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(O-2008-57 Rev. Version A)

SAN DIEGO, CALIF.

ORDINANCE NUMBER O- 19704 (NEW SERIES)

DATE OF FINAL PASSAGE JAN 29 2008

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING THE LAND DEVELOPMENT CODE BY ADDING CHAPTER 12, ARTICLE 3, DIVISION 5, BY ADDING SECTIONS 123.0501, 123.0502, 123.0503, 123.0504, 123.0505 AND 123.0506; BY AMENDING CHAPTER 13, ARTICLE 1, DIVISION 4, BY AMENDING SECTION 131.0422 TABLE 131-04B BY ADDING FOOTNOTE 11; AND BY AMENDING CHAPTER 14, ARTICLE 2, DIVISION 5, BY AMENDING SECTION 142.0520 TABLE 142-05B, ALL PERTAINING TO RESIDENTIAL HIGH OCCUPANCY PERMITS.

WHEREAS, single dwelling units occupied by multiple adult tenants, also commonly referred to as "mini dorms", have been identified as a threat to local communities due to a variety of negative impacts including, but not limited to, loud parties, noise, trash, parking impacts, and inconsistent physical development impacts; and

WHEREAS, a variety of public outreach tools including media coverage, email blasts, mailed public notices, published public notices, a dedicated web page, and public announcements have been used to encourage community participation in the development of strategies to address "mini dorms" and to widely distribute information related to proposed strategies; and

WHEREAS, a variety of public meetings and hearings have been held to allow for community input and participation in the development of strategies to address "mini dorms" including two public discussion forums (September 2006 and May 2007), individual community

planning group meetings, three Land Use and Housing Committee meetings (November 2006, March 2007, October 2007), two Code Monitoring Team meetings (April and August 2007), two City Council hearings (July 2007), one Planning Commission meeting (September 2007), and one Community Planners Committee meetings (September 2007), which resulted in participation by hundreds of local residents and community leaders; and

WHEREAS, the City Council adopted the Administrative Enforcement Remedies Ordinance (O-19579) in February 2007, to update the City's penalty fine amounts, grant authority for broader use of administrative citations, and clarify language to allow for greater cost recovery in enforcement cases; and

WHEREAS, on March 7, 2007, the City Council Committee on Land Use and Housing supported a pilot program for issuance of \$1000 administrative citations by the Mid City Division of the San Diego Police Department for noise violations related to loud parties and loud music violations of San Diego Municipal Code Sections 59.5.0501 and 59.5.0502, which has proven to be a critical component of the City's strategy for a more aggressive code compliance program by helping to reduce the number of noise violations, and therefore is planned for expansion to address noise violations citywide; and

WHEREAS, on July 9, 2007, the City Council introduced an ordinance regulating physical development of single dwelling units and requested that staff draft an ordinance to regulate high occupancy single dwelling units as part of a multi faceted strategy to address mini dorms including a more aggressive enforcement program, greater cost recovery, code amendments to address inconsistent physical development, and other ordinance options such as a rooming house ordinance and/or residential high occupancy permit; and

WHEREAS, on July 24, 2007, the City Council adopted ordinance (O-19650) regulating the physical development of single dwelling units to prevent inconsistent physical development commonly associated with mini dorms such as a large number of bedrooms per dwelling unit, excessive hardscape, inadequate parking, and development out of scale with the existing lot size and the surrounding neighborhood; and

WHEREAS, the parking requirement for a single dwelling unit is two parking spaces citywide, except for single dwelling units with five or more bedrooms located in the campus impact area of the parking impact overlay zone where the requirement is one parking space per bedroom, which does not account for the associated occupancy or number of vehicles per dwelling unit; and

WHEREAS, the purpose of the Residential High Occupancy Permit ordinance is to ensure that high occupancy single dwelling units with six or more adult occupants (age 18 and older) residing for a period of 30 or more consecutive days provide adequate parking, including one parking space per adult occupant less one parking space; and

