

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.

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, increasing commercial overuse of single dwelling units in residential-single (RS) unit zones, is adversely impacting neighborhood quality, character, and livability incompatible with the purpose of residential-single (RS) unit zones; and

WHEREAS, the increasing commercial overuse of single dwelling units in residential-single (RS) unit zones is more compatible with the purpose of residential-multiple (RM) unit zones; and

WHEREAS, on September 19, 2006, Council District 7 hosted a public workshop, on the increasing commercial overuse of single dwelling units in residential-single (RS) unit zones, attended by over 300 residents and community leaders, and which resulted in an

October 11, 2006 memorandum to the Mayor and City Attorney, requesting analysis of possible changes City Council can make to the San Diego Municipal Code [SDMC]; and

WHEREAS, on November 20, 2006, in response to the October 11, 2006 memorandum, the City Attorney issued a report (RC 2006-30) to the Land Use and Housing Committee analyzing issues associated with the increasing commercial overuse of single dwelling units in residential-single (RS) unit zones. The memo discussed a California Attorney General opinion (86 Op. Cal. Att'y. Gen. 30 (2003)) regarding a municipal code provision that restricted the operation of rooming houses in a city's residential single (RS) unit zone. The opinion concluded the ordinance would be a permissible use of the city's police powers, where the stated rationale of the ordinance was to preserve the residential character of the neighborhood, and where the ordinance focused on the commercial use of the property as being inconsistent with the residential character of the neighborhood; and

WHEREAS, on November 29, 2006 and March 7, 2007, the Land Use and Housing Committee conducted hearings, on the increasing commercial overuse of single dwelling units in residential-single (RS) unit zones, whereby the Committee unanimously approved action items, *inter alia*, to amend the Land Development Code to limit the number of bedrooms based on parcel size and to modify both hardscape and parking regulations in an effort to maintain the character of residential single (RS) unit zone neighborhoods; and

WHEREAS, on December 11, 2006, Council District 1 wrote a memorandum to the Mayor, on the increasing commercial overuse of single dwelling units in residential-single (RS) unit zones, requesting that any action the City takes be applied citywide; and

WHEREAS, on May 10, 2007, the City Attorney, along with Council Districts 2 and 7, hosted a public forum, on the increasing commercial overuse of single dwelling units in residential-

single (RS) unit zones, led by a panel of numerous City officials, and leaders from the three largest local universities, and attended by over 200 residents and community leaders. Public testimony was uniformly in support of an approach that would include regulating overly commercialized single dwelling units as a way to protect the quality of life in residential-single (RS) unit zones; and

WHEREAS, on July 9, 2007, City Council listened to an informational item presented by the City Attorney entitled, "Rooming House Ordinance to Establish a Separately Regulated Land Use," and accepted public testimony from approximately 100 residents in support of such an ordinance, and then moved that a rooming house ordinance shall be returned to City Council; and

WHEREAS, the City wishes to establish a rooming house ordinance, creating a new regulated land use category for rooming houses, to ameliorate increasing commercial overuse of single dwelling units in residential-single (RS) unit zones, to preserve neighborhood quality, character, and livability, compatible with the purpose of residential-single (RS) unit zones, and to more appropriately locate rooming houses in neighborhoods with similar densities and characteristics, compatible with residential-multiple (RM) unit zones; NOW, THEREFORE,

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

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].

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.]

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 three or more *bedrooms* or *guest rooms*, are rented, or are otherwise furnished for compensation, under separate rental agreements or leases, either 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*.

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; 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*.

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
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	<u>CP/Process 1</u> ⁽¹⁾
		<u>NDP/Process 2</u> ⁽²⁾
Expansion/enlargement, where new construction conforms with all current development regulations.	127.0106(a) and (b)	<u>NDP/Process</u> ⁽³⁾
Expansion/enlargement, where new construction requests a reduction of up to 20% from required <i>setbacks</i> .	127.0106(c)	<u>NDP/Process 2</u> ⁽³⁾
Change to another <i>previously conforming</i> use within the same use category.	127.0107	<u>CP/Process 1</u>
Operating or resuming a <i>previously conforming</i> use.	127.0108 (a) and (b)(1)	<u>CP/Process 1</u>
	127.0108(a) and (b)(2)	<u>NUP/Process 2</u>
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	NUP/Process 2 ⁽³⁾

[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 abandoned. Whether a *previously conforming* use is deemed temporarily discontinued or constitutes an 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 of discontinuance shall be less than 12 consecutive months, a presumption of 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) Abandonment of a previously conforming use. A presumption of abandonment 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 of abandonment shall be 12 or more consecutive months. The owner or person asserting *previously conforming* use rights may offer evidence to rebut a presumption after a period of abandonment.

(a) [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*. *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 [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	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>	-	-	-	-	-	-	
<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 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.]						

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
Residential					
<i>Mobilehome Parks through Multiple Dwelling Units</i> [No change in text.]					
<i>Rooming House</i>					
-					
<i>Single Dwelling Units</i>					
P ⁽¹⁾					
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 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																							
<i>Agricultural Processing through Raising and Harvesting of Crops</i> [No change in text.]																							
<i>Raising, Maintaining & Keeping of Animals</i>																							
P ⁽³⁾⁽⁹⁾																							
<i>Separately Regulated Agricultural Uses</i> [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																							

Separately Regulated Residential Uses												
<i>Boarder & Lodger Accommodations</i>	L	L						L	L			
Companion Units through Watchkeeper Quarters [No change in text.]	L	L						L	L			
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 >>		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.]															
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		P			
<i>Single Dwelling Units</i>	P			P			P			P		-			
Separately Regulated Residential Uses															
<i>Boarder & Lodger Accommodations</i>	L			L			L			L		L			
Companion Units through Watchkeeper Quarters [No change in text.]															
Institutional [No change in text.]															
Sales															
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															
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															
Business & Professional through Government [No change in text.]															
Medical, Dental, & Health Practitioner	-			-			P ⁽⁷⁾			P ⁽⁷⁾		-			
Regional & Corporate Headquarters [No change in text.]															

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.
(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. The presence of *rooming houses* in residential-single (RS) 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 years from the effective date of Ordinance 0-2007-158 _____.

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	2	3	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 >>	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	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 [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone designator	Zones							
		IP-		IL-			IH-		IS-
	1st & 2nd >>								
	3rd >>	1-	2-	1-	2-	3-	1-	2-	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 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
08/7/2007
Or.Dept: City Attorney
O-2007-158