

ORDINANCE NUMBER O- 19739 (NEW SERIES)

DATE OF FINAL PASSAGE APR 23 2008

AN ORDINANCE REGARDING THE REGULATION OF ROOMING HOUSES AMENDING THE SAN DIEGO MUNICIPAL CODE BY AMENDING CHAPTER 11, ARTICLE 3, DIVISION 1, BY AMENDING SECTION 113.0103; BY AMENDING CHAPTER 13, ARTICLE 1, DIVISION 1, BY AMENDING SECTION 131.0112; DIVISION 2, BY AMENDING SECTION 131.0222; DIVISION 3, BY AMENDING SECTION 131.0322; DIVISION 4, BY AMENDING SECTIONS 131.0422 AND 131.0423; DIVISION 5, BY AMENDING SECTION 131.0522; DIVISION 6, BY AMENDING SECTION 131.0622; AND, BY AMENDING CHAPTER 14, ARTICLE 2, DIVISION 5, BY AMENDING SECTION 142.0525.

WHEREAS, the purpose of residential-single (RS) unit zones is to provide for areas of residential development that promote neighborhood quality, character, and livability, and minimizes adverse impacts to adjacent properties; and, that the purpose of residential-multiple (RM) unit zones is to accommodate specific dwelling types and developments with similar characteristics, and to respond to locational issues regarding adjacent land uses; and

WHEREAS, commercial overuse of dwelling units particularly in residential-single (RS) unit zones, has been a chronic and growing problem adversely impacting neighborhood quality, character, and livability incompatible with the purposes of both the RS unit zones and with the lower density RM-1 and RM-2 unit zones; and

WHEREAS, the commercial overuse of dwelling units particularly in RS unit zones, is more compatible with the dwelling types and developments with similar characteristics in higher density residential-multiple RM-3 and RM-4 unit zones; and

WHEREAS, commercial overuse generally refers to a dwelling unit where three or more rooms are rented individually or separately, to tenants under separate rental agreements, or where rooms are rented individually or separately, resulting in multiple, independent living units where

tenants do not share common access or financial responsibility for use of the dwelling unit as a whole. The former is commonly referred to as a rooming house; the latter as a defacto rooming house; 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 “rooming houses” 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 “rooming houses” including two public discussion forums (September 2006 and May 2007), nearly twenty presentations at community planning group meetings, three Land Use and Housing Committee meetings (November 2006, March 2007, October 2007), one Code Monitoring Team meeting (August 2007), two City Council hearings (July and November 2007), one Planning Commission meeting (September 2007), and two Community Planners Committee meetings (September and November 2007), which resulted in participation by hundreds of local residents and community leaders; and

WHEREAS, on July 9, 2007, the City Attorney briefed City Council on rooming house ordinance law in California, centering on a 2003 California Attorney General opinion that validated a City of Lompoc rooming house ordinance because its intent was to preserve the residential character of single dwelling unit zoned neighborhoods and to prohibit commercialized overuse of dwelling units in those zones. City Council then voted unanimously to direct the City Attorney to draft a rooming house ordinance for the City of San Diego.

WHEREAS, on September 6, 2007, Planning Commission considered and deliberated a draft rooming house ordinance and voted unanimously to recommend that City Council adopt the ordinance with certain amendments suggested through public testimony; and

WHEREAS, on November 19, 2007, City Council considered and deliberated a draft rooming house ordinance that reflected amendments suggested by the Planning Commission, and then voted for additional amendments; and

WHEREAS, the City wishes to establish a rooming house ordinance to address the chronic and growing problem of commercial overuse of dwelling units particularly in RS unit zones, to preserve neighborhood quality, character, and livability, compatible with the purposes of RS unit zones and with lower density RM-1 and RM-2 zones, and to more appropriately locate rooming houses in neighborhoods with similar densities and characteristics compatible the use of a dwelling unit as a rooming house; NOW, THEREFORE,

Section 1. That Chapter 11, Article 3, Division 1 of the San Diego Municipal Code [SDMC] is amended by amending section 113.0103 to read as follows:

§ 113.0103 Definitions

Abutting property through Roof Sign [No change in text.]

