



REQUEST FOR PLANNING COMMISSION ACTION

MEETING DATE: NOVEMBER 15, 2018

TITLE: ZONING CODE AMENDMENT REGULATING BOARDING HOUSES

A handwritten signature in black ink, appearing to read 'Peter C. ...', is written over a horizontal line.

Director of Community Development

RECOMMENDED ACTION

1. Open the public hearing; receive public input; Commission comments and questions.
2. Close the public hearing.
3. Adopt RESOLUTION NO. 18-3706 – A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IRVINE, CALIFORNIA, RECOMMENDING CITY COUNCIL APPROVAL OF ZONE CHANGE 00765178-PZC TO AMEND ZONING ORDINANCE SECTION 1-2-1 RELATED TO THE DEFINITION OF A BOARDING HOUSE; FILED BY THE CITY OF IRVINE COMMUNITY DEVELOPMENT DEPARTMENT

EXECUTIVE SUMMARY

City of Irvine Zoning Ordinance provisions regulating boarding houses (sometimes also referred to as rooming houses) were updated earlier this year for consistency with current state law. This update reaffirmed the City's existing prohibition of boarding houses in all residential zones unless granted a Conditional Use Permit. However, to bring the ordinance into conformance with state law, the definition of Boarding House was changed from a standard based on the number of occupants living in a residential property to a standard based on the number of rental agreements among the occupants of a residential property.

Boarding houses are generally not an appropriate use in residential zones and typically result in complaints to Code Enforcement for excessive noise, high traffic volume, lack of street parking, trash and debris, public disturbance, and general concerns for safety. Following the boarding house definition update earlier this year, staff has encountered challenges effectively responding to calls from neighbors of boarding houses who are reporting such problems.

Under the current standard, Code Enforcement staff must secure copies of multiple lease agreements from operators or tenants of suspected boarding houses to enforce

the code. The regulation, as written, leaves a loophole whereby multiple tenants can be put on a single lease agreement to comply with the City's regulations. In other instances, operators and/or tenants are refusing to provide copies of their lease agreements, placing a strain on Code Enforcement and City Attorney resources to pursue enforcement through the courts.

To address the shortcomings of the existing ordinance, Code Enforcement staff and the City Attorney collaborated in drafting a revised boarding house definition anticipated to provide for more effective enforcement. The proposed definition adds a requirement that households be a "single housekeeping unit" and this new term is defined as the functional equivalent of a family where the residents may share living expenses, chores, eat meals together, and are a close group with social, economic, and psychological commitments to each other.

State law prohibits the City from establishing a limit on the number of occupants in a residential dwelling as was the case under the City's previous boarding house regulation. State law also prohibits the City from establishing a residency requirement based on families or households as traditionally defined. However, state law does allow the City to require that adults cohabitating in residential properties be "single housekeeping units" as defined above. With this language added to the City's current boarding house definition, Code Enforcement investigations and enforcement actions are anticipated to be more successful.

COMMISSION / BOARD / COMMITTEE RECOMMENDATION

None.

ANALYSIS

Zoning Ordinance Section 1-2-1 defines a "Boarding House" as follows:

Boarding House: A residence or dwelling unit, or portion(s) thereof, other than a hotel/motel, wherein two (2) or more rooms are independently rented or there are two (2) or more separate written or oral rental agreements, leases or subleases or combination thereof, regardless of whether or not the owner, agent or rental manager resides within the residence or dwelling unit. "Boarding House" shall not include a hotel/motel, single room occupancy hotel (SRO), or any structure which provides housing for less than 31 consecutive days, and "Boarding House" shall not include a facility licensed by the State Department of Health Services, the State Department of Social Welfare, or the County of Orange; convalescent homes; or community care or congregate care facilities.

The City's boarding house definition was updated earlier this year to comply with recent changes in state law prohibiting cities from establishing limits on the number of occupants in residential properties. The City's regulations were modified to instead regulate the number of distinct households or tenants within residential properties by counting the number of leases.

Following adoption of the current boarding house definition, Code Enforcement staff and the City Attorney have experienced challenges with the current regulations. Because boarding houses are now defined solely by the number of leases among the occupants, investigations and enforcement have been stymied by boarding house operators placing their tenants on a single lease or by operators and/or tenants simply refusing to provide copies of their lease agreements.

In response to these challenges, Code Enforcement staff and the City Attorney recommend the following changes to the City's boarding house definition and a new definition for single housekeeping unit:

"Boarding house" or "rooming house": Any residence or dwelling unit, or portion(s) thereof, other than a hotel/motel, wherein:

(a) two (2) or more rooms are independently rented or there are two (2) or more of its occupants are subject to separate written or oral rental agreements, leases or subleases or combination thereof, regardless of whether or not the owner, agent or rental manager resides within the residence or dwelling unit, either written, oral, or implied; and/or

(b) the occupants do not operate as a single housekeeping unit.

For the purpose of this definition, "Boarding House" or "Rooming House" shall not include a hotel/motel, single room occupancy hotel (SRO), or any structure which provides housing for less than 31 consecutive days, and "boarding house" or "rooming house" shall not include a facility licensed by the State Department of Health Services, the State Department of Social Welfare, or the County of Orange; convalescent homes; or community care or congregate care facilities.

"Single housekeeping unit" means:

(a) two (2) or more persons related through blood, marriage, or legal adoption or joined through a judicial or administrative order of placement and guardianship; or

(b) two (2) or more unrelated adult persons (eighteen years or older) meeting all of the following:

(i) they jointly occupy and have equal access to all areas of a residence or dwelling unit; and

(ii) they live together and act as the functional equivalent of a family by, including but not limited to, sharing living expenses and chores, eating meals together, and being a close group with social, economic, and psychological commitments to each other; and

(iii) if a residence or dwelling unit is leased or subleased, the tenants are subject to a single written lease agreement with joint use and responsibility for the premises and joint-and-several liability for breach of the single written lease agreement.

A clean version of this proposed amendment to the Zoning Ordinance Section 1-2-1 is included as PC Attachment 1. If adopted, the amendment will require adults cohabitating in residential properties be single housekeeping units, which simply means there must be a relationship among the occupants beyond mere cohabitation. The addition of this requirement and the new definition in the code give Code Enforcement an additional tool in its investigation of potential boarding houses. Further, it allows staff to pursue a violation without having to force a landlord to produce lease documents. Under the proposed new standard, information obtained from tenants about the nature of their relationships with each other would in, many instances, be sufficient to initiate enforcement action against the operator of a boarding house

ENVIRONMENTAL REVIEW

Pursuant to Section 4 of the City of Irvine California Environmental Quality Act (CEQA) procedures and Article 5 of the CEQA Guidelines, it has been determined that the proposed project is covered by the General Rule Exemption [Section 15061(b)(3)], for projects where it can be seen with certainty that the activity in question will have no significant effect on the environment.

ALTERNATIVES CONSIDERED

The proposed revision has been reviewed by the City Attorney and determined to be in compliance with state law. The Planning Commission may propose to modify or decline to recommend that the City Council approve the proposed revision.

FINANCIAL IMPACT

None.

REPORT PREPARED BY: Steve Holtz, Manager of Neighborhood Services

ATTACHMENTS

PC Attachment 1: Final Version - Proposed Revisions to Zoning Ordinance

PC Attachment 2: Resolution No. – 18-3706 recommending City Council approval of
Zone Change 00765178-PZC to amend boarding house definition

cc: Eric Tolles, Acting Chief Building Official
Charles Kovac, Housing Administrator
David Law, Principal Planner
Bill Jacobs, Principal Planner
Stephen Higa, Principal Planner
Joel Belding, Principal Planner