

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 11, ARTICLE 3, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 113.0103; AMENDING CHAPTER 12, ARTICLE 5, DIVISION 4 BY AMENDING SECTION 125.0431; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 3 BY AMENDING SECTION 131.0322, TABLE 131-03B; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 3 BY RETITLING AND AMENDING SECTION 141.0302, TABLE 141-03A; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 8 BY AMENDING SECTION 143.0815 AND AMENDING CHAPTER 14, ARTICLE 4, DIVISION 5 BY AMENDING SECTION 144.0501, RELATING TO THE AMENDMENT TO THE ACCESSORY DWELLING UNIT AND JUNIOR ACCESSORY DWELLING UNIT REGULATIONS.

§113.0103 Definitions

Abutting property through Accessory building [No change in text.]

Accessory Dwelling Unit (ADU) means an attached or detached residential ~~dwelling unit that is 1,200 square feet in size or less,~~ provides complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation, and is located on a ~~lot with a~~ the same premises as the proposed or existing *single dwelling unit* or *multiple dwelling unit*.

Accessory structure through Surface Mining [No change in text.]

Sustainable Development Area means the area within a defined walking distance along a pedestrian path of travel using sidewalks from a *major transit stop* that is

existing or planned, if the planned *major transit stop* is included in a transportation improvement program or applicable regional transportation plan, as follows:

- (a) Within Mobility Zones 1 and 3, as defined in Section 143.1103, the defined walking distance is 1.0 mile.
- (b) Within Mobility Zone 4, as defined in Section 143.1103, the defined walking distance is 0.75 mile.
- (c) For parcels located in Mobility Zone 4, in an area identified as a High or Highest Resource California Tax Credit Allocation Committee (CTCAC) Opportunity Area, the defined walking distance is 1.0 mile.

In addition, an adopted specific plan prepared in accordance with section 122.0107(a), shall be within the *Sustainable Development Area* if the *Sustainable Development Area* is within a portion of the adopted specific plan.

Target population through Yard [No change in text.]

§125.0431 Additional Notice for a Condominium Conversion Map

- (a) For a *tentative map a condominium conversion* project, the *subdivider* shall provide the following notices in addition to the notice provided for in Chapter 11, Article 2, Division 3 (Notice):
 - (1) [No change in text.]
 - (2) Notice to each person applying for the rental of a ~~unit~~ dwelling unit or Accessory Dwelling Unit in the proposed project required in Chapter 11, Article 2, Division 3 (Notice) and Subdivision Map Act section 66452.17;

(3) through (5) [No change in text.]

(b) through (c) [No change in text.]

§131.0322 Use Regulations Table for Agricultural Zones

The uses allowed in the agricultural zones are shown in Table 131- 03B.

Legend for Table 131-03B

[No change in text.]

Table 131-03B

Use Regulations Table for Agricultural Zones

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones			
	1st & 2nd >>	AG		AR	
	3rd >>	1-		1-	
	4th >>	1	2	1	2
Open Space through Residential, Separately Regulated Residential Uses	[No change in text.]				
<i>Accessory Dwelling Units</i>	<u>-L</u>		L		
Residential, Separately Regulated Residential Uses, Continuing Care through Residential, Separately Regulated Residential Uses, Interim Ground Floor Residential [No change in text.]	[No change in text.]				
<i>Junior Accessory Dwelling Units</i>	<u>-L</u>		L		
Residential, Separately Regulated Residential Uses, Live/Work Quarters through Signs, Separately Regulated Signs Use, Theater Marquees [No change in text.]	[No change in text.]				

§141.0302 Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs)

~~Section 141.0302 provides for the construction of Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs), consistent with the~~

~~requirements of state law, and is intended to encourage the construction of ADUs and JADUs through several local regulatory provisions, including eliminating parking requirements for ADUs and JADUs, and providing an affordable housing bonus of one additional ADU for every deed-restricted affordable ADU constructed on the premises, as specified in the regulations below. ADUs are permitted in all zones allowing residential uses, and JADUs are permitted in all Single Dwelling Unit Zones by right as a limited use decided in accordance with Process One, indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), subject to the following regulations.~~

(a) ~~The following definitions apply to this section:~~ Use Regulations for ADUs and JADUs:

(1) ~~Single Dwelling Unit Zone means a zone that permits *single dwelling units* but does not permit *multiple dwelling units*.~~ Guest Quarters. Guest quarters and non-habitable *accessory structures* shall be permitted in addition to ADUs and JADUs, if permitted by the base zone.

