



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: March 4, 2010 **REPORT NO. PC-10-009**

ATTENTION: Planning Commission, Agenda of March 11, 2010

SUBJECT: VOLUNTARY ACCESSIBILITY PROGRAM: AMENDMENTS TO LAND DEVELOPMENT CODE AND LOCAL COASTAL PROGRAM (PROCESS 5)

APPLICANT: City of San Diego, Development Services Department

SUMMARY

Issue(s): Should the Planning Commission recommend approval to the City Council of proposed Voluntary Accessibility Program Amendments to the Land Development Code and Local Coastal Program including a new incentive program to encourage residential development that incorporates accessible design features?

Staff Recommendation:

1. Recommend that the City Council **Certify** Supplement to Environmental Impact Report No. 96-0333.
2. Recommend that the City Council **Approve** Voluntary Accessibility Program Amendments to the Land Development Code and Local Coastal Program including a new incentive program to encourage residential development that incorporates accessible design features.

Code Monitoring Team (CMT) Recommendation: On May 13, 2009, the Code Monitoring Team voted 7-0 to recommend approval of the Voluntary Accessibility Program Amendments with suggested edits related to the proposed incentives and Tier II visitable unit design that have since been incorporated into the proposed amendments.

Community Planners Committee (CPC) Recommendation: On September 22, 2009, the Community Planners Committee took an overall vote to support the proposed Voluntary Accessibility Program, which passed by a vote of 20 in favor, 2 abstained.

CPC voted on three additional motions to address various components within the proposed amendment package: Motion #1 to require projects to include a minimum number of units (5 percent Tier I and 25 percent Tier II) passed by a vote of 19 in favor, 1 opposed, 2 abstained. Motion #2 to eliminate compact spaces as a development incentive passed by a vote of 12 in favor, 9 opposed, 1 abstained. Motion #3 to eliminate the accessible entrance requirement (maximum three quarter inch transition) in floodplain areas failed by a vote of 5 in favor, 15 opposed, 2 abstained. The revised draft reflects CPC input as further described in the Discussion section of this report.

Technical Advisory Committee (TAC) Recommendation: The Voluntary Accessibility Program was created in concept by the TAC Accessibility Subcommittee. On December 9, 2009, the Technical Advisory Committee voted 7-0-1 to recommend approval of the Voluntary Accessibility Program Amendments with three minor clarifications (related to Tier II visitable unit design for accessible entrances and doors) that have since been incorporated into the draft.

Environmental Review: It has been determined that the proposed Voluntary Accessibility Program and the development that may result from the proposed code amendments may result in significant effects not discussed in the previous Environmental Impact Report (EIR) No. 96-0333 previously prepared and certified by the City of San Diego for revisions to the Land Development Code. Therefore, in accordance with Sections 15162 and 15163 of the State CEQA Guidelines, a Supplement to EIR No. 96-0333 has been prepared covering this activity.

Fiscal Impact Statement: The processing of amendments to the Land Development Code is funded as an overhead expense of the Development Services Department (DSD) budget enterprise fund.

Code Enforcement Impact: There is no anticipated impact to code enforcement.

BACKGROUND

The Voluntary Accessibility Program is a proposed incentive program to encourage the incorporation of accessible design features in new residential development projects in order to address the City's shortage of housing for persons with disabilities. Most dwelling units in the City were developed prior to state building code requirements that require accessible design pursuant to California Building Code Chapter 11A. Additionally, the CBC accessible design requirements, which only apply to certain types of multi dwelling unit projects, have been unable to meet the demand for accessible housing. The proposed Voluntary Accessibility Program will promote the development of additional accessible housing to help meet the immediate and future needs of the City's aging population in accordance with General Plan policies to promote balanced communities.

In accordance with the Federal Fair Housing Act and California Fair Employment and Housing Act, the City considers and makes reasonable accommodations as requested to afford persons

with disabilities the equal opportunity to use and enjoy a dwelling. The reasonable accommodation provisions in Land Development Code Chapter 13 have been a useful tool for retrofitting existing dwelling units to meet the needs of persons with disabilities, particularly units occupied prior to March 13, 1991, that are exempt from Fair Housing Act and California Building Code requirements. These reasonable accommodations (which are required by law), however, are still falling short of the demand for accessible housing.

The State of California also passed legislation (Assembly Bill 1400) that became effective in January 2006, which requires residential builders offer a “checklist” of universal design options to consumers for purchase in individual units. This type of requirement has been helpful in addressing the needs of home buyers at the time of construction, but is not effective at addressing accessibility needs post-construction or at addressing accessibility needs in older housing stock. The City recognizes that additional efforts are necessary to promote incorporation of accessibility features in a greater number of units through a more proactive approach.

According to the 2000 United States Census, the majority of persons with disabilities are within the 21-64 year old age group; however, the existing housing supply is predominately restricted for seniors. As a result, families and individuals with disabilities have a difficult time locating suitable housing that meets their needs for accessibility. Additionally, the San Diego Regional Association of Governments (SANDAG) 2050 planning forecast for the San Diego region projects a large increase in the local senior population, which will further increase the demand for accessible housing.

The Voluntary Accessibility Program was developed in concept by the Technical Advisory Committee (TAC) Accessibility Subcommittee through a multi year collaborative process that primarily involved the participation of accessibility advocates and representatives from the development industry to establish minimum design standards and consider appropriate incentives to make the program feasible. The goal of the Voluntary Accessibility Program is to increase the number of accessible housing units in the local housing supply by offering a variety of development incentives to facilitate this type of accessible design.

The proposed incentive program approach has been well received as evidenced by support from the Code Monitoring Team, Technical Advisory Committee, Community Planners Committee, and the majority of public comments that were submitted in response to a widely distributed email-blast of the draft amendments. There appears to be common agreement as to the need for additional accessible housing because everyone can benefit from accessible design. In addition to accommodating individuals with permanent disabilities, accessible design accommodates small children, individuals recovering from a surgery or an accident, aging individuals, and those with family members or friends with a disability. Where concerns have been expressed, they have generally been constructively focused on what types of incentives should be offered to generate accessible units that would not otherwise be created. The proposal is a sustainable and inclusive approach to encourage the integration of basic accessibility features in new residential development, with resulting benefits for the City as a whole.

DISCUSSION

The proposed Voluntary Accessibility Program is expected to generate a variety of accessible dwelling unit types 1) to allow occupants to “age in place” (Tier I units) and thereby reduce the potential for occupants to be displaced from their homes because of a disability, and 2) to increase opportunities for inclusion of individuals that are currently unintentionally excluded from certain residential development because of physical design barriers. All units that would be created through the proposed incentive program will meet basic accessible design requirements to allow family members and friends greater opportunities to visit these units regardless of a temporary, developing or permanent disability. (See Attachment 1 for draft code language.)

Tier I Accessible Living Units

Tier I accessible living units would be required to comply with the California Building Code (CBC) Chapter 11A requirements for accessibility, with an additional requirement for multi-story units to provide a kitchen on the primary entry level. These dwelling units would be adaptable to meet the accessibility needs of individual occupants thereby enabling those occupants to remain living in their homes during periods of temporary, developing, or permanent disabilities or frailties; as opposed to the current situation where many homeowners and renters are displaced because their homes were not developed to be adaptable.

Multi-dwelling unit projects would be required to provide accessible parking in accordance with CBC requirements. Tier I single dwelling units and duplexes would only be required to provide a relatively flat, 14 by 18 foot space for accessible off-street loading in an effort to provide accessible off-street parking that would be compatible with typical low density residential parking design. Simplification of the parking requirement for single dwelling units and duplexes helped to eliminate previously contentious provisions and unintended consequences, while still meeting the intent to provide off-street accessibility. A previous draft would have required parking spaces to provide an additional 5 feet in width for loading that would have resulted in non-standard garage dimensions. It would also have allowed one of the required parking spaces to provide a compact parking space width in an effort to maintain compatibility with surrounding development. Instead, the revised proposal would consider a Tier I single dwelling unit to meet the requirement for accessible parking where a 14 foot wide by 18 foot deep area is provided on the premises for loading and unloading as long as an accessible route of travel from the loading space to the dwelling unit’s accessible entrance is provided.

Tier II Visitable Units

Tier II visitable units would be required to comply with a modified set of accessible design standards to facilitate access to, and access within, the primary entry level of a dwelling unit. Tier II unit design will provide opportunities for persons with temporary, developing or permanent disabilities to visit these units. Tier II units would be required to provide an accessible exterior route of travel to the accessible unit entrance, and to provide an accessible interior route of travel to accessible rooms on the primary entry level. This entry level would include at a minimum a kitchen, a half bathroom, and at least one common use room such as a living room or dining room.

Proposed Incentive Program

Eligibility for the proposed incentive program would be limited to residential development projects that are exempt or partially exempt from the California Building Code (CBC) Chapter 11A accessibility requirements, such as single dwelling units or duplexes. As proposed, any dwelling unit that is voluntarily designed to be accessible would be eligible for an incentive to help facilitate accessible design. The number of development incentives available to a project would specifically relate to the number of units voluntarily designed for accessibility, and the level of accessibility that would be achieved through the design (Tier I versus Tier II).

The proposal was previously revised to reduce the number of overall incentives per project in response to issues raised by the Community Planners Committee and other stakeholders. In consideration of the benefit that each additional accessible unit would provide, staff does not recommend limiting incentives to a minimum number of accessible units per eligible project. (CPC recommended that the City require each project to include at least 5 percent Tier I units and 25 percent Tier II units). Instead, the staff proposal would reward each voluntary accessible unit with incentives as follows:

- Each Tier I accessible living unit would be eligible for a floor area ratio (FAR) bonus and a choice of 1 development incentive to facilitate compliance with CBC accessibility requirements.
- Each Tier II visitable unit would be eligible for a choice of FAR bonus or development incentive to facilitate compliance with the Tier II modified set of accessible design standards.
- Projects providing at least 50 percent of the eligible units with accessible design would be eligible for expedite processing subject to Council Policy.
- Projects providing 100 percent Tier I accessible living units would be eligible for the individual Tier I unit incentives and expedite processing described above. A 5 percent density bonus and additional development incentive would also be awarded to projects that result in at least 10 Tier I units.

Accessible design typically requires wider hallways and doorways, larger room spaces, and maximum slopes along connecting interior and exterior routes of travel. An increase in floor area ratio would be the most direct means to meet the increased space demands necessary for accessible design; however, by offering a choice from a variety of development incentives to address the unique characteristics of each project site, the program can better meet the goal to increase the number of accessible units.

Appropriate incentives were identified to include a floor area ratio bonus (up to 5 percent), reduction of setback requirements (up to 10 percent), increase in lot coverage (up to 10 percent), increase in height (up to 10 percent to accommodate an elevator or special access lift system only- height incentive not applicable to coastal height limit), reduction in landscape area for accessible route of travel, and parking related incentives such as counting tandem parking as two spaces, parking in the portion of the driveway within a designated setback, reducing motorcycle facilities (up to 50 percent maximum), reducing parking aisle width to 22 feet, or reducing private driveway width (limited to requirements for narrow lots in existing Section 142.0560).

The proposed development incentives are each limited in scope in order to minimize impacts on surrounding development. Similar to the City's density bonus regulations, an eligible project's incorporation of the development incentives into project design would not change the permit review process for a project. Projects that would otherwise be subject to ministerial processing would continue to be processed ministerially. New dwelling units in the coastal zone would continue to require discretionary permit approval and would be subject to existing Local Coastal Program policies that protect designated public view corridors and public access ways from encroachment. The proposal also would not allow for a reduction in the overall number or size of parking spaces (except for motorcycle spaces), and would limit parking incentives to Tier I accessible living units since Tier II visitable units are not required to provide accessible parking. Development incentives would be limited to eligible units and may not be redistributed across the project as a whole.

Environmental Review

The original Land Development Code Environmental Impact Report (EIR) No. 96-0333 anticipated that adoption of the Land Development Code could result in future development that could incrementally increase the potential for cumulatively significant traffic impacts and result in a reduction in parking spaces that impacts surrounding development in the Transit Area Overlay Zone, or to areas surrounding very low income housing projects. The original Land Development Code Environmental Impact Report (EIR) No. 96-0333 did not identify impacts to visual quality. Staff prepared a Supplement to the Land Development Code EIR to address the potential for significant impacts in the areas of traffic, parking, and visual quality as a result of the proposed Voluntary Accessibility Program amendments. While it was concluded that future Voluntary Accessibility Program projects would have the potential for significant, unmitigated impacts to visual quality, traffic, and parking; the impacts are expected to be minimal since each development incentive would be limited in scope. As described above, the proposed incentives were drafted in consideration of the type of accommodations that would be necessary to facilitate accessible design and were limited accordingly within the draft ordinance to minimize impacts.

Existing Municipal Code Section 128.0312 states that:

Before approving a project for which the final EIR identifies one or more significant effects, the decision maker shall adopt the required findings in accordance with the State CEQA Guidelines, Section 15091. When the decision to approve the project allows the occurrence of significant effects that are identified in the final EIR but are not at least substantially mitigated, the decision maker shall make a statement of overriding considerations stating the specific reasons to support the decision based on the final EIR and other information in the record in accordance with the State CEQA Guidelines, Section 15093.

The candidate findings and statement of overriding considerations for the proposed Voluntary Accessibility Program are available for review (Attachment 2). Staff believes that the overriding benefits of the proposed incentive program to encourage accessible housing would outweigh the aforementioned significant, unmitigable effects on the environment.

CONCLUSION

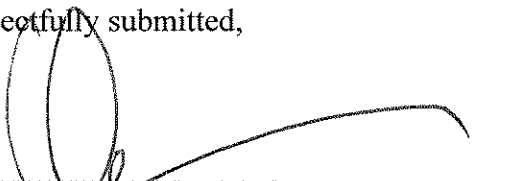
Staff recommends that the Planning Commission recommend approval to the City Council of the proposed Voluntary Accessibility Program Amendments to the Land Development Code and Local Coastal Program.

ALTERNATIVES

The Planning Commission may recommend modification or denial of the proposal as follows:

- The Planning Commission may recommend that the City Council approve the Voluntary Accessibility Program with modifications to the incentive program eligibility or modifications to specific development incentives.
- The Planning Commission may recommend that the City Council deny the Voluntary Accessibility Program Amendments to the Land Development Code and Local Coastal Program. However, this would not meet the City's goals to address the shortage of accessible housing in the local housing supply.
- The Planning Commission may recommend an alternative approach to address the City's shortage of housing for persons with disabilities. For example, instead of a voluntary program, the Commission may recommend a new requirement for residential development to incorporate a certain percentage of accessible units similar to what was adopted by the City of Murrieta in 2006. The City of Murrieta (universal design ordinance) requires new residential development incorporate accessible design features and authorizes the Building Official to grant waivers for circumstances of undue hardship. (Attachment 3) However, stakeholders including the Building Industry Association have expressed concerns over this type of approach within the City of San Diego, especially in consideration of the current economy where new residential development has dramatically slowed.

Respectfully submitted,



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- Attachments: 1. Draft Voluntary Accessibility Program Code Amendment Language
2. Draft Candidate Findings and Statement of Overriding Considerations
3. City of Murrieta Universal Design Ordinance

Chapter 14: General Regulations
Article 5: Building Regulations
Division 40: Voluntary Accessibility Program

§145.4001 Purpose

The purpose of the Voluntary Accessibility Program is to encourage residential development that incorporates accessible design features including accessible routes of travel, accessible entrances, and accessible common use rooms to meet the needs of as many users as possible. The intent is to increase opportunities for persons with temporary, developing, or permanent disabilities to visit neighboring dwelling units, and to increase the number of accessible dwelling units in the local housing supply that meet long term housing needs by offering development incentives that facilitate this type of accessible design.

§145.4002 When Voluntary Accessibility Program Applies

- (a) Proposed residential development is eligible for this voluntary program as follows:
- (1) Projects that are exempt from the accessibility requirements of the California Building Code (Chapter 11A),
 - (2) Projects where only a portion of the residential development is subject to the accessibility requirements of the California Building Code (Chapter 11A), or
 - (3) Projects where the required accessibility in accordance with the California Building Code (Chapter 11A) would be less accessible than would be achieved through the Voluntary Accessibility Program.
- (b) In consideration of the benefit to the community, projects with dwelling units that are voluntarily designed to be accessible may be granted development incentives in accordance with Section 145.4003.
- (c) The Voluntary Accessibility Program does not apply to dwelling units requesting reasonable accommodations in accordance with Section 131.0466.

§145.4003 Voluntary Accessibility Program Regulations and Development Incentives

- (a) Development incentives specifically granted under the Voluntary Accessibility Program in accordance with Section 145.4003(c) and (d) shall not require processing of a deviation from the underlying base zone.

- (b) The decision process for a *development* requesting an incentive shall be the same decision process that would be required if the incentive were not a part of the *development* proposal.
- (c) The incentives available to a project shall be determined by the number and type of *dwelling units* that would be voluntarily designed for accessibility.
 - (1) Each *dwelling unit* voluntarily designed in accordance with Section 145.4004 (Tier I- Accessible Living Unit) shall be eligible for:
 - (A) A *floor area ratio* bonus up to a maximum of 5 percent, and
 - (B) A choice of one development incentive from Section 145.4003(d).
 - (2) Each *dwelling unit* voluntarily designed in accordance with Section 145.4005 (Tier II- Visitable Unit) shall be eligible for either a *floor area ratio* bonus up to a maximum of 5 percent or a choice of one development incentive from Section 145.4003(d).
 - (3) Projects with at least 50 percent of the eligible *dwelling units* voluntarily designed in accordance with either Section 145.4004 (Tier I- Accessible Living Unit) or Section 145.4005 (Tier II- Visitable Unit) shall be eligible for:
 - (A) Incentives for each Tier I- Accessible Living Unit in accordance with 145.4003(c)(1).
 - (B) An incentive for each Tier II-Visitable Unit in accordance with 145.4003(c)(2), and
 - (C) Expedite Processing subject to Council Policy.
 - (4) Projects with 100 percent of the eligible *dwelling units* voluntarily designed in accordance with Section 145.4004 (Tier I- Accessible Living Unit) shall be eligible for:
 - (A) Incentives for each Tier I- Accessible Living Unit in accordance with 145.4003(c)(1).
 - (B) Expedite Processing subject to Council Policy, and

- (C) A density bonus up to 5 percent based on the pre-bonus number of dwelling units in the project voluntarily designed in accordance with Section 145.4004 (Tier I- Accessible Living Unit).
- (D) Projects providing a minimum of 10 Tier I- Accessible Living Units shall be eligible for a choice of 1 additional development incentive from Section 145.4003(d).

(d) Development Incentives

Where Section 145.4003 indicates that a project is eligible for one or more development incentives, an applicant may select from the following:

- (1) Modification of the applicable parking regulations in Section 142.0560 may be requested for Tier I- Accessible Living Units as follows:
 - (A) A reduction of the drive aisle width to a minimum of 22 feet if using standard parking space dimensions, or
 - (B) A reduction of the required motorcycle facilities up to 50 percent, or
 - (C) A reduction of the driveway width consistent with the minimum dimensions specified in Table 142-05M, or
 - (D) Encroachment of required off-street parking spaces into the required setback area of a private driveway (where parking spaces would not conflict with a required visibility area), or
 - (E) Calculation of tandem parking spaces (designed in accordance with Section 142.0560) as two spaces to meet the applicable parking requirement.
- (2) The applicable setback regulations may be reduced up to 10 percent for proposed structures where necessary to fulfill the accessible design requirements.
- (3) The applicable lot coverage regulations may be exceeded up to 10 percent where necessary to fulfill the accessible design requirements.
- (4) The applicable maximum structure height regulations may be exceeded by up to 10 percent to accommodate an elevator or

special access (wheelchair) lift system. The maximum *structure height* may not exceed height limits required within the Coastal Height Limit Overlay Zone or conflict with Federal Aviation Regulations Part 77 airspace protection surfaces within designated airport influence areas.

- (5) The applicable landscape requirements may be modified or reduced as necessary to accommodate an accessible route of travel.
- (e) The *floor area ratio* bonus and development incentives applicable to a project in accordance with Section 145.4003(c) are limited to accessible units that are voluntarily designed in accordance with this program and may not be redistributed across the project as a whole.

§145.4004 Tier I- Accessible Living Unit Design Standards

- (a) In order to meet the Tier I Accessible Living Unit Design Standards, *dwelling units* shall comply with the California Building Code requirements for accessibility (Chapter 11A), except as otherwise indicated in Section 145.4004(b), (c), and (d).
- (b) For the purpose of this section, *dwelling units* developed with multiple stories shall provide a *kitchen* on the primary entry level in accordance with the California Building Code requirements for accessibility (Chapter 11A) in addition to other accessible design requirements required in accordance with Section 145.4004(a).
- (c) Accessible entrances designed for Tier I- Accessible Living Units shall be permitted up to a maximum of three quarters of an inch in height differential between the exterior and interior landings.
 - (1) The change in elevation shall be beveled with a slope no greater than 50 percent (1 unit vertical in 2 units horizontal).
 - (2) The threshold shall be no higher than 0.5 inches (12.7 mm).
- (d) Required accessible *off-street parking spaces*
 - (1) *Single dwelling units* and duplexes
 - (A) *Single dwelling units* shall provide *off-street parking spaces* per *dwelling unit* in accordance with Sections 142.0520 and 142.0560.

- (B) Duplexes shall provide off-street parking spaces per dwelling unit in accordance with Sections 142.0525 and 142.0560.
 - (C) In addition to the required parking in Section 145.4004(d)(1)(A) or (B), an accessible off-street loading and unloading area shall be provided as follows:
 - (i) The minimum dimensions shall be 14 feet in width by 18 feet in depth with a maximum slope of one quarter inch per foot in any direction,
 - (ii) The off-street loading area may be located within the private driveway and may encroach into the required setback area, and
 - (iii) The loading area shall be connected to the dwelling unit via an accessible route of travel to an accessible entrance.
- (2) Multiple dwelling unit development with three or more dwelling units shall provide off-street parking spaces in accordance with Sections 145.0525 and 142.0560 including required accessible off-street parking spaces in accordance with California Building Code Section 1109A.

§145.4005 Tier II- Visitable Unit Design Standards

The Tier II Visitable Dwelling Unit Design Standards are intended to create dwelling units that facilitate access to, and access within, the primary entry level of a dwelling unit for persons with temporary, developing, or permanent disabilities. The primary entry level of a Tier II Visitable Dwelling Unit shall include accessible routes of travel, an accessible entrance, and accessible common use spaces (a kitchen, a bathroom or half bathroom, and at least one common use room) designed as follows:

(a) Accessible Exterior Route of Travel

At least one exterior accessible route of travel shall connect an accessible entrance to either the sidewalk or driveway. The exterior route of travel shall be designed as follows:

- (1) A minimum width shall be provided in compliance with California Building Code Section 1113A.1.1.

- (2) A maximum slope less than 1 unit vertical and 12 units horizontal shall be provided with a maximum 2 percent cross slope.
- (3) A level landing area of 5 feet in length shall be provided for every 30 inches of rise in circumstances where the accessible route of travel would have a slope exceeding 5 percent.
- (4) Handrails are not required.

(b) Accessible Entrance to the Primary Entry Level

- (1) At least one accessible entrance to the primary entry level shall be provided that does not exceed three quarters of an inch in height differential between the exterior and interior landings.
 - (A) The change in elevation shall be beveled with a slope no greater than 50 percent (1 unit vertical in 2 units horizontal).
 - (B) The threshold shall be no higher than 0.5 inches (12.7 mm).
- (2) In lieu of Section 145.4005(b)(1), the entrance for up to 50 percent of the eligible units may be designed to be adaptable for accessibility as follows:
 - (A) A maximum of 4 inches in step height shall be provided between the exterior and interior landings.
 - (B) A minimum clear space of 12 inches in length for every 1 inch in step height shall be provided on the exterior side of the door to accommodate a future ramp.
 - (C) The ramp clear space shall not overlap the exterior landing.
 - (D) Interior and exterior landings shall provide a minimum length of 48 inches to the accessible route of travel.
 - (E) The entry door shall provide a minimum net clear opening width of 32 inches.

(c) Accessible Interior Route of Travel

At least one interior accessible route of travel shall be provided in compliance with California Building Code Section 1120.A.1. The interior route of travel shall connect an accessible entrance to the following rooms located on the primary entry level:

- (1) At least one bathroom or half bathroom.
- (2) The *kitchen*, and
- (3) Any common use rooms such as a living room or family room.

(d) One *Kitchen* on the Primary Entry Level

A *kitchen* shall be provided on the primary entry level in accordance with the following:

- (1) The kitchen shall be accessible from the interior accessible route of travel.
- (2) A clear floor space at least 30 inches by 48 inches shall be provided to allow a parallel approach by a person in a wheelchair at a range or cook top, the *kitchen* sink, oven, dishwasher, and refrigerator/freezer.
- (3) In lieu of Section 145.4005, a *kitchen* with a pass through design may provide a 39 inch wide or greater accessible route of travel to a range or cook top, *kitchen* sink, oven, dishwasher and refrigerator/freezer.
- (4) *Kitchen* sink faucet controls shall use lever hardware or other similar hardware.
- (5) A minimum linear length of 30 inches of countertop space shall be provided adjacent to the *kitchen* sink.

(e) Bathroom or Half Bathroom on the Primary Entry Level

At least one accessible bathroom or half bathroom, located along the interior accessible route of travel on the primary entry level, shall be provided in accordance with the following:

- (1) The bathroom entrance shall provide sufficient maneuvering space in accordance with California Building Code Sections 1132A.5 and 1134A.4.
- (2) Structural reinforcements for future grab bar installation shall be provided in the walls adjacent to showers and bathtubs, and in the walls or floor adjacent to toilets, in accordance with California Building Code Chapter 11A.

- (3) A minimum clear space of 30 inches by 48 inches shall be provided for parallel approach at the lavatory. Maneuvering spaces may include any knee-space or toe-space available below bathroom fixtures.
- (4) A minimum clear space of 30 inches by 48 inches shall be provided for forward approach at the toilet.
- (5) When provided, a minimum clear space of 30 inches by 48 inches shall be provided for parallel approach at the shower or bathtub.
- (6) Faucet controls shall use lever hardware.
- (7) Clear spaces at the sink, toilet and shower/bathtub may overlap or coincide to meet the minimum requirements.

(f) Common Use Room(s) on the Primary Entry Level

The accessible primary entry level shall include at least one common use room such as a living room or family room.

(g) Accessible Design and Fixtures on the Primary Entry Level

Accessible rooms located along the interior accessible route of travel and the accessible entrance to the primary entry level shall comply with the following:

(1) Doors

- (A) Doors shall have a minimum net clear opening width of 32 inches.
- (B) Lever hardware, or other similar hardware, centered between 30 inches and 44 inches above the floor is required for all doors, except for pocket doors or sliding doors.
- (C) Maximum effort to operate doors shall not exceed 8.5 pounds (38 N) for exterior doors and 5 pounds (22 N) for interior doors where applied at right angles to hinged doors, and at the center plane of sliding or folding doors. Compensating devices or automatic door operators may be utilized to meet these standards.
- (D) Pocket doors and sliding doors providing access to rooms required along the interior accessible route of travel shall be easily operated by persons with limited dexterity.

(2) Electrical Outlets and Fixtures

- (A) Electrical switches and outlets shall be located no more than 48 inches measured from the top of the outlet box nor less than 15 inches measured from the bottom of the outlet box to the level of the finished floor.

- (B) Electrical outlets providing power to appliances such as ovens, refrigerators, microwave ovens, dishwashers, washing machines, dryers and other similar fixed appliances are exempt.

**CANDIDATE FINDINGS AND
STATEMENT OF OVERRIDING
CONSIDERATIONS REGARDING THE SUPPLEMENT TO ENVIRONMENTAL
IMPACT REPORT FOR THE PROPOSED VOLUNTARY ACCESSIBILITY
PROGRAM CODE AMENDMENTS**

I. INTRODUCTION

The following Findings and Statement of Overriding Considerations are made for the Voluntary Accessibility Program Code Amendments (hereinafter referred to as the "PROJECT"). The environmental effects of the PROJECT are addressed in an EIR (Project No. 2000067 /SCH No. 96081056), dated December 24, 2009, which is incorporated by reference herein. The California Environmental Quality Act (CEQA) (California Public Resources Code §§21000 et. seq. and the State CEQA Guidelines (Title 14, California Code of Regulations, §§15000 et. seq.) require that no public agency shall approve or carry out a project which identifies one or more significant environmental effects of a project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

- (1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects on the environment.
- (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been or can or should be adopted by that other agency.
- (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

(CEQA, §21081(a); Guidelines, §15091(a))

CEQA and the Guidelines further require that, where the decision of the public agency allows the occurrence of significant effects which are identified in the EIR, but are not at least substantially mitigated, the agency shall state in writing the specific reasons to support its action based on the EIR and/or other information in the record. *(Guidelines, §15093(b))*

The following Findings and Statement of Overriding Considerations have been submitted by the project applicant as candidate findings to be made by the decision-making body. The Development Services Department, Environmental Analysis Section, does not recommend that the discretionary body either adopt or reject these findings. They are attached to allow readers of this report an opportunity to review potential reasons for approving the PROJECT despite the significant unmitigated effects identified in the EIR.

II. PROJECT DESCRIPTION AND PURPOSE

The proposed Voluntary Accessibility Program (VAP) regulations would apply to new

residential projects that are exempt or partially exempt from the California Building Code (CBC) Chapter 11A accessibility requirements. The intent is to increase opportunities for persons with temporary, developing, or permanent disabilities to visit neighboring dwelling units, and to increase the number of accessible dwelling units in the local housing supply that meet long-term housing needs by offering development incentives that facilitate this type of accessible design.

Residential development that is eligible for this voluntary project includes the following:

- ♦ Projects that are exempt from the accessibility requirements of the California Building Code (Chapter 11A);
- ♦ Projects where only a portion of the residential development is subject to the accessibility requirements for the California Building Code (Chapter 11A); or
- ♦ Projects where the required accessibility in accordance with the California Building Code (Chapter 11A) would be less accessible than would be achieved through the Voluntary Accessibility Program.

Projects with dwelling units that are voluntarily designed to be accessible may be granted development incentives in accordance with Land Development Code (LDC) Section 145.4003. The Voluntary Accessibility Program does not apply to dwelling units requesting reasonable accommodations in accordance with Section 131.0466.

The primary goals of the PROJECT include:

- Facilitate the development of a variety of accessible dwelling unit types to better meet community needs including accessible single dwelling unit, duplex, and other residential product types that are exempt from California Building Code Chapter 11A accessibility requirements.
- Increase the number of accessible dwelling units in the City of San Diego's local housing supply to provide a greater number of housing opportunities for persons with temporary, developing, and permanent disabilities, consistent with the City's goals for balanced communities.
- Facilitate the development of accessible living units to accommodate the changing needs of occupants over the long term in order to minimize or avoid the need for a family to exclude a family member with a disability, or the need for relocation to a new neighborhood at the onset of a developing or permanent disability.
- Facilitate the development of visitable units to increase opportunities for persons with temporary, developing, or permanent disabilities to visit the homes of their neighbors, family, and friends, with resulting social benefits for the City as a whole.
- Promote accessible design by offering qualifying projects a choice of development incentives that can address a variety of design constraints unique to a particular piece of property to better facilitate the design and development of accessible dwelling units.

III. ISSUES ADDRESSED IN EIR

The EIR contains an environmental analysis of the potential impacts associated with implementing the PROJECT. The major issues that are addressed in this Supplement to Land

Development Code EIR No. 96-0333 were determined to be potentially significant based on review by the City of San Diego. These issues included Visual Quality and Transportation/Circulation.

IV. FINDINGS REGARDING IMPACTS THAT CAN BE MITIGATED TO BELOW A LEVEL OF SIGNIFICANCE (PUBLIC RESOURCES CODE §21081(a)(1))

The City, having reviewed and considered the information contained in the EIR, finds pursuant to Public Resources Code §21081(a)(1) and Guidelines §15091(a)(1) that changes or alterations have been required in, or incorporated into, the PROJECT which would mitigate, avoid, or substantially lessen the following potential significant environmental effects identified in the EIR: Visual Quality (Neighborhood Character/Views/Aesthetics) and Transportation/Circulation (Traffic and Parking).

A. Visual Quality (Direct and Cumulative)

Potential Impacts: The original Land Development Code EIR No. 96-0333 did not identify significant impacts to visual quality. However, the development incentives that would be available to future development projects through the proposed Voluntary Accessibility Program could result in direct and cumulative impacts to Visual Quality (Neighborhood Character/Views/Aesthetics) that would be considered significant and not mitigated. Since each development incentive is limited in scope as to the allowable increase to facilitate accessible design, and the resulting residential development would not substantially exceed the height and bulk of surrounding development, visual quality impacts as a result of the proposed incentive program are expected to be limited in scope.

Facts in Support of Findings:

- All discretionary permit reviews are subject to CEQA, therefore, conflicts with neighborhood character/views/aesthetics could be reduced to below a level of significance for future discretionary projects developed in accordance with the proposed incentive program. This includes all coastal development subject to a Coastal Development Permit in accordance with existing Municipal Code Section 126.0702, and would therefore regulate impacts to designated public views.
- For future ministerial projects developed in accordance with the proposed incentive program, the associated visual quality impacts may not be reduced to below a level of significance because CEQA review would not be required and therefore no mitigation would be required. Under this circumstance, visual impacts may occur for residential development that elects to incorporate additional height, lot coverage, floor area ratio, or setback encroachment.
- The proposed incentive program would apply only to those units that are voluntarily designed to be accessible within a project.

- Each development incentive is limited in scope as to the allowable increase to facilitate accessible design, which typically requires wider hallways and doorways, larger room spaces, and maximum slopes along connecting interior and exterior routes of travel.
- The floor area ratio incentive would be limited to a maximum increase of 5 percent. In proportion to the overall size of the dwelling unit, this represents a minimal increase. The purpose of the floor area ratio incentive is to accommodate the wider doorways and hallways, and the larger room spaces that are necessary for accessible design. Accessible design requires a minimum 32-inch access width for all doors and rooms throughout the primary entry level floor plan designed to be accessible.
- The setback encroachment incentive would be limited to a maximum setback reduction of 10 percent. For development projects within the Coastal Overlay Zone that require a Coastal Development Permit, setback encroachment would not be permitted within a designated view corridor or public access way designated in an adopted Local Coastal Program.
- The lot coverage incentive would be limited to a maximum increase of 10 percent. While most low density residential zones do not require maximum lot coverage, this type of incentive may facilitate accessible design in residential development within older, single dwelling unit neighborhoods. Municipal Code Section 131.0445 requires sloping lots in Residential Estate and Residential-Single Unit (RS-1-1 through RS-1-7) zones to observe maximum lot coverage of 50 percent for lots containing more than 50 percent steep hillsides. Steep hillsides are a type of resource covered by the City's environmentally sensitive lands regulations in Chapter 14. The proposed lot coverage incentive would not exempt a project from any permit requirements or regulations subject to the environmentally sensitive lands regulations. Maximum lot coverage is also limited in Residential-Townhome and some Residential-Multiple Unit zones, however, development in those zones would predominately involve projects subject to California Building Code Chapter 11A that would not be eligible for this program.
- The height incentive would not be applicable within the Coastal Height Limit Overlay Zone which is a geographic area subject to a maximum height of 30 feet pursuant to a local voter initiative. In areas outside of the Coastal Height Limit Overlay Zone including the Clairemont Mesa Height Limit Overlay Zone, the height may be increased by up to a maximum of 10 percent where the additional height increase is necessary for the purpose of accommodating an elevator or special access wheelchair lift system. This type of situation is not expected to be typical since most accessible developments do not include an elevator or lift.
- The incentive to allow a reduction in the required landscape area would be limited as necessary to provide for an accessible route of travel that meets the minimum width and maximum slope design requirements for accessibility. The accessible route of travel is the area that connects the accessible parking or loading area (i.e sidewalk or driveway) to the accessible entrance of the dwelling unit.

- Tier I accessible living units developed pursuant to the Voluntary Accessibility Program would comply with the minimum requirements of the California Building Code Chapter 11A except as modified by proposed Section 145.4004 to require a kitchen on the primary entry level of a multi level dwelling unit, to allow an accessible entrance up to three quarters of an inch in height between exterior landings, and for single dwelling units and duplexes to provide an accessible off-street loading/unloading area in lieu of the required accessible parking design per CBC Section 1109A. Each Tier I accessible living unit would be rewarded with a floor area ratio bonus up to a maximum of 5 percent and a choice of one development incentive from a list in proposed Section 145.4003(d). Projects with 10 or more Tier I accessible living units would be rewarded with a 5 percent density bonus and an additional development incentive for the project as a whole.
- Visitable units developed pursuant to the Voluntary Accessibility Program would be designed to meet a modified set of requirements including at a minimum the provision of physical access to a half bathroom, kitchen, and common living area on the primary entry level of a dwelling unit via an accessible entrance and accessible route of travel to increase opportunities for persons with temporary, developing or permanent disabilities to visit neighboring dwelling units. Each visitable unit would be rewarded with a floor area ratio bonus up to a maximum of 5 percent or a choice of one development incentive from a list in proposed Section 145.4003(d).

B. Traffic (Direct and Cumulative)

Potential Impacts: The original Land Development Code EIR No. 96-0333 anticipated that adoption of the Land Development Code could result in future development that could incrementally increase the potential for cumulatively significant traffic impacts. The development incentives that would be available to future development projects through the proposed Voluntary Accessibility Program could result in direct and cumulative impacts to traffic that would be considered significant and not mitigated. While traffic impacts anticipated with the incentive program could be considered significant, it is expected that the traffic impacts would be limited in scope.

Facts in Support of Findings:

- Accessible dwelling units developed pursuant to this incentive program would occur in areas already designated for residential development and would not result in the introduction of new residential development in areas where it is currently not permitted.
- All discretionary permit reviews are subject to CEQA, therefore, conflicts with traffic could be reduced to below a level of significance for future discretionary projects developed in accordance with the proposed incentive program. This includes all coastal development subject to a Coastal Development Permit in accordance with existing Municipal Code Section 126.0702, and would therefore regulate impacts to designated public access ways.

- For future ministerial projects developed in accordance with the proposed incentive program, the associated traffic impacts may not be reduced to below a level of significance because CEQA review would not be required and therefore no mitigation would be required. Under this circumstance, traffic impacts may occur for eligible residential development projects that incorporate a 5 percent density bonus.
- The density bonus development incentive is limited to 5 percent of the eligible units designed to be voluntarily accessible, which could result in one additional unit for each 10 units of multiple dwelling unit development and one additional unit for each 20 units of single dwelling unit development where calculated in accordance with existing Municipal Code Section 113.0222. However, only projects designed to be 100 percent accessible that also voluntarily provide at least 10 accessible living units in compliance with the Tier I design standards would be eligible for the 5 percent density bonus.
- Tier I accessible living units developed pursuant to the Voluntary Accessibility Program would comply with the minimum requirements of the California Building Code Chapter 11A except as modified by proposed Section 145.4004 to require a kitchen on the primary entry level of a multi level dwelling unit, to allow an accessible entrance up to three quarters of an inch in height between exterior landings, and for single dwelling units and duplexes to provide an accessible off-street loading/unloading area in lieu of the required accessible parking design per CBC Section 1109A. Any increase in the number of this type of unit which provides housing for persons with disabilities would be a benefit to the City as a whole.
- Visitable units (Tier II) developed pursuant to the Voluntary Accessibility Program would not be eligible for a density bonus or parking related development incentives.

C. Parking (Direct and Cumulative)

Potential Impacts: The original Land Development Code EIR No. 96-0333 anticipated that adoption of the Land Development Code which allows for a 10 to 20 percent reduction in parking in transit areas and within very low income housing projects (Municipal Code Section 142.0525) could result in a reduction in parking spaces that impacts surrounding development in those areas. Future development pursuant to the proposed Voluntary Accessibility Program could occur in locations citywide, including locations within the Transit Area Overlay Zone or as part of a development for very low income residential development where projects would be eligible for a reduced parking ratio in accordance with the existing Land Development Code, and therefore could result in direct and cumulative impacts to parking that would be considered significant and not mitigated. Parking impacts as a result of the proposed incentive program are expected to be limited since each development incentive is limited in scope as to the allowable increase to facilitate accessible design and would apply only to those units that are voluntarily designed to be accessible living units in accordance with the Tier I design standards.

The following parking related incentives would not increase parking demand and are not expected to have a significant impact on parking demand in surrounding areas: reduction of

private driveway width (would be limited to the minimum requirements for narrow lots in existing Municipal Code Section 142.0560, Table 142-05M), reduction of drive aisle width (would be limited to minimum of 22 feet and would only apply to multiple dwelling unit projects providing at least 10 Tier I accessible living units), encroachment of required parking in the required setback area of a private driveway (provided no conflicts with visibility areas), and calculation of tandem parking as two spaces to meet the applicable parking requirement.

Facts in Support of Findings:

- The overall parking demand would not be significantly increased as a result of the proposed incentive program.
- All discretionary permit reviews are subject to CEQA, therefore, conflicts with parking could be reduced to below a level of significance for future discretionary projects developed in accordance with the proposed incentive program.
- For future ministerial projects developed in accordance with the proposed incentive program, the associated parking impacts may not be reduced to below a level of significance because CEQA review would not be required and therefore no mitigation would be required. Under this circumstance, parking impacts may occur for residential development that elects to reduce the number of motorcycle parking spaces by up to 50 percent of the required number of motorcycle parking spaces. However, motorcycle parking is only required for multiple dwelling unit projects, which are predominately subject to the California Building Code Chapter 11A requirements for accessibility and would not be eligible for this program. Furthermore, in order to be eligible for this type of incentive, multiple dwelling unit projects would need to be designed to be 100 percent accessible and must include a minimum of 10 accessible living units designed in accordance with Tier I, since this type of incentive would need to be applied to the project as a whole. In the few cases where this incentive is utilized, it is not expected to result in a significant impact since the parking demand for motorcycle spaces is expected to be less within a residential development project that is designed to be 100 percent accessible for persons with disabilities.
- Tier I accessible living units developed pursuant to the Voluntary Accessibility Program would comply with the minimum requirements of the California Building Code Chapter 11A except as modified by proposed Section 145.4004 to require a kitchen on the primary entry level of a multi level dwelling unit, to allow an accessible entrance up to three quarters of an inch in height between exterior landings, and for single dwelling units and duplexes to provide an accessible off-street loading/unloading area in lieu of the required accessible parking design per CBC Section 1109A. Each Tier I accessible living unit would be rewarded with a floor area ratio bonus up to a maximum of 5 percent and a choice of one development incentive from a list in proposed Section 145.4003(d). Projects with 10 or more Tier I accessible living units would be rewarded with a 5 percent density bonus and an additional development incentive for the project as a whole.

- Visitable units (Tier II) developed pursuant to the Voluntary Accessibility Program would not be eligible for parking related development incentives.

V. FINDINGS REGARDING INFEASIBLE MITIGATION MEASURES AND ALTERNATIVES (PUBLIC RESOURCES CODE §21081(a)(3))

The City, having reviewed and considered the information contained in the EIR, finds pursuant to Public Resources Code §21081(a)(3) and Guidelines §15091(a)(3) that (i) the EIR considers a reasonable range of Project alternatives, and (ii) specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the project alternatives identified in the EIR as well as other alternatives or mitigation measures which would reduce the following impact to below a level of significance.

STATEMENT OF OVERRIDING CONSIDERATIONS (PUBLIC RESOURCES CODE §21081(b))

Public Resources Code §21081(b) prohibits approval of a project with significant, unmitigable adverse impacts resulting from infeasible mitigation measures or alternatives unless the agency finds that specific overriding economic, legal, social, technological, or other benefits of the PROJECT outweigh the significant effects on the environment. The PROJECT could have significant, unmitigable, adverse impacts, as described above. However, the City Council finds that those impacts are outweighed by the following specific overriding economic, legal, social, technological, or other benefits of the PROJECT.

The City Council, having considered all of the foregoing, finds that the following specific overriding economic, legal, social, technological, or other benefits of the PROJECT outweigh the aforesaid significant, unmitigable effects on the environment. The City Council expressly finds that the following benefits would be sufficient to reach this conclusion:

1. Everyone can benefit from accessible design in new residential development such as those with small children, those who are aging, those recovering from surgery or accidents, those with a permanent disability, and those with friends or family members with a disability.
2. The PROJECT would supplement existing California Building Code Chapter 11A requirements for accessible residential development to help meet the immediate and long term need for this type of housing in the local housing supply.

The City of San Diego currently has a limited supply of accessible housing for persons with disabilities. Increased accessible housing would be particularly beneficial since according to the 2000 US Census, a majority of persons with disabilities are within the 21-64 year old age group, yet the existing accessible housing supply is predominately restricted for seniors. As a result, families and individuals with disabilities currently have a

difficult time locating suitable housing that meets their needs for accessibility.

Furthermore, the long term planning forecast for the San Diego region anticipates the senior population within the City of San Diego will increase greatly by the year 2050, however, the local housing supply is not expected to be able to meet the needs of our aging population under the existing development context, in particular a shortage of accessible housing is expected for all persons with developing and permanent disabilities.

3. The PROJECT would meet a variety of needs for accessibility in residential development. At a minimum each dwelling unit developed pursuant to the Voluntary Accessibility Program would provide physical access to the primary entry level of a dwelling unit via an accessible entrance and accessible route of travel, and would be designed to facilitate access to at least a half bathroom, kitchen, and common living area within each accessible unit thereby creating opportunities for persons with temporary, developing, or permanent disabilities to visit the dwelling units developed pursuant to this incentive program.
4. The PROJECT would also result in accessible living units with adaptable features designed to meet an occupants long term needs for housing to minimize or avoid the need for exclusion of a family member with a disability, or the need for relocation.
5. The PROJECT is a sustainable and inclusive design approach to encourage the integration of basic accessibility features into dwelling units that otherwise may be developed (unintentionally) with physical design barriers to accessibility.

Chapter 15.12

UNIVERSAL DESIGN RESIDENTIAL DWELLINGS

Sections:

15.12.010 Purpose and intent.

15.12.020 Findings.

15.12.030 Definitions.

15.12.040 Scope and application.

15.12.050 Standards.

15.12.060 Enforcement.

15.12.010 Purpose and intent.

The purpose of this chapter is to provide consistent, practical, and proven building and design requirement incorporating universal design and visitability standards that will make specified dwelling units visitable, more usable, and safer for occupancy and visitability by persons with disabilities or frailties. It is this jurisdiction's desire to enhance full life-cycle use of housing without regard to the physical abilities or disabilities of a home's occupants or guests in order to accommodate a wide range of individual preferences and functional abilities. In order to enhance the ability of homeowners or renters to remain in their homes during periods of temporary, developing, or permanent disabilities or frailties, the following design criterion shall be applied.

(Ord. 370 § 1 (part), 2006)

15.12.020 Findings.

A. The city of Murrieta finds that the California Department of Housing and Community Development have determined that the provisions of the model universal design ordinance from which this chapter is derived are consistent with the requirements of California Health and Safety Code Section 17959. The city of Murrieta finds that this chapter is substantially the same as the model ordinance issued by the California Department of Housing and Community Development.

B. To the extent that the provisions of this chapter are inconsistent with the provisions of the city of Murrieta ordinances adopting the California Building Standards Code, adopted pursuant to California Health and Safety Code Sections 17922 and 18928, the provisions of this chapter shall supersede those ordinances, except as otherwise provided by law. This chapter shall not apply to any residential dwelling

unit subject to and in compliance with Chapter 11A or 11B of the California Building Code.

C. The city of Murrieta finds that the regulations imposed by this chapter are reasonably necessary in this jurisdiction because:

1. According to the 2000 Census data, there were five thousand two hundred thirty-eight (5,238) residents or twelve-point nine percent (12.9%) of Murrieta's population classified on disability status. The 2000 Census data also has five thousand sixty-three (5,063) residents or eleven-point four percent (11.4%) of Murrieta's population at age sixty-five (65) and older.

2. According to a 2000 AARP survey, more than ninety percent (90%) of persons age sixty-five (65) and older would prefer to stay in their current residence as long as possible. One key method to promote continuing independence in the home is to build and incorporate a number of architecturally friendly design features into new homes as they are built.

3. Universal design, as defined by the National Endowment for the Arts, goes beyond the mere provision of special features for various segments of the population. Instead, universal design emphasizes a creative approach that is more inclusive – one that asks at the outset of the design process how a product, graphic communication, building, or landscape can be made both aesthetically pleasing and functional for the greatest number of users. Designs resulting from this approach are more likely to serve a wider array of people: individuals who have temporary disabilities, people who have permanent disabilities, and everyone whose abilities change with age.

(Ord. 370 § 1 (part), 2006)

15.12.030 Definitions.

For the purpose of this chapter, the following terms shall have the following definitions:

"ANSI Standard" means the "American National Standard for Buildings and Facilities Providing Accessibility and Usability for Physically Handicapped People," also known as "ANSI A117.1," published by the American National Standards Institute, Inc.

"Accessible" means standards for features, fixtures, designs, or other improvements, which are equal to or exceed the minimum requirements of Chapter 11A, or 11B of the California Building Code.

"Accessible residential dwelling" means a residential unit subject to the requirements of this chapter by virtue of being within the scope of this chapter as defined in Section 15.12.040 of this chapter.

"Bathroom" means a room containing a toilet (water closet), lavatory (sink), and either a shower, bathtub, combination bathtub/shower, or both a shower and bathtub. It includes a compartmented bathroom in which the fixtures are distributed among interconnected rooms.

"Building official" as applied herein shall refer to the individual responsible for the enforcement of the California Building Standard Codes, or his or her representative. Terms such as building manager, building and safety manager, and building director shall be synonymous with that of building official.

"CBC, Chapter 11A" is Chapter 11A of the California Building Code (located in Part 2, Title 24, California Code of Regulations), or its successor provisions.

"CBC, Chapter 11B" is Chapter 11B of the California Building Code (located in Part 2, Title 24, California Code of Regulations), or its successor provisions.

"Condominium" as defined by Civil Code Section 951(f), a development where undivided interest in common in a portion of real property is coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map or parcel map. The area within the boundaries may be filled with air, earth, or water, or any combination thereof, and need not be physically attached to any land except by easements for access and, if necessary, support.

"Constructing or construction" means all new, residential construction for which a building permit is required per local ordinance. New construction does not include additions, alterations, or remodels to existing residential buildings.

"Duplex" means detached residential structures under single ownership containing two (2) dwelling units.

"Dwelling unit" is any building or portion thereof that contains living facilities, including provisions for sleeping; eating; cooking; and sanitation for not more than one (1) family.

"New construction." See definition "Constructing or construction."

"Owner-occupied" means any residential dwelling unit not intended, at the time of application for the building permit, to be occupied as a rental dwelling.

"Powder room" means a room containing a toilet (water closet) and lavatory (sink), but no bathtub or shower. It includes a compartmented powder room in which the fixtures are distributed among interconnected rooms.

"Primary entry" means the principal entrance through which most people enter a building or residential unit, as designated by the building official.

"Rental" means any residential dwelling unit not intended, at the time of application for a building permit, to be occupied by the owner.

"Residential dwelling unit" means a dwelling unit for one (1) household in a single-family dwelling, a duplex, or a triplex, without regard to type of ownership or use, and including townhouses.

"Senior housing" means a project with a recorded deed restriction requiring the complex to be constructed, operated, and maintained as senior apartment housing for the life of the dwelling structures constructed, and that at least one (1) resident of each independent living unit shall meet the minimum age requirement of fifty-five (55) years.

"Single-family housing" means a structure designed for and/or occupied exclusively by one (1) family.

"Special design feature" means any feature, fixture, design, or other improvement which increases the visitability, accessibility, or utility of an accessible residential dwelling or any portion thereof for any person with a temporary or permanent disability or any condition commonly occurring as a result of aging related to mobility impairments, sight impairments, hearing impairments, height impairments, cognitive impairments, or environmental sensitivities or any other potential or actual impairment.

"Townhouse" means the same as "multistory dwelling unit" and is a dwelling unit with finished living space on one (1) floor and the floor immediately above or below it or, if applicable, the floors immediately above or below it.

"Triplex" means a building or portion thereof used for occupancy by three (3) families living independently of each other and containing three (3) dwelling units.

"Universal design" means the specialized design of the built space, products and environments to be usable by the greatest number of people with the widest reasonable range of abilities or disabilities, to the greatest extent feasible, without the need for concurrent modification and, in housing, incorporating the use of building products or features that have been placed differently, selected carefully, or omitted to accomplish these ends.

"Visitability" means enhancement of the ability of a residential dwelling unit to meet the basic needs of all residents and guests to enter and use critical portions of the home, to the greatest extent possible, through specific design choices and decisions.

(Ord. 370 § 1 (part), 2006)

15.12.040 Scope and application.

A. **Unit Coverage.** Fifteen percent (15%) of all owner-occupied, all rental, all owner-occupied and rental residential dwelling units for which a new construction building permit is submitted to the building department, except that one hundred percent (100%) of all designated senior housing residential projects shall contain all interior features of this chapter.

B. Exemptions.

1. When the applicant adequately demonstrates and the building official determines that compliance with any portion of any regulation under this chapter would create an undue hardship and that equivalent facilitation is not available, an exception to that portion of the regulation may be granted when equivalent facilitation is provided.

2. When the applicant adequately demonstrates and the building official determines that compliance with any portion of any regulation under this chapter would create an undue hardship due to topographical conditions of the site; and/or the size of the site; and/or other site constraints; and/or legal constraints; and that no equivalent facilitation is available, an exemption to that portion of the regulation may be granted.

3. When the applicant adequately demonstrates and the building official determines that a residential dwelling unit is being reconstructed or substantially rehabilitated as a result of a disaster, as determined by the building official, an exemption to all or any portion of this chapter may be granted.

C. **Unit Types.** New construction of all single-family residential dwellings that are part of a tract, duplex, triplex, condominium, townhouse or other residential dwellings shall be subject to this chapter unless exempted below.

1. All new single-family dwelling units that are constructed subject to a parcel map that do not exceed five (5) lots.

2. All single-family residential in-fill lots.

D. Area Coverage. To the extent that this chapter applies to residential new construction, the requirements of this chapter only apply to those portions of the residential dwelling unit being newly constructed.

(Ord. 370 § 1 (part), 2006)

15.12.050 Standards.

The following standards shall be applied to all required accessible residential dwellings subject to this chapter.

A. Accessible Primary Entrance.

1. Requirements. An accessible residential dwelling shall provide at least one (1) accessible entrance that complies with the following requirements in this subsection.

a. An exterior accessible route that can be negotiated by a person using a wheelchair shall be provided that connects the primary accessible entrance of the dwelling unit to the garage, or driveway such that the accessible residential dwelling can be entered. The exterior accessible route shall not be less than forty (40) inches wide. The maximum slope of the exterior accessible route shall not exceed one (1) unit vertical in twenty (20) units horizontal. Handrails consistent with the "ramp provisions" contained in the California Building Code, Chapter 10, and wheel guides consistent with CBC Chapter 11A, are required on exterior accessible routes with a slope greater than one (1) unit vertical in twenty (20) units horizontal. When the driveway or parking area is part of the accessible route of travel, the cross-slope of the accessible route shall not exceed one-quarter (1/4) inch per foot.

b. The accessible entrance shall be the primary entrance. When site constraints or design elements prevent the primary entrance from being accessible, the building official may approve an alternate location for the accessible entrance at the front, side, or back of the accessible residential dwelling or through its garage or carport.

c. The accessible entrance door must have a minimum net clear opening of thirty-two (32) inches, measured between the face of the door, and the stop, when the door is in the ninety (90)-degree open position.

d. The outside landing shall be no more than one-half (1/2) inch below the floor level of the interior. The floor or landing on the interior side of the accessible entrance door shall not be more than one-half (1/2) inch lower than the top of the threshold of the doorway, except at sliding doors where it may be three-fourth (3/4) inches with a height greater than one-quarter (1/4) inch shall be beveled with a slope not to exceed one (1) unit vertical by two (2) units horizontal.

B. Accessible Interior Routes.

1. Requirements. An accessible residential dwelling shall provide accessible interior routes that comply with the following requirements in this subsection:

a. At least one (1) accessible route through the hallways and passageways shall be provided

from the accessible entrance of the dwelling unit to the primary floor bathroom, bedroom, and the kitchen. The accessible route must provide a minimum width of forty (40) inches and be level with ramped or beveled changes at door thresholds.

b. Any doors used for user passage in a hallway along an accessible route, including but not limited to those for the bathroom, bedroom, and the kitchen, shall meet the requirements of subsection F. below.

C. Adaptable Bathroom Entry and Facilities.

1. Requirements. An accessible residential dwelling shall provide accessible bathroom entry and adaptable facilities that comply with the following requirements in this subsection:

a. At least one (1) bathroom, consisting of at least a toilet, lavatory, and roll-in shower stall meeting the requirements of CBC Chapter 11A, shall be provided on the primary floor of an accessible residential dwelling. The bathroom shall be provided with sufficient maneuvering space as prescribed by this paragraph for a person using a wheelchair or other mobility aid to enter and close the door, use the fixtures, reopen the door, and exit. Its size, design, and facilities shall be consistent with standards in this paragraph.

b. A clear space measuring at least forty-eight (48) inches by sixty (60) inches inside the bathroom and outside the swing of the door shall be provided. This space may include maneuverable space under fixtures where adequate knee and toe space is provided. In addition, there shall be a clear space of at least thirty-six (36) inches clear depth by forty-eight (48) inches clear width in front of or adjacent to the toilet and at least thirty-six (36) inches clear depth by forty-eight (48) inches clear width in front or adjacent to the lavatory or sink. Maneuverable space under a lavatory or sink may be accomplished by either use of a pedestal or wall-mounted sink or with under-sink cabinets designed to be readily removed.

c. Grab bar reinforcement shall be provided in a manner consistent with CBC Chapter 11A or as follows:

(1) Where the toilet is placed adjacent to a sidewall, grab bar reinforcement shall be installed on both sides or one (1) side and the rear. Reinforcement shall be installed between thirty-two (32) inches and thirty-eight (38) inches above the floor. The reinforcement shall be a minimum of six (6) inches nominal in height. Where reinforcement is installed at the rear wall, it shall be a minimum of forty-four (44) inches in length. Reinforcement installed at the side of the toilet shall be installed a maximum of twelve (12) inches from the rear wall and shall extend a minimum of twenty-six (26) inches in front of the toilet

(2) Where the toilet is not placed adjacent to a sidewall, provisions for installation of floor-mounted, foldaway, or similar alternative grab bars shall be provided or installed.

(3) Wall or floor grab bar reinforcement shall be capable of supporting a load of at least two hundred and fifty (250) pounds.

(4) Grab bars, if installed, shall meet the requirements of CBC Chapter 11A.

d. All faucets and handles shall not require tight grasping, pinching, or twisting of the wrist and shall be consistent with the requirements of CBC Chapter 11A.

- e. Lavatory or sink fixtures shall be consistent with CBC Chapter 11A.
- f. The water closet (toilet) fixture shall be consistent with CBC Chapter 11A.

D. Adaptable Kitchen and Facilities.

1. Requirements. An accessible residential dwelling shall provide accessible kitchen and adaptable facilities that comply with the following requirements in this subsection.

a. The kitchen shall be on an accessible route and shall have a pathway at least forty (40) inches wide [or thirty-six (36) inches clear of any obstacles] through the kitchen to the stove or oven, and in a U-shaped kitchen, shall have at least a forty-eight (48) inch by sixty (60) inch clear space in front of stove at the end of a U-shaped kitchen; at least a thirty (30) inch by forty-eight (48) inch clear space in front of the sink (counting open access underneath, if available); and at least one eighteen (18) inch wide breadboard and/or eighteen (18) inches in counter space at a thirty-four (34) inch height, or combination thereof.

b. Sink controls shall be consistent with CBC Chapter 11A.

E. Bedroom.

1. Requirements. An accessible residential dwelling provided with an accessible level and space to be converted to a bedroom complying with provisions for emergency escape and rescue, and smoke alarms in the California Building Code shall comply with the requirements of subsection F. below, and any closet in that bedroom must have a thirty-two (32) inch net doorway opening.

a. If one (1) or more bedrooms are on accessible route, at least one (1) must comply with the general rules in subsection F. below and any closet in that bedroom must have a thirty-two (32) inch net doorway opening.

F. General Components.

1. Requirements. An accessible residential dwelling shall provide general components that comply with the following requirements in this subsection.

a. On an accessible route in an interior room or hallway with a forty (40) inch width, interior doors or openings required to be accessible shall provide a minimum of thirty-two (32) inches clear width, measured between the face of the door and the stop, when the door is in the ninety (90)-degree open position.

b. Hand-activated hardware shall be operable with a single effort by lever-type hardware, panic bars, push-pull activating bars or other hardware designed to provide passage without requiring the ability to grasp the opening hardware on both sides of the door.

c. All receptacle outlets, lighting controls, and environmental controls on an accessible route and in accessible rooms shall comply with the following:

(1) Electrical receptacle outlets on branch circuits of thirty (30) amperes or less and communication system receptacles shall be located no more than forty-eight (48) inches measured from the top of the receptacle outlet box or receptacle housing nor less than fifteen (15) inches measured from

the bottom of the receptacle outlet box or receptacle housing to the finished floor.

(2) Controls or switches intended to be used by the occupant of the room or area to control lighting and receptacle outlets, appliances, alarms, or cooling, heating and ventilating equipment, shall be located no more than forty-eight (48) inches measured from the top of the outlet box nor less than fifteen (15) inches measured from the bottom of the outlet box to the level of the finished floor. If the reach is over an obstruction (for example, a kitchen base cabinet) between twenty (20) inches and twenty-five (25) inches in depth, the maximum height is reduced to forty-four (44) inches for forward approach, or forty-six (46) inches for side approach, provided the obstruction is no more than twenty-four (24) inches in depth. Obstructions shall not extend more than twenty-five (25) inches from the wall beneath a control. These requirements do not apply to a hood fan in an accessible kitchen.

(3) "Rocker" switches and controls shall be installed in all rooms required to be accessible and on the accessible route.

NOTE: Controls that do not satisfy these specifications are acceptable provided that comparable controls or outlets, that perform the same functions, are provided within the same area and are accessible.

(Ord. 370 § 1 (part), 2006)

15.12.060 Enforcement.

- A. It is unlawful for any person or entity to fail to comply with the requirements of this chapter.
- B. The city of Murrieta may prescribe administrative, civil, or criminal penalties or consequences, or any combination thereof, for violations of this chapter, which are consistent with those applicable for what it deems comparable municipal provisions. These may include, but are not limited to, enforcement provisions of the State Housing Law of the California Health and Safety Code, Sections 17910 et seq.; injunctive relief or civil penalties; and requiring compliance prior to issuance of a final inspection report or certificate of occupancy.
- C. Remedies under this paragraph/section are in addition to and do not supersede or limit any and all other remedies, civil, criminal, or administrative. The remedies provided herein shall be cumulative and not exclusive.
- D. Whenever the building official or designee re-inspects or otherwise takes any enforcement action against a residential dwelling unit, which is governed by this chapter to determine compliance with this chapter, the building official may assess fees against the owner to recover the costs to the city according to a fee schedule established by the law. The assessment and collection of these fees shall not preclude the imposition of any administrative or judicial penalty or fine for violations of this chapter or applicable state laws or regulations.
- E. The city may develop a means of providing public certification as to any residential dwelling unit's compliance with this chapter. No such certification shall be affixed to the residential dwelling unit or the property on which it is located without the authorization of the owner or renter.

(Ord. 370 § 1 (part), 2006)