

## ORDINANCE NO. 922

AN ORDINANCE OF THE CITY OF SAN  
CLEMENTE, CALIFORNIA, TO MANAGE GROWTH  
OF THE CITY OF SAN CLEMENTE

BE IT ORDAINED by the people of the City of San Clemente as follows:

## Sections:

1. Findings
2. Applicability of the Development Control System
3. Establishment of Residential Development Evaluation Board
4. Establishment of Annual Residential Development Allotments Designated
5. Development Allotment Application
6. Development Allocation Evaluation
7. Development Allotment Awards
8. Additional Regulations
9. Judicial Review
10. Modification
11. Effective Date
12. Severability

Section 1. Findings.

The people of the City of San Clemente find and declare as follows:

A. The city has adopted a general plan and city ordinances relating to the regulation of the residential development.

B. The city is experiencing a period of intense residential development which is adversely affecting the capacity of the streets and local freeway system to meet traffic demands, the capacity of parking facilities in business, beach and other areas, the capacity of area schools to absorb children, the village by the sea character of the community, the quality of life prevalent in the city, its sphere of influence and the surrounding region, and the cost to households of some utilities and municipal services.

C. It is the intent of the people of the city to achieve a steady, rather than a fluctuating, overly rapid, rate of residential growth each year in order that the services provided by city, school, park, utility and/or service agencies operating in the city and surrounding region can be properly and effectively staged in a manner which will not overextend existing facilities, and in order that deficient services may be brought up to required and necessary standards while minimizing, by means of long range planning, the avoidable costs of short-sighted facility expansion.

D. It is the intent of the people of the City to establish control over the quality, distribution and rate of growth of the City in the interest of:

- (1) Preserving the character of the community;
- (2) Protecting the open space of the city;
- (3) Protecting the quality of life in the city;
- (4) Ensuring the adequacy of city facilities, school facilities, recreation and park facilities, and services;

- (5) Ensuring a balance of housing types and values in the city which will accommodate a variety of families including families of moderate income and older families on limited and/or fixed incomes;
- (6) Ensuring the balanced development of the city;
- (7) Preventing further significant deterioration in local air quality;
- (8) Ensuring that the traffic demands do not exceed the capacity of streets that are in character with the city's semirural nature;
- (9) Ensuring that the city does not grow in a pattern that places a severe strain on the local freeway system;
- (10) Ensuring the adequacy of fire protection; and
- (11) Ensuring adequate water and sanitary sewer systems.

E. It is the purpose of this ordinance to augment the policies of the city as recorded in the general plan and other city ordinances relating to the regulation of residential development.

F. In order to accomplish this purpose, the city must be able to control the rate, distribution, quality and economic level of proposed development on a year-to-year basis. To this end, the residential development control system for the city codified in this ordinance shall be in effect from and after the effective date of the ordinance until December 31, 2006.

G. It is further the intent of the people of the city that the award of development allotments pursuant to this ordinance be accomplished, in accordance with the criteria set forth herein, fairly, impartially and without discrimination against any particular parcel of land or development project.

H. It is the further intent of the people of the city that this ordinance not affect the zoning or other land use approvals for a particular parcel of land or development project, but shall be a regulation of the time, or rate, of development.

Section 2. Applicability of the Development Control System. The system set out in this ordinance shall apply from the effective date of the ordinance to all residential development, in the city, including mobile homes, with the exception of the following:

- A. Projects of not more than four residential dwellings, limited to only one such project per developer per calendar year;
- B. Fourplexes or lesser-numbered multiple dwellings on a single existing lot;
- C. Single family residential units on a single existing lot;
- D. Rehabilitation or remodeling of an existing dwelling, or conversion of apartments to condominiums, so long as no additional dwelling units are created;
- E. Projects of single family dwellings wherein no residential lot is less than two and one-half (2-1/2) acres in size; and

F. Construction of model home complexes when a development allotment has been approved for the project and units within the model home complex will not be occupied, transferred or sold for individual occupancy until a development allocation has been received for such units, or, the units qualify under an exception provision pursuant to this section at the time occupancy is requested. The developer shall sign an agreement to the recorded providing for these limitations prior to the issuance of a building permit.

Section 3. Establishment of Residential Development Evaluation Board.

A. In order to administer the system set forth in this ordinance, and especially to make the valuations set forth in Section 6, a residential development evaluation board (hereinafter called the Board) is established, consisting of the duly appointed members of the planning commission of the city.

B. The procedures and bylaws of the Board shall be developed by the Board, subject to the approval of the city council, and the provisions of this ordinance. The planning department of the city shall serve as the staff of the Board.

Section 4. Establishment of Annual Residential Development Allotments Designated.

A. The number of dwelling units hereinafter to be constructed each year in the city (except for dwelling units exempted in accordance with the provisions of Section 2), is a maximum of five hundred (500).