WHEREAS, the intent of this ordinance is to preserve community character in single dwelling units zones consistent with the RS (Residential-Single Unit) zones which are intended to “accommodate a variety of lot sizes and residential dwelling types” and “promote neighborhood quality, character, and livability”; and

WHEREAS, the proposed ordinance would regulate similarly situated properties the same, provide equal protection for rental and owner occupied single dwelling units, and accommodate housing needs of non-family groups in single dwelling units in accordance with state and federal law;

WHEREAS, the proposed ordinance has been reviewed and considered by various interest groups and organizations as well as by the Code Monitoring Team, Community Planners Committee, and Planning Commission; and

WHEREAS, on September 6, 2007, the Planning Commission recommended approval of the Residential High Occupancy Permit ordinance to the City Council; and

WHEREAS, on November 19, 2007, the City Council conducted a first reading of the proposed ordinance and a majority adopted a motion directing that the ordinance be revised prior to the second reading to incorporate a permit fee waiver for economic hardship in order to accommodate groups that live in high occupancy units out of economic need; and

WHEREAS, adoption of the Residential High Occupancy Permit Ordinance as so revised, would establish an annual permit, with an annual fee and inspections, that would allow for revocation of the permit in case of administrative enforcement actions, and that would allow for a fee waiver for economic hardship based on the Area Median Income; NOW,

THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 12, Article 3, Division 5, is added by adding Sections 123.0501, 123.0502, 123.0503, 123.0504, 123.0505, and 123.0506 to read as follows:

Article 3: Zoning
Division 5: Residential High Occupancy Permit

§123.0501 Purpose of Residential High Occupancy Permit

The purpose of these procedures is to provide for annual review of high occupancy *single dwelling units* for conformance with the applicable zoning regulations by ensuring that high occupancy units provide adequate parking and minimize impacts to adjacent properties.

§123.0502 When a Residential High Occupancy Permit Is Required

- (a) A Residential High Occupancy Permit is required for a *single dwelling unit* when the occupancy of the *dwelling unit* would consist of six or more persons eighteen years of age and older residing in the *dwelling unit* for a period of 30 or more consecutive days.
 - (1) Prior to the rental or sale of a *single dwelling unit*, the property owner shall disclose the requirement for a Residential High Occupancy Permit to prospective tenants or buyers.
 - (2) The Residential High Occupancy Permit requirement shall apply to a *single dwelling unit* described in Section 123.0502(a) regardless of whether six or more persons eighteen years of age and older resided in the *dwelling unit* prior to the effective date of this ordinance.
- (b) Housing for senior citizens, residential care facilities, and transitional housing facilities are exempt from the requirement for a Residential High Occupancy Permit, but are otherwise subject to the use regulations in Chapter 14, Article 1.

§123.0503 How to Apply for a Residential High Occupancy Permit

- (a) Within 30 days of an increase in *single dwelling unit* occupancy that results in six or more persons eighteen years of age and older residing in a *single dwelling unit* for a period of 30 or more consecutive days, a property owner shall apply for a Residential High Occupancy Permit in accordance with Section 112.0102.
- (b) The Residential High Occupancy Permit application and applicable fees shall be resubmitted annually by the property owner to ensure compliance with the provisions of this division.
- (c) A fee waiver for economic hardship may be requested with the permit application and shall be granted in accordance with Process One where a property owner demonstrates to the satisfaction of the City Manager that their annual income is less than the Area Median Income.
- (d) It is unlawful for any Responsible Person to violate any requirement of this Division.

§123.0504 Decision on a Residential High Occupancy Permit

- (a) A decision on an application for a Residential High Occupancy Permit shall be approved in accordance with Process One.
- (b) The applicant shall demonstrate on submitted plans that one off-street parking space per occupant eighteen years of age and older, less one will be accommodated on the *premises*. In cases where an occupant eighteen years of age and older does not have a vehicle or a valid driver's license, the *applicant* shall provide evidence to the satisfaction of the City

Manager to demonstrate the need for a lower parking requirement, which shall be documented in the permit record.

