

OLD LANGUAGE; ~~STRIKEOUT~~
NEW LANGUAGE: DOUBLE UNDERSCORE

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

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 12, ARTICLE 6, DIVISION 2, BY AMENDING SECTION 126.0203; ARTICLE 7, DIVISION 1, BY AMENDING SECTIONS 127.0103, 127.0108, AND 127.0109; 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; BY ADDING SECTION 131.0424; DIVISION 5, BY AMENDING SECTION 131.0522; DIVISION 6, BY AMENDING SECTION 131.0622; BY AMENDING CHAPTER 14, ARTICLE 2, DIVISION 5, BY AMENDING SECTION 142.0525.

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 grubbing [No change in text].

Family means two or more persons related through blood, marriage, or legal adoption or joined through a judicial or administrative order of placement of guardianship; or unrelated persons who jointly occupy and have equal access to all areas of a dwelling unit and who function together as an integrated economic unit.

Guest room means any rented or leased room that is used or designed to provide sleeping accommodations for one or more persons in *hotels/motels*, bed and breakfast facilities, private clubs, lodges, fraternity or sorority houses, and *rooming houses*.

Hardscape through Roof Sign [No change in text.]

Integrated economic unit means a group of individuals who blend together in a substantial manner as a common household, as evidenced by: the joint use of common areas; the sharing of food responsibilities, household chores, household expenses, and transportation; combined accounts for financial services and communications services; and who to a significant degree create and sustain an cohesive and interdependent community.

Roomer means any person renting, leasing, or otherwise furnishing compensation for, a *bedroom* or *guest room* in a *rooming house*.

Rooming house means a *dwelling unit* where either: 1) three or more *bedrooms* or *guest rooms*, are rented, or are otherwise ~~furnished~~ provided for compensation, under three or more, written or oral, separate rental agreements, ~~or~~ leases, or subleases, or some combination thereof, or 2) where three or more *bedrooms* or *guest rooms*, are rented, or are otherwise provided for compensation, under fewer than three, written or oral, rental agreements, leases, or subleases, or some combination thereof, which results in the establishment of at least three separate integrated economic units.

~~written or oral. A *rooming house* does not require a property owner, or an agent, or rental manager, to be in residence. A *rooming house* may or may not have individual or group cooking facilities; and, may or may not provide meals or other services. A *rooming house* may or may not provide free access to common living areas beyond the *bedrooms* or *guest rooms*. A *hotel/motel*, a bed and breakfast facility, a private club, a lodge, fraternity or sorority house, a single residency hotel (*SRO*), a lodging house, a watchkeeper quarters.~~

School through Yard [No change in text.]

Section 2. That Chapter 12, Article 6, Division 2 of the SDMC is amended by amending section 126.0203 to read as follows:

§126.0203 When a Neighborhood Use Permit Is Required

(a) [No change in text.]

Bed and breakfast establishments through *Wireless communication facilities*

[No change in text.]

(b) The following activities require a Neighborhood Use Permit in any zone:

(1) Resumption of a *previously conforming* use that has been discontinued for more than 2 years, or a *previously conforming rooming house* that has been discontinued for more than 12 consecutive months, as described in section 127.0108;

- (2) Expansion of a *previously conforming* use of up to 20 percent of the existing *gross floor area* of the *structure*, as described in section 127.0109(a)(1); or
- (3) Development of additional *bedrooms* or *guest rooms* in a *single dwelling unit* in a residential-single (RS) unit zone that is *previously conforming* as a *rooming house*, as described in section 127.0109(a)(2).

Section 3. That Chapter 12, Article 7, Division 1 of the SDMC is amended by amending section 127.0103, 127.0108 and 127.0109 to read as follows:

§127.0103 Review Process for Previously Conforming Premises and Uses

The required review process for different types of proposed *development* or activity, based on the *previously conforming* category, such as existing *structural envelope*, *density*, and uses are shown in Table 127-01A through 127-01C. If the proposed *development* includes more than one *previously conforming* category, all corresponding regulations, as described in sections 127.0104 through 127.0108 apply.

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

(c) *Previously Conforming Use*

TABLE 127-01C

Review Process for Previously Conforming Use

Type of Development Proposal	Applicable Sections	Required Development Permit/Decision Process
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Maintenance, repair or alteration (less than or equal to 50% of <i>market value</i> of entire structure or improvement) that does not expand the <i>structural envelope</i> .	127.0104	CP/Process 1
Maintenance, repair or alteration (greater than 50% of <i>market value</i> of entire <i>structure</i> or improvement) that does not expand the <i>structural envelope</i> .	127.0104	NDP/Process 2
Reconstruction (following fire, natural disaster, act of the public enemy).	127.0105	CP/Process 1 ⁽¹⁾
		NDP/Process 2 ⁽²⁾
Expansion/enlargement, where new construction conforms with all current development regulations.	127.0106(a) and (b)	NDP/Process ⁽³⁾
Expansion/enlargement, where new construction requests a reduction of up to 20% from required <i>setbacks</i> .	127.0106(c)	NDP/Process 2 ⁽³⁾
Change to another <i>previously conforming</i> use within the same use category.	127.0107	CP/Process 1
Operating or resuming a <i>previously conforming</i> use.	127.0108 (a) and (b)(1)	CP/Process 1
	127.0108(a) and (b)(2)	NUP/Process 2
Increase in floor area to a <i>previously conforming use</i> for (less or equal to 20% of <i>gross floor area</i> of the existing <i>structure</i>), or addition of <i>bedrooms</i> or <i>guest rooms</i> in a <i>single dwelling unit</i> in a residential-single (RS) unit zone that is <i>previously conforming</i> as a <i>rooming house</i> .	127.0109 <u>127.0109(a)</u>	NUP/Process 2 ⁽³⁾
	127.0109 <u>127.0109(b)</u>	NUP/Process 2³ <u>NUP/Process 3⁽³⁾</u>

[No change in footnotes.]

§127.0108 Abandonment of Previously Conforming Uses

- (a) A *previously conforming* use may continue or resume operations subject to the required development permit/decision process indicated a Section 127.0103(c), Table 127-01C, Review Processes for Previously Conforming Use.
- (b) It is unlawful to reinstate any *previously conforming* use after it has been permanently abandoned. Whether a *previously conforming* use is deemed

temporarily discontinued or constitutes ~~an~~ a permanent abandonment is subject to Section 127.0108(a) and depends on the following:

- (1) Temporary discontinuance, ~~of previously conforming use.~~ When any *previously conforming* use has been temporarily discontinued for a period of less than 2 consecutive years, except for a *rooming house*, when the period shall be less than 12 consecutive months, there is no a presumption of permanent abandonment, ~~is not created.~~ An owner or person may assert *previously conforming* use rights to reinstate any *previously conforming* use after a period of temporary discontinuance.
- (2) Permanent ~~A~~ abandonment, ~~of a previously conforming use.~~ A presumption of permanent abandonment arises ~~is created~~ when any *previously conforming* use is discontinued for a period of 2 or more consecutive years, except for a *rooming house*, when the period shall be 12 or more consecutive months. The owner or person asserting *previously conforming* use rights may offer evidence to rebut a the presumption after a period of abandonment.

(c) [No change in text.]

§127.0109 Expansion of a Previously Conforming Use

- (a) Expansion of a *previously conforming* use requires a Neighborhood Use Permit as follows:
 - (1) A 20 percent or less gross floor area expansion of a structure.
 - (2) The addition of any *bedrooms* or *guest rooms* to a *rooming house*.

- (b) [No change in text.]

Section 4. That Chapter 13, Article 1, Division 1 of the SDMC is by amended by amending section 131.0112 as follows:

§131.0112 Descriptions of Use Categories and Subcategories

- (a) [No change in text.]

(1) [No change in text.]

