

Chapter 11: Land Development Procedures
Article 3: Land Development Procedures
Division 1: Definitions

§113.0103 Definitions

Abutting property through Affiliate [No change in text.]

Affordable housing cost shall mean (1) for ownership housing, a housing payment which includes loan principal, loan interest, property taxes, property and mortgage insurance, and homeowners association dues which allows a household with a gross income at not more than one hundred percent (100%) of the area median income to purchase a home and (2) for rental or cooperative housing, a housing payment including a reasonable allowance for utilities, which does not exceed thirty percent (30%) of not more than fifty percent (50%) of the area median income for *very low income* households and thirty percent (30%) of not more than eighty percent (80%) of the area median income for *low income* households.

Alley through Yard [No change in text.]

Chapter 11: Land Development Procedures
Article 3: Land Development Procedures
Division 3: Rules for Calculation and Measurement

§113.0222 Calculating Density

- (a) Multiple Dwelling Unit Development
For *multiple dwelling unit development*, the maximum number of units that may be permitted on any *premises* is determined by dividing the ~~lot~~ *lot* area of the *premises* by the number of square feet required for each ~~dwelling unit~~ *dwelling unit* (maximum permitted ~~density~~ *density*), as prescribed by the applicable base zone.
- (1) If the quotient resulting from this calculation exceeds a whole number by 0.50 or more, the number of ~~dwelling units~~ *dwelling units* ~~may shall~~ be increased to the next whole number.
 - (2) [No change in text.]
 - (3) In determining the maximum permitted *density*, the rounding provisions of Section 113.0222(a)(1) may be used only once. ~~For example, if multiple calculations are required as with application of~~

~~the density bonus provision, the result of only one calculation may be increased to the next whole number.~~

Example of calculation of *density* for *multiple dwelling unit development*:

Lot Area: 1.5 acres x 43,560 (sq. ft./ac.) = 65,340 sq. ft.

Maximum Permitted *Density*: 1 dwelling unit/2000 sq. ft.

Units Permitted = 65,340 ÷ 2,000 = 32.67 dwelling units

Since the quotient exceeds a whole number by more than 0.50, the maximum number of permitted dwelling units may be rounded up to 33 dwelling units.

(b) [No change in text.]

(c) For purposes of calculating *density* for a *development* proposing a *density* bonus pursuant to Chapter 14, Article 3, Division 7, where the maximum *density* of the base zone and the *land use plan* are inconsistent, the maximum *density* allowed under the *land use plan* shall prevail. All *density* bonus calculations resulting in any fractional number shall be increased to the next whole number.

Chapter 14: General Regulations

Article 3: Supplemental Development Regulations

Division 3: Affordable Housing Density Bonus Regulations

§143.0710 Purpose of Affordable Housing Density Bonus Regulations

The purpose of these regulations is to provide increased residential density to developers who guarantee that a portion of their residential *development* will be available to *moderate income*, *low income*, *very low income* ~~*low income*~~, or senior households. The regulations are intended to materially assist the housing industry in providing adequate and affordable housing for all economic segments of the community and to provide a balance of housing opportunities for *moderate income*, *low income*, *very low income* ~~*low income*~~, and senior households throughout the City. It is intended that the affordable housing *density* bonus and any additional *development* incentive be available for use in all residential *development* of five or more units, using criteria and standards provided in the ~~Progress Guide and~~ General Plan, ~~as defined by the San Diego Housing Commission; and~~ that requests be processed by the City of San Diego, and ~~that they~~ be implemented by the President and Chief Executive Officer of the San Diego Housing Commission. It is also intended that these regulations implement the provisions of California Government Code Sections 65915 through 65918.

§143.0715 When Affordable Housing Density Bonus Regulations Apply

This division applies to any residential *development*, located ~~on land~~ where current zoning allows for five or more ~~pre-density bonus dwelling units~~, not including density bonus units, where an *applicant* proposes *density* beyond that permitted by the ~~applicable base zone and land use plan at the time the application is deemed complete~~, in exchange for either of the following ~~as set forth in this division~~:

- (a) A portion of the total *dwelling units* in the *development* being reserved for *moderate, low, or very low income* households or for senior citizens through a written agreement with the San Diego Housing Commission; or
- (b) The donation of land, pursuant to the State Density Bonus Law.

