

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 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:

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. “Professional Property Management” 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 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 is issued in accordance with the provisions of 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:

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 Professional Property Management as defined in section 20.16.935.
- c. Home occupations.
- d. Residential hotels managed by Professional Property Management as defined in section 20.16.935.
- e. Rooming Houses managed by Professional Property Management 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(h) shall be retained and renumbered as 20.36.470(f) through 20.36.470(i).]

i. The following uses, provided a major use permit is issued in accordance with the provisions of 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 Houses.

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 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 8th day of July, 2008, by the following roll call vote:

AYES: COUNCILMEMBERS: JONES, MARTIN, ORLANDO, PRESTON, DESMOND

NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: NONE

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