ORDINANCE NO. 18-10

AN ORDINANCE OF THE CITY COUNCIL OF COSTA MESA, CALIFORNIA, ADOPTING ZONING CODE AMENDMENT CO-18-02 AMENDING TITLE 13, CHAPTER V, ARTICLE 2.5, RESIDENTIAL SMALL LOT SUBDIVISION STANDARDS

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

SECTION 1: FINDINGS

The City Council finds as follows:

WHEREAS, the Small Lot Ordinance (SLO) which allows subdivision of 15 or less fee simple lots for multiple-family properties was adopted on April 1, 2014.

WHEREAS, the first amendment was adopted in April 21, 2015 revising the side yard setback and parking standards.

WHEREAS, the Planning Commission held two duly-noticed public hearings on April 9, 2018 and May 31, 2018 and considered the staff report and recommendations by staff and public testimony regarding amendments to Article 2.5 of the Zoning Code, pertaining to Small Lot Subdivision standards.

WHEREAS, on May 31, 2018, the Planning Commission recommended that the City Council approve Code Amendment CO-18-02 modifying the Small Lot Subdivision standards.

WHEREAS, the City Council gave first reading to Ordinance No. 18-10 on September 4, 2018, revising Title 13, Article 2.5 of the Municipal Code with respect to Small Lot Ordinance.

WHEREAS, to modify and improve the SLO development standards, the following revisions to development standards are hereby approved.

SECTION 2: Title 13, Chapter V, Article 2.5 of the Costa Mesa Municipal Code is hereby amended as follows:

A) Section 13-42.1: PURPOSE

The purpose of this article is to regulate development and subdivision of small lots within residential zoning districts and overlay districts where residential and live/work projects are permitted. The ownership and occupancy of these developments shall be subject to applicable laws for the general health, safety and welfare of the public. This type of subdivision is intended to provide flexible development standards and to promote a wider range of homeownership of individual lots in multiple-family residential ~~and overlay zoning~~ districts.

B) Section 13-42.2: PLANNING APPLICATION REQUIRED

a) Small lot subdivisions are permitted in appropriate residential districts and not in combination with other development standards in the overlays zones, subject to approval of the following planning application as may be applicable. This requirement is in addition to other permits or certificates required by law.

1) All new small lot development projects shall be processed according to the design review procedures contained in Section 13-29.
2) All small lot development projects require approval of a tentative tract or parcel map as required by law. A tentative tract map or parcel map shall not be required until a design review has been approved; however, the map may be processed concurrently.

b) No person shall construct, sell, lease, convey, maintain or use a lot in a small lot subdivision project within the city without first complying with the provisions of this article. (Ord. No. 14-04, § 2B., 4-1-14)

C) Section 13-42.3 DEVELOPMENT STANDARDS AND REQUIREMENTS:

a) Applicability. The provisions of this section shall apply to all new residential small lot subdivisions of 15 lots or less in multi-family zones and not in combination with other development standards in the overlays zones.

b) *Development standards*. Table 13-42 identifies the development standards for small lot subdivision developments. See also Article 9 general site improvement standards of this chapter for additional requirements. Projects shall comply with all applicable standard plans and specifications and adopted city and state codes, as well as the following provisions:

(1) The location and orientation of all buildings shall be designed and arranged to preserve natural features by minimizing the disturbance to the natural environment. Natural features such as trees, groves, waterways, scenic points, historic spots or landmarks, bluffs or slopes shall be delineated on the site plan and considered when planning the location and orientation of buildings, open spaces, underground services, walks, paved areas, playgrounds, parking areas and finished grade elevations. Pre-existing development should guide the building setbacks and new development should preserve the existing character of the neighborhood.

(2) The site design must consider both the design elements of each unit and how these designs will enhance the overall neighborhood character and vitality of the street and sidewalk. Building setbacks and site planning must relate to surrounding built form, respecting the overall neighborhood character and existing topography. Additionally, each unit must exhibit a high level of design quality with well-articulated entries and facades, proportionate windows, quality building materials and contextual landscaping.

(3) All structures proposed to be constructed within a project shall conform to the following requirements:

a. Each unit shall be provided with direct pedestrian and vehicular access to a public street, or an alley or a common drive connecting to a public street/alley.

b. Structures having dwelling units attached side by side shall be composed of no more than four (4) dwelling units.

c. Structures having dwelling units attached side by side shall include a break in the facade by having an offset in the front building line.

d. Structure shall be constructed to minimize impact of the proposed development on the light, air and privacy of adjacent properties.

(4) On-site lighting shall be provided in all parking areas, vehicular access ways, and along major walkways. The lighting shall be directed onto driveways and walkways within the project and away from dwelling units and adjacent properties, and shall be of a type approved by the development services department.

(5) The development shall comply with the provisions of Chapter XI, subdivisions, which may include, but are not limited to, land dedication and improvements, such as drainage improvements and payment of fees.

