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DEPARTMENT OF PLANNING AND  
COMMUNITY DEVELOPMENT

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**ACTION DATE:** March 6, 2014

**TO:** Planning Commission

**APPLICANT:** City of Agoura Hills  
30001 Ladyface Court  
Agoura Hills, CA 91301

**CASE NO.:** 14-ZOA-001

**LOCATION:** Citywide

**REQUEST:** Request for the Planning Commission to recommend the City Council adopt an ordinance to define Small Employee Housing, Congregate Housing and Residential Care Facilities for the Elderly, and adopt new standards for Small Employee Housing and Second Dwelling Units, by amending Zoning Ordinance Sections 9120.3.C., 9120.5.E., 9120.17.R., 9222.1., 9232.1., 9242.1., 9252.1., 9283.1, and 9654.6.B.

**ENVIRONMENTAL DETERMINATION:** Exempt from the California Environmental Quality Act (CEQA) per Section 15061.(b)(3) of the CEQA Guidelines.

**RECOMMENDATION:** Staff recommends the Planning Commission adopt the draft Resolution, recommending that the City Council approve Zoning Ordinance Amendment Case No. 14-ZOA-001.

**I. PROJECT BACKGROUND AND DESCRIPTION**

On July 18, 2013, the Planning Commission reviewed the City General Plan Housing Element Update through a public hearing. This now current 2013-2021 Housing Element was subsequently adopted by the City Council on August 28, 2013.

As noted within the City Housing Element, Housing Element law specifies that jurisdictions must identify adequate sites to be made available through appropriate zoning and development standards to encourage the development of various types of housing for all economic segments of the population, including various types of senior housing, small employee housing, and second dwelling units.

As part of the Governmental Constraints analysis and Adequate Housing Sites analysis for the City Housing Element, several revisions to the City Zoning Ordinance were identified as appropriate to better facilitate the provision of a variety of housing types to address the needs of the City. The required zoning revisions include:

- Revisions to the Second Unit development standards to facilitate housing options for seniors, caregivers, and other lower and extremely low income households
- The provision of Small Employee Housing, as defined in State law (for 6 or fewer persons).
- New definitions for Congregate Housing and Residential Care Facilities.

With the exception of the Small Employee Housing provisions (which are required to be completed by 2015), these zoning revisions are required to be completed in 2014, as noted in the Housing Element. Thus, staff is requesting the Planning Commission's review and recommendation to the City Council of the attached draft Ordinance which addresses each of the zoning revisions mentioned above.

## II. STAFF ANALYSIS

### Second Units

Second units are considered ancillary dwelling units to, and located on the same lot as, a primary, single-family residence. The Zoning Ordinance defines a "second unit" as "a detached or attached dwelling unit which provides complete, independent living facilities for one (1) or more persons. The unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation."

The Housing Element notes that a key element in satisfying the housing needs of all segments of the community is the provision of adequate sites for all types, sizes and prices of housing. Both the General Plan and Zoning Ordinance dictate where housing may be located, thereby affecting the supply of land available for housing. Second dwelling units offer several benefits. They can rent for less than apartments of comparable size and can offer affordable rental options for seniors and single persons. Second, the primary homeowners can receive supplementary income by renting out their second unit, which can help modest income and elderly homeowners remain in their homes.

Pursuant to State law, the City permits second units through a ministerial, non-discretionary process in all single-family residential zones, and has reduced the parking requirement to one covered space per unit and eliminated the requirement for connection to the public sewer system where not available. There are many large lots that can accommodate a second unit and despite these changes to the ordinance in 2003, the City has seen few applications for second units. As such, the Housing Element calls for the City to re-evaluate its second unit standards and assess refinements to better facilitate the provision of second units in existing and new development.

