



# **PLANNING COMMISSION**

## **AGENDA REPORT**

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MEETING DATE: OCTOBER 14, 2013

ITEM NUMBER: PH 3

**SUBJECT: CODE AMENDMENT CO-12-02: AN AMENDMENT TO TITLE 13, CHAPTER 1, ARTICLE 2, OF THE COSTA MESA MUNICIPAL CODE RELATED TO RESIDENTIAL FACILITIES**

**DATE: OCTOBER 3, 2013**

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

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

**FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP (714) 754-5611  
mel.lee@costamesaca.gov**

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### **DESCRIPTION**

Code Amendment CO-12-02 is related to the Zoning Code regulations for residential facilities. More specifically, the amendment is proposed to the following Code Section in Title 13 of the Costa Mesa Municipal Code:

- Chapter 1, Article 2, Section 13-6, Definitions, as it pertains to the definition of "single housekeeping unit".

### **RECOMMENDATION**

Recommend that City Council approve and give first reading to the ordinance.

## **ANALYSIS**

The proposed Code amendment involves changing the current zoning code definition of “single housekeeping unit” which is currently defined as follows:

*Single housekeeping unit. The functional equivalent of a traditional family, whose members are a nontransient interactive group of persons jointly occupying a single dwelling unit, including the joint use of common areas and sharing household activities and responsibilities such as meals, chores, and expenses.*

Per State law, the City is required to treat residential facilities serving six or fewer persons (defined in the Zoning Code above as residential care and residential service facilities), as a single-family residential use in the R1 zone. In 2011, in response to a complaint received by the City’s Code Enforcement Division, the City attempted to enforce the six or fewer requirement against a single-family residence on Van Buren Avenue. During the inspection, the Code Officer observed 11 beds and 13 residents in the home. The case was referred to the City Attorney’s Office for action, and the operator took the City to civil court for the action. The Court ruled in favor of the operator, and held the City liable for financial damages incurred by the operator. It was determined that the current code definition for “single housekeeping unit” was legally indefensible. The proposed code amendment would revise the current code definition of single housekeeping unit as follows:

*Single housekeeping unit means that the occupants of a dwelling unit have established ties and familiarity with each other, jointly use common areas, interact with each other, share meals, household activities, lease agreement or ownership of the property, expenses and responsibilities; membership in the single housekeeping unit is fairly stable as opposed to transient, and members have some control over who becomes a member of the single housekeeping unit.*

The revised definition will allow the City to more effectively enforce the maximum limit of six persons per residential care or residential service facility in an R1 zone and withstand legal scrutiny.

## **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 CEQA because there is no possibility that the proposed amendment to the Zoning Code will have a significant effect on the environment.

## **LEGAL REVIEW**

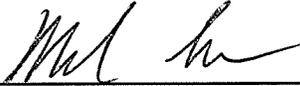
The draft ordinance has been reviewed by the City Attorney’s office.

## **ALTERNATIVES**

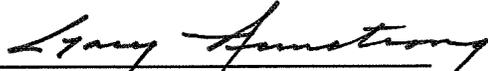
The City could continue to apply “single house keeping unit” as currently defined in Code; however, this has not stood up to legal challenge when residential care or residential service facilities are found to have occupants of R1 zoned dwellings that exceed six persons.

**CONCLUSION**

As noted earlier, the revised definition will allow the City to more effectively enforce the maximum limit of six persons per residential care or residential service facilities in an R1 zone and withstand legal scrutiny. If the Commission recommends that City Council approve and give first reading to the ordinance, it will be tentatively scheduled for the November 5, 2013, City Council meeting.



MEL LEE, AICP  
Senior Planner



GARY ARMSTRONG, AICP  
Economic and Development Services  
Director

Distribution: Director of Economic & Development/Deputy CEO  
Assistant Development Services Director  
Senior Deputy City Attorney  
Public Services Director  
City Engineer  
Transportation Services Manager  
Fire Protection Analyst  
Staff (4)  
File (2)

Attachment: 1. Draft Ordinance

ORDINANCE NO. 13-

AN ORDINANCE OF THE CITY COUNCIL OF COSTA MESA, CALIFORNIA ADOPTING ZONING CODE AMENDMENT CO-12-02 RELATED TO ZONING CODE REGULATIONS FOR RESIDENTIAL FACILITIES. THE AMENDMENT IS PROPOSED TO THE FOLLOWING CODE SECTION IN TITLE 13 OF THE COSTA MESA MUNICIPAL CODE: CHAPTER 1, ARTICLE 2, SECTION 13-6, DEFINITIONS, AS IT PERTAINS TO THE DEFINITION OF "SINGLE HOUSEKEEPING UNIT"

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

**SECTION 1: CODE AMENDMENT.** Title 13 of the Costa Mesa Municipal Code is hereby amended to include the following definition - Chapter 1, Article 2, Section 13-6, Definitions, as it pertains to the definition of "single housekeeping unit":

*Single housekeeping unit* means that the occupants of a dwelling unit have established ties and familiarity with each other, jointly use common areas, interact with each other, share meals, household activities, lease agreement or ownership of the property, expenses and responsibilities; membership in the single housekeeping unit is fairly stable as opposed to transient, and members have some control over who becomes a member of the single housekeeping unit.

**SECTION 2: ENVIRONMENTAL DETERMINATION.** The code amendment 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 ORANGE COAST 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 \_\_\_\_\_ 2013.**

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

ATTEST:

APPROVED AS TO FORM:

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

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