(6) Outside uncovered and unenclosed storage of boats, trailers, recreational vehicles and other similar vehicles shall be prohibited unless specifically designated areas for the exclusive storage of such vehicles are set aside on the final master plan and provided for in the covenants, conditions, and restrictions. Where such areas are provided, they shall be enclosed and screened from view on a horizontal plane from adjacent areas by a combination of six-foot high opaque fences and permanently maintained landscaping.

Table 13-42
SMALL LOT SUBDIVISION STANDARDS

TABLE 13-42 **SMALL LOT SUBDIVISION STANDARDS**	
STANDARDS	**SINGLE-FAMILY UNITS (located on individual dwelling unit lots and excluding townhouses)**
Maximum Number of Stories & Building Height	2 stories/ 27 feet, except as allowed in the Westside Overlay Districts. Note: Lofts, as defined in section 13-6, without exterior access and having only clerestory windows will not be regarded as a story. See also Attic discussion below.

TABLE 13-42 SMALL LOT SUBDIVISION STANDARDS	
STANDARDS	**SINGLE-FAMILY UNITS (located on individual dwelling unit lots and excluding townhouses)**
Attics	Attics shall not be heated or cooled, nor contain any electrical outlets or operable windows. In zoning districts where the maximum number of stories is two stories, attics above second stories shall be an integral part of the second story roofline and not appear as a 3rd story on any building elevation. Windows in any attic space above the second story shall be incidental and limited to a dormer style.
Maximum Density (based on gross acreage)	Same as underlying zoning district or as specified in an applicable specific plan.
Minimum Open Space (development lot)	35% of total lot area. No asphalt shall be permitted for paved areas. Parking and driveways shall consist of decorative concrete, pavers or other materials as deemed appropriate by the Development Services Director. This requirement may be decreased to a minimum of up to 30 percent, if the difference in the area is provided as additional open guest parking, located in a common area, and not exclusive for any specific unit.
Minimum Open Space (individual unit)	200 square feet with no dimension less than 10 feet.
Development Lot	Separately owned private property interests or any portion thereof, necessary or desirable for common use, are subject to recordation of an easement for reciprocal access and maintenance. All areas of a development with 5 or more parcels, subject to a reciprocal access and/or maintenance easement shall be maintained by an association that may be incorporated or unincorporated. The association may be referred to as a maintenance association.
Parking	• Three bedroom or more units (including a den or home office) – two garage spaces and two open parking spaces • Two bedrooms or less units (including a den) – two garage spaces and one open parking • No tandem parking is permitted for open or guest parking spaces. For developments with 5 or more units (up to 10 units) where open/guest parking spaces are provided in driveways in front of garages for exclusive use of that unit, one additional on-site guest parking shall be provided. Two additional open guest-parking shall be provided for developments with more than 10 units. • For all small lot developments subject to the provisions of this article, all open parking not located within an individual driveway shall be unassigned and nonexclusive.
Distance between buildings	6 feet minimum
Driveway width (development lot)	10-foot minimum, except 16-foot minimum driveway is required if the driveway serves tenants and/or guest parking for more than one dwelling unit. Driveway width shall be a maximum of 26 feet for lots less than 50 feet wide and a maximum of 50% for lots greater than 50 feet wide.
Driveway length	Straight-in driveways to garages shall have a minimum length of 19-feet from the ultimate public or private right of way. No driveways shall be more than 5 feet in length if parking is not provided in front of garage. Driveways accessing rear parcels shall be in compliance with the requirements of the Parking Design Standards, minimum separation

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	between driveways and maximum 50% hardscape requirement.
Mechanical equipment, excluding antennas and flush-mounted solar panels on roofs	Roof-top location is prohibited unless completely screened from public rights-of-way and adjacent properties.
Front Development Lot:	20 feet
Side yard (interior)	5 feet.
Rear yard (interior)	15 feet
Side (street side, if applicable)	10 feet Note: Driveways providing straight-in access from a public street to a garage shall be at least 19 feet long, as measured from the ultimate public or private right of way.
Rear Abutting a Publicly Dedicated Alley	5 feet; however, garages may be required to set back further to ensure adequate back up distance. Rear Yard Coverage does not apply.
Flag Lots and Alley fronting lots	Flag lots are required to be accessed with a minimum 16-foot wide driveway. Parcels with alley frontage should include a minimum 8-foot wide pedestrian access to the public street in the front. Parcels with frontage only on public alleys are prohibited.
Bluff Top Setback	No building or structure closer than 10 feet from bluff crest (see Section 13-34 BLUFF-TOP DEVELOPMENT).
Roof or Eaves Overhang; Awning	2 feet 6 inches into required side setback or building separation area. 5 feet into required front or rear setback.
Open, unenclosed stairways.	Not permitted
Chimneys	May extend 2 feet above maximum building height.
Fireplaces	2 feet into required setback of building separation area
Automatic roll-up garage doors	Required
Location of Open Parking	Guest parking shall be located within a reasonable distance of the unit it serves. Detached garages that are not located within a reasonable distance to the units they are intended to serve are prohibited.
Trash Storage	All units shall be provided with a small alcove inside or outside the unit to allow storage of at least three trash carts without encroaching into the garage space. All efforts shall be made to provide on-site trash service. Trash carts shall be stored on-site for trash pick up to the greatest extent possible.
Above-Ground Pools and Spas	Prohibited in front yards and subject to 5-foot side and rear setback from the main structures.
LANDSCAPING	
A detailed landscape plan prepared pursuant to CHAPTER VII LANDSCAPING STANDARDS shall be approved by the Planning Division prior to issuance of any building permits.	
SIGNS (See Chapter VIII).	
FENCES AND WALLS	

TABLE 13-42 SMALL LOT SUBDIVISION STANDARDS	
STANDARDS	**SINGLE-FAMILY UNITS (located on individual dwelling unit lots and excluding townhouses)**
Fences and walls placed between the property line and required setback line for main buildings shall conform to the City's walls, fences, and landscaping standards. See ARTICLE 9 GENERAL SITE IMPROVEMENT STANDARDS of this chapter for further information.	
PREEXISTING DEVELOPMENT	
Small Lot subdivisions and structures constructed, permitted or approved under the Small Lot Ordinance prior to October 18, 2018 shall be considered conforming with regard to the above provisions.	

c) *Documents required.*

(1) Project approval is subject to submission of complete organizational documents setting forth a plan or manner of permanent care and maintenance of any open spaces, recreational areas and commonly used areas/facilities. No such documents shall be acceptable until approved by the city attorney as to legal form and effect, and by the planning division as to suitability for the proposed use of the open areas.

(2) Prior to entering into a sales agreement for any property within a small lot subdivision, the developer shall disclose general information regarding the property to the future homebuyers, including but not limited to the following:

a. The type, thickness, and R-value of the insulation that has been installed in the home.

b. Any exposed hazards during and after construction (Lead-based paint, asbestos, etc.).

c. Uses other than residential in proximity to the project.

d. Unusual adjacent zoning.

e. Distance to airport if within two miles.

f. Where soils, filled ground and geologic information is available.

g. Any special costs that will be incurred by the lot buyer as a result of the installation of a building foundation or any other construction due to unusual soil/geological conditions.

h. If there is fill in excess of two (2) feet.

i. Schools servicing subdivision and any special conditions.

j. Any unusual flooding conditions.

k. Conditions of approval by the city and any resale restrictions.

l. Dedications and easements.

m. Project phasing plan.

n. CC&Rs.

(3) All small lot subdivisions shall file a declaration of covenants to be submitted with the application for approval. The declaration of covenants shall include, but not be limited to, the following provisions.

a. The homeowners' association or a maintenance association (as applicable) shall be established prior to the sale of any unit(s).

b. Membership in the homeowners or maintenance association shall be mandatory for each owner and any successive owner.

c. Provisions to restrict parking upon other than approved and developed parking spaces and to require that garages be kept available for resident parking shall be written into the covenants, conditions and restrictions for each project.

d. If the development is constructed in increments or phases which require one or more final maps, reciprocal covenants, conditions, and restrictions and reciprocal management and maintenance agreements shall be established which will cause a merging of increments as they are completed, and embody one homeowners' association with common areas for the total development.

e. The declaration of covenants shall contain language or provisions substantially as follows:

i. "The covenants, conditions and restrictions of this declaration shall run to the City of Costa Mesa insofar as they shall apply to the maintenance of the "common areas" as herein defined."

ii. "In the event the association or other legally responsible person(s) fail to maintain the common area in such manner as to cause same to constitute a public nuisance, the city may, upon proper notice and hearing, institute summary abatement procedures and impose a lien for the costs of such abatement upon the common area, individual units or the whole thereof as provided by law." (Ord. No. 14-04, § 2B., 4-1-14; Ord. No. 15-03, § 2, 4-21-15)

SECTION 3: 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 4: 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 5: 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 6: 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 18th day of September, 2018.

Sandra L. Genis, Mayor

ATTEST:

Brenda Green

Brenda Green, City Clerk

APPROVED AS TO FORM:

Thomas Duarte, City Attorney

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

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing Ordinance No. 18-10 was duly introduced for first reading at a regular meeting of the City Council held on the 4th day of September, 2018, and that thereafter, said Ordinance was duly passed and adopted at a regular meeting of the City Council held on the 18th day of September, 2018, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS: Foley, Righeimer, Mansoor, Genis

NOES: COUNCIL MEMBERS: Stephens

ABSENT: COUNCIL MEMBERS: None

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 19th day of September, 2018.

Brenda Green

Brenda Green, City Clerk