§143.0717 Required Replacement of Affordable Units

(a) An applicant is ineligible for a density bonus or any incentive under this division if the property on which the development is proposed contains, or during the five years preceding the application, contained, rental dwelling units that have had the rents restricted by law or covenant to persons and families of low income or very low income, or have been occupied by persons and families of low income or very low income, unless the proposed development replaces the affordable dwelling units, and either:

- (1) Provides additional affordable dwelling units at the percentages set forth in Section 143.0725, or
- (2) Provides all of the dwelling units as affordable to low income or very low income households, excluding any manager's unit(s).

(b) The number and type of required replacement dwelling units shall be determined as follows:

- (1) If any of the dwelling units are occupied, the replacement dwelling units must be at least the same number of dwelling units of equivalent size or type, or both, and must be made affordable to and occupied by persons and families in the same or a lower income category as the occupied dwelling units. If some dwelling units are unoccupied, the replacement dwelling units shall be of the same proportion of affordability as those dwelling units that are occupied.
- (2) If the dwelling units in the development are vacant or have been demolished within the five year period preceding the application,

the replacement *dwelling units* must be of at least the same number of *dwelling units* of equivalent size or type, or both, as existed at the time of the greatest number of occupied affordable *dwelling units* in that *development*, and must be made affordable to and occupied by, persons and families in the same or lower income categories as those in occupancy at that time. If the income categories are unknown for this five year period, then at least one-half of the replacement *dwelling units* shall be made available for rent to or purchase by and occupied by persons and families in the *very low income* category, and one-half of the replacement *dwelling units* shall be made available for rent to and occupied by persons and families in the *very low income* category.

(3) All replacement *dwelling unit* calculations resulting in fractional units shall be rounded up to the next whole number.

(4) All rental replacement *dwelling units* shall be affordable for at least 55 years.

§143.0720 Density Bonus in Exchange for Affordable Housing Units

- (a) A *development* shall be entitled to a *density* bonus and incentives as described in this division, for any residential *development* for which a written agreement, and a deed of trust securing the agreement, is entered into by the *applicant* and the President and Chief Executive Officer of the San Diego Housing Commission. The agreement and deed of trust in favor of the San Diego Housing Commission are to be recorded in the Office of the Recorder of the County of San Diego as an encumbrance against the *development*.
- (b) The *density* bonus units authorized by this division shall be exempt from the Inclusionary Housing Regulations set forth in Chapter 14, Article 2, Division 13.
- (c) A rental affordable housing *density* bonus agreement shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:
- ~~(1)~~(1) *Low income*- At least 10 percent of the pre-*density* bonus units in the *development* shall be affordable, ~~including an allowance for utilities, to low income households at a rent that does not exceed 30 percent of 60 percent of area median income, as adjusted for assumed household size;~~ or
- ~~(2)~~(2) *Very low income*- At least 5 percent of the pre-*density* bonus units in the *development* shall be affordable, ~~including an allowance for~~

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- ~~utilities, to very low income households at a rent that does not exceed 30 percent of 50 percent of the area median income, as adjusted for household size.~~
- (3) The affordable units shall be designated units, be comparable in bedroom mix and amenities to the market-rate units in the *development*, and be dispersed throughout the *development*.
- (4) The *dwelling units* shall remain available and affordable for a period of at least ~~30-55~~ years or longer, as may be required by other laws or covenants.
- (d) A for-sale affordable housing *density* bonus agreement shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:
- ~~(1)~~ Moderate income- At least 10 percent of the total *dwelling units* in a common interest development, as defined in California Civil Code Section 4100, shall be affordable, provided that all *dwelling units* in the *development* are offered to the public for purchase.
- ~~(1)(2)~~ The initial occupant of all for-sale affordable housing density bonus units that qualified the applicant for the density bonus shall be only be available to common interest development, as defined by California Civil Code Section 1351, where at least 10 percent of the pre-density bonus units in the development shall be initially sold and affordable to a very low income, low income, or moderate income households at a price that is affordable to families earning 110 percent of the area median income as adjusted for assumed household size, as determined by the San Diego Housing Commission, and where all the dwelling units are offered to the public for purchase.
- ~~(2)(3)~~ Prior to, or concurrent with, the sale of each density bonus affordable unit, the applicant shall require the buyer to execute and deliver a promissory note in favor of the San Diego Housing Commissions so that the payment of any initial subsidy is ensured.
- ~~(3)~~ (4) Each for-sale unit shall be occupied by the initial owner at all times until the resale of the unit.
- ~~(4)~~ (5) Upon the first resale of a unit the seller shall comply with all conditions regarding the sale of a unit, as applied by the San Diego Housing Commission, and as set forth in California Government Code Section 65915(c)(2).

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- ~~(5)~~(6) The affordable units shall be designated units, be comparable in bedroom mix and amenities to the market-rate units in the *development*, and be dispensed throughout the *development*.
- (e) A *density* bonus agreement for housing for senior citizens shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:
- (1) The *development* consists of housing for senior citizens or qualifying residents as defined under California Civil Code Section 51.3 and 51.12, where at least 35 *dwelling units* are provided; or a *mobilehome* park that limits residency based on age requirements for housing for older persons pursuant to California Civil Code Section 798.76 or 799.5.
- (2) The *dwelling units* shall remain available for a period of at least 30 years or longer as may be required by other laws.
- (f) The *density* bonus units shall have recorded against them a Declaration of Covenants, Conditions and Restrictions in favor of the San Diego Housing Commission that shall enjoy first lien position and shall be secured by a deed of trust that may be recorded against the project or unit, as applicable, prior to construction or permanent financing.
- (g) Provision shall be made by the San Diego Housing Commission for certification of eligible tenants and purchasers, annual certification of property owner compliance, payment of a monitoring fee to the San Diego Housing Commission, as adjusted from time to time, for monitoring of affordable unit requirements, and any other terms that the San Diego Housing Commission determines are needed to implement the provisions and intent of this division and State law.
- (h) A condominium conversion that provides at least 33 percent of the total dwelling units of the proposed condominium conversion to low income and moderate income households, or 15 percent of the total dwelling units of the proposed condominium conversion to low income households, shall be entitled to a density bonus of 25 percent or other incentives of equivalent financial value in accordance with State Density Bonus Law and this division, unless the development previously received a density bonus or other incentives.

§143.0725 Density Bonus Provisions

A *development* proposal requesting an affordable housing *density* bonus is subject to the following:

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- (a) For senior citizen housing meeting the criteria of Section 143.0720(e), the *density* bonus shall be 20 percent.
- (b) For *development* meeting the criteria for *low income* in Section 143.0720(c)(1), the *density* bonus shall be calculated as set forth in Table 143-07A. The increased *density* shall be in addition to any other increase in *density* allowed in this division, up to a maximum combined *density* increase of 35 percent. For *development* meeting the same criteria within the Centre City Planned District, the bonus shall apply to the maximum allowable *floor area ratio* applicable to the *development* consistent with Section 156.0309(e).
- (c) For *development* meeting the criteria for *very low income* in Section 143.0720(c)(2), the *density* bonus shall be calculated as set forth in Table 143-07B. The increased *density* shall be in addition to any other increase in *density* allowed in this division, up to a maximum combined *density* increase of 35 percent. For *development* meeting the same criteria within the Centre City Planned District, the bonus shall apply to the maximum allowable floor area ratio applicable to the *development* consistent with Section 156.0309(e).
- (d) For *development* meeting the criteria for *moderate income* in Section 143.0720(d), the *density* bonus shall be calculated as set forth in Table 143-07C. The increased *density* shall be in addition to any other increase in *density* allowed in this division, up to a maximum combined *density* increase of 35 percent. For *development* meeting the same criteria within the Centre City Planned District, the bonus shall apply to the maximum allowable floor area ratio applicable to the *development* consistent with Section 156.0309(e).
- (e) If the *premises* is located in two or more zones, the number of *dwelling units* permitted in the *development* is the sum of the *dwelling units* permitted in each of the zones. Within the *development*, the permitted number of *dwelling units* may be distributed without regard to the zone boundaries.
- (f) Where the *development* consists of two or more specifically identified parcels, whether contiguous or noncontiguous, the maximum number of *dwelling units* permitted on each parcel is calculated based on the area of that parcel.
- (g) Where the *development* consists of two or more noncontiguous parcels lying within two or more community planning areas, the *dwelling units* reserved at levels affordable by *moderate income*, *low income* or *very low income* households shall be distributed among community planning areas

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in the same proportion as the total number of *dwelling units* constructed within the *development*.

§143.0730 Density Bonus in Exchange for Donation of Land

An *applicant* for a *tentative map*, *parcel map*, or residential *development* permit, may donate and transfer land to the City for *development* with affordable housing units, in exchange for a *density bonus*, in accordance with this division and pursuant to State Density Bonus Law.

§143.0740 Development Incentives for Affordable Housing Density Bonus Projects

The City shall process an incentive requested by an *applicant*, consistent with State Density Bonus Law and as set forth in this Section.

~~(a) — The *applicant* shall demonstrate that the incentive is necessary to make the housing units economically feasible.~~

(b) An incentive means any of the following:

- (1) A deviation to a *development* regulation;
- (2) Approval of mixed use zoning in conjunction with a residential *development* provided that the commercial, office, or industrial uses:
 - (A) Reduce the cost of the residential *development*; and
 - (B) Are compatible with the proposed residential *development*; and
 - (C) Are compatible with existing or planned *development* in the area where the proposed residential *development* will be located.
- (3) Any other incentive proposed by the *applicant*, other than those identified in Section 143.0740(c), that results in identifiable, financially sufficient, actual cost reductions.

(e) Items not considered incentives by the City of San Diego include, but are not limited to the following:

- (1) A waiver of a required permit;
- (2) A deviation from the requirements of the Coastal Height Limit Overlay Zone (Chapter 13, Article 2, Division 5);
- (3) A waiver of fees or dedication requirements;

- (4) A direct financial incentive;
 - (5) A deviation from the requirements of the City of San Diego Building Regulations;
 - (6) For projects required to notice the Federal Aviation Administration, an increase in height that has not received a determination of No Hazard to Air Navigation.
- (~~dc~~) An incentive requested as part of a *development* meeting the requirements of Sections 143.0720(~~e~~) or 143.0720(~~d~~) shall be processed according to the following:
- (1) Upon an *applicant's* request, ~~development meeting~~ development that meets the applicable requirements of Sections 143.0720 and 143.0725 shall be entitled to incentives pursuant to Section 143.0740 unless the City makes a written finding of denial based upon substantial evidence, of ~~either any~~ of the following:
 - (A) The incentive is not required in order to provide for affordable housing costs as defined in California Health and Safety Code Section 50052.5, or for rents for affordable housing *dwelling units* in accordance with Section 143.0720(c);
 - (B) The incentive would have a specific adverse impact upon public health and safety as defined in Government Code section 65589.5, the physical environment, including environmentally sensitive lands, or on any real property that is listed in the California Register of Historical Resources, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the *development* unaffordable to low income and moderate income households.;
 - (C) The incentive would be contrary to state or federal law. Requested incentives shall be analyzed in compliance with the California Environmental Quality Act as set forth in Chapter 12, Article 8, and no incentive shall be granted without such compliance; or
 - (D) Within the Coastal Overlay Zone, the incentive would be inconsistent with the resource protection standards of the City's Local Coastal Program and the environmentally sensitive lands regulations, with the exception of density.

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- (2) Granting an incentive shall not require a General Plan amendment, zoning change, or other discretionary approval.
- (3) 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.
- (4) The *development permit* requirement for a *development* requesting an incentive shall be the same *development permit* that would be required if the incentive were not a part of the *development* proposal.
- (5) Notwithstanding Sections 143.0740(~~ec~~)(3) and (4), when a *development permit* is required, the decision to deny a requested incentive shall be made by the decision maker for the *development permit*.

(~~ed~~) The number of incentives available are identified in Table 143-07A for *low income*, Table 143-07B for *very low income*, and Table 143-07C for *moderate income households* consistent with the percentage of pre-density bonus units identified in column one of each table.

Table 143-07A
Low Income Density Bonus
Rental Housing Households

Percent <i>Low Income</i> units	Percent <i>Density Bonus</i>	Number of Incentives
10	20	1
11	21.5	1
12	23	1
13	24.5	1
14	26	1
15	27.5	1
16	29	1
17	30.5	1
18	32	1
19	33.5	1
20 – 29	35	2
≥ 30	35	3

Table 143-07B
Very Low Income Density Bonus
Rental Housing Households

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Percent <i>Very Low Income</i> Units	Percent <i>Density Bonus</i>	Number of Incentives
5	20	1
6	22.5	1
7	25	1
8	27.5	1
9	30	1
10	32.5	2
11 – 14	35	2
≥ 15	35	3

Table 143-07C
Moderate Income Density Bonus
For-Sale Housing Households

Percent <i>Moderate Income</i> Units	Percent <i>Density Bonus</i>	Number of Incentives
10	<u>20</u> <u>5</u>	1
11	<u>21</u> <u>6</u>	1
12	<u>22</u> <u>7</u>	1
13	<u>23</u> <u>8</u>	1
14	<u>24</u> <u>9</u>	1
15	<u>25</u> <u>10</u>	1
16	<u>26</u> <u>11</u>	1
17	<u>27</u> <u>12</u>	1
18	<u>28</u> <u>13</u>	1
19	<u>29</u> <u>14</u>	1
20	<u>30</u> <u>15</u>	2
21	<u>31</u> <u>16</u>	2
22	<u>32</u> <u>17</u>	2
23	<u>33</u> <u>18</u>	2
24	<u>34</u> <u>19</u>	2
25 29	<u>35</u> <u>20</u>	2
30 <u>26</u>	<u>35</u> <u>21</u>	<u>3</u> <u>2</u>
<u>27</u>	<u>22</u>	<u>2</u>
<u>28</u>	<u>23</u>	<u>2</u>
<u>29</u>	<u>24</u>	<u>2</u>
<u>30</u>	<u>25</u>	<u>3</u>
<u>31</u>	<u>26</u>	<u>3</u>
<u>32</u>	<u>27</u>	<u>3</u>
<u>33</u>	<u>28</u>	<u>3</u>
<u>34</u>	<u>29</u>	<u>3</u>

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<u>35</u>	<u>30</u>	<u>3</u>
<u>36</u>	<u>31</u>	<u>3</u>
<u>37</u>	<u>32</u>	<u>3</u>
<u>38</u>	<u>33</u>	<u>3</u>
<u>39</u>	<u>34</u>	<u>3</u>
<u>40</u>	<u>35</u>	<u>3</u>

- (~~f~~e) Child Care Center: *Development* that meets the criteria in Section 143.0720 and includes a child care center as defined in Section 141.0606(a)(2) as part of, or adjacent to, such *development* shall be entitled to an additional *density* bonus or incentive provided that:
 - (1) The child care center remains in operation for the greater of 30 years, or the period of time established by Section 143.0720(c)(4);
 - (2) The percentage of children from *low, very low, or moderate income* households attending the child care center is equal to or greater than the percentage of those same households required in the residential *development*;
 - (3) The additional *density* bonus or incentive requested is either:
 - (A) An additional *density* bonus in an amount equal to the amount of square feet in the child care center up to a maximum combined *density* increase of 35 percent; or
 - (B) An additional incentive that contributes significantly to the economic feasibility of the construction of the child care center; and
 - (4) The City finds, based upon substantial evidence, that the community is inadequately served by child care centers.

- (~~g~~f) Parking: In addition to any other incentive, and upon the request of an applicant, that proposes a development meeting the criteria of Section 143.0720(c), (d), or (e) the City shall apply the following vehicular parking ratio, inclusive of handicapped and guest parking regulations:
 - (1) For a development that meets the criteria of Section 143.0720(d), the following vehicular parking ratios inclusive of handicapped and guest parking shall apply:
 - (~~1~~A) Zero to one bedroom: one onsite parking space
 - (~~2~~B) Two to three bedrooms: two onsite parking spaces

- (3C) Four and more bedrooms: two and one-quarter half parking spaces
- (4D) Additional reductions ~~to the parking ratios of 0.25 spaces per dwelling unit~~ shall be granted for ~~projects development that is at least partially~~ within a *transit area*, ~~and for very low income households as follows as described in Chapter 13, Article 2, Division 10 (Transit Area Overlay Zone), or that is subject to Chapter 13, Article 2, Division 11 (Urban Village Overlay Zone).~~
- (2) For a development that meets the criteria of Sections 142.0720(c) or (e), the following vehicular parking ratios inclusive of handicapped and guest parking shall apply:
- (A) ~~Development that is at least partially within a transit area as described in Chapter 13, Article 2, Division 10 (Transit Area Overlay Zone) or that is subject to Chapter 13, Article 2, Division 11 (Urban Village Overlay Zone), shall receive a 0.25 space per dwelling unit reduction in the parking ratio for the entire development. The parking regulations set forth in Section 142.0527 shall apply for dwelling units that meet the criteria of Section 142.0527(a)(3). If these parking ratios are greater than the parking ratios set forth in Section 143.0740(f)(1), then the parking ratios in Section 143.0740(f)(1) shall apply.~~
- (B) ~~Development that includes dwelling units limited to occupancy by very low income households shall receive a 0.25 space reduction in the parking ratio for each dwelling unit that is limited to occupancy by a very low income household. The parking requirements for all other dwelling units within a development that do not meet the requirements of Section 142.0527(a)(3) shall be determined in accordance with Section 143.0740(f)(1).~~
- ~~(C) Development that includes dwelling units limited to occupancy by very low income households, and is at least partially within a transit area, shall receive the combined reductions in sections 143.0740(g)(4)(A) and (B).~~
- (53) For purposes of this division, a *development* may provide onsite parking through tandem parking or uncovered parking, but not through on-street parking or parking within a required front yard setback.