(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 house. This subcategory includes rooming houses as defined in Section 113.0103. The Mayor may identify a dwelling unit as a rooming house, in accordance with Chapter 12, Article 1, where a dwelling unit is rented, leased, or subleased, under fewer than three, written or oral, rental agreements, leases, or subleases, but where the occupancy results in at least three separate integrated economic units. Factors in making such a determination may include but are not limited to the following:

- a. Where a property owner, landlord, or master tenant:
- i. Solicits occupants to rent individual bedrooms or guestrooms and such occupants may have no prior relationship to one another.

- ii. Replaces former occupants in a serial manner to new occupants who may have no prior relationship to current occupants.
 - iii. Collects compensation separately from each occupant or from separate groups of occupants.
 - iv. Omits to include, or fails to enforce, a joint and several liability clause, when an occupant or group of occupants does not provide the agreed upon compensation.
 - v. Assigns bedrooms or guestrooms separate numbers or letters.
 - vi. Maintains separate locks on each bedroom or guest room, provides separate keys to each occupant, and retains a master set of keys for all rooms.
 - vii. Exercises free, unnoticed access to common areas such as living rooms, dining rooms, kitchens, bathrooms, and garages.
 - viii. Establishes separate mail delivery slots for each occupant or group of occupants.
 - ix. Assigns separate storage spaces for food and general storage.
 - x. Assigns separate parking spaces.
 - xi. Requires occupants to comply with a set of household rules.
 - xii. Has a history prior to the passage of this ordinance of executing three or more separate, written or oral, rental agreements, leases, or subleases.
- b. Where occupants or groups of occupants:
- i. Do not occupy or jointly use common areas.
 - ii. Do not establish televisions, stereos, computers, telephones, and appliances in common areas.
 - iii. Maintain separate toiletries, towels, and personal affects in shared bathrooms.
 - iv. Maintain separate food responsibilities such as shopping, storage, preparation, and disposal.
 - v. Do not share common household chores such as cleaning, laundry, yard maintenance, and trash

pick up, except as directed or required by a property owner, landlord, or master tenant.

- vi. Do not share common household expenses for such items as furniture, cleaning supplies, office supplies, appliances, and gardening equipment.
- vii. Do not share transportation.
- viii. Do not use common financial services.
- ix. Maintain separate land lines and do not jointly subscribe to the same wireless services
- x. Do not regularly interact and communicate, leading essentially separate and independent lives.

~~Rooming house is defined in Section 113.0103. A hotel/motel, a bed and breakfast facility, a private club, a lodge, fraternity or sorority house, a single residency hotel (SRO), a lodging house, or a watchkeeper quarters is not a rooming house.~~

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

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

Section 5. That Chapter 13, Article 1, Division 2 of the SDMC is by amended by amending section 131.0222 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	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]	1st & 2nd >>	OP-		OC-	OR ⁽¹⁾ -	OF ⁽¹²⁾ -
	3rd >>	1-	2-	1-	1-	1-
	4th >>	1	1	1	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>						
-						
<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 6. That Chapter 13, Article 1, Division 3 of the SDMC is by amended by amending section 131.0322 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>					
-					
<i>Single Dwelling Units</i>					
P ⁽¹⁾					

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
Separately Regulated Residential Uses					
<i>Boarder & Lodger Accommodations</i>					
Companion Units through Watchkeeper Quarters [No change in text.]					
Institutional through Signs [No change in text.]					
[No change in text.]					

Section 7. That Chapter 13, Article 1, Division 4 of the SDMC is by amended by amending section 131.0422 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
Open Space [No change in text.]																							
Agriculture																							
Agricultural Processing through Raising and Harvesting of Crops [No change in text.]																							
Raising, Maintaining & Keeping of Animals																							
Separately Regulated Agricultural Uses [No change in text.]		P ⁽³⁾⁽⁹⁾												-		-							
Residential																							
Mobilehome Parks through Multiple Dwelling Units [No change in text.]																							
Rooming House																							
Single Dwelling Units		P												P		P							
Separately Regulated Residential Uses																							
Boarder & Lodger Accommodations																							
Companion Units through Watchkeeper Quarters [No change in text.]		L												L		L							

Institutional through Signs [No change in text.]	
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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 >>	RM-												
	3rd >>	1-			2-			3-			4-		5-	
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12	

Open Space [No change in text.]	
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Agriculture [No change in text.]	
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Residential	
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<i>Mobilehome Parks through Multiple Dwelling Units</i> [No change in text.]					
<i>Rooming House</i>	P	P	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.]	
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Sales	
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Building Supplies & Equipment [No change in text.]					
Food, Beverages and Groceries	-	-	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾
Consumer Goods, Furniture, Appliances, Equipment through Pets and Pet Supplies [No change in text.]					
Sundries, Pharmaceuticals, & Convenience Sales	-	-	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾
Wearing Apparel & Accessories [No change in text.]					

Commercial	
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Building Services through Off-site Services [No change in text.]					
Personal Services	-	-	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾
Assembly & Entertainment through Separately Regulated Commercial Services Uses [No change in text.]					

Offices	
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Business & Professional through Government [No change in text.]					
Medical, Dental, & Health Practitioner	-	-	P ⁽⁷⁾	P ⁽⁷⁾	-
Regional & Corporate Headquarters [No change in text.]					

Vehicular & Vehicular Equipment Sales & Service through Signs [No change in text.]	
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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.
(Amended 7-14-2003 by O-19197 N.S.)
(Amended 3-1-2006 by O-19467 N.S.; effective 8-10-2006.)

Section 8. That Chapter 3, Article 1, Division 4 of the SDMC is amended by amending section 131.0423 and adding section 131.04234 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.]

§131.0424 Amortization Periods

Pursuant to SDMC Section 127.0102(d) *previously conforming* uses are allowed to continue to exist and operate unless an amortization period is specified as follows for the following categories and subcategories:

- (a) Rooming houses. The presence of *rooming houses* in residential-single unit zones is adversely impacting neighborhood quality, character, and livability incompatible with the purpose of such zones. *Previously conforming rooming houses* shall be terminated within ~~seven~~ three years from the effective date of Ordinance 0-2008-61.

Section 9. That Chapter 3, Article 1, Division 5 of the 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			1	1	1	2	1	2	1
	4th >>	1	2	3	1	1	1	2	1	2	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>		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																	
		CC-																	
	1st & 2nd >>																		
	3rd >>	1-			2-			3-			4-			5-					
	4th >>	1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5
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>		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.]

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

Section 10. That Chapter 13, Article 1, Division 6 of the SDMC is amended by amending §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 <small>[See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]</small>	Zone designator	Zones							
		IP-		IL-			IH-		IS-
	1st & 2nd >>	1-	2-	1-	2-	3-	1-	2-	1-
	3rd >>	1	1	1	1	1	1	1	1
	4th >>	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>		-	-	-	-	-	-	-	-
<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 11. Amending Chapter 14, Article 2, Division 5 of the SDMC is amended by amending section 142.0525 to read as follows:

§142.0525 Multiple Dwelling Unit Residential Uses — Required Parking Ratios

- (a) Minimum Required Parking Spaces. The required automobile parking spaces, motorcycle parking spaces, and bicycle parking spaces for *development of multiple dwelling units*, whether attached or detached, and related and accessory uses are shown in Table 142-05C. Other allowances and requirements, including the requirement for additional common area

parking for some projects, are provided in Section 142.0525(b) through (d).

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.]					
Rooming house	1.0 per two roomers	0.75 per two roomers	1.0 per two roomers, except 1.0 per roomer in beach impact area	0.05 per roomer	0.30 per roomer
Boarder and Lodger Accommodations	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.]

Section 12. 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, under State CEQA Guidelines section 15305 as a minor alteration to a land use limitation, and under State CEQA Guidelines section 15061(b)(3) as an amendment to an ordinance that will not affect environmental resources.

Section 13. 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 14. 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
Deputy City Attorney

MG:ca
080707 10/26/07
Or.Dept: City Attorney
~~O-2007-158~~ O-2008-61