(2) ~~Multiple Dwelling Unit Zone means a zone that permits *multiple dwelling units*.~~ Development Impact Fees. Development Impact Fees for ADUs and JADUs shall be paid in accordance with Section 142.0640(b).

(3) Multi-Dwelling Unit and Urban Lot Split Regulations. An ADU or JADU shall not be permitted to be constructed on any premises that has utilized the provisions of Chapter 14, Article 3, Division

13, Multi-Dwelling Unit and Urban Lot Split Regulations for
Single Family Zones, except as provided in Section
143.1305(c)(1).

(4) Previously Conforming. Construction of an ADU or JADU shall
not require correction of *previously conforming conditions on the
premises.*

(5) Conversion. An ADU or JADU that is converted from an existing
dwelling unit or accessory structure or is constructed in the same
location and within the same *building envelope* as an existing
dwelling unit or accessory structure may continue to observe the
same *setbacks* as the existing *dwelling unit or accessory structure.*

(6) Fire Sprinklers.

(A) An ADU or JADU shall not be required to provide
automatic fire sprinklers if they are not required for the
primary dwelling unit.

(B) An ADU or JADU shall be required to provide an automatic
fire sprinkler system when located on a *premises* where the
primary dwelling unit is protected with an automatic fire
sprinkler system in accordance with the California Building
Standards Code.

(C) The construction of a detached ADU shall not trigger a
requirement for automatic fire sprinklers to be installed in
the existing *primary dwelling unit or multiple dwelling unit*

unless required in accordance with the California Building Standards Code.

(7) Within the Coastal Overlay Zone.

(A) An existing *structure* may only be converted or reconstructed as an *ADU* or *JADU* if the *structure* conforms to all of the following regulations:

(i) The wetlands regulations in Section 143.0141(b);

(ii) The sensitive coastal bluffs regulations in Section 143.0143;

(iii) The coastal beaches regulations in Section 143.0144; and

(iv) Supplemental Regulations of the Coastal Overlay Zone in Section 132.0403.

(B) *ADUs* or *JADUs* constructed within areas of future sea level rise shall comply with the regulations in Section 132.0404.

(C) *ADUs* or *JADUs* shall comply with all of the following regulations:

(i) The wetland regulations in Section 143.0141(b);

(ii) The sensitive coastal bluffs regulations in Section 143.0143;

(iii) The *coastal beaches* regulations in Section 143.0144; and

(iv) The Supplemental Regulations of the Coastal
Overlay Zone in Section 132.0403.

(8) An ADU shall not be used for a rental term of less than 31
consecutive days. JADUs are not subject to rental term limitations.

(b) ~~The following regulations are applicable to both ADUs and JADUs:~~ ADU
Development Regulations.

(1) ~~Use Regulations~~ On a premises with an existing or proposed single
dwelling unit, the following is permitted:

(A) ~~One ADU and one JADU are permitted on a premises
located within a Single Dwelling Unit Zone with an
existing or proposed single dwelling unit. One ADU that is
either attached or within an existing or proposed single
dwelling unit or within an existing accessory structure,
subject to the following:~~

(i) Construction of the ADU may expand the floor
area of the single dwelling unit or accessory
structure up to 150 square feet to allow for ingress
and egress only; and

(ii) The ADU shall have a separate exterior entry from
the single dwelling unit.

(B) ~~An ADU or JADU shall not be used for a rental term of
less than 31 consecutive days. One detached ADU, that
shall not exceed a gross floor area 1,200 square feet.~~

(C) ~~Guest quarters and non-habitable accessory structures shall be permitted in addition to ADUs and JADUs~~ A maximum of one attached ADU or one detached ADU with a gross floor area of 800 square feet or less may be permitted, provided that the development results in no more than one attached ADU and one detached ADU on the premises. The ADU shall not be subject to maximum lot coverage, maximum floor area ratio, front yard setback, and minimum open space requirements of the underlying base zone. The development shall comply with the maximum allowable floor area ratio of the underlying base zone unless the existing development exceeds the allowable floor area ratio or is under the allowable floor area ratio by less than 800 square feet.

~~(D) An Accessory Dwelling Unit or Junior Accessory Dwelling Unit shall not be permitted to be constructed on any premises that has utilized the provisions of Chapter 14, Article 3, Division 13, Multi-Dwelling Unit and Urban Lot Split Regulations for Single Family Zones, except as provided in Section 143.1305(c)(1)~~

(2) Development Regulations The maximum number of ADUs on a premises with a proposed multiple dwelling unit structure shall not exceed two detached ADUs.

