

M E M O R A N D U M

DATE: August 13, 2008

TO: Honorable Mayor and Councilmembers

FROM: Patricia Allison, City Manager's Office

**SUBJECT: **REQUEST BY COUNCILMEMBER SANCHEZ TO CONSIDER
ADOPTION OF AN ORDINANCE REGULATING MINI-DORMS;
DIRECTION TO STAFF****

Backup material for this item, if any, will be distributed separately.

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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-	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
Residential																									
Group Living Accommodations		-																	-						-
Mobilehome Parks		-																							p ⁽¹⁾
Multiple Dwelling Units		-																							-
Single Dwelling Units		P																							p ⁽¹¹⁾
Separately Regulated Residential Uses																									
Boarder & Lodger Accommodations		L																							L
Companion Units		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-												I-		I-									
		4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3	4	
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
All <i>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⁾
High occupancy <i>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

ORDINANCE NO. 2008-1306

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, CALIFORNIA, AMENDING CHAPTERS 20.16, 20.36 AND 20.48 OF THE SAN MARCOS MUNICIPAL CODE TO REGULATE THE NUMBER OF RENTERS IN A RESIDENCE IN SINGLE FAMILY RESIDENTIAL ZONES

WHEREAS, the City Council of the City of San Marcos (the "Council") has the authority to take action to protect the public welfare, health and safety of its citizens; and

WHEREAS, the City of San Marcos (the "City") has received complaints from residents that single family homes are being utilized in a commercial manner that is inconsistent with the environment for which residential neighborhoods were created and designed; and ,

WHEREAS, the rental of single family homes with three or more rooms and to ~~five~~ three or more individuals constitutes a commercial activity of multi-family rentals; and

WHEREAS, most residential neighborhoods are not designed for situations in which significant numbers of adults live in the same home in terms of garage space, street parking, storage space, and other factors; and

WHEREAS, problems arising from numerous adult renters co-habiting in the same single family home include excessive night-time noise, additional neighborhood traffic, and a lack of street parking; and;

WHEREAS, the purpose of this Ordinance is to preserve the residential character of the City's residential neighborhoods; and

WHEREAS, the San Marcos Municipal Code (the "SMMC") does not permit boarding houses, fraternities and sororities in R-3 single-family residential zones unless

a major use permit is issued, and does not permit such uses in R-1 and R-2 single-family residential zones, and the City desires to treat single family homes that are being used as commercial rooming houses in a similar fashion; and

WHEREAS, the SMMC does not permit Apartment Hotels or Residential Hotels, which are similar in impact as rooming houses, by right except in the R-3(10) Residence Zone, and the City desires to treat single family homes that are being used as commercial rooming houses in a similar fashion provided they are professionally managed; and

WHEREAS, since Apartment Hotels, Residential Hotels and Rooming Houses have multiple occupants and have potentially significant impacts on the quality of life in residential neighborhoods, these uses should all be professionally managed.

NOW, THEREFORE, the Council, in accordance with the freedom afforded to charter cities generally and by the Charter of the City of San Marcos specifically, does ordain as follows:

SECTION 1. That Chapter 20.16.470 of the San Marcos Municipal Code shall be amended to read as follows (amendment shown as underlined text):

20.16.470 DWELLING. "Dwelling" shall mean a building or portion thereof used exclusively for residential purposes, including one-family, two-family and multiple dwellings, but shall not include hotels, Rooming Houses, Boarding Houses and lodging houses.

SECTION 2. That Chapter 20.16.935 shall be added to the San Marcos Municipal Code to read a follows:

20.16.935 PROFESSIONAL PROPERTY MANAGEMENT COMPANY.
A "Professional Property Management Company" shall mean a business licensed with the City of San Marcos that specializes in the maintenance, oversight and rental of residential properties. It shall also include property owners who receive property management training from the City of San

Marcos. Property management training from the City of San Marcos must be annually renewed and attendance must be documented to constitute Professional Property Management under this section 20.16.935.

(NOTE: See Resolution No. 2008-7057 [Rooming House Implementation Policy] adopted on 6/10/08, which is intended to work in conjunction with these provisions.)

SECTION 3. That a new Section 20.16.975 is hereby added to Chapter 20.16

(Definitions) of the San Marcos Municipal Code to read as follows:

20.16.975 Rooming House: A "Rooming House" shall mean a building containing three or more bedrooms or guest other rooms, used, designed, or intended to be used, rented, leased, let or hired, to be occupied or which are occupied by five or more individuals under five or more separate oral or written leases, subleases or any other contractual agreement designed to effectuate the same result, with or without meals, for compensation, as permanent guests pursuant to an arrangement for compensation for definite periods, by the month or greater term. A "Rooming House" does not require a property owner, or an agent, or a rental manager, to be in residence. A "Rooming House" may or may not have individual or group cooking facilities. A "Rooming House" may or may not provide free access to common living areas beyond the bedrooms or guest rooms. A "room" means any rented, leased, let or hired room, living space or other square footage within the building that is used or designed to provide sleeping accommodations for one or more persons. A properly permitted accessory dwelling unit, second unit or "granny flat" shall not be considered a rooming house if used, designed, or intended to be used, rented, leased, let or hired, to be occupied or which is occupied by two or fewer individuals under two or fewer written leases, subleases or any other contractual agreement designed to effectuate the same result, with or without meals, for compensation, as permanent guests pursuant to an arrangement for compensation for definite periods, by the month or greater term.

(NOTE: See Resolution No. 2008-7057 [Rooming House Implementation Policy] adopted on 6/10/08, which is intended to work in conjunction with these provisions.)

SECTION 4. That Chapter 20.36.370 of the San Marcos Municipal Code,

pertaining to the R-3(6) Residence Zone, shall be amended to read as follows:

20.36.370(e). The following uses, provided a major use permit ~~therefore,~~ is issued in accordance with the provisions of ~~this ordinance~~ Title 20.

- (1) Family Care Center.
- (2) Boarding House.
- (3) Fraternities and sororities.
- (4) Clubs and lodges.
- (5) Churches, excluding rescue missions and temporary revivals.
- (6) Museums and libraries not operated for profit.
- (7) Elementary, junior high and high schools.
- (8) Colleges.
- (9) Public parks and playgrounds.
- (10) Rooming house.

SECTION 5. That Chapter 20.36.470 of the San Marcos Municipal Code shall be amended to read as follows (amendment in italics):

20.36.470 LAND USES. In an R-3(10) Zone, the following uses are permitted.

- a. All uses permitted in the R-3(6) Zone, which uses shall be subject to the same conditions and restrictions as in the R-3(6) Zone.
- b. Apartment hotels managed by a Professional Property Management Company as defined in section 20.16.935.
- c. Home occupations.
- d. Residential hotels managed by a Professional Property Management Company as defined in section 20.16.935.
- e. Rooming Houses managed by Professional Property Management Company as defined in section 20.16.935. (NOTE: See Resolution No. 2008-7057 [Rooming House Implementation Policy] adopted on 6/10/08, which is intended to work in conjunction with these provisions.)

[all current sections 20.36.470(e) through 20.36.470(g) shall be retained and renumbered as 20.36.470(f) through 20.36.470(h).]

g. The following uses, provided a major use permit ~~therefore,~~ is issued in accordance with the provisions of ~~this ordinance~~ Title 20.

- (1) Hospitals, rest homes, and sanitariums.
- (2) Boarding Houses.
- (3) Fraternities and sororities.
- (4) Clubs and lodges.
- (5) Museums and libraries not operated for profit.
- (6) Elementary, junior high and high schools.
- (7) Colleges.
- (8) Public parks.

(9) Family Care Center.

(10) Rooming house.

SECTION 6. That Section 20.48.030 of Chapter 20.48 (Multi-Family Residential Development Design Manual Criteria) of the San Marcos Municipal Code shall be amended to include a new subsection (r), as follows:

(r) Rooming House: A "Rooming House" shall mean a building containing three or more bedrooms or guest other rooms, used, designed, or intended to be used, rented, leased, let or hired, to be occupied or which are occupied by five or more individuals under five or more separate oral or written leases, subleases or any other contractual agreement designed to effectuate the same result, with or without meals, for compensation, as permanent guests pursuant to an arrangement for compensation for definite periods, by the month or greater term. A "Rooming House" does not require a property owner, or an agent, or a rental manager, to be in residence. A "Rooming House" may or may not have individual or group cooking facilities. A "Rooming House" may or may not provide free access to common living areas beyond the bedrooms or guest rooms. A "room" means any rented, leased, let or hired room, living space or other square footage within the building that is used or designed to provide sleeping accommodations for one or more persons. A properly permitted accessory dwelling unit, second unit or "granny flat" shall not be considered a rooming house if used, designed, or intended to be used, rented, leased, let or hired, to be occupied or which is occupied by two or fewer individuals under two or fewer written leases, subleases or any other contractual agreement designed to effectuate the same result, with or without meals, for compensation, as permanent guests pursuant to an arrangement for compensation for definite periods, by the month or greater term.

(NOTE: See Resolution No. 2008-7057 [Rooming House Implementation Policy] adopted on 6/10/08, which is intended to work in conjunction with these provisions.)

SECTION 7. The City Council finds that single family residential neighborhoods in which single family homes are currently being utilized in a commercial manner as described and defined above have been and are experiencing adverse impacts associated with such commercial use including, but not limited to, traffic, noise, parking and related nuisance and code enforcement issues, and that such impacts are

inconsistent with the single family residential character of such neighborhoods and the enjoyment of the same by the residents thereof, particularly in the R-1 and R-2 Residence Zones. The City Council further finds that this Ordinance does not permit Rooming House uses as defined in Sections 3 and 6, above, in any residential zones except as set forth in Sections 4 and 5 above. The City Council further finds and ordains that the zoning regulations set forth in this Ordinance pertaining to Rooming Houses as defined in Sections 3 and 6, above, shall be retroactive in effect, and shall be interpreted and enforced accordingly.

SECTION 8. If any section, sentence, clause or phrase of this Ordinance is determined to be invalid, illegal or unconstitutional by a decision or order of any court or agency of competent jurisdiction, then such decision or order will not affect the validity and enforceability of the remaining portions of this Ordinance. The City Council declares that it would have passed and adopted the Ordinance, and each section, sentence, clause or phrase thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 9. This Ordinance shall be effective thirty (30) days following its adoption. Within fifteen (15) days following its adoption, the City Clerk shall publish this Ordinance, or the title thereof, as a summary as required by state law.

SECTION 10. The City Clerk shall certify to the passage of this Ordinance and cause the same to be published in accordance with the provisions of State Law in a newspaper of general circulation designated for legal notices publication in the City of San Marcos.

INTRODUCED at a regular meeting of the City Council of the City of San Marcos held on the 10th day of June 2008, and thereafter,

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of San Marcos held on the _____ day of _____, 2008, by the following roll call vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

James M. Desmond, Mayor
City of San Marcos

ATTEST:

APPROVED AS TO FORM

Susie Vasquez, City Clerk
City of San Marcos

Helen Holmes Peak, City Attorney
City of San Marcos

AGENDA ITEM
18