

ORDINANCE NO. 299

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHINO HILLS, CALIFORNIA, AMENDING THE CHINO HILLS MUNICIPAL CODE TITLE 16 (DEVELOPMENT CODE) TO REGULATE BOARDING HOUSES, PROHIBIT TRANSIENT LODGING USES AND BED AND BREAKFASTS IN RESIDENTIAL ZONES, AND DETERMINING THAT THE MUNICIPAL CODE AMENDMENT IS EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHINO HILLS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council does hereby make the following findings of fact:

- a. The City's ability to exercise its powers in accordance with Article XI, § 7 of the California Constitution to regulate land use is well established. This Ordinance is intended to regulate aesthetics, traffic, parking, public peace, and other similar matters related to public health, safety, and welfare.
- b. At City Council meetings, the City Council has expressed two concerns about the City's residential areas: (1) numerous different tenants living in one residential unit, and (2) short-term renters/lessees of residential units. The concern is that having too many different individuals leasing rooms within a unit, or having short-term tenants, erodes the integrity of residential zones. Specifically, tenants that only stay for one night, a week, or even a few months do not have the same interest in investing their time and energy in preserving the neighborhood and the community. These concerns and problems are being addressed in other Southern California cities, particularly in response to short-term stay on-line services like Airbnb.
- c. This Ordinance is tailored to preserve the residential character of a neighborhood by prohibiting boarding houses in residential zones and conditionally permitting boarding houses in commercial zones (C-F, C-G, and C-R) while respecting the rights to privacy and association that the California Supreme Court recognized in *City of Santa Barbara v. Adamson* (1980) 27 Cal.3d 123 and related cases.
- d. Preserving the residential character of a neighborhood is a legitimate government purpose that may be reasonably achieved by prohibiting commercial enterprises such as the operation of boarding house businesses. (See 86 Ops.Cal.Atty.Gen. 30 (2003) and cases cited therein.) In the multifamily residential (RM) zones, the City has little land

not already developed or entitled, so boarding houses in these zones would generally require subletting an existing apartment or leasing out a townhome, which would be deleterious for the community.

- e. The transient (short-term) commercial use of residential property also has deleterious effects on residential and community character. Short-term tenants that stay only for one night, a week, or even a month in a residential area have little interest in the community or the welfare of its citizenry; as such, they do not generally participate in local government and community organizations that strengthen a City and its residents.
- f. The proliferation of internet-based services that facilitate the listing, advertising, and hiring of transient residential rentals has led to significant increases in the number of transient rentals throughout the City's residential zones. Based upon a review of websites facilitating short-term residential rentals, specifically Airbnb ([www.airbnb.com](http://www.airbnb.com)) and Vacation Rentals by Owner ([www.vrbo.com](http://www.vrbo.com)), approximately 29 residential properties in the City of Chino Hills are currently listed for short-term rental.
- g. Local Ordinances that prohibit or regulate transient commercial uses of residential property have been upheld in cases such as *Ewing v. City of Carmel-By-The-Sea* (1991) 234 Cal.App.3d 1579 because such regulations are rationally related to preservation and enhancement of the residential character of the neighborhood and stability of the community.
- h. Bed and breakfast uses were permitted in the Agriculture-Ranch (R-A) and Rural Residential (R-R) zones under the San Bernardino County Development Code and were incorporated into the City's Development Code upon incorporation. However, these uses are no longer appropriate in residential zones in a community that has grown and evolved significantly since the time before incorporation. The City's remaining R-A and R-R properties are typically underserved by roads and infrastructure and would not be good locations for bed and breakfast uses. Prohibiting bed and breakfast uses is consistent with not allowing boarding houses in single-family zones. Currently, there are no active business licenses for the operation of a bed and breakfast business within the City.
- i. On May 3, 2016, the Planning Commission held a duly noticed public hearing to receive oral and documentary evidence from the public regarding the proposed amendments. The Commission generally discussed the potential for short-term rental uses to disrupt the character of existing residential neighborhoods and clarified the definition of boarding house and rooming house. The Planning Commission adopted a resolution recommending to the City Council the adoption of the proposed Municipal Code Amendment.

- j. Notice of public hearing was published in the Chino Hills Champion newspaper on May 14, 2016.
- k. A duly noticed public hearing before the City Council was conducted on May 24, 2016, at which time all interested persons were given an opportunity to testify in support of, or in opposition to the project.

SECTION 2. The City Council finds that this Ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA regulations (California Code of Regulations, Title 14, §§ 15000, et seq.) because it establishes rules and procedures to permit operation of existing facilities; consists only of minor revisions and clarifications to existing regulations and specification of procedures related thereto; and consists of actions taken to assure the maintenance, protection, and enhancement of the environment. This Ordinance, therefore, does not have the potential to cause significant effects on the environment. Consequently, it is categorically exempt from further CEQA review under California Code of Regulations, Title 14, §§ 15301, 15305, and 15308. Furthermore, the City Council finds that it can be seen with certainty that there is no possibility that the proposed Ordinance may have a significant effect on the environment; therefore, it is not subject to CEQA pursuant to California Code of Regulations, Title 14, § 15061(b)(3).

SECTION 3. As required under Government Code § 65860, the City Council finds that Chino Hills Municipal Code amendments proposed in Municipal Code Amendment No. 16MCA02 are consistent with the Chino Hills General Plan as follows:

- a. The proposed amendment to the Chino Hills Municipal Code conforms to General Plan Goals LU-3 and LU-4, which require the maintenance and promotion of the character, integrity, and excellence of design of the City's neighborhoods. The proposed amendment would prohibit transient lodging uses within the City's residential zoning district, which is intended to prevent the deleterious effects of these commercial uses from impacting the residential character of these communities and to ensure safe and decent housing.

SECTION 4. In accordance with Chino Hills Development Code § 16.62.040, the City Council makes the following findings of fact:

- a. **FINDING:** That the proposed Municipal Code Amendment is consistent with the goals, policies, and objectives of the General Plan.

**FACT:** The proposed amendment to the Chino Hills Municipal Code conforms to General Plan Goals LU-3 and LU-4, which require the maintenance and promotion of the character, integrity, and excellence of design of the City's neighborhoods. The proposed amendment would

prohibit transient lodging uses within the City's residential zoning district, which is intended to prevent the deleterious effects of these commercial uses from impacting the residential character of these communities and to ensure safe and decent housing.

- b. FINDING: That the proposed Municipal Code Amendment will not adversely affect surrounding properties.

FACT: The proposed Municipal Code Amendment would be effective Citywide and provides reasonable development standards to further enhance the health, safety, and welfare of the community and will not adversely affect surrounding properties.

SECTION 5. Chino Hills Municipal Code § 16.02.140 is amended, in part, to add the definition of "boarding house" or "rooming house" to read as follows, while all other items in this section shall remain unchanged:

'Boarding house' or 'rooming house' means a dwelling, building, or accessory building rented to three or more individuals under concurrent, separate rental agreements or leases, either written or oral or implied, whether or not an owner, agent, or rental manager is in residence. Meals may be provided to boarders in connection with the renting of sleeping rooms or common kitchen facilities may be provided. This definition does not include any of the following:

- Hotel;
- Motel;
- Emergency shelter;
- Transitional housing;
- Single-room occupancy residential hotels;
- Skilled nursing facility;
- Small family day care home;
- Supportive housing;
- Group home;
- A residential facility as defined in the California Community Care Facilities Act (Health & Safety Code § 1500 et seq.) that serves six or fewer persons;
- Housing for persons protected under the Fair Housing Act (42 USC § 3604(f)) or the California Fair Housing Act (Gov't Code § 12920 et seq.);
- Alcoholism or drug abuse recovery or treatment facilities that serve six or fewer persons (as defined in Health & Safety Code § 11834.23(b));
- Employee housing providing accommodations for six or fewer employees (as defined in Health & Safety Code § 17021.5);
- Residential care facilities for the elderly that serve six or fewer persons (Health & Safety Code § 1569.85);
- Intermediate care facilities/developmentally disabled habilitative facilities serving six or fewer persons (Health & Safety Code § 1250(e), 1267.8); or

Any other use or arrangement expressly excluded from the definition of "boarding house" or "rooming house" pursuant to State or Federal law, including household arrangements protected by City of Santa Barbara v. Adamson (1980) 27 Cal.3d 123.

SECTION 6. Chino Hills Municipal Code § 16.02.150 is amended, in part, to delete the definition of "communal housing", while all other items in this section shall remain unchanged.

SECTION 7. Chino Hills Municipal Code § 16.10.020 is amended, in part, to add subparagraph (E) to prohibit commercial transient lodging uses in all residential districts to read as follows, while all other items in this section shall remain unchanged:

- E. Except as otherwise permitted by this Code, transient lodging uses for remuneration are prohibited in all residential districts. For purposes of this section, "transient" means a period of time less than 30 consecutive days.

SECTION 8. Chino Hills Municipal Code § 16.12.020 is amended, in part, to add subparagraph (D) to conditionally permit boarding houses in the Freeway Commercial (C-F), General Commercial (C-G), and Commercial Recreation (C-R) districts to read as follows, while all other items in this section shall remain unchanged:

- D. A boarding house may be conditionally permitted in the C-F, C-G, and C-R zoning districts provided that:
  1. The boarding house contains no healthcare facilities similar to those found in a medical clinic.
  2. Not more than two (2) persons are permitted to occupy one rental room.
  3. One uncovered on-site parking space must be provided for each sleeping room.

SECTION 9. Chino Hills Municipal Code Title 16, Appendix A (Regulation of Uses by Zoning District) is amended, in part, to delete the entry for "Bed and breakfasts" and prohibit the use in any zoning district and to add an entry for "Boarding House/Rooming House" as a conditionally permitted use in the Freeway Commercial (C-F), General Commercial (C-G), and Commercial Recreation (C-R) zoning districts to read as follows, while all other items in this section shall remain unchanged:

Zoning District Land Use	R A	R R	R S	R M 1	R M 2	R M 3	C N	C F	C G	C O	C R	B P	L I	I - 1	I - 2	O S
Boarding House/Rooming House								C	C		C					

SECTION 10. Upon the effective date of this Ordinance, the provisions hereof shall supersede any inconsistent or conflicting provisions of the San Bernardino County

Code as the same were adopted by reference by City Ordinances Nos. 91-01 and 92-02.

SECTION 11. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 12. This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 13. Repeal of any provision of the Chino Hills Municipal Code does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 14. If this entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal or amendment of the Chino Hills Municipal Code or other City Ordinance by this Ordinance will be rendered void and cause such previous Chino Hills Municipal Code provisions or other City Ordinances to remain in full force and effect for all purposes.

SECTION 15. The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Chino Hills' book of original Ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 16. This Ordinance will take effect on the 30th day following its final passage and adoption.

PASSED, APPROVED AND ADOPTED this 14th day of June, 2016.

  
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ART BENNETT, MAYOR  
RAY MARQUEZ, VICE MAYOR

ATTEST:

  
\_\_\_\_\_  
CHERYL BALZ, CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
MARK D. HENSLEY, CITY ATTORNEY

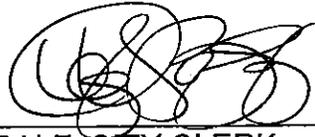
STATE OF CALIFORNIA )  
COUNTY OF SAN BERNARDINO ) ss  
CITY OF CHINO HILLS )

I, CHERYL BALZ, City Clerk of the City of Chino Hills, DO HEREBY CERTIFY that Ordinance No. 299 was duly introduced at a regular meeting held May 24, 2016; and adopted at a regular meeting of the City Council held on the 14th day of June, 2016 by the following vote, to wit:

AYES: COUNCIL MEMBERS: MARQUEZ, GRAHAM, MORAN,  
ROGERS

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: BENNETT



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CHERYL BALZ, CITY CLERK

I hereby certify that the foregoing is the original of Ordinance No. 299 duly passed and adopted by the Chino Hills City Council at their regular meeting held on June 14, 2016 and that summaries of the Ordinance were published on June 4, 2016 and June 18, 2016 in the Chino Hills Champion newspaper.



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CHERYL BALZ, CITY CLERK