B. The annual allotment may be modified by the city council to an amount not greater than ten percent more or less for any given year, provided that the annual allotment for the next succeeding year shall be set higher or lower, as the case may be, in order to redress any excess or deficiency. (This ten percent rule shall apply in all instances except that expressly provided for in Section 7(A).

C. The annual allotment shall be continuously applicable to the city's jurisdictional boundaries and shall not be modified by reason of annexation or additional territory.

Section 5. Development Allotment Application. No building permit of non-exempt projects may be issued unless a development allotment for such project has been granted. At any time prior to obtaining a building permit, the developer of proposed projects not exempted from application for development allotment pursuant to the provision of Section 2 shall apply for a development allotment as set forth herein.

Section 6. Development Allocation Evaluation. The Board shall consider annually all applications properly submitted and shall make recommendations to the city council based on the criteria set forth below:

A. Availability of Public Facilities and Services. The Board shall examine each application for its relation to or impact upon local public facilities and services, and shall rate each development by the assignment of from zero to ten points (zero indicating very poor, ten indicating excellent) on each of the following attributes:

- (1) The capacity of the water system to provide for the needs of the proposed development without system extensions beyond those normally installed by the developer;
- (2) The capacity of the sanitary sewers to dispose of the wastes of the proposed development without system extensions beyond those normally installed by the developer;
- (3) The capacity of the drainage facilities to adequately dispose of the surface runoff of the proposed development without system extensions beyond those normally installed by the developer;
- (4) The ability of the fire department to provide fire protection according to the established response standards of the city without the necessity of establishing a new station or requiring addition of major equipment or housing facilities to an existing station;
- (5) The capacity of the appropriate school to absorb the children expected to inhabit a proposed development without necessitating or adding to double sessions or other unusual scheduling or classroom overcrowding;
- (6) The capacity of major street linkage to provide for the needs of the proposed development without substantially altering existing traffic patterns or overloading the existing street system, and the capacity of Interstate 5 within the city limits to provide for the needs of the proposed development without substantially altering the freeway level of service;
- (7) The availability of public facilities (such as parks, playgrounds, etc.) to meet the demands for vital public services without extension of services beyond those provided by the developer.

B. Quality of Design and Contribution of Public Welfare and Amenity.

The Board shall further examine each application and shall rate each development by the assignment of from zero to ten points (zero indicating very poor, ten indicating excellent) on each of the following attributes:

- (1) Site and architectural design quality which may be indicated by the harmony of the proposed buildings in terms of size, height, color and location with existing neighboring development;
- (2) The amount and character of open space and slope landscaping;
- (3) Site and architectural design quality which may be indicated by the arrangement of the site for efficiency of circulation, on and off site traffic safety, privacy, etc;
- (4) The provision of public and/or private usable open space;
- (5) Contributions to and extensions of existing systems of foot or bicycle paths, equestrian trails and facilities and/or greenbelts;
- (6) The provision of needed public facilities such as critical linkages in the major street system, school rooms, functional parks, or other vital public facilities;

- (7) Site and architectural design quality which may be indicated by the amount and character of modification of the topography, including quantity of grading, extent of natural slopes cut and/or filled and impact on ridgeline;
- (8) Absence of deleterious impact on trees and archeological sites;
- (9) The provision of significant water conservation features;
- (10) The provision of energy generation and conservation features, such as additional insulation, house siting and design, solar techniques and other innovation techniques;
- (11) Absence of deleterious impact on the physical and/or aesthetical environment;
- (12) Those specific units which are formally dedicated for occupancy by low-income persons or senior citizens within a project which is funded or subsidized as a low-income or senior citizen project pursuant to the provisions of applicable federal, state or local laws or programs, shall be entitled to ten additional bonus points. For the purposes of this ordinance, a project is funded or subsidized pursuant to applicable federal, state or local laws or programs if it receives a loan, grant or continuing financial subsidy for the purpose of developing low-income or senior citizen housing units. If the project does not include low-cost housing, this criteria shall not be subtracted or figured into the total percentage points;
- (13) Absence of deleterious impact on agricultural preserves;
- (14) Absence of deleterious impact on historical or cultural landmarks.

C. After having studied each application in accordance with subsections A and B of this section, in regard to each of these criteria, or so many of them as may be applicable and having assigned evaluation points on a scale of zero to ten in accordance with their finding, the Board shall prepare two lists, one documenting points awarded from subsection A and the other from subsection B of this section, arranging the developments in each list in order from that receiving the greatest total number of evaluation points to that receiving the lowest number. In addition to listing the number of actual points awarded in each subcategory of both parts, each part will be totaled and the total shall then be expressed as a percentage of the maximum number of points awardable. The maximum number of points awardable shall not include those elements of the criteria found not to be applicable.

D. Having evaluated each development in accordance with the criteria set out in this section, the Board shall publish in appropriate ways the rating given to each development on each of those criteria. The Board shall then schedule a public hearing to be held within fifteen to thirty days of classification of the point assignments made by the Board.

- (1) The applicant or any interested party may request the Board, at public hearing, to reevaluate the point assignment made on any or all of the criterion. The primary criteria for the Board to alter

its point assignment on a particular development is demonstration by the applicant or interested party that there exists pertinent information or a project redesign which the Board was not aware of at the time of the original evaluation.

- (2) Any applicant or interested party who is dissatisfied with the Board's action may, within seven days of the action, submit written notification of such dissent to the city clerk, which will be furnished to the city council prior to the awarding of development allotments.

E. Having evaluated each application, the Board shall present their lists of evaluations and recommendations to the city council for the awarding of development allotments.

Section 7. Development Allotment Awards.

A. The city council shall consider, at a public hearing, the recommendations and rankings of the proposed developments on each of the two lists contemplated in Section 6, shall compile one list ranking each of the proposed developments, and shall award from that list development allotments.

- (1) Development Program Allotment. The number of dwelling units for which development allotments shall be issued shall not exceed the allotments established in accordance with Section 4.
- (2) Allocation Limitation. No single developer shall, in any one year, be issued a development allotment for dwelling units in excess of a number to be established by resolution of the city council.
- (3) Minimum Point Requirements. The city council shall eliminate from consideration any development which has not been assigned a minimum of forty-nine percentage points under Section 6(A) or a minimum of seventy percentage points under Section 6(B). If in a given year the highest-ranking development does not at least meet both the minimum point requirements, the city council shall make no development allotment for that year. The number of units will then be added, as the only allowed exception to the ten-percent rule in Section 4(B), to the allotment for the ensuing year.

B. The city council will make the annual development allotments at a time to be selected by the city council, but in no event later than thirty days following submission of the lists and recommendations of the Board as provided in Section 6(E).

C. Should an applicant fail to initiate construction within twentyfour months after award of the development allotment, or upon expiration of development project approval, the city council may rescind all or part of the development allotment and reassign the allotment to an on-going project that received an allocation for the same year.

Section 8. Additional Regulations.

Should the arrangement of projects as provided in section 7(A) produce the situation in which two projects have equal evaluation point scores, but only one project can be permitted within the quota, the city council may offer those applicants a pro rata share of the number of units available within the quota, or may dispose of such a tie in any other manner deemed equitable by the city council.

Section 9. Judicial Review.

Any legal action to challenge any decision of the Board, city council or any other governmental body performing a function under this ordinance shall be filed in a court of competent jurisdiction within thirty days immediately following the action challenged.

Section 10. Modification.

The city council may, after a public hearing, by a four-fifths vote, amend any part of this ordinance, providing the amendment is consistent with the intent of this ordinance. Notwithstanding any other provision of this ordinance, no amendment to the type of exemptions provided in Section 2 or to the number of available annual allotments provided in Section 4 shall be effective without prior ratification of a majority of the voters of the city at a general or special election.

Section 11. Effective Date.

This ordinance shall become effective thirty (30) days following the date of the election at which this ordinance was approved by the voters. The Board shall be established and commence its duties under Section 6 of this ordinance within sixty (60) days of the effective date of this ordinance.

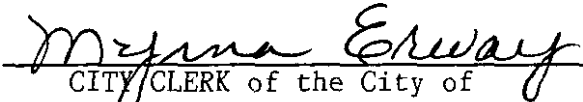
Section 12. Severability.

In the event any portion of this ordinance is found or declared by a court of competent jurisdiction to be invalid or unenforceable, said finding or declaration shall not affect the remaining portions of this ordinance, which shall remain in full force and effect.

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS.  
CITY OF SAN CLEMENTE )


I, MYRNA ERWAY, Clerk of the City of San Clemente, California, hereby certify that the foregoing Ordinance was submitted as an initiative measure at the special municipal election held in the City of San Clemente on February 25, 1986, and was duly passed by a majority vote of the electorate. The city council declared the results of the vote on said measure on March 4, 1986 by Resolution No. 86-24, and pursuant to the provisions of Elections Code Section 4013 and Section 11 of said Ordinance, the Ordinance shall become effective the 27th day of March, 1986.

Dated this 4th day of March, 1986.

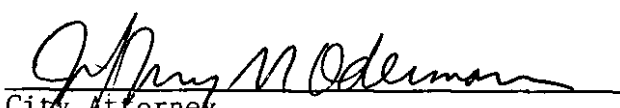
  
CITY CLERK of the City of  
San Clemente, California

AYES: Council Members - CARR, DIEHL, KOESTER, MECHAM, AND LIMBERG  
NOES: Council Members - NONE  
ABSENT: Council Members - NONE

  
MAYOR of the city of  
San Clemente, California

  
CITY CLERK of the City of  
San Clemente, California

Approved as to form:

  
City Attorney