

ORDINANCE NUMBER O- 17360 (NEW SERIES)

ADOPTED ON OCT 16 1989

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 5, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTION 101.0518 RELATING TO CONDITIONAL USE PERMITS FOR LIVING UNIT ORDINANCE.

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

Section 1. That Chapter X, Article 1, of the San Diego Municipal Code be and the same is hereby amended by adding Section 101.0518 to read as follows:

SEC. 101.0518 CONDITIONAL USE PERMIT FOR LIVING UNIT ORDINANCE

A. PURPOSE AND INTENT

It is the purpose of the living unit Ordinance to create a rental and homeownership demonstration program in the Centre City Community Planning Area for lower income people. This new type of housing unit has been made possible by enabling legislation enacted by the State of California.

B. PERMITTED LOCATIONS

Not to exceed three living unit projects may be permitted by a Conditional Use Permit in the Centre City Community Planning Area.

C. DEFINITIONS

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SAN DIEGO, CALIF. *cm*

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1. A LIVING UNIT is an enclosed space of more than 150 net square feet which is not required to, but may contain a full or partial kitchen and bathroom.

2. A LIVING UNIT PROJECT is a building containing 12 or more living units.

3. A COMPLETE BATHROOM is a room containing all of the following: a toilet, sink, and shower or tub. A partial bathroom is missing at least one of the above facilities.

4. A FULL KITCHEN contains all of the following: a sink, refrigerator and stove, range top or oven. A partial kitchen is missing at least one of the above facilities.

5. COMMON INDOOR SPACE means all usable interior common areas not used for circulation or service facilities. Common indoor space includes lobby, recreation room or reading rooms.

6. LIVING UNIT TRANSIT CORRIDOR means the area within 500 feet of existing accessible public bus lines having a fifteen minute level of service frequency as established by the Metropolitan Transit Development Board (MTDB) identified on Map No. C-794, on file in the office of the City Clerk.

7. LIVING UNIT TRANSIT NODE is the area within 500 feet of existing and proposed trolley stops. Proposed trolley stops are those that have

been approved for development by the MTDB with identified funding available identified on Map No. C-794, on file in the office of the City Clerk.

8. LOWER INCOME means any household whose income is below 80 percent of the median household income for the region, and as adjusted for a one-person household.

D. APPLICABLE REGULATIONS

These regulations shall be supplemental to those contained in Section 101.0510 of this Code, provided, however that where there is a conflict between the requirements of this Section and other sections of Chapter X, the provisions of this Section shall apply.

E. DEVELOPMENT CRITERIA

Living unit projects in The City of San Diego may be permitted by Conditional Use Permit subject to the provisions of this ordinance and are not subject to existing residential density standards.

1. Unit Requirements.

a. Each unit within a living unit project must have at least 150 square feet of net floor area. The average size of all living units may not exceed 275 square feet. When a living unit exceeds 400 square feet in area, existing underlying zone density and parking standards for a one bedroom apartment unit shall apply.

- b. Maximum occupancy is two persons.
- c. A full kitchen is not required in every living unit. However, a kitchen sink with garbage disposal and counter top is required in every living unit. The counter top must be a minimum of 12 inches deep by 24 inches wide.
- d. A refrigerator and microwave oven must be provided in, or be available from the permittee for every living unit. Electrical outlets for these appliances must be provided in proximity to the sink and counter top.
- e. Each living unit shall be pre-wired for phone and cable T.V. service.
- f. A complete bathroom is not required in every living unit. However, each living unit must be provided with a private toilet. If a private toilet is not enclosed within each living unit, provision must be made to screen the toilet.
- g. A closet and designated storage space is required in every living unit.
- h. Handicap access facilities shall be as required by applicable state or local law. However, at least one handicapped-accessible unit shall be required for every 25 units.

2. Project Requirements.

a. Showers/Bathtubs. Each living unit that is not provided with a private shower and/or bathtub must be served by a shared shower (and optionally, a bathtub). Shared bathing facilities must be provided at a ratio of at least one facility for every five units, or fraction thereof, which lack a private bathing facility. Each shared bathing facility shall be on the same floor as the units it is intended to serve, and shall be directly accessible from a common area or hallway.

b. Each shared bathroom facility shall be provided with an interior lockable door.

c. At least one janitorial closet with sink is required on each floor.

d. Laundry facilities must be provided in a separate room at the ratio of one washer and one dryer for every 15 units or fractional number thereof. At least one washer and one dryer shall be provided in every living unit project. The laundry facility must be located near the common indoor space. Washers and dryers may be coin operated.

e. A cleaning supply storeroom and/or utility closet with at least one laundry tub with hot and cold water must be provided on each floor of the living unit building.

f. Common indoor space is required in each living unit project. For each living unit sized as follows, minimum common indoor space requirements per living unit shall be:

<u>Living Unit Size</u>	<u>Common Indoor Space Requirements Per Living Unit</u>
Less than 160 square feet	4.5 Square feet
160-169 square feet	4.0 square feet
170-179 square feet	3.5 square feet
180+ square feet	3.0 square feet

g. In no case shall common indoor space be less than 200 square feet in any living unit project.

h. All living unit buildings for rent shall have either a front desk with a full view of the entry area, staffed 24 hours a day, seven days a week, or an operational outdoor entry intercom system with intercoms in each living unit and the manager's apartment.

i. All living unit buildings shall be equipped with fully automatic, Class I, fire sprinkler systems.

In living unit buildings up to and including three stories in height, consideration shall be given by the Building Official to allow alternate equivalents when a fire sprinkler system is provided. The fire

sprinkler system must be provided pursuant to this section and it must not otherwise be required by any other applicable code or regulation. Such alternatives may include but are not limited to the following items:

(1) Fire-rated stair enclosures may have 20-minute, fire-rated, self-closing, tight-fitting, smoke and draft control assemblies.

(2) Exit courts may discharge into one-hour, fire-resistive corridors.

(3) No requirements for 20-minute, fire-rated, smoke and draft control assembly separation between elevator shafts and one-hour, fire-rated corridors.

(4) No requirements for Class II standpipe systems (fire hose cabinets).

(5) Reduction of standpipe size requirement from four-inch to two and one-half-inch diameter or equivalent flow.

(6) The use of plastic pipe as an alternate to cast iron pipe.

The determinations made pursuant to this section by the Building Official shall be on a case-by-case basis and are appealable

exclusively to the Board of Appeals and
Advisors.

j. A manager's unit is required in every living unit project. The manager's unit shall be a complete dwelling unit and so designated on all plans.

k. A supply room shall be provided adjacent to the manager's unit.

l. All living units shall have posted in the common indoor space area a notice from the City's Housing Inspection Department regarding contact procedures to investigate housing code violations.

m. An adequate number of trash cans with close fitting covers must be provided on each floor. Management controlled locked trash chutes must be provided on every floor above ground level.

n. In every living unit lobby area, pay telephones, a drinking fountain and mail boxes shall be provided.

o. The architecture creates a livable space in a small area with multi-use features and incorporates security and acoustic features, particularly in the light wells, if any.

3. Parking Requirements.

a. Base Parking Requirement. The number of required off-street parking spaces is 0.90 per living unit. If a living unit is rent restricted at monthly rentals affordable to an individual earning 65 percent of the median area income or less, the number of required off-street parking spaces is 0.70 per unit.

b. Supplemental Parking Requirement. The number of supplemental spaces required is 30 percent of the total base spaces required.

c. Parking Calibration.

(1) Intensity - For the following densities of development, the allotted reductions to the supplemental parking requirements shall be allowed. This reduction can be used in conjunction with shared parking (Reference Section 101.0822 and Section 101.0803.)

<u>Net Living Unit Density Achieved LU/NRA</u>	<u>Supplemental Reduction</u>
42-72	10%
73-142	20%
143+	30%

(2) Mixed Use - For living unit projects consisting of mixed use development, the following reductions to the supplemental parking requirements

shall be allowed. The square footage of nonliving unit commercial space used to determine the scheduled percentage must provide an overall average of on-site parking at a rate of at least one space per 400 square feet gross floor area (gfa) of commercial area. This reduction cannot be used in conjunction with shared parking (Reference Section 101.0822 and Section 101.0823.)

<u>Commercial Use (GFA)</u>	<u>Supplemental Reduction</u>
4 - 8.9%	10%
9 - 12.9%	20%
13+%	30%

(3) Living Unit Transit Corridors and Transit Nodes - In addition to the requirements of Sections 3.C(1) and 3.C(2) the following reductions to the base and supplemental parking requirements shall be allowed. This reduction may be used in conjunction with shared parking (Reference Section 101.0822 and Section 101.0823.)

<u>Location</u>	<u>Base and Supplemental Reductions</u>
Transit Corridor	10%
Nodal Corridor/Transfer Corridor	20%
Transit Node	30%
Transit Hub	60%

The above reductions may be added to one another such that the base and supplemental parking requirements may be reduced by the sum of all permitted reductions.

d. At the request of the applicant and with the approval of the Planning Director and City Engineer, in-lieu-of fees may be used when a public improvement project providing additional parking and found to be in conformance with the community plan is within one-quarter-mile of the subject property. The total number of spaces which may be provided for through this provision shall be equivalent to 50 percent of the required base and supplemental parking as calculated after any permitted reductions. The fee is 150 percent of the estimated cost per net additional space required to be provided for by financing of the identified public improvement project.

e. An exemption under this section shall be considered by the City Council for projects in designated Redevelopment Areas and granted only if the City Council finds that the project will contribute to the health, safety, and general welfare and that such contribution will exceed any negative impact caused by implementation of the project.

4. Management Plan. For living unit projects for rent, a management plan must be submitted for review with the living unit permit application. The Management Plan shall contain management policies, operations, rental procedures, maintenance plans and staffing needs. An on-site, 24-hour manager is required in every living unit project. The rental procedures must allow for both weekly and monthly tenancies and specify deposit requirements for each type of tenancy.

F. RENT RESTRICTIONS

Rent restrictions are determined by the base number of vehicular parking spaces provided per Subdivision 3a of this section. In any event, an affordable rent agreement shall be filed by the applicant with the Housing Commission and shall be enforced pursuant to paragraph G (10) below and shall be recorded in the office of the County Recorder prior to the issuance of a building permit. No living unit shall be occupied by or sold to a person or persons whose income exceeds 80 percent of median area income as most recently defined by the Department of Housing and Urban Development (HUD) for the Standard Metropolitan Area of San Diego, California, as adjusted for a one-person household. All living units will be rent restricted at a rate which when combined with costs for electricity, gas, and water does not exceed 22.5 percent of median

income for a single person household. Additional limitations on rent may be made if public subsidies are provided. An exemption under this section shall be considered by the City Council for projects in designated Redevelopment Areas and granted only if the City Council finds that the project will contribute to the health, safety and general welfare and that such contribution will exceed any negative impact created by implementation of the project.

G. OWNER OCCUPANCY REQUIREMENTS AND RESALE LIMITATIONS

If condominium living units are offered for sale, they can only be sold or resold to owner-occupants. No living unit shall be sold to a person or persons whose income exceeds 80 percent of median area income as most recently defined by the Department of Housing and Urban Development (HUD) for the Standard Metropolitan Area of San Diego, California, as adjusted for a one-person household. In the event that an owner cannot sell after a 90-day listing period, the property must be listed with the Housing Commission for rental at cost to cover mortgage, taxes, association fees and insurance.

H. ADMINISTRATION

1. Living Unit Conditional Use Permit Required. A Living Unit Conditional Use Permit shall be required to be obtained prior to application for any other City required permit. No

person shall begin any construction or remodeling to provide living units without first obtaining a Living Unit Conditional Use Permit in accordance with this section.

2. Application. Application for a Living Unit Conditional Use Development Permit shall be made to the Planning Director or his designated representative upon the form provided and shall additionally include:

a. Copies of fully dimensioned floor plans and specifications indicating living unit sizes and electrical outlets as required by Paragraph E of this Section.

b. The plans shall include any proposals that will require an encroachment permit on the public right-of-way.

c. The plans shall specify whether the project is to be a rental or a condominium project.

d. Copies of a Management Plan to include management policies, proposed rent schedule, rental procedures, maintenance and cleaning, and staffing.

e. Copies of the conditions, covenants and restrictions (CCR's) which stipulate that units for sale can only be sold or resold to owner-occupants, and which stipulate the terms

of resale. In the event that an owner cannot sell after a 90-day listing period, the property must be listed with the Housing Commission for rental at cost to cover mortgage, taxes, association fees and insurance.

f. A location map pursuant to the requirements in Section B.

3. Building Permit Issuance. After the Planning Director approves the application, and the rent agreement has been recorded, the Building Inspection Director or City Engineer are authorized to issue any other requisite permits for the project, provided it conforms to all other regulations and ordinances of the City of San Diego.

4. Enforcement.

a. Violations. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the Living Unit Ordinance or the Living Unit Conditional Use Permit shall be guilty of a misdemeanor as defined in Chapter One of the San Diego Municipal Code. Any person convicted of a misdemeanor under the provisions of this code shall be punished in accordance with Section 11.12. Further, the

imposition of civil penalties, pursuant to Section 11.19 of the Municipal Code is an alternative method of enforcement.

Each such person shall be guilty of a separate offense for each and every day during which any violation of any provision of the Living Unit Ordinance is committed, continued, or permitted by such person and shall be punished accordingly.

b. Low-Income Occupancy and Rents. The staff of the Housing Commission shall have the responsibility for the verification, certification and enforcement of lower income occupancy and the monitoring of living unit rents and shall report findings on an annual basis to the City Council. Living unit owners shall provide appropriate documentation to the Housing Commission on an annual basis to verify compliance with requirements defined in Section (F).

c. Planning Powers. The Planning Director or a designated representative shall invoke the powers of enforcement and inspection as provided for in Section 101.0212 of the Municipal Code for any violation of this Living Unit Ordinance except for those responsibilities delegated to the Housing Commission or the Building Official.

d. Housing Inspection. The Building Official or assigned representative shall invoke the powers of enforcement and inspection as provided for in Section 98.0104 of the Municipal Code for all matters normally enforced by the Building Inspection Department.

e. Revocation of the Living Unit Conditional Use Permit and Conversion Provisions. Failure of owners to comply with ongoing conditions may result in the revocation of the Living Unit Conditional Use Permit. The Planning Director may revoke a Living Unit Conditional Use Permit if, from the facts presented at a public hearing, as set forth in Section 101.0220, any one or more of the following grounds are found:

(1) That the Living Unit Conditional Use Permit is being or has been exercised contrary to the provisions of the permit or of this ordinance, or in violation of any applicable licenses, permits, regulations or laws;

(2) That the use for which the Living Unit Permit was obtained is being or has been exercised so as to be detrimental to the public health, safety,

or general welfare or so as to constitute a public nuisance; or

(3) That the property or any structure thereon subject to the Living Unit Permit has been abandoned or the use authorized by the permit has ceased for a period exceeding 12 months and no time extension has been granted for a longer time.

(4) That restricted rents are not in compliance with the rent agreement filed with the Housing Commission. If the finding is made that the rent agreement has been violated, restitution of the amounts in excess of those provided by the Rent Agreement shall be made to the tenants and an equal amount shall be paid to the lease/sale proceed funds administered by the Housing Commission, in addition to any remedies provided by the Rent Agreement.

f. Civil Actions. The City may institute a civil action to recover in damages all rents paid to the owner if the owners of condominium units fail to comply with the owner occupancy requirements of Paragraph G of this Section.

g. Review Procedures.

(1) The San Diego Housing Commission shall report to the City Council on an annual basis the location and number of living units that have been completed in the previous year, the monthly rents of each living unit, the monthly income of living unit residents, the number of vehicles owned by residents and the adequacy of management services.

(2) The Planning Department shall report to the City Council's Transportation and Land Use Committee on a semi-annual basis with a record of all living unit projects submitted for permit approval in the preceding six months.

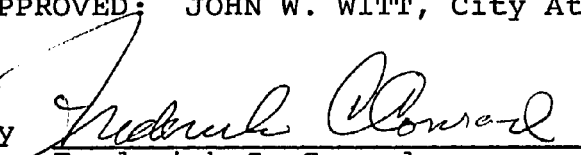
Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage, however, the provisions of this ordinance shall not be applicable within the Coastal Zone until the thirtieth day following the date the California Coastal Commission unconditionally certifies this ordinance as a local coastal program amendment. If this ordinance is not certified, or is certified with suggested modifications by the California Coastal Commission, the provisions of this ordinance shall be null and void within the Coastal Zone.

Section 3. In areas of the City of San Diego other than the Coastal Zone no permits for development inconsistent with the provisions of this ordinance shall be issued unless application therefore was made prior to the date of adoption of this ordinance.

Section 4. Within the Coastal Zone no permits for development inconsistent with the provisions of this ordinance shall be issued unless application therefore was made prior to the date the California Coastal Commission unconditionally certified this ordinance as a local coastal program amendment.

APPROVED: JOHN W. WITT, City Attorney

By


Frederick C. Conrad
Chief Deputy City Attorney

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09/25/89 REV. 1
Or.Dept:Plan.
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OCT 16 1989

Passed and adopted by the Council of The City of San Diego on
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(Seal)

By *Rhonda R. Barnes*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

OCT 2 1989, and on OCT 16 1989

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(Seal)

By *Rhonda R. Barnes*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-17360 Adopted OCT 16 1989

CERTIFICATE OF PUBLICATION

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CITY CLERK'S OFFICE

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SAN DIEGO, CALIF. P

OFFICE OF THE CITY CLERK
2ND FLOOR
CITY ADMINISTRATION BLDG.
SAN DIEGO, CA 92101
ATTN: R. BARNES

IN THE MATTER OF
AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 5,
OF THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTION
101.0518 RELATING TO CONDITIONAL USE PERMITS
FOR LIVING UNIT ORDINANCE.

NO.

I, THOMAS D. KELLEHER, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NUMBER 0-17360 (NEW SERIES)
AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 5, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTION 101.0518 RELATING TO CONDITIONAL USE PERMITS FOR LIVING UNIT ORDINANCE.
A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.
INTRODUCED ON OCT 2 1989 Passed and Adopted by the Council of The City of San Diego on OCT 16 1989
AUTHENTICATED BY: MAUREEN O'CONNOR Mayor of The City of San Diego, CA
CHARLES G. ABDELNOUR City Clerk of The City of San Diego, CA
(SEAL)
By RHONDA R. BARNES, Deputy.
Pub. Oct. 30 158872

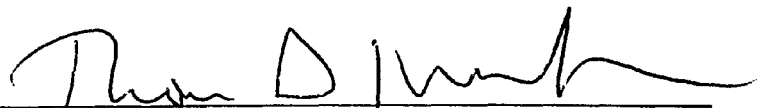
ORDINANCE NUMBER 0-17360 (NEW SERIES)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

OCT. 30

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 30 day of OCT., 19 89.



(Signature)

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