- ~~(A) — A minimum *lot size* is not required for the construction of an *ADU* or *JADU*~~
- ~~(B) — *ADUs* and *JADUs* are not subject to the *density* limitations for the *premises*.~~
- ~~(C) — The *gross floor area* of an *ADU* and *JADU* shall be included in the *floor area ratio* for the *premises*.~~
- ~~(D) — An *ADU* or *JADU* that is converted from an existing *dwelling unit* or *accessory structure* or is constructed in the same location and within the same *building envelope* as an existing *dwelling unit* or *accessory structure* may continue to observe the same *setbacks* as the existing *dwelling unit* or *accessory structure*. An existing *structure* may not be converted or reconstructed as an *ADU* or *JADU* if the *structure* does not conform to the wetlands regulations in Section 143.0141(b), the sensitive coastal bluffs regulations in Section 143.0143, the coastal beaches regulations in Section 143.0144, or the Supplemental Regulations of the Coastal Overlay Zone in Section 132.0403.~~
- ~~(E) — The following landscape regulations shall apply to the construction of an *ADU* or *JADU*:~~
- ~~(i) — If the construction of an *ADU* or *JADU* brings the number of *ADUs* and any *JADU* on the *premises* to a total of two or more, two trees shall be provided~~

~~on the *premises* for every 5,000 square feet of *lot* area, with a minimum of one tree per *premises*. If planting of a new tree is required to comply with this Section, the tree shall be selected in accordance with the Landscape Standards of the Land Development Manual and the City's Street Tree Selection Guide. If the *premises* is located in the OR Zone, the *lot* area used to determine the tree requirement shall be based on the allowable *development* area as described in Section 131.0250. If the *premises* contains *environmentally sensitive lands*, the *lot* area used to determine the tree requirement shall be based on the allowable *development* area as described in Chapter 14, Article 3, Division 1.~~

~~(ii) — *ADUs* constructed in accordance with Section 141.0302(c)(2)(C) shall comply with the street tree requirements in Section 142.0409(a).~~

~~(F) — *ADUs* and *JADUs* shall not be required to provide fire sprinklers if they are not required for the primary *dwelling unit*. When located on a *premises* where the primary *dwelling unit* is protected with an automatic fire sprinkler system in accordance with Section R313~~

~~of the California Residential Code, an ADU or JADU shall be protected with an automatic fire sprinkler system.~~

~~(G) Construction of an ADU or JADU shall not require the correction of *previously conforming* conditions on the *premises*.~~

~~(H) ADUs and JADUs constructed within Areas of Future Sea Level Rise must comply with the regulations in Section 132.0404.~~

~~(I) Within the Coastal Overlay Zone, ADUs and JADUs shall comply with the wetlands regulations in Section 143.0141(b), the sensitive coastal bluffs regulations in Section 143.0143, the coastal beaches regulations in Section 143.0144, and the Supplemental Regulations of the Coastal Overlay Zone in Section 132.0403.~~

(3) ~~Parking Regulations~~ On a *premises* with an existing *multiple dwelling unit structure*, the following applies:

~~(A) No on-street parking spaces or off-street parking spaces are required for ADUs and JADUs except as specified in Section 141.0302(b)(3)(B).~~ The maximum number of ADUs that may be permitted within the existing non-livable space of an existing *multiple dwelling unit structure* shall not exceed 25 percent of the total number of *multiple*

dwelling units in the structure. The minimum number of ADUs that may be permitted within the non-livable space of the existing structure is one. Non-livable space includes, but is not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages;

- (B) ~~When an ADU or JADU is proposed on a premises located both within the Beach Impact Area of the Parking Impact Overlay Zone and outside of a transit priority area, one off-street parking space located consistent with Section 141.0302(b)(3)(D) shall be required per ADU or JADU, unless any of the following apply; A maximum of eight detached ADUs may be permitted on the premises; and~~
- ~~(i) — The ADU or JADU is 500 square feet or less;~~
 - ~~(ii) — The premises is located within a historical district that is a designated historical resource;~~
 - ~~(iii) — The ADU or JADU is attached to the proposed or existing primary dwelling unit or accessory structure;~~
 - ~~(iv) — The premises is located with a residential permit parking district;~~
 - ~~(v) — There is a car share vehicle located within one block of the premises.~~