- (c) In case of conflict between the requirements of this section and the Parking Impact Overlay Zone, the higher of the applicable parking requirements shall apply.
- (d) Parking spaces shall conform to regulations in Chapter 14, Article 2.

§123.0505 Issuance of a Residential High Occupancy Permit

- (a) The City Manager shall issue the Residential High Occupancy Permit when the required fees have been paid (or a fee waiver is granted), a copy of the lease agreement(s) has been provided where applicable, and the permit has been approved.
- (b) A Residential High Occupancy Permit shall not be issued to a property with a pending code violation case.
- (c) The permit shall be valid for a 12 month period, except that an increase in occupancy or the number of vehicles in excess of that authorized under the permit shall require a new permit application and fees.

§123.0506 Enforcement and Administrative Remedies

- (a) Violations of this Division are subject to the judicial and administrative enforcement remedies identified in Section 121.0311 of this Code.
- (b) Violations of this Division may also result in the revocation of a previously approved Residential High Occupancy Permit, in the event of two or more code violations, within the last twelve months, have been

determined to exist either prior to or pursuant to the final adjudication of any of the enforcement remedies available under Section 123.0311 of this Code.

Section 2. That Chapter 13, Article 1, Division 4, is amended by amending Section 131.0422 Table 131-04B to read as follows:

§131.0422 Use Regulations Table for Residential Zones

The uses allowed in the residential zones are shown in the Table 131-04B.

Legend for Table 131-04B

Symbol In Table 131-04B	Description Of Symbol
P	Use or use category is permitted. Regulations pertaining to a specific use may be referenced.
L	Use is permitted with limitations, which may include location limitations or the requirement for a use or <i>development permit</i> . Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
N	Neighborhood Use Permit Required. Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
C	Conditional Use Permit Required. Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
-	Use or use category is not permitted.

**Table 131-04B
Use Regulations Table of Residential Zones**

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones																					
	1st & 2nd >>	RE-	RS-												RX-		RT-							
		3rd >>	1-														1-		1-					
		4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3
Residential																								
Group Living Accommodations	-															-			-					
Mobilehome Parks	-															p ⁽¹⁾			p ⁽¹⁾					
Multiple Dwelling Units	-															-			-					
Single Dwelling Units	P															p ⁽¹¹⁾			p ⁽¹¹⁾	p ⁽¹¹⁾				
Separately Regulated Residential Uses																								
Boarder & Lodger Accommodations	L															L			L	L				
Companion Units	L															L			L	L				

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones																					
	1st & 2nd >>	RE-	RS-												RX-		RT-							
		3rd >>	I-																					
		4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3
Employee Housing:																								
6 or Fewer Employees		L	L												L	L								
12 or Fewer Employees		-	-												-	-								
Greater than 12 Employees		-	-												-	-								
Fraternities, Sororities and Student Dormitories		-	-												-	-								
Garage, Yard, & Estate Sales		L	L												L	L								
Guest Quarters		N	N												N	-								
Home Occupations		L	L												L	L								
Housing for Senior Citizens		C	C												C	C								
Live/Work Quarters		-	-												-	-								
Residential Care Facilities:																								
6 or Fewer Persons		P	P												P	P								
7 or More Persons		C	C												C	C								
Transitional Housing:																								
6 or Fewer Persons		P	P												P	P								
7 or More Persons		C	C												C	C								
Watchkeeper Quarters		-	-												-	-								

Footnotes for Table 131-04B

- 1 Development of a *mobilehome park* in any RS or RX zone is subject to Section 143.0302.
- 2 Development of a *mobilehome park* in the RM zones is subject to Section 143.0302.
- 3 This use is permitted only if as an *accessory use*, but shall not be subject to the *accessory use* regulations in Section 131.0125.
- 4 The 40,000 square feet includes all indoor and outdoor areas that are devoted to the recreational use; it does not include customer parking areas.
- 5 Non-owner occupants must reside on the *premises* for at least 7 consecutive calendar days.
- 6 Two *guest rooms* are permitted for visitor accommodations per the specified square footage of lot area required per dwelling unit (maximum permitted *density*), as indicated on Table 131-04G.
- 7 See Section 131.0423(c).
- 8 See Section 131.0423(a).
- 9 See Section 131.0423(b).
- 10 Maintaining, raising, feeding, or keeping of 10 or more domestic animals requires a *premises* of at least 5 acres. Maintaining, raising, feeding, or keeping of swine is not permitted.

- 11 A Residential High Occupancy Permit is required in accordance with Section 123.0502 for a *single dwelling unit* when the occupancy of the *dwelling unit* would consist of six or more persons eighteen years of age and older residing in the *dwelling unit* for a period of 30 or more consecutive days.

Section 3. That Chapter 14, Article 2, Division 5, is amended by amending Section 142.0520 Table 142-05B to read as follows:

§142.0520 Single Dwelling Unit Residential Uses — Required Parking Ratios

The required number of *off-street parking spaces* for *single dwelling units* and related uses are shown in Table 142-05B.

**Table 142-05B
Minimum Required Parking Spaces for
Single Dwelling Units and Related Uses**

Type of Unit and Related Uses	Number of Required Parking Spaces
<i>All single dwelling units</i> , except those with five or more <i>bedrooms</i> in campus impact areas (See Chapter 13, Article 2, Division 8)	2 spaces per dwelling unit ⁽¹⁾
<i>Single dwelling units</i> with five or more <i>bedrooms</i> in campus impact areas (See Chapter 13, Article 2, Division 8)	1 space per <i>bedroom</i> (previously conforming parking regulations in Section 142.0510 (d) do not apply) ⁽²⁾
<i>High occupancy single dwelling units</i> subject to Section 123.0502	1 space per occupant eighteen years of age and older, less one space (previously conforming parking regulations in Section 142.0510 (d) do not apply)
Housing for senior citizens (maximum 1 bedroom)	1 space per dwelling unit

Footnotes for Table 142-05B

- 1 *Single dwelling units* that do not provide a driveway at least 20 feet long, measured from the back of the sidewalk to that portion of the driveway most distant from the sidewalk, as illustrated in Diagram 142-05A, shall provide two additional parking spaces. These parking spaces may be on-street, abutting the subject property, but shall conform to Section 142.0525(c)(4).
- 2 In campus impact areas, new *single dwelling unit development* with 5 or more *bedrooms* shall provide a minimum of 2 parking spaces in a garage. Where an existing garage is

proposed for conversion to habitable area, garage parking shall be replaced with an equivalent number of garage parking spaces on the *premises*.

Section 4. That a \$1000 application fee shall be adopted as part of this ordinance to cover administrative, plan check, and inspection costs associated with the Residential High Occupancy Permit.

Section 5. That this activity is adequately addressed by three previous environmental documents which include: “Amendments to Address Mini Dorms and Preserve the Character of RS Zones Project No. 129501, Addendum to EIR No. 96-0333”; “Revisions to Land Development Code Project No. 96-7897, Addendum to EIR No. 96-0333”; and “Land Development Code EIR No. 96-0333”. There is no change in circumstance, additional information, or project changes to warrant additional environmental review. Therefore, the activity is not a separate project for the purposes of CEQA review pursuant to State CEQA Guidelines Section §15060(c)(3).

Section 6. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 7. That this ordinance shall take effect and be in force thirty days from and after its passage, except that the provisions of this ordinance applicable inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

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Section 8. That existing single dwelling units occupied by six or more adults age eighteen and older shall not be issued penalties for failure to submit application within the first six months from the effective date of the ordinance.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Marianne Greene
Marianne Greene
Deputy City Attorney

MG:als
01/11/08
Or.Dept:DSD
O-2008-57 Rev.

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JAN 14 2008.

ELIZABETH S. MALAND
City Clerk

By Sara Richard
Deputy City Clerk

Approved: 1-29-08
(date)

JAS
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor