

ORDINANCE NO. 2017-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING CHAPTER 4, ARTICLE 3 OF THE LAND DEVELOPMENT CODE, SUBPART B, AND SECTION 1.5.4 OF THE SAN MARCOS SMARTCODE, SUBPART C, OF THE CITY CODE, BY ADDING REQUIREMENTS FOR THE CITY COUNCIL'S APPROVAL OF A CONDITIONAL USE PERMIT OR A WARRANT FOR PURPOSE BUILT STUDENT HOUSING, INCLUDING THE REQUIREMENT THAT, AS A CONDITION OF THE APPROVAL, THE LEASE OFFERED TO A STUDENT SHALL INCORPORATE PROVISIONS ENSURING THAT, WHEN A RENTAL UNIT IS UNAVAILABLE FOR OCCUPANCY AS OF THE FIRST DAY OF THE LEASE TERM, THE LANDLORD WILL PROVIDE TEMPORARY ALTERNATE HOUSING OR ALLOW THE STUDENT TO TERMINATE THE LEASE WITHOUT PENALTY; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ANY CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

RECITALS:

1. The Planning and Zoning Commission has considered and recommended amendments to the regulations regarding Purpose Built Student Housing under the Land Development Code, Subpart B of the City Code (the "Land Development Code"), and the San Marcos SmartCode, Subpart C of the City Code (the "SmartCode").

2. The City Council has considered the recommendations of the Planning and Zoning Commission.

3. All requirements for amending the Land Development Code and SmartCode have been satisfied.

4. The City Council hereby finds and determines that the adoption of amendments to the regulations regarding Purpose Built Student Housing is in the interest of the public health, welfare and safety.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. The Land Development Code is amended as set forth below. Added text is indicated by underlining. Deleted text is indicated by strikethroughs.

SECTION 2. The Land Use Matrix in Section 4.3.1.2 is amended to read as follows:

LEGEND																											
P - The land use is permitted by right in the zoning district indicated.																											
- The land use is prohibited in the zoning district indicated (Blank).																											
C - The land use may be approved as a Conditional Use Permit (CUP) in the zoning district indicated.																											
* Conditional Use Permit receives a recommendation by Planning and Zoning Commission and finally approval <u>decided</u> by City Council.																											
Types of Land Uses	FD	AR	SF-R	SF-II	SF-6	SF-4.5	D	DR	TH	PH-ZL	MF-12	MF-18	MF-24	MR	MH	MU	VMU	P	NC	OP	CC	GC	HC	CBA	LI	HI	
Purpose Built Student Housing											C*	C*	C*			C*	C*										

SECTION 3. Chapter 4, Article 3 is amended by adding a new Section 4.3.4.9 to read as follows:

Section 4.3.4.9 Conditional Use Permits for Purpose Built Student Housing

(a) Approval. The City Council shall hold a public hearing and finally decide all conditional use permit requests for purpose built student housing as a negotiated agreement after review and a recommendation has been made by the Planning and Zoning Commission. A conditional use permit request for purpose built student housing shall not become effective except by the favorable vote of three-fourths of all members of the City Council when the Planning and Zoning Commission recommends denial of the request.

(b) Late Delivery Lease Provision. Conditions for a conditional use permit for purpose built student housing shall include the following:

- (1) Any residential dwelling lease that is executed and effective before the issuance of a certificate of occupancy by the City enabling the tenant to occupy the premises shall include a late delivery provision providing as follows:

“In the event the Leased Premises are unavailable for occupancy on or before the commencement date of this Lease, Landlord shall offer Tenant the choice of: 1) accepting temporary safe, decent, and sanitary housing, provided by Landlord, at an alternate location within the City of San Marcos, or within a seven mile radius of the Leased Premises, with Tenant remaining bound by the terms of the Lease; or 2) terminating the Lease with no financial penalty and with full reimbursement to Tenant of all deposits and pre-paid items within 10 days.”

- a. Before execution of any such lease, the owner or operator of the purpose built student housing allowed by a conditional use permit shall, first, provide a copy of its form lease to the City for review and written approval consistent with this subsection.
- b. In the event of a late delivery, the owner or operator of the purpose built student housing allowed by a conditional use permit shall, first, provide a copy of any correspondence communicating information about the late delivery and/or the student's options for temporary housing to the City for review and written approval.

SECTION 4. Section 1.5.4 of the SmartCode is amended to add new subsection (a) to read as follows.

1.5.4. The City Council shall hold a public hearing and finally decide all Warrant requests as a negotiated agreement for purpose built student housing after review and a recommendation has been made by the P&Z. A Warrant request for purpose built student housing shall not become effective except by the favorable vote of three-fourths of all members of the City Council when the P&Z recommends denial of the request.

- a. Conditions for a Warrant for purpose built student housing shall include the following:
 - i. Any residential dwelling lease that is executed and effective before the issuance of a certificate of occupancy by the City enabling the tenant to occupy the premises shall include a late delivery provision providing as follows:

“In the event the Leased Premises are unavailable for occupancy on or before the commencement date of this Lease, Landlord shall offer Tenant the choice of: 1) accepting temporary safe, decent and sanitary housing, provided by Landlord, at an alternate location within the City of San Marcos or within a seven mile radius of the Leased Premises, with Tenant remaining bound by the terms of the Lease; or 2) terminating the Lease with no financial penalty and with full reimbursement to Tenant of all deposits and pre-paid items within 10 days.”
 - ii. Before execution of any such lease, the owner or operator of the purpose built student housing allowed by a Warrant shall, first, provide a copy of its form lease to the City for review

and written approval consistent with this paragraph.

- iii. In the event of a late delivery, the owner or operator of the purpose built student housing allowed by a Warrant shall, first, provide a copy of any correspondence communicating information about the late delivery and/or the student's options for temporary housing to the City for review and written approval.

SECTION 5. In codifying the changes authorized by this ordinance, paragraphs, sections and subsections may be renumbered and reformatted as appropriate consistent with the numbering and formatting of the San Marcos City Code.

SECTION 6. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 7. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 8. This ordinance will take effect after its passage, approval and adoption on second reading.

PASSED AND APPROVED on first reading on October 17, 2017.

PASSED, APPROVED AND ADOPTED on second reading on November 8, 2017.

John Thomaides
Mayor

Attest:

Approved:

Jamie Lee Case
City Clerk

Michael J. Cosentino
City Attorney