

<b>REQUEST FOR COUNCIL ACTION</b> CITY OF SAN DIEGO	CERTIFICATE NUMBER (FOR COMPTROLLER'S USE ONLY)
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TO: CITY COUNCIL	FROM (ORIGINATING DEPARTMENT): Development Services Department	DATE: 5/27/2015
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SUBJECT: Housing Related Amendments to the Municipal Code and Local Coastal Program

PRIMARY CONTACT (NAME, PHONE): Dan Normandin, 619-446-5388 MS 501	SECONDARY CONTACT (NAME, PHONE): Amanda Lee, 619-446-5367 MS 501
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**COMPLETE FOR ACCOUNTING PURPOSES**

FUND	700036				
FUNCTIONAL AREA					
COST CENTER	1611000011				
GENERAL LEDGER ACCT					
WBS OR INTERNAL ORDER					
CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00

FUND					
FUNCTIONAL AREA					
COST CENTER					
GENERAL LEDGER ACCT					
WBS OR INTERNAL ORDER					
CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00

COST SUMMARY (IF APPLICABLE): Costs associated with implementation of the regulations in the future will be borne by project applicants.

**ROUTING AND APPROVALS**

CONTRIBUTORS/REVIEWERS:	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
Liaison Office	ORIG DEPT.	Vacchi, Robert	06/03/2015
	CFO		
	DEPUTY CHIEF	Graham, David	06/24/2015
	COO		
	CITY ATTORNEY		
	COUNCIL PRESIDENTS OFFICE		

PREPARATION OF:     RESOLUTIONS     ORDINANCE(S)     AGREEMENT(S)     DEED(S)

This is an information item, no action is required. Staff is requesting the Committee provide input on the recommendations discussed in the report to the Smart Growth & Land Use Committee.

STAFF RECOMMENDATIONS:  
Consider Alternatives and Provide Direction

**SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)**

COUNCIL DISTRICT(S):	Citywide
COMMUNITY AREA(S):	Citywide

ENVIRONMENTAL IMPACT:	A full environmental analysis will begin following the meeting of the Smart Growth and Land Use Committee.
CITY CLERK INSTRUCTIONS:	

**COUNCIL ACTION  
EXECUTIVE SUMMARY SHEET  
CITY OF SAN DIEGO**

DATE: 5/27/2015

ORIGINATING DEPARTMENT: Development Services Department

SUBJECT: Housing Related Amendments to the Municipal Code and Local Coastal Program

COUNCIL DISTRICT(S): Citywide

CONTACT/PHONE NUMBER: Dan Normandin/619-446-5388 MS 501

**DESCRIPTIVE SUMMARY OF ITEM:**

The project includes potential amendments to the Land Development Code and the City's Local Coastal Program that deal with four housing related issues; compliance with Federal Fair Housing Act and the California Employment and Fair Housing Act, compliance with the Cedillo Bill (SB-2), creation of a new use of continuing care retirement community, and clarification on the applicability of the Reduced Parking Demand Housing Regulations.

**STAFF RECOMMENDATION:**

Consider Alternatives and Provide Direction

**EXECUTIVE SUMMARY OF ITEM BACKGROUND:**

The project proposes to address four housing related issues. First, it would address consistency with the Federal Fair Housing Act and the California Employment and Fair Housing Act (Housing Acts) with respect to facilities for residential care, transitional housing, and intermediate care and nursing. Second, it would address compliance with the Cedillo Bill (SB-2) which requires California cities to designate one or more zones that allow year-round emergency homeless shelters without a discretionary permit. Third, it would create a new use of "continuing care retirement community" (CCRC) to provide regulations that accurately reflect the multi functional development and demands of CCRCs. Finally, it would clarify how the Reduced Parking Demand Housing regulations (affordable housing parking regulations) are to be applied.

**CITY STRATEGIC GOAL/OBJECTIVE:**

Goal 2: Work in partnership with all of our communities to achieve safe and livable neighborhoods

Objective 4: Foster services that improve quality of life

**FISCAL CONSIDERATIONS:**

Costs associated with implementation of future regulations will be borne by project applicants.

**EQUAL OPPORTUNITY CONTRACTING INFORMATION:** N/A

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:** N/A

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

Staff will conduct the standard public outreach for amendments to the Land Development Code. The draft regulations will be presented to the Community Planner Committee, the Code

Monitoring Team, and the Technical Advisory Committee. Planning Commission will hold a public hearing on the matter and make a recommendation to the City Council.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Key stakeholders include neighborhood and community planning groups; advocates for the homeless; transitional housing providers; providers of intermediate care and nursing facilities; and operators of continuing care retirement communities.