Rooming house means a *dwelling unit* where three or more rooms are rented individually or separately, to tenants under separate rental agreements. Housing protected by federal or state law, including housing for persons protected under the Fair Housing Act (42 USC section 3604 (f)) and the California Fair Housing Act (California Government Code section 12920 et seq.), or housing otherwise subject to the City's Separately Regulated Use regulations in Chapter 14, Article 1, shall not constitute a *rooming house*.

School through Yard [No change in text.]

Section 2. That Chapter 13, Article 1, Division 1 of the San Diego Municipal Code [SDMC] is amended by amending section 113.0112 to read as follows:

§ 131.0112 Descriptions of Use Categories and Subcategories

(a) [No change in text.]

(1) through (2) [No change in text.]

(3) Residential Use Category. This category includes uses that provide living accommodations for one or more persons. The residential subcategories are:

(A) *Rooming houses.* Dwellings where rooms are rented, individually or separately, resulting in multiple, independent living units where tenants do not share common access or financial responsibility for use of the *dwelling unit* as a whole. Pursuant to Section 127.0102(d), all *previously conforming rooming houses* shall be unlawful three years from the effective date of Ordinance O-2008-61.

(B) through (D) [No change in text.]

(4) through (11) [No change in text.]

(b) [No change in text.]

Section 3. That Chapter 13, Article 1, Division 2 of the San Diego Municipal Code [SDMC] is amended by amending section 131.0222 to read as follows:

§ 131.0222 Use Regulations Table for Open Space Zones

[No change in text.]

Table 131-02B
Use Regulations Table of Open Space 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 >>		OP-		OC-	OR ⁽¹⁾	OF ⁽¹²⁾
		3rd >>	1-	2-	1-	1-	1-
			4th >>	1	1	1	1
Open Space [No change in text.]							
Agriculture [No change in text.]							
Residential							
<i>Mobilehome Parks through Multiple Dwelling Units</i> [No change in text.]							
<i>Rooming House</i> [See Section 131.0112(a)(3)(A)]	-	-	-	-	-	-	-
<i>Single Dwelling Units</i>	-	-	-		P		-
Separately Regulated Residential Uses:							
<i>Boarder & Lodger Accommodations</i>	-	-	-		L		-
<i>Companion Units through Watchkeeper Quarters</i> [No change in text.]							
Institutional through Signs [No change in text.]							

[No change in footnotes.]

Section 4. That Chapter 13, Article 1, Division 3 of the San Diego Municipal Code

[SDMC] is amended by amending section 131.0322 to read as follows:

§ 131.0322 Use Regulations Table for Agricultural Zones

[No change in text.]

Table 131-03B
Use Regulations Table of Agricultural 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 >>		AG		AR		
		3rd >>	1-	1-			
			4th >>	1	2	1	2
Open Space [No change in text.]							
Agriculture [No change in text.]							
Residential							

<i>Mobilehome Parks through Multiple Dwelling Units</i> [No change in text.]		
<i>Rooming House</i> [See Section 131.0112(a)(3)(A)]	-	-
<i>Single Dwelling Units</i>	P ⁽¹⁾	P
Separately Regulated Residential Uses		
<i>Boarder & Lodger Accommodations</i>	-	L
<i>Companion Units through Watchkeeper Quarters</i> [No change in text.]		
Institutional through Signs [No change in text.]		

[No change in footnotes.]

Section 5. That Chapter 13, Article 1, Division 4 of the San Diego Municipal Code [SDMC] is amended by amending section 131.0422 to read as follows:

§ 131.0422 Use Regulations Table for Residential Zones

[No change in text.]

**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-		1-							
	4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3	4
Open Space [No change in text.]																								
Agriculture																								
<i>Agricultural Processing through Raising and Harvesting of Crops</i> [No change in text.]																								
<i>Raising, Maintaining & Keeping of Animals</i>																								
Separately Regulated Agricultural Uses [No change in text.]																								
Residential																								
<i>Mobilehome Parks through Multiple Dwelling Units</i> [No change in text.]																								
<i>Rooming House</i> [See Section 131.0112(a)(3)(A)]																								
<i>Single Dwelling Units</i>																								
Separately Regulated Residential Uses																								
<i>Boarder & Lodger Accommodations</i>																								
<i>Companion Units through Watchkeeper Quarters</i> [No change in text.]																								
Institutional through Signs [No change in text.]																								