~~(C) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or JADU, replacement of those off-street parking spaces is not required unless the premises is located both within the Beach Impact Area of the Parking Impact Overlay Zone and outside of a transit priority area, in which case the parking shall be replaced in a location consistent with Section 141.0302(b)(3)(D). The maximum number of ADUs allowed under Section 141.0302(b)(3)(A) and 141.0302(b)(3)(B) shall not exceed the number of existing multiple dwelling units in the multiple dwelling unit structure.~~

~~(D) If off-street parking spaces are required in accordance with Section 141.0302(b)(3)(B) or 141.0302(b)(3)(C), or if the applicant chooses to provide off-street parking spaces for ADUs and/or JADUs located on the premises, those spaces shall comply with the following:~~

~~(i) Off-street parking spaces may be located in any configuration, may be within the setback areas, and may include tandem spaces or mechanical lifts.~~

~~(ii) Off-street parking spaces shall be located within hardscape areas and shall comply with the minimum~~

standards and guidelines to provide safe and efficient means of vehicular access to the *lot*.

~~(E) Notwithstanding 141.0302(b)(2)(H), if the construction of an ADU or JADU causes an existing driveway curb cut to no longer comply with the dimensions required in Table 142-05K of Section 142.0560 for an *off-street parking space*, the driveway shall be closed to the satisfaction of the City Engineer.~~

(4) Development Impact Fees for ADUs and JADUs shall comply with Section 142.0640(b). Lot Size. A minimum lot size is not required for the construction of an ADU.

(5) Density. ADUs are not subject to the density limitations for the premises.

(6) Gross Floor Area

(A) The gross floor area of an ADU shall not be less than 150 square feet.

(B) The gross floor area of an attached or detached ADU shall not exceed 1,200 square feet.

(C) An ADU constructed within an existing single dwelling unit or accessory structure does not have a maximum gross floor area requirement and may construct an additional 150 square feet to allow for ingress and egress only.

(D) ADUs constructed within an existing multiple dwelling unit structure do not have a maximum gross floor area requirement.

(E) The gross floor area of an ADU shall not be included in the floor area ratio for the premises, except that it shall be included if the premises includes bonus ADU development as set forth in Section 141.0302(d).

(7) Setbacks.

(A) The front yard setback of an ADU shall be consistent with the base zone.

(B) The minimum street side yard setback of an ADU shall be 4-feet or the minimum street side yard setback of the base zone, whichever is less.

(C) Interior side yard and rear yard setbacks for ADU structures with a structure height of 16 feet or less shall be provided as follows:

(i) For ADU structures located on a premises outside of a High or Very High Fire Hazard Severity Zone, there is no minimum interior side yard and rear yard setbacks, except that the Fire Code Official may require a greater setback to ensure compliance with the California Fire Code;

(ii) For ADU structures located on a premises within a High or Very High Fire Hazard Severity Zone, the minimum interior side yard and rear yard setbacks shall be 5-feet to provide defensible space between all structures on the premises and contiguous areas of native or naturalized vegetation, except that the Fire Code Official may require a greater setback to ensure compliance with the California Fire Code.

(D) Interior side yard and rear yard setbacks for ADU structures with a structure height that exceeds 16 feet shall be provided as follows:

(i) For ADU structures located on a premises outside of a High or Very High Fire Hazard Severity Zone, there is no minimum interior side yard and rear yard setbacks, except that the Fire Code Official may require a greater setback to ensure compliance with the California Fire Code. However, if the side or rear property line abuts another premises that is residentially zoned or developed with exclusively residential uses, the minimum interior side yard and rear yard setbacks shall be 4-feet or the minimum setback of the applicable base zone, whichever is

less, except that the Fire Code Official may require a greater setback to ensure compliance with the California Fire Code.

(ii) For ADU structures located on a premises within a High or Very High Fire Severity Zone, the minimum interior side yard and rear yard setbacks shall be 5-feet to provide defensible space between all structures on the premises and any contiguous areas of native or naturalized vegetation, except that the Fire Code Official may require a greater setback to ensure compliance with the California Fire Code.

(8) Parking

(A) No on-street parking spaces or off-street parking spaces are required for ADUs, except as specified in Section 141.0302(b)(8)(B).

(B) When an ADU is proposed on a premises located both within the Beach Impact Area of the Parking Impact Overlay Zone and outside of a transit priority area, one off-street parking space located consistent with Section 141.0302(b)(8)(D) shall be required per ADU, unless any of the following apply:

(i) The ADU is 500 square feet or less;

- (ii) The premises is located within a historical district that is a designated historical resource;
 - (iii) The ADU is attached to the proposed or existing primary dwelling unit or accessory structure;
 - (iv) The premises is located within a residential permit parking district; or
 - (v) There is a car share vehicle located within one block of the premises.
- (C) When a garage, carport, covered parking structure or uncovered parking space is demolished in conjunction with the construction of an ADU, or converted to an ADU, replacement of those off-street parking spaces is not required unless the premises is located within the Beach Impact Area of the Parking Impact Overlay Zone and outside of the transit priority area, in which case, parking shall be replaced in a location consistent with Section 141.0302(b)(8)(D).
- (D) If off-street parking spaces are required in accordance with Section 141.0302(b)(8)(B) or 141.0302(b)(8)(C), or if the applicant chooses to provide off-street parking spaces for ADUs located on the premises, the following applies:

(i) Off-street parking spaces may be located within the setback areas, and may include tandem spaces or mechanical lifts; and

(ii) Off-street parking spaces shall be located within hardscape areas and shall comply with the minimum standards and guidelines to provide safe and efficient means of vehicular access to the lot. Off-street parking spaces may not encroach into the public right-of-way.

(E) Notwithstanding Section 141.0302(a)(4), if the construction of an ADU causes an existing driveway curb cut to no longer comply with the dimensions required in Table 142-05K of Section 142.0560 for an off-street parking space, the driveway shall be closed to the satisfaction of the City Engineer.

(9) The record owner is not required to live on the same premises of an ADU.

(c) In addition to the requirements in Section 141.0302(a), the following additional regulations are applicable to ADUs: JADU Development Regulations.

(1) Use Regulations On a premises with an existing or proposed single dwelling unit on a residential single dwelling unit lot, one JADU is permitted, subject to the following:

- (A) ~~The record owner is not required to live on the same premises as the ADU. The JADU shall be within an existing or proposed single dwelling unit or attached garage;~~
- (B) ~~The ADU may not be sold or conveyed separately from the primary dwelling unit unless all of the following apply:~~
- Construction of the JADU may expand the floor area of the existing single dwelling unit up to 150 square feet to allow for ingress and egress only;
- (i) ~~The ADU was built or developed by a qualified nonprofit corporation. For the purposes of Section 141.0302(b)(1)(B)(i), a qualified nonprofit corporation means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the California Revenue and Taxation Code for properties intended to be sold to low income families who participate in a special no interest loan program.~~
- (ii) ~~There is an enforceable restriction on the use of the premises on which the ADU is located pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation. For the purposes of Section 141.0302(b)(1)(B)(ii), a~~

qualified buyer means *very low income, low income, median income, or moderate income* households, as specified in Table 141-03A.

(iii) — The *lot* where the *ADU* is located is held pursuant to a recorded tenancy in common agreement that includes an allocation to each qualified buyer of an undivided, unequal interest in the *lot* based on the size of the *ADU* each qualified buyer occupies; a repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property; a requirement that the qualified buyer occupy the property as the qualified buyer's principal residence; and affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for *very low income, low income, median income or moderate income* households for 45 years for owner-occupied housing and will be sold or resold to a qualified buyer.

(iv) — A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded with the County. A Preliminary Change of Ownership Report shall be filed

~~concurrently with this grant deed pursuant to
Section 480.3 of the Revenue and Taxation Code.~~

~~(v) If requested by a utility providing service to the
primary residence, the ADU has a separate water,
sewer, or electrical connection to that utility.~~

(C) The JADU shall have a separate exterior entry from the
existing or proposed *single dwelling unit*;

(D) The JADU may not be sold or conveyed separately from
the *primary dwelling unit*;

(E) The *record owner* of the *primary dwelling unit* shall reside
in the *single dwelling unit* or JADU;

(F) Before a Building Permit may be issued for a JADU, the
record owner shall enter into an agreement with the City
in a form that is approved by the City Attorney that
includes the following provisions:

(i) The JADU may not be sold or conveyed separately
from the *primary dwelling unit*;

(ii) The agreement may be enforced against future
purchasers;

(iii) The *record owner* shall reside on the *premises*;

(iv) The agreement shall be recorded in the Office of the
County Recorder of San Diego County; and

(v) The agreement shall run with the land for the life of the JADU.

(G) Government agencies, land trusts, and qualified housing organizations are exempt from Section 141.0302(c)(1)(D) and Section 141.0302(c)(1)(E).