Vacchi, Robert

Originating Department

Graham, David

Deputy Chief/Chief Operating Officer



THE CITY OF SAN DIEGO  
**REPORT TO THE CITY COUNCIL**

DATE ISSUED: June 26, 2015 REPORT NO: 15-069  
ATTENTION: Committee on Smart Growth and Land Use, Agenda of July 1, 2015  
SUBJECT: Housing Related Amendments to the Municipal Code and Local Coastal Program

REQUESTED ACTION:

This is an information item, no action is required. Staff is requesting the Committee provide input on the recommendations discussed in this report.

BACKGROUND:

The project proposes to address four housing related issues. First, it would address consistency with the Federal Fair Housing Act and the California Employment and Fair Housing Act (Housing Acts) with respect to facilities for residential care, transitional housing, and intermediate care and nursing. Second, it would address compliance with the Cedillo Bill (SB-2) which requires California cities to designate one or more zones that allow year-round emergency homeless shelters without a discretionary permit. Third, it would create a new use of "continuing care retirement community" (CCRC) to provide regulations that accurately reflect the multi functional development and demands of CCRCs. Finally, it would clarify how the Reduced Parking Demand Housing regulations (affordable housing parking regulations) are to be applied.

SUMMARY:

*Housing Acts*

The Housing Acts require that protected classes, generally those individuals with disabilities, be provided the same housing opportunities as similarly situated persons. Simply stated, development of housing for protected classes cannot have more stringent requirements than housing for non-protected classes. The uses in the Land Development Code (LDC) that need to be addressed for consistency with the Housing Acts are separately regulated uses that provide housing for protected classes. They are facilities for residential care, transitional housing, intermediate care, and nursing.

As required by California State law, single family zones in the LDC allow facilities for residential care and transitional housing ministerially, when there are no more than 6 residents. Facilities with 7 or more persons in a single family zone require a Conditional Use Permit (CUP). No changes would be proposed for the single-family zones. Staff is investigating whether it is feasible to treat facilities with 7 or more residents as multi-family, since the State regulates facilities with 6 or fewer residents as single family. The LDC's multi-family zones that permit single family development already allow facilities with 6 or fewer residents ministerially. However, the multi-family zones require a CUP for facilities with 7 or more persons. If it were determined that facilities with 7 or more persons could be equated to multi-family development, it would follow that facilities of 7 or more residents should be allowed ministerially where multi-family development is allowed ministerially. Allowing facilities with 7 or more residents ministerially would not preclude application of reasonable regulations to address potential impacts that may arise related to issues such as deliveries, visitors, and staffing. Those facilities could be allowed ministerially as a "limited" use with tailored requirements to address potential impacts.

The LDC currently treats "hospitals, intermediate care facilities and nursing facilities" as a single separately regulated use. However, intermediate care facilities and nursing facilities have multi-family characteristics in that "residents" typically live in these facilities for wide-ranging lengths of stay. Residents of intermediate care facilities and nursing facilities are deemed to be a protected class. For this reason, the proposal is to separate the use of "hospitals, intermediate care facilities and nursing facilities" into two separately regulated uses; "hospitals" and "intermediate care facilities and nursing facilities." Hospitals will continue to be regulated as they are currently regulated. The regulations for "intermediate care facilities and nursing facilities" are proposed to be permitted in zones as follows:

- Where currently permitted (P) they will continue to be permitted
- Where multi-family is permitted they will be permitted as a limited use (L) subject to the separately regulated regulations
- Where a CUP is currently required and multi-family residential use is not permitted they will continue be permitted with a CUP subject to the separately regulated regulations

As with residential care and transitional housing facilities, reasonable regulations may be applied. The same regulations that were applied to "hospital, intermediate care facilities and nursing facilities, with the exception of the requirement for direct freeway access" would apply.

### *Cedillo Bill*

California Senate Bill 2 (SB-2), known as the Cedillo Bill, was enacted in October 2007 and requires local governments to identify one or more zones that allow emergency homeless shelters ministerially. In order to be in compliance with the SB-2 a City must identify a zone(s) that has sufficient capacity to accommodate at least one year-round shelter and accommodate the City's share of the regional unsheltered homeless population. The SB-2 does allow the City to apply limited regulations to address potential impacts.

In January 2015 the Regional Task Force on the Homeless performed "point in time" counts that identified a total of 5,538 homeless in the City. Of those, 2,773 were sheltered and 2,765 were

unsheltered. It is the population of 2,765 unsheltered that need to be accommodated per the Cedillo Bill.