Use Categories/ Subcategories	Zone Designator	Zones
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[See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]

	RM-											
	1st & 2nd >>			3rd >>			4th >>			5th >>		
	1	2	3	4	5	6	7	8	9	10	11	12
Open Space [No change in text.]												
Agriculture [No change in text.]												
Residential												
<i>Mobilehome Parks through Multiple Dwelling Units</i> [No change in text.]												
<i>Rooming House</i> [See Section 131.0112(a)(3)(A)]		-			-			P		P		P
<i>Single Dwelling Units</i>		P			P			P		P		-
Separately Regulated Residential Uses												
<i>Boarder & Lodger Accommodations</i>		L			L			L		L		L
<i>Companion Units through Watchkeeper Quarters</i> [No change in text.]												
Institutional [No change in text.]												
Sales												
<i>Building Supplies & Equipment</i> [No change in text.]												
<i>Food, Beverages and Groceries</i>		-			-			P ⁽⁸⁾		P ⁽⁸⁾		P ⁽⁸⁾
<i>Consumer Goods, Furniture, Appliances, Equipment through Pets and Pet Supplies</i> [No change in text.]												
<i>Sundries, Pharmaceuticals, & Convenience Sales</i>		-			-			P ⁽⁸⁾		P ⁽⁸⁾		P ⁽⁸⁾
<i>Wearing Apparel & Accessories</i> [No change in text.]												
Commercial												
<i>Building Services through Off-site Services</i> [No change in text.]												
<i>Personal Services</i>								P ⁽⁸⁾		P ⁽⁸⁾		P ⁽⁸⁾
<i>Assembly & Entertainment through Separately Regulated Commercial Services Uses</i> [No change in text.]												
Offices												
<i>Business & Professional through Government</i> [No change in text.]												
<i>Medical, Dental, & Health Practitioner</i>		-			-			P ⁽⁷⁾		P ⁽⁷⁾		-
<i>Regional & Corporate Headquarters</i> [No change in text.]												
Vehicular & Vehicular Equipment Sales & Service through Signs [No change in text.]												

Footnotes for Table 131-04B.

¹ through ⁶ [No change in text.]

⁷ See Section 131.0423(a).

8 See Section 131.0423(b).

9 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.

Section 6. That Chapter 13, Article 1, Division 4 of the San Diego Municipal Code

[SDMC] is amended by amending section 131.0423 to read as follows:

§ 131.0423 Additional Use Regulations of Residential Zones

The following uses are permitted in the residential zones indicated in

Table 131-04B, subject to the additional use regulations in this Section.

(a) through (b) [No change in text.]

Section 7. That Chapter 13, Article 1, Division 5 of the San Diego Municipal Code

[SDMC] is amended by amending section 131.0522 to read as follows:

§ 131.0522 Use Regulations Table of Commercial Zones

[No change in text.]

**Table 131-05B
Use Regulations Table for Commercial 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									
		CN (1)-			CR-		CO-		CV-		CP-
	1st & 2nd >>	1-			1-	2-	1-		1-		1-
	3rd >>	1	2	3	1	1	1	2	1	2	1
	4th >>										
Open Space [No change in text.]											
Agriculture [No change in text.]											
Residential											
<i>Mobilehome Parks through Multiple Dwelling Units</i> [No change in text.]											
<i>Rooming House</i> [See Section 131.0112(a)(3)(A)]		P ⁽²⁾			P	-	P	P ⁽²⁾		-	
<i>Single Dwelling Units</i>		-			-	-	-	-		-	
Separately Regulated Residential Uses											
<i>Boarder & Lodger Accommodations</i>		L ⁽²⁾			L	-	L	L ⁽²⁾		-	
<i>Companion Units through Watchkeeper Quarters</i> [No change in text.]											
Institutional through Signs [No change in text.]											

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 >>		CC-																
	3rd >>		1-			2-			3-			4-			5-				
	4th >>		1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4
Open Space [No change in text.]																			
Agriculture [No change in text.]																			
Residential																			
<i>Mobilehome Parks through Multiple Dwelling Units</i>																			
<i>Rooming House</i> [See Section 131.0112(a)(3)(A)]	P						P			P						P			
<i>Single Dwelling Units</i>	-			-			-			-			-			-			
Separately Regulated Residential Uses																			
<i>Boarder & Lodger Accommodations</i>	L						L			L						L			
<i>Companion Units through Watchkeeper Quarters</i> [No change in text.]																			
Institutional through Signs [No change in text.]																			
[No change in footnotes.]																			

Section 8. That Chapter 13, Article 1, Division 6 of the San Diego Municipal Code

[SDMC] is amended by amending section 131.0622 to read as follows:

§ 131.0622 Use Regulations Table for Industrial Zones

[No change in text.]

Table 131-06B

Use Regulations Table for Industrial 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 >>		IP-			IL-			IH-		IS-
	3rd >>		1-	2-		1-	2-	3-	1-	2-	1-
	4th >>		1	1	1	1	1	1	1	1	1
Open Space [No change in text.]											
Agriculture [No change in text.]											
Residential											
<i>Mobilehome Parks through Multiple Dwelling Units</i> [No change in text.]											
<i>Rooming House</i> [See Section 131.0112(a)(3)(A)]	-	-	-	-	-	-	-	-	-	-	
<i>Single Dwelling Units</i>	-	-	-	-	-	-	-	-	-	-	
Separately Regulated Residential Uses											
<i>Boarder & Lodger Accommodations</i>	-	-	-	-	-	-	-	-	-	-	
<i>Companion Units through Watchkeeper Quarters</i> [No change in text.]	-	-	-	-	-	-	-	-	-	-	
Institutional through Signs [No change in text.]											
[No change in footnotes.]											

Section 9. That Chapter 14, Article 2, Division 5 of the San Diego Municipal Code

[SDMC] is amended by amending section 142.0525 to read as follows:

§ 142.0525 Multiple Dwelling Unit Residential Uses — Required Parking Ratios

Table 142-05C
Minimum Required Parking Spaces for
Multiple Dwelling Units and Related and Accessory Uses

Multiple Dwelling Unit Type and Related and Accessory Uses	Automobile Spaces Required Per Dwelling Unit (Unless Otherwise Indicated)			Motorcycle Spaces Required Per Dwelling Unit	Bicycle ⁽⁵⁾ Spaces Required Per Dwelling Unit
	Basic ⁽¹⁾	Transit Area ⁽²⁾ or Very Low Income ⁽³⁾	Parking Impact ⁽⁴⁾		
Studio up to 400 square feet through Condominium conversion [No change in text.]					
<i>Rooming house</i>	1.0 per tenant	0.75 per tenant	1.0 per tenant	0.05 per tenant	0.30 per tenant
<i>Boarder & Lodger Accommodations</i>	1.0 per two boarders or lodgers	1.0 per two boarders or lodgers	1.0 per two boarders or lodgers, except 1.0 per boarder or lodger in beach impact area	-	-
Residential care facility through Accessory Uses [No change in text]					

[No change in footnotes.]

(b) through (d) [No change in text.]

Section 10. Pursuant to Public Resources Code section 21000 et. seq. the ordinance is categorically exempt pursuant to the following State CEQA Guidelines: 1) Section 15301, because the ordinance applies to existing facilities, 2) Section 15061(b)(3), because the ordinance will have no significant affect on the environment, and 3) Section 15378(a)(1), because the ordinance upon adoption will not result in any direct or indirect change to the physical environment.

Section 11. That a full reading of this ordinance is dispensed with prior to passage, since a written copy was made available to the City Council and the public prior to the day of its passage.

Section 12. This ordinance takes effect outside the Coastal Overlay Zone 30 days after final passage; inside the Coastal Overlay Zone it takes effect upon unconditional certification by the California Coastal Commission.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Marianne Greene
Marianne Greene
Deputy City Attorney

MG:mg
04/11/08
Or.Dept: City Attorney
O-2008-61 Rev.

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of APR 15 2008

ELIZABETH S. MALAND
City Clerk

By Debbie Swanson-Cruz
Deputy City Clerk

Approved: 4-23-08
(date)

JSA
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor