

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA, AMENDING CHAPTERS 8.30 (“PUBLIC NUISANCES”) OF TITLE 8 (“HEALTH AND SAFETY”), AND CHAPTERS 18.06 (“DEFINITIONS”), 18.10 (“REGULATIONS FOR R1-8L – SINGLE-FAMILY, LARGER LOT AREA ZONING DISTRICTS”), 18.12 (“REGULATIONS FOR R1-6L – SINGLE-FAMILY ZONING DISTRICTS”) AND 18.76 (“ARCHITECTURAL REVIEW”) OF TITLE 18 (“ZONING”) OF THE “THE CODE OF THE CITY OF SANTA CLARA, CALIFORNIA” TO REGULATE BOARDING HOUSES IN SINGLE FAMILY RESIDENTIAL ZONES

BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, the City Council of the City of Santa Clara (the “Council”) has the authority to take action to protect the public welfare, health and safety of its citizens;

WHEREAS, the City of Santa Clara (the “City”) has received numerous 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 intended, created and designed;

WHEREAS, the rental of ~~three or more~~ multiple bedrooms within single-family homes constitutes an activity of a commercial nature similar to multi-family rentals;

WHEREAS, most single-family residential neighborhoods are not designed for situations in which significant numbers of adults live in a single household or home in terms of garage space, street parking, storage space and other factors;

WHEREAS, documented problems arising from numerous adult renters co-habiting in the same single-family home include excessive night-time noise, frequent loud and unruly gatherings, ongoing conditions of property deterioration and lack of maintenance, additional neighborhood traffic and excessive demand for street parking;

WHEREAS, because of the number of independent adult residents maythat live in unregulated boarding houses, fraternities and sororities and dormitories, such buildingsuses tend to impair the Ordinance/Single Family Residential Zone Rental Regulations

quiet enjoyment of the surrounding neighborhoods by creating trash and litter, creating excess parking demand, and being the location of numerous loud and unruly gatherings;

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

WHEREAS, boarding houses, fraternities and sororities and dormitories are presently not expressly permitted uses in R-1 residential zones;

WHEREAS, since boarding houses, fraternities and sororities and dormitories have multiple occupants and have potentially significant impacts on the quality of life in residential neighborhoods, these uses should be explicitly prohibited in R-1 residential zones;

WHEREAS, it is recognized that there are a number of housing units throughout the City that have been used as boarding houses over the years that have been maintained in good order and provide affordable housing to their occupants; it is not the intent of this Ordinance to prevent those housing units from continuing with such operation; and

WHEREAS, in order to encourage the orderly and harmonious appearance of buildings and property; maintain the public health, safety and welfare; maintain the property and improvement values throughout the City; [minimize excess parking demand](#) and to encourage the physical development of the City as intended by the general plan, all applications for buildings within R-1 residential zones that propose an addition or alteration to a residence that would [propose or](#) result in a significant number of bedrooms should be subject to the architectural review process.

NOW THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

SECTION 1: That a new section 18.06.010(b)(3) of “The Code of the City of Santa Clara, California” (“SCCC”) shall be added to read as follows and the current SCCC 18.06.010(b)(3) definition of “Block” be renumbered to SCCC 18.06.010(b)(4):

“(b)(3) “Bedroom” means any rented, leased, let or hired room, living space or other square footage within the building or structure that is used, designed or intended to provide sleeping accommodations for one or more persons. Examples include rooms designated as a den, study, loft, library, bonus, game, or other extra room.”

SECTION 2: That the current SCCC 18.06.010(b)(4) definition of “Boarding house” shall be renumbered to SCCC 18.06.010(b)(5) and amended to read as follows, with the remaining definitions to be consecutively renumbered:

“(b)(5) “Boarding house” or “rooming house” shall mean a residence or dwelling structure, or part thereof, wherein that is occupied by five or more unrelated adults who are not living as a Common household three (3) or more bedrooms, with or without individual or group cooking/dining facilities, are rented to adult individuals living independently from each other under separate rental agreements or leases, either written or oral, whether or not an owner, agent, or rental manager is in residence. This definition also applies where there is only one rental agreement or lease and three or more adult individuals who are not living as a Single common household sign the same agreement or subleases and rent is paid separately by each of the individuals or where rent is paid by a single individual collectively for all residents. It shall not include the rental of a single-family dwelling to a Common household, or the rental of one (1) or two (2) bedrooms within a single-family dwelling, licensed or unlicensed or Community care facilities or any other housing protected by federal or state law, including housing for persons protected under the Fair Housing Act (42 USC Section 3604 (f)) and the California Fair Employment and Housing Act (California Government Code Sections 12920, et seq.).”

SECTION 3: That a new SCCC 18.06.010(c)(5) and 18.06.010(c)(6) shall be added to read as follows, with the remaining definitions to be consecutively renumbered:

“(c)(5) “Community care facility” shall mean any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children in accordance with the California Community Care Facilities Act (Health & Safety Code Secs. 1500, et seq.).”

(c)(6) “Community care facility (Unlicensed)” shall mean any dwelling unit or building that is not required by law to be licensed or certified by the State, in which every person residing in the facility (excluding any facility staff and their family members) is considered to be disabled, as defined by the California Fair Employment and Housing Act.”

SECTION 3: That a new SCCC 18.06.010(d)(3) shall be added to read as follows, with the remaining definitions to be consecutively renumbered:

“(d)(3) “Dormitory” shall mean a residential structure intended for limited term residency with four (4) or more sleeping rooms and commonly shared or assigned bathroom, gathering and dining facilities, generally associated with or serving educational facilities.”

SECTION 4: That SCCC 18.06.010(sc)(5) shall be added to read as follows, with the remaining definitions to be consecutively renumbered:

“(sc)(5) “Single eCommon household” shall mean a person or group of persons in a single dwelling unit that:

(A) Allows common access to and use of all living and eating areas, including areas and facilities for the preparation and storage of food within the dwelling;

(B) Shares housekeeping and household expenses;

(C) Rents no more than two individual rooms for compensation under separate leases or rental agreements, either oral or written, unless additional leases are required by a governmental funding program;

(D) Does not require residents to move after a fixed period of time, except for limits imposed by a lease; and

(E) Allows that new residents are selected by all existing adult members of the household, with the consent of the owner if applicable.

“~~Single-e~~Common household” –shall not be construed to include a fraternity, sorority, dormitory, club, or other group of persons occupying a hotel, boarding house or similar institution.”

SECTION 5: That SCCC 18.10.035 shall be added to read as follows:

“18.10.035 Boarding houses prohibited.

No boarding house, fraternity, sorority or dormitory shall be permitted in the R-1-8L residential zone, unless it is existing as of _____, 2014, and issued a permit by the Zoning Administrator no later than _____, 2014.”

SECTION 6: That SCCC 18.12.035 shall be added to read as follows:

“18.12.035 Boarding houses prohibited.

No boarding house, fraternity, sorority or dormitory shall be permitted in the R-1-6L residential zone, unless it is existing as of _____, 2014, and issued a permit by the Zoning Administrator no later than _____, 2014.”

SECTION 7: That SCCC 18.76.020(b) shall be deleted in its entirety and a new SCCC 18.76.020(b) shall be added to read as follows:

“(b) Before action is taken on an application for the issuance of a permit for any sign, building, structure, or alteration of the exterior of a structure in any zone district, plans and drawings of such sign, building or alteration shall be submitted, in such form and detail as the Director of

Planning and Inspection may prescribe, to the architectural committee for approval. All applications for the issuance of a permit for any building, structure or alteration of the interior or exterior of a structure located within an R-1 residential zone and containing, or proposing, four or more bedrooms shall be submitted to the architectural committee for approval. In order to grant such approval, the committee shall find the following:

(1) The proposal shall not reduce the compatibility of the use of the dwelling unit within the district;

(2) The floor plan is clearly not intended by the applicant to maximize the potential use of the property for rental purposes in a boarding house configuration as opposed to floor plan layouts typical of single-family houses;

(3) The proposal shall not reduce the common living areas and utility areas so that the livability of the dwelling is substantially reduced due to lack of functional living space, space for congregation or lack of adequate utility area for single family use; ~~and~~

(4) The proposal shall not substantially change the floor plan in a manner that consists of predominately bedrooms with minimal common usable interior spaces; and

(5) The proposal shall provide for adequate off-street parking.”

SECTION 9: That SCCC 8.30.110 shall be added to read as follows:

“8.30.110 Unruly gatherings.

(a) This Section is applicable only to Boarding houses as defined in Title 18.

(b) Any gathering of ten or more persons in any Boarding house in a manner which constitutes a substantial disturbance of the quiet enjoyment of private or public property in a significant segment of a neighborhood, such as excessive noise or traffic, obstruction of public streets by crowds or vehicles, public intoxication, the service to or consumption of alcohol by minors, property occupants or other attendees, fights, prolonged gatherings on private property in

public view in conjunction with loud or unruly behavior, disturbances of the peace, litter or other similar conditions, is hereby declared to be a public nuisance.

(c) When a peace officer has determined that an unruly gathering has occurred, the police department shall mail a notice to the owner of the property where the unruly gathering occurred. The notice shall advise the property owner(s) that any subsequent violation of this chapter at the same property may result in the property owner being subject to administrative action and penalties as defined in this Chapter.

(d) An unruly gathering may be abated by the City by all reasonable means including, but not limited to, an order requiring the unruly gathering to be disbanded, the issuance of citations, and/or the arrests of any law violators under this Chapter, any applicable local laws and state statutes.

(e) Nothing in this section shall be construed to impose liability on a property owner for the conduct of persons who are present without the express or implied consent of the property owner as long as the property owner has taken reasonable steps to exclude such uninvited participants from the property. Where an invited person engages in conduct which the property owner could not reasonably foresee and the conduct is an isolated instance of a person at the gathering violating the law which the property owner is unable to reasonably control without the intervention of the police, the unlawful conduct of that person shall not be attributable to the property owner for the purposes of determining whether the gathering constitutes an unruly gathering.”

SECTION 10: A boarding house use in a single-family district (as defined herein) that existed as of the effective date of this Ordinance may be continued subject to applying for a Zoning Administrator permit within ninety (90) days of the effective date of this Ordinance and receiving a timely approval thereof. Such permit shall run with the land and not be affected by a change in ownership

~~but shall be revocable if the use is deemed to be discontinued for any continuous one-year period~~

~~or for cause due to repeated or egregious violations of the Unruly Gatherings section of SCCC Title 8 (SCCC 8.30.110) or the Property Maintenance Standards of Title 8 (SCCC 8.30.030), as determined by the Director of Planning and Inspection or the Chief of Police.~~ The burden of proof regarding and the status of an existing single-family boarding house use as of the date of this Ordinance rests with the property owner to the satisfaction of the Zoning Administrator. Proof of such status could include, but not be limited to, such documents as planning permits, building permits, leases, maps or directory listings. In the event the applicant or others affected by the decision are not satisfied with the decision of the Zoning Administrator, within seven days after such decision, a written appeal may be made to the Planning Commission. In the event that there is any dissatisfaction with the action of the Planning Commission, the applicant, others affected, or the City Council may appeal in accordance with the variance appeal provisions set forth in Chapter 18.108 SCCC.

The approved Zoning Administrator permit shall be revocable if the use is deemed to be discontinued for any continuous one-year period or for cause due to repeated or egregious violations of the Property Maintenance Standards of Title 8 (SCCC 8.30.030) or the Unruly Gatherings section of SCCC Title 8 (SCCC 8.30.110), as determined by the Director of Planning and Inspection or the Chief of Police, respectively. Such determinations shall be cause for the Zoning Administrator to issue to the property owner a written revocation of the permit. In the event the property owner, applicant or others affected by the decision are not satisfied with the decision of the Zoning Administrator, within seven days after such decision, a written appeal may be made to the Planning Commission. In the event that there is any dissatisfaction with the action of the Planning Commission, the applicant, others affected, or the City Council may appeal in accordance with the variance appeal provisions set forth in Chapter 18.108 SCCC.

SECTION 11: 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 residential zones.

SECTION 12: Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

SECTION 13: Effective date. This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of “The Charter of the City of Santa Clara, California.”

PASSED FOR THE PURPOSE OF PUBLICATION this ____ day of _____, 2014, by the following vote:

AYES:	COUNCILORS:
NOES:	COUNCILORS:
ABSENT:	COUNCILORS:
ABSTAINED:	COUNCILORS:

ATTEST: _____
ROD DIRIDON, JR.

CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference: None

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