Staff is proposing to amend the Zoning Ordinance sections 9283.1 and 9654.6.B. to address three components of the second dwelling unit standards. One proposed change is to increase the maximum allowable size of the units from 640 square feet to 700 square feet. A second component is to relax the requirement on the exterior building materials. Currently, the construction of second units requires that the homeowner provide building materials and colors that are identical to the primary residence. Staff is recommending that only the exterior colors of the building must be the same as the primary residence. The third proposed change is to the parking requirement. As mentioned above, one covered parking space (10' x 20') is required for a second unit. Staff's proposal is to allow for the required space to be uncovered if it is located in the buildable area of the lot (not in required yard areas). Staff is also recommending the parking space be allowed in the garage serving the primary residence if the two required parking spaces are also provided in the garage for the primary residence. In addition, for sake of clarity, staff recommends that the reference to "granny flats" be stricken from the parking ordinance. These proposed amendments included in the draft ordinance are as follows (strikethroughs signify deleted text, and underlined words signify proposed text):

**"9283.1. Second unit standards**

All second units hereafter created shall conform to the following standards:

- A. Except for density limitation, all provisions of said land use districts shall be complied with;
- B. All second units shall be connected to either public or private water and sewer facilities;
- C. Such units shall not be held under separate ownership;
- D. The maximum size of a second dwelling unit shall be ~~six hundred forty (640)~~ seven hundred (700) square feet;
- E. Second units may be attached or detached from the primary residence. A detached second unit shall comply with the development standards of section 9606;

- F. Required on-site parking for a second unit per section 9654.6 may be located in any yard area and shall not preclude required parking and access for the primary residence;
- G. The exterior ~~building materials and~~ colors of second units shall be ~~identical to the same as~~ the same as the primary residence.”

**“9654.6.**

B. *Parking spaces required.* The number of off-street parking spaces shall be no less than the following:

USE

PARKING SPACES REQUIRED

*Residential*

Second units/~~granny flats~~

1 covered parking space per each unit. One (1) non-covered parking space may be provided in-lieu of a covered parking space if located in the buildable area. The required parking space may also be located in the garage serving the primary residence if the two required parking spaces for the primary residence are also provided in the garage.”

**Small Employee Housing**

Under State law, the Housing Element is required to address, and where legally possible, remove governmental constraints affecting the maintenance, improvement, and development of housing. One of the programs designed to lessen governmental constraints on housing development is the provision for “Small Employee Housing” for six or fewer employees.

California Health and Safety Code Section 17021.5 (Employee Housing Act) requires any employee housing providing accommodations for six or fewer employees to be deemed a single-family structure with a residential land use designation. For the purpose of all local ordinances, employee housing shall not be included within the definition of a boarding house, rooming house, hotel, dormitory, or other similar term that implies that the employee housing is a business run for profit or differs in any other way from a family dwelling. Rather, the California Health and Safety Code defines employee housing as being “any portion of any housing accommodation, or property upon which a housing accommodation is located” and “the accommodations are maintained in connection with

any work or place where work is being performed, whether or not rent is involved.” Additionally, the City may not impose discretionary review required of employee housing that serves six or fewer employees that is not required of a family dwelling of the same type in the same zone.

Small employee housing requirements stem from the demand for farm-worker housing in the State of California. However, the Employee Housing Act requirements apply to any type of employee housing and does not distinguish by the type of employer, and the Housing Element calls for the City to permit employee housing for six or fewer employees as a single-family structure.

As such, staff is proposing to amend the Zoning Ordinance as shown in Section 3 of the draft ordinance, to allow Small Employee Housing as a permitted use in each of the following residential zoning districts in which single-family residential units are also allowed: Very Low Density (RV); Low Density (RL); Single-Family (RS); and Medium Density (RM).

Staff is also proposing to add to the Zoning Ordinance a definition for Small Employee Housing that is consistent with state law, as follows:

“9120.5.E.(J): *Employee housing, small.* “Employee housing, small” has the same meaning as the term “employee housing,” as defined in California Health and Safety Code Section 17008, where such housing provides accommodations for six (6) or fewer persons.”

### **Residential Care Facilities for the Elderly**

Residential Care Facilities for the Elderly are currently allowed in two commercial zoning districts: the Commercial Retail Service (CRS) and Business Park-Office (BP-OR) zones. The California Health and Safety Code defines Residential Care Facilities for the Elderly as “a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, or personal care are provided, based upon their varying needs, as determined in order to admitted or retained in the facility.” Residential Care Facilities for the Elderly are commercially operated and State-licensed, and include medical service.

Housing Element calls for this type of facility to be re-defined in the Zoning Ordinance. The current definition of a Residential Care Facility Zoning Ordinance states as follows:

“*Residential care facility for the elderly*” means a state authorized, licensed or certified facility that provides twenty-four (24) hour nonmedical care to ambulatory or nonambulatory persons in need of personal assistance, supervision, or assistance essential for sustaining the activities of daily living. The facility shall include but not limited to congregate dining, transportation, recreation halls, and housekeeping.”

For consistency with State law, staff is proposing to amend the Zoning Ordinance definition of Residential Care Facilities for the Elderly (Zoning Ordinance Section 9120.17.R) to state as follows:

“*Residential care facility for the elderly*” shall mean a State-licensed residential facility for the elderly, as defined in California Health and Safety Code Section 1569.2.”

### **Congregate Housing**

Congregate Housing, also referred to as Congregate Housing for the Elderly, are facilities designed for elderly individuals requiring assistance with certain activities of daily living, such as eating, bathing and transportation, but desiring to live as independently as possible. Congregate housing is allowed as a permitted use in the Medium Density (RM) and High Density (RH) residential zoning districts, and is also allowed in the Single-Family (RS) district subject to the Planning Director’s approval. Congregate housing differs from Residential Care Facilities for the Elderly in that they are not State-licensed and no medical services are provided. Rather, Congregate Housing facilities bridge the gap between independent living and nursing homes. The California Health and Safety Code defines Congregate Housing for the Elderly as follows:

“*Congregate housing for the elderly*” means a housing development, as defined by Section 50073.5, which is planned, designed, and managed to include facilities and common space that allow for direct services and support services that maximize the residents’ potential for independent living and which is occupied by elderly or handicapped persons or households, as defined in Sections 50067 and 50072. Direct services and support services which are provided or made available shall relate to the nutritional, social, recreational, housekeeping, and personal needs of the residents and shall be provided or made available at a level necessary to assist the residents to function independently.”

For purposes of this definition, “*direct services*,” means “meals, housekeeping services, transportation services, and planned recreational and social activities which shall be provided to the residents directly by the management of the congregate housing.” “*Support services*” means “social services, day-care services, and in-home services which the management of the congregate housing shall assist the residents in obtaining, at the request of the residents.”



The City's Housing Element calls for this type of facility to be re-defined in the Zoning Ordinance. The current definition of a Congregate Housing states as follows:

“*Congregate housing*” shall mean a residential development for the senior citizen where services such as food preparation, dining and housekeeping are provided. A congregate unit shall be equivalent to 0.33 of a dwelling unit for density purposes.”

For consistency with State law, staff is proposing to amend the Zoning Ordinance definition of Congregate Housing (Zoning Ordinance Section 9120.3.C) to state as follows:

“*Congregate housing*” shall have the same meaning as the term “congregate housing for the elderly” as defined in California Health and Safety Code Section 50062.5.”

### **III. RECOMMENDATION**

Staff recommends the Planning Commission adopt the attached draft Resolution, recommending that the City Council approve Zoning Ordinance Amendment Case No. 14-ZOA-001.

### **IV. ATTACHMENTS**

- Draft Resolution
- Draft Ordinance

Case Planner: Doug Hooper, Assistant Director of Planning & Community Development

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS RECOMMENDING THE CITY COUNCIL AMEND VARIOUS SECTIONS OF THE ZONING ORDINANCE TO IMPLEMENT THE CITY OF AGOURA HILLS 2013-2021 HOUSING ELEMENT, INCLUDING ADOPTING NEW DEFINITIONS FOR SMALL EMPLOYEE HOUSING, CONGREGATE HOUSING AND RESIDENTIAL CARE FACILITIES FOR THE ELDERLY, AND ADOPTING NEW STANDARDS FOR SMALL EMPLOYEE HOUSING AND SECOND DWELLING UNITS (CASE NO. 14-ZOA-001)

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS DOES HEREBY RESOLVE, FIND, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. The City of Agoura Hills initiated and prepared an Amendment to the Zoning Ordinance to incorporate new definitions for the terms "Small Employee Housing," "Congregate Housing" and "Residential Care Facilities for the Elderly," and new standards for Small Employee Housing and Second Dwelling Units (Case No. 14-ZOA-001).

Section 2. A public hearing was duly held on March 6, 2014, at 6:30 p.m. in the Council Chambers of City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid public hearing was duly given and published as required by state law.

Section 3. Evidence, both written and oral, including the staff report and supporting documentation, was presented to and considered by the Planning Commission at the aforesaid public hearing.

Section 4. After the close of the public hearing, the Planning Commission considered all public comments received both before and during the public hearing, the presentation by City staff, the staff reports, the recommendations and all other pertinent documents and associated actions regarding the proposed ordinance amendments.

Section 5. The Planning Commission hereby finds as follows:

A. Pursuant to the City of Agoura Hills 2013-2021 Housing Element, the proposed amendments are necessary to comply with the program requirements of the City's 2013-2021 General Plan Housing Element, adopted by the City Council on August 28, 2013.

B. The proposed amendments are consistent with Section 9102 of the Zoning Ordinance, in that the implementation of the General Plan, including the Housing Element, requires, among other measures, the development of a regulatory zoning ordinance to govern the uses of land consistent with the goals, objectives, and policies of the City's General Plan.



C. The proposed amendments are consistent with the 2013-2021 General Plan Housing Element by meeting the Housing Element's identified strategies and programs that focus on: 1) providing for small employee housing; 2) expanding provisions for congregate housing for seniors; and 3) facilitating second units in existing and new development.

Section 6. The Planning Commission has reviewed the project and determined that the proposed Zoning Ordinance Amendment is exempt from the California Environmental Quality Act (CEQA), per Section 15061(b)(3), in that the activity is covered by the general rule that CEQA applies only to project that have the potential for causing a significant effect on the environment. The project consists of proposed Zoning Ordinance definitions and minor clarifications for use standards for certain implementation measures of the City's adopted Housing Element, and does not include proposed construction or proposed alteration to the physical environment. As such, it can be seen with certainty that there is no possibility that the proposed Zoning Ordinance will have any significant impact on the environment.

Section 7. Based upon the aforementioned findings, the Planning Commission hereby recommends that the City Council adopt the attached Ordinance to approve Zoning Ordinance Amendment Case No. 14-ZOA-001.

PASSED, APPROVED, and ADOPTED this 6<sup>th</sup> day of March, 2014, by the following vote to wit:

AYES: (0)  
NOES: (0)  
ABSENT: (0)  
ABSTAIN: (0)

\_\_\_\_\_  
Michael Justice, Chairperson

ATTEST:

\_\_\_\_\_  
Mike Kamino, Secretary

ORDINANCE NO. 14-\_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING THE ZONING ORDINANCE (ARTICLE IX OF THE AGOURA HILLS MUNICIPAL CODE) AND ADOPTING NEW DEFINITIONS FOR SMALL EMPLOYEE HOUSING, CONGREGATE HOUSING AND RESIDENTIAL CARE FACILITIES FOR THE ELDERLY, AND ADOPTING NEW STANDARDS FOR SMALL EMPLOYEE HOUSING AND SECOND DWELLING UNITS (CASE NO. 14-ZOA-001)**

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS HEREBY ORDAINS AS FOLLOWS:

Section 1. Pursuant to the California Environmental Quality Act ("CEQA"), as amended, the CEQA Guidelines, and the City's local CEQA Guidelines, City staff for the City of Agoura Hills, determined that the proposed Zoning Ordinance Amendment ("Project") to incorporate new definitions for the terms "Small Employee Housing," "Congregate Housing" and "Residential Care Facilities for the Elderly," and new standards for Small Employee Housing and Second Dwelling Units, has no possibility of causing a significant impact on the environment. Staff concludes that the proposed Ordinance is exempt from the application of CEQA pursuant to CEQA Guidelines Section 15061(b)(3), in that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. This finding is premised on the fact that the project consists of proposed Zoning Ordinance definitions and minor clarifications for use standards for certain implementation measures of the City's adopted Housing Element, and does not include proposed construction or proposed alteration to the physical environment. The City Council concurs with City staff's determination and therefore directs staff to prepare and file a Notice of Exemption with the County Clerk pursuant to CEQA Guidelines Section 15062 within five days of the date of this action.

Section 2. Section 9120.3.C. of Part 3 of Chapter 1 of Article IX (Zoning Ordinance) of the Agoura Hills Municipal Code is hereby amended to read as follows, with all other definitions in that section to remain unchanged:

- "T. *Congregate housing.* ~~"Congregate housing" shall mean a residential development for the senior citizen where services such as food preparation, dining and housekeeping are provided. A congregate unit shall be equivalent to 0.33 of a dwelling unit for density purposes shall have the same meaning as the term "congregate housing for the elderly" as defined in California Health and Safety Code Section 50062.5."~~

Section 3. A new definition of "Employee housing, small" is hereby added to Section 9120.5.E. of Part 3 of Chapter 1 of Article IX (Zoning Ordinance) of the Agoura Hills Municipal Code to read as follows, with all other definitions in that section to remain unchanged:

- "J. "Employee housing, small. "Employee housing, small" has the same meaning as the term "employee housing," as defined in California Health and Safety Code Section 17008, where such housing provides accommodations for six (6) or fewer persons.

Section 4. The definition of "Residential care facility for the elderly" in Section 9120.17.R of Part 3 of Chapter 1 of Article IX (Zoning Ordinance) of the Agoura Hills Municipal Code is hereby amended to read as follows, with all other definitions in that section to remain unchanged:

9120.317.L.

- "L. *Residential care facility for the elderly.* ~~"Residential care facility for the elderly" means a state authorized, licensed or certified facility that provides twenty four (24) hour nonmedical care to ambulatory or nonambulatory persons in need of personal assistance, supervision or assistance essential for sustaining the activities of daily living. The facility shall include but limited to congregate dining, transportation, recreation halls and housekeeping shall mean a State-licensed residential facility for the elderly, as defined in California Health and Safety Code Section 1569.2."~~

Section 5. Section 9222.1 of Part 3 of Chapter 2 of Article IX (Zoning Ordinance) of the Agoura Hills Municipal Code is hereby amended to read:

"9222.1. Permitted uses.

Subject to the provisions of Chapter 6, the following are permitted uses and structures in the RV district:

- A. One (1) single-family dwelling unit per lot or a mobile home used as a caretakers unit;
- B. Crops – field, tree, bush, berry and row, including nursery stock;
- C. Day care for children, small family day care home;
- D. Home for aged persons, foster family;
- E. Light agricultural uses subject to the limitations of section 9224.1;
- F. One manufactured home (mobile home) on a permanent foundation, as a single-family dwelling, subject to the provisions of section 9675;
- G. Community care facilities, small;
- H. Employee housing, small."

**Section 6.** Section 9232.1 of Part 4 of Chapter 2 of Article IX (Zoning Ordinance) of the Agoura Hills Municipal Code is hereby amended to read:

**"9232.1. Permitted uses.**

Subject to the provisions of chapter 6, the following are permitted uses and structures in the RL land use district:

- A. One (1) single-family dwelling unit per lot or a mobile home uses as a caretakers unit;
- B. Day care for children, small family day care home;
- C. Home for aged persons, foster family;
- D. Homes for children, foster family;
- E. One manufactured home (mobile home) on a permanent foundation, as a single-family dwelling, subject to the provisions of section 9675;
- F. Community care facilities, small;
- G. Employee housing, small."

