

ORDINANCE NUMBER O- 17652 (NEW SERIES)

ADOPTED ON JUN 03 1991

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 101.0101.17, 101.0101.20 AND 101.0407, BY REPEALING SECTION 101.0461 AND BY ADDING SECTION 101.0463 RELATING TO SINGLE FAMILY RENTALS.

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

**Section 1.** That Chapter X, Article 1, Division 1, of the San Diego Municipal Code be and the same is hereby amended by amending Sections 101.0101.17 and 101.0101.20, to read as follows:

**SEC. 101.0101.17 DWELLING, ONE-FAMILY**

The term "one-family dwelling" means a detached building, containing only one kitchen, designed or used to house not more than one family, including all necessary employees of such family. Unless otherwise defined or provided for, the term "one-family dwelling" is synonymous with the terms "single family dwelling" or "single family residence," as they may appear elsewhere in the Municipal Code.

**SEC. 101.0101.20 FAMILY**

The term "family" means two or more persons related by blood, marriage, or legal adoption, or joined through a judicial or administrative order of placement or guardianship, and who reside together in a dwelling unit.

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This definition shall be applied consistent with City of Santa Barbara v. Adamson, 27 Cal.3d 123, 164 Cal.Rptr. 539 (1980), and not as a limitation upon or regulation of the status of the occupants of a residential structure.

**Section 2.** That Chapter X, Article 1, Division 4, of the San Diego Municipal Code be and the same is hereby amended by amending Section 101.0407, to read as follows:

**SEC. 101.0407 R-1 ZONES**

A. [No change to this subsection]

**B. PERMITTED USES**

No building or improvement or portion thereof, shall be erected, constructed, converted, established, altered or enlarged, nor shall any lot or premises be used except for one or more of the following purposes:

1. One-family dwellings, which may be owner occupied, or when not occupied by an owner, occupied by renters, lessees, or sublessees in accordance with the standards of the One-Family Dwelling Unit Zone Non-Owner Occupied Rental Business Regulations of Section 101.0463.

2. [No change to this subsection]

3. [No change to this subsection]

4. Accessory uses and buildings customarily incidental to any of the foregoing permitted uses including the following:

a. Not more than two lodgers, provided that these are housed within a one-family dwelling which is owner occupied and the premises are in

the R-1-5000 Zone.

b. [No change to this subsection]

5. [No change to this subsection]

C. through F. [No changes to these subsections]

**Section 3.** That Chapter X, Article 1, Division 4, of the San Diego Municipal Code be and the same is hereby amended by repealing Section 101.0461 effective upon the dates and terms specified in Section 6 of this ordinance.

**Section 4.** That Chapter X, Article 1, Division 4, of the San Diego Municipal Code be and the same is hereby amended by adding Section 101.0463 to read as follows:

**SEC. 101.0463 ONE-FAMILY DWELLING RENTAL REGULATIONS**

**A. PURPOSE AND INTENT**

The Council finds that there presently exists and may continue to exist in the future within certain neighborhoods of the City, non-owner occupied rentals of one-family dwellings which, by their operation, use and occupancy, adversely affect the public health, safety and general welfare of the occupants, the residents of adjacent properties and the neighborhood.

It is the purpose of these regulations to provide standards within one-family dwelling zones for the rental of one-family dwellings that are not owner occupied in order to ensure a safe and adequate living habitat for the residents of these dwelling units and ensure that the use of these rentals as an economic business enterprise associated with residential property does not adversely affect the health, safety and general welfare of the occupants of adjacent

property and the neighborhood in which the dwelling unit is located.

This section is intended to address nuisance problems associated with the operation of non-owner occupied rentals in one-family dwelling unit zones, which include overcrowding and inadequate living space, a lack of on-site and public street parking, excessive noise, litter, and inadequate property maintenance and operation which detracts from and adversely affects the nature and character of one-family residential zones.

It is also the intent of this section to reduce these problems by establishing certain property development standards and regulations designed to prevent these nuisances, when the dwelling is not occupied by the owner.

#### B. DEFINITIONS

For the purposes of this section, the following definitions shall apply:

1. The terms "one-family dwelling," "dwelling unit" and "family" are as defined in sections 101.0101.17, 101.0101.19 and 101.0101.20, respectively.

2. "Bedroom" means an enclosed space within a one-family dwelling unit designed or intended for sleeping and which contains at least one closet for the storage of clothes and other personal effects. A room or other enclosed area is not a bedroom, nor considered habitable for sleeping purposes, unless it has a permanent door permitting complete closure and separation by that door from any and all kitchen and

bathroom areas. As an example, a room or other enclosed area is not a bedroom within this definition if the room arrangement is such that access to a bathroom intended for use by the occupants of other bedrooms can be had only by going through that room, nor shall such a room be considered a bedroom if it is the only access to another bedroom.

3. "Full Bathroom" means a room or other enclosure containing a water closet, lavatory, bathtub and shower.

4. "Three-quarter Bathroom" means a room or other enclosure containing a water closet, lavatory and either a bathtub or shower.

5. "Half Bathroom" means a room or other enclosure containing only a water closet and lavatory.

6. "Habitable Net Floor Space" means the total number of square feet of floor space in a one-family dwelling unit based upon the actual interior dimensions excluding all stairwells, halls, closets, bathrooms, kitchens, laundry rooms, furnace rooms, pantries, utility rooms, foyers, corridors, storage spaces and similar enclosed floor space not designed or intended to be used for living, sleeping or dining purposes.

Habitable net floor space shall include any area in a room with a ceiling height of not less than seven (7) feet six (6) inches; except that in any habitable room under a sloping ceiling at least one-half (1/2) of the floor area within that room shall have a ceiling

height of at least seven (7) feet six (6) inches, and any floor area under a ceiling of less than five (5) feet in height shall not be considered in computing the total floor area of the room for determining the maximum permissible occupancy.

7. "Owner" means a person as defined in section 11.0301 who has any ownership right, title or interest in the one-family dwelling unit. "Owner" also includes any agent authorized by the owner to rent or lease all or any portion of a dwelling unit.

8. "Usable Off-street Parking Space" means an area or enclosure located, developed and maintained in accordance with the provisions of Division 8 of this Article which is, at all times, available for immediate use as a parking space when not occupied by an operable vehicle as defined by the Vehicle Code or the Municipal Code.

#### C. RENTAL REGULATIONS

It is unlawful for an owner of a one-family dwelling within an R-1-5000 zone located within the area designated on Map C-841 on file in the office of the City Clerk to rent, lease or allow to be occupied or subleased, for any form of consideration, any one-family dwelling unit which is not occupied by that owner, in violation of any of the following regulations:

1. No such rental dwelling unit shall be occupied by more persons, over the age of eighteen (18), than is permitted by the most restrictive of the following

regulations:

a. One (1) person for each 80 square feet of bedroom area; or

b. Four (4) persons for each full or three-quarter bathroom and two (2) persons for each half bathroom; or

c. One (1) person for each usable off-street parking space on the premises, developed, located and maintained in accordance with the provisions of Division 8 of this Article, plus one additional person; provided, however, that not more than two (2) parking spaces may be in tandem, nor more than one (1) curb cut per front yard, street side yard or alley be allowed for determining occupancy limits based on parking restrictions.

2. No such rental dwelling unit may be rented if it does not have at least one room, other than a bedroom, with a minimum of 150 square feet of habitable net floor space.

D. ADMINISTRATION

1. The Planning Director, in conjunction with the City Manager, is authorized to promulgate administrative procedures and regulations for the administration and enforcement of this section, and may require a site plan or a certificate description of an affected premise to be furnished for administrative purposes. It is unlawful for an owner, following thirty (30) days notification by the Planning Director, to fail to file any site plan or



certificate description required by regulation to be filed pursuant to this subsection.

2. Routine and periodic inspections necessary to verify any information required to be provided by the owner and to generally enforce these regulations shall be conducted in accordance with San Diego Municipal Code section 101.0212 F.

#### E. ENFORCEMENT

1. Violations of this section may be enforced by criminal or civil judicial actions as provided in San Diego Municipal Code sections 13.0201 and 13.0202 or in combination with any of the administrative remedies enumerated in Chapter 1, Article 3 of the Municipal Code.

2. In addition to any other remedy, the Planning Director, in coordination with the City Manager, may notify the State Franchise Tax Board concerning violations of this section pursuant to the provisions and procedures of Revenue and Taxation Code sections 17274 and 24436.5 regarding the nondeductibility of certain rental expenses and deductions respecting structures in violation of code.

#### F. APPLICATION OF THIS SECTION TO NON-CONFORMING STRUCTURES AND USES

Notwithstanding the provisions of Municipal Code sections 101.0301, 101.0302, and 101.0303 which provide for nonconforming structures and uses, any use of a one-family dwelling in violation of subsection C. of this section, which use existed on (effective date of this ordinance),

shall be unlawful from and after (effective date plus one year).

**Section 5.** Sections 1, 2 and 4 of this ordinance shall take effect and be in force on the thirtieth day from and after its passage; however, the provisions of sections 1, 2 and 4 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 so certified, or is certified with suggested modifications by the California Coastal Commission, then the provisions of sections 1, 2 and 4 shall be null and void within the coastal zone.

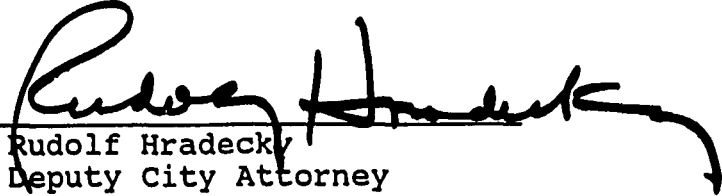
**Section 6.** Except in the coastal zone, section 3 of this ordinance shall take effect and be in force one year and thirty days after its passage. Within the coastal zone, section 3 shall not take effect nor be in force until the thirtieth day following the date the California Coastal Commission unconditionally certifies this ordinance as a local coastal program amendment, or one year and thirty days following its passage, whichever is later. If, however, this ordinance is not certified or is certified with suggested modifications by the California Coastal Commission, then the provisions of section 3 shall be null and void within the coastal zone. The City Clerk is hereby directed to delete section 101.0461 from the Municipal Code upon the latest date specified in this section.

**Section 7.** The City Clerk is hereby directed to insert the effective date of this ordinance and that date which corresponds to the effective date of this ordinance plus one year in the

applicable parenthetical spaces provided for in section 4 of this ordinance, and to delete said parentheses from the codified text of subsection F. of section 101.0463, as it shall thereafter appear.

APPROVED: JOHN W. WITT, City Attorney

By

  
Rudolf Hradecky  
Deputy City Attorney

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Passed and adopted by the Council of The City of San Diego on JUN 03 1991,  
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Behr	<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.

(Seal)

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

By Bronda L. 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

MAY 21 1991, and on JUN 03 1991

~~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 Bronda L. Barnes, Deputy.

Office of the City Clerk, San Diego, California	
Ordinance Number <u>017652</u>	Adopted <u>JUN 03 1991</u>