The Land Development Code currently requires that emergency homeless shelters obtain a Conditional Use Permit (CUP) with City Council approval. A CUP for an emergency homeless shelter can only be considered in specified high density multifamily residential zones, commercial zones that allow residential use, specified industrial zones that allow some office use, and in several zones within the Centre City Planned District Ordinance. Section 141.0412(c) of the LDC (Emergency Shelters) contains specific regulations for emergency homeless shelters. These regulations seem appropriate in light of the requirements of SB-2 and could reasonably be applied to an emergency homeless shelter that is allowed ministerially in a specified zone.

Zones that currently permit an emergency homeless shelter through a CUP have already been determined to be conditionally compatible with other development and uses within those zones when they comply with the separately regulated use regulations. Acknowledging this, the next step would be to select a city wide or Centre City PDO zone to ministerially allow an emergency shelter from the subset that currently requires a CUP.

Factors that should be considered in determining the appropriate zone for allowing an emergency homeless shelter through a ministerial process include proximity to social services, employment opportunities, transit, and the potential impacts on surrounding uses. Also, the land area of the zone needs to be sufficient to accommodate the City's share of the unsheltered homeless population. Staff will analyze the zones that currently allow an emergency shelter with a CUP to determine which zone(s) best satisfies the factors for locating an emergency homeless shelter as a limited use (ministerial) subject to regulations that address potential impacts. No changes would be made to the CUP requirements for all other zones that require a discretionary permit for an emergency homeless shelter.

SB-2 also requires that transitional and supportive housing be treated the same as any other residential use within the same zone. Compliance with this requirement would be accomplished as discussed in the Housing Act discussion above.

#### *Continuing Care Retirement Community*

A Continuing Care Retirement Community (CCRC) typically includes a spectrum of housing types that range from dwelling units for self-sufficient and minimally dependent residents to residents that need full time nursing care. Most CCRC's provide a service-enriched care environment with many support facilities, including specialized services such as individual and group exercise instruction, and multiple forms of health therapy. Other amenities typically included are community/game rooms, hair salons, and community dining rooms. CCRCs are designed to meet the needs of retired people in all stages of their life who meet the admission standards regulated by the state of California.

The LDC is silent on development of continuing care retirement communities (CCRC). Historically, staff has broken the CCRC down into its multiple components (multi-family dwelling units, intermediate care facilities, nursing facilities) and applied the regulations specific to each component rather than looking at the CCRC as a whole. The result has been a mix of development requirements that do not accurately address the operations and demands of a CCRC.

The LDC would be amended to add a new separately regulated residential use, "Continuing Care Retirement Community." It is recommended that a CCRC be subject to a Process Three CUP in the same zones that presently allow senior housing provided it complies with the separately regulated use regulations that address requirements for convalescent care facility, off-street parking, landscape requirements, and density. It is also recommended that CCRCs could be ministerially approved in the higher density multi-family zones of 44 dwelling units per acre and greater as a limited use subject to the same regulations.

#### *Affordable Housing Parking Regulations*

In October 2012 the City Council adopted the Reduced Parking Demand Housing Regulations. A few weeks prior to the City Council hearing, the draft regulations were modified. Instead of being known as the "affordable housing parking regulations," they were renamed and referred to as the Reduced Parking Demand Housing Regulations. The change resulted in an unintended consequence. Language was removed that made it clear that the reduction in parking was applied to the affordable units only. As currently adopted, the regulations could be interpreted to apply the reduction to affordable and market-rate dwelling units. Staff has been consistently applying the reduction to the affordable housing units only, and uses the hearing reports, the Affordable Housing Parking Study, and staff presentations to support the intent of the ordinance. The amended language restores the language that was in the ordinance prior to the renaming and clarifies that the reduction applies to only the affordable housing units.

#### ENVIRONMENTAL ANALYSIS:

A full environmental analysis will begin following the meeting of the Smart Growth and Land Use Committee.

#### FISCAL CONSIDERATIONS:

Staff costs associated with development of these housing regulations are covered by an overhead charge that is assessed by the Development Services Department to maintain and update the Land Development Code.

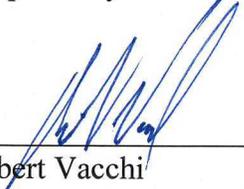
#### COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

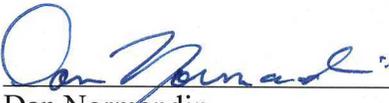
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KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders include neighborhood and community planning groups; advocates for the homeless; transitional housing providers; providers of intermediate care and nursing facilities; and operators of continuing care retirement communities.

Respectfully submitted,

  
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Robert Vacchi  
Director  
Development Services Department

  
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Dan Normandin  
Project Manager  
Development Services Department

VACCHI/DPN