**Section 7.** Section 9242.1 of Part 5 of Chapter 2 of Article IX (Zoning Ordinance) of the Agoura Hills Municipal Code is hereby amended to read:

**"9242.1. Permitted uses.**

Subject to the provisions of chapter 6, the following are permitted uses and structures in the RS district:

- A. One (1) single-family dwelling unit per lot or a mobile home uses as a caretakers unit;
- B. Day care for children, small family day care home;
- C. Home for aged persons, foster family;
- D. Homes for children, foster family;
- E. One manufactured home (mobile home) on a permanent foundation, as a single-family dwelling, subject to the provisions of section 9675;
- F. Community care facilities, small;
- G. Employee housing, small."

**Section 8.** Section 9252.1 of Part 6 of Chapter 2 of Article IX (Zoning Ordinance) of the Agoura Hills Municipal Code is hereby amended to read:

**9252.1. Permitted uses.**

Subject to the provisions of chapter 6, the following are permitted uses and structures in the RM district:

- A. Single-family dwelling per lot;
- B. Two-family dwelling per lot;
- C. Congregate housing;
- D. Day care for children, small family day care home;
- E. Home for aged persons, foster family;
- F. Homes for children, foster family;
- G. One manufactured home (mobile home) per lot, on a permanent foundation, as a single-family dwelling, subject to the provisions of section 9675;
- H. Community care facilities, small;
- I. Transitional housing, when such use is in a single or two-family dwelling;
- J. Supportive housing, when such use is in a single or two-family dwelling;
- K. Employee housing, small.

Section 9 Section 9283.1 of Part 9 of Chapter 2 of Article IX (Zoning Ordinance) of the Agoura Hills Municipal Code is hereby amended to read:

**“9283.1. Second unit standards**

All second units hereafter created shall conform to the following standards:

- A. Except for density limitation, all provisions of said land use districts shall be complied with;
- B. All second units shall be connected to either public or private water and sewer facilities;
- C. Such units shall not be held under separate ownership;
- D. The maximum size of a second dwelling unit shall be ~~six hundred forty (640)~~ seven hundred (700) square feet;
- E. Second units may be attached or detached from the primary residence. A detached second unit shall comply with the development standards of section 9606;
- F. Required on-site parking for a second unit per section 9654.6 may be located in any yard area and shall not preclude required parking and access for the primary residence;
- G. The exterior building ~~materials and~~ colors of second units shall be ~~identical to~~ the same as the primary residence.”

Section 10. Section 9654.6.B. of Division 4 of Part 2 of Chapter 6 of Article IX (Zoning Ordinance) of the Agoura Hills Municipal Code is hereby amended to read:

**“9654.6.**

- B. *Parking spaces required.* The number of off-street parking spaces shall be no less than the following:



USE

PARKING SPACES REQUIRED

*Residential*

Second units/~~granny flats~~

1 covered parking space per each unit.  
One (1) non-covered parking space may be provided in-lieu of a covered parking space if located in the buildable area. The required parking space may also be located in the garage serving the primary residence if the two required parking spaces for the primary residence are also provided in the garage."

Section 11. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional by any court or competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or applications, and to this end the provisions of this ordinance are declared to be severable. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof even if one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof is declared invalid or unconstitutional.

PASSED, APPROVED, and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by the following vote to wit:

AYES: (0)  
NOES: (0)  
ABSENT: (0)  
ABSTAIN: (0)

\_\_\_\_\_  
William D. Koehler, Mayor

ATTEST:

\_\_\_\_\_  
Kimberly M. Rodrigues, MMC, City Clerk



APPROVED AS TO FORM

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Candice K. Lee, City Attorney