Chapter XV with a few modifications. State licensed alcohol and drug abuse treatment facilities serving six or fewer residents are exempt from Chapter XV and do not need a SUP.

#### *Group homes serving seven or more residents*

Group homes serving seven or more residents would be required to obtain a CUP in order to locate in the specified multi-family residential zones. In addition, group homes would be required to obtain an operator’s permit in order to operate in the MFR zones. The requirements for issuance of an operator’s permit are set forth in a separate ordinance that amends Title 9 (see Attachment 2). These requirements are similar to the requirements for a SUP. City Council will be considering this Ordinance with regard to changes in Title 9.

#### *State licensed facilities serving seven or more residents*

State licensed facilities would be required to obtain a CUP in order to locate in the MFR zones. These facilities, as they are regulated by the state, would not be required to obtain an operator’s permit to operate in the specified multi-family residential zones.

#### *Reasonable Accommodation*

An applicant may seek relief from the strict application of the provisions of the ordinance by submitting an application to the Director setting forth specific reasons as to why accommodation over and above this section is necessary under state and federal laws, pursuant to the existing provisions of section 13-200.60 et seq.

## **Summary of October 12, 2015 Planning Commission Action**

The Planning Commission held a public hearing on October 12, 2015, which included presentation of the staff report. In addition, public comments both in favor of and opposed to the request were received by the Planning Commission. Based on the evidence and testimony presented during the hearing, the Planning Commission voted to recommend approval of the ordinance to the City Council by a 5-0 vote. Additionally, Planning Commission recommended the following:

- Planning Commission made an important change to the Ordinance by indicating that a sober living home could not be within 650 feet of another similar use, regardless of zone. They added language that clarified “similar use” to be considered as including another group home, sober living home or State licensed facility. The concern was that the term “similar use” was subject to interpretation, and therefore a State licensed facility might not be interpreted as a “similar use” (and therefore) not subject to the 650-foot buffer requirement.
- Planning Commission suggested provisions requiring residents who drop out or relapse under the program of a sober living home to be relocated, at the operator’s expense, to prevent former residents from ending up homeless within the surrounding neighborhoods.
  - Staff has added a provision to both the operator’s permit requirements of Title 9 for group homes serving 7 or more and the Special Use Permit requirements for group homes serving 6 or fewer occupants to address this situation. The proposed revisions require operators to provide transportation to occupants that are ejected or evicted from the group home back to their residence.
- Minor typos in the ordinance have been corrected.
- Planning Commission requested more information regarding how the Ordinance would be enforced and the staffing provided to maintain enforcement.
  - Code enforcement will be re-assigning two officers into open position dedicated to group home enforcement, and will be seeking authorization to hire two additional part time code enforcement positions, in addition to hiring a part time management analyst to help with processing applications.
- The Commission also asked if the State has any enforcement mechanisms or resources in place that City staff can utilize.
  - Code enforcement staff have been reporting observed violations of state licensed facilities to the California Department of Health Care Services (DHCS).

In addition, following the Planning Commission meeting, staff identified a discrepancy between the text of Table 13-30 (Land Use Matrix) of section 13-30, footnote 5, and section 13-311(a)(10)(i) to which footnote 5 refers. Staff recommends deletion of the language “in the R1 zone” from footnote 5 in order to clarify the intent of both Chapter XV and XVI.

## **ANALYSIS**

A detailed discussion and analysis of the purpose for the ordinance, legal background and description of the proposed ordinance is provided in the Planning Commission Staff Report attached.

## **CONCLUSION**

The proposed amendment will provide the regulatory framework to limit the number of people in a group home and to prevent the overconcentration of residential care facilities, group homes and sober living homes in multiple-family residential and planned residential neighborhoods. The regulations require a Conditional Use Permit (CUP) as well as an operator's permit to operate large group homes and sober living homes, and a CUP to operate large state licensed facilities in the Multiple-Family Residential and Planned Development Residential Districts. The CUP will allow the City to review the proposed use on an individual basis, track the location of sober living homes in the effected zones and establish reasonable operating standards through Conditions of Approval on these uses to ensure that they do not generate the type of secondary impact that would be out of character for the neighborhood; while still furthering the purpose of the FEHA, the FHAA and the Lanterman Act, by allowing special accommodation and/or additional accommodation for the handicapped.

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MEL LEE, AICP  
Senior Planner

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GARY ARMSTRONG, AICP  
Director of Economic & Development  
Services/ Deputy CEO

Attachments:

1. [Draft Ordinance \(Title 13\), Strike-Thru and Final Copies](#)
2. [Draft Ordinance \(Title 9\), Strike-Thru and Final Copies](#)
3. [October 12, 2015 Planning Commission Meeting Minute Excerpts](#)
4. [October 12, 2015 Planning Commission Staff Report and Related Exhibits](#)

cc:

- Chief Executive Officer
- Assistant Chief Executive Officer
- Director of Economic & Development / Deputy CEO
- City Attorney
- Public Services Director
- Transportation Svs. Mgr.
- City Engineer
- City Clerk (9)
- Staff (7)
- File (2)