(2) ~~Development Regulations for ADUs Lot Size. JADUs are not subject to a minimum lot size.~~

~~(A) ADUs shall be permitted in all zones allowing residential uses, consistent with the Use Table of the applicable base zone.~~

~~(B) One ADU shall be permitted in a Single Dwelling Unit Zone on a premises with an existing or proposed single dwelling unit.~~

~~(C) On a premises located in a Single Dwelling Unit Zone with an existing multiple dwelling unit, or a premises located in a Multiple Dwelling Unit Zone with an existing or proposed dwelling unit, ADUs shall be permitted as follows:~~

~~(i) Two ADUs that are attached to and/or detached from an existing or proposed structure are permitted; and~~

~~(ii) The number of ADUs permitted within the habitable area of an existing dwelling unit structure is limited to 25 percent of the total number of existing~~

~~dwelling units in the structure, but in no case shall it be less than one ADU; and~~

~~(iii) — There is no limit on the number of ADUs permitted within the portions of existing dwelling unit structures and accessory structures that are not used as livable space, including storage rooms, boiler rooms, passageways, attics, basements, or garages, if each ADU complies with state building standards for dwelling units.~~

~~(D) — A maximum of one ADU with a gross floor area of 800 square feet or less shall be permitted on a premises with an existing or proposed dwelling unit regardless of maximum lot coverage, maximum floor area ratio, front yard setback, and minimum open space requirements. The development shall comply with the floor area ratio of the underlying base zone unless the development incorporates an existing structure that exceeds the allowable floor area ratio or is under the allowable floor area ratio by less than 800 square feet, in which case an ADU that does not exceed 800 square feet shall be permitted.~~

~~(E) — An ADU may be attached to, located within, or detached from an existing or proposed primary dwelling unit, including garages and habitable or non-habitable accessory~~

structures.

~~(F) — The minimum *gross floor area* of an *ADU* shall not be less than 150 square feet. The maximum *gross floor area* of an *ADU* shall not exceed 1,200 square feet. An *ADU* constructed within an existing *dwelling unit* or *accessory structure* does not have a maximum *gross floor area* and may construct an additional 150 square feet for ingress and egress only.~~

~~(G) — *ADU structures* shall comply with the front yard and street side yard setbacks of the base zone. Interior side yard and rear yard setbacks for new *ADU structures* shall be provided as follows:~~

~~(i) — One-story *ADU structures* with a *structure height* 16 feet or less may observe a zero foot setback at the interior side yard and rear yard.~~

~~(ii) — One-story *ADUs* with a *structure height* that exceeds 16 feet and multi-story *ADU structures* may observe zero foot interior side yard and rear yard setbacks, unless the side or rear property line abuts another premises that is residentially zoned or developed with exclusively residential uses, in which case a 4 foot setback or the minimum setback of the applicable base zone, whichever is less, shall~~

apply.

~~(H) — ADU Bonus for Affordable ADUs. One additional ADU shall be permitted for every ADU on the premises that is set aside as affordable to very low income and low income households for a period of not less than 10 years, or as affordable to moderate income households for a period of not less than 15 years, guaranteed through a written agreement and a deed of trust securing the agreement, entered into by the applicant and the President and Chief Executive Officer of the San Diego Housing Commission.~~

~~(i) — There is no limit on the number of bonus ADUs within a Sustainable Development Area.~~

~~(ii) — One bonus ADU is permitted outside a Sustainable Development Area.~~

~~(iii) — For ADUs to be counted as affordable and meet the requirements of this Section, the qualifying criteria in Table 141-03A shall be met.~~

Table 141-03A

Qualifying Criteria for Affordable ADU Bonus

	Rental ADUs	For-Sale ADUs ¹

	shall be affordable, including an allowance for utilities, at a rent that does not exceed:	shall be affordable at an affordable housing cost that does not exceed:
<i>Very Low Income</i> households	30 percent of 50 percent of the area median income, as adjusted for family size appropriate for the unit.	30 percent of 50 percent of the area median income, as adjusted for family size appropriate for the unit.
<i>Low Income</i> households	30 percent of 60 percent of the area median income, as adjusted for family size appropriate for the unit.	30 percent of 70 percent of the area median income, as adjusted for family size appropriate for the unit.
<i>Moderate Income</i> households	30 percent of 110 percent of the area median income, as adjusted for family size appropriate for the unit.	35 percent of 110 percent of the area median income, as adjusted for family size appropriate for the unit.

Footnotes for Table 141.03A

(1) — For sale *ADUs* are subject to the requirements of Section 141.0302(c)(1)(B).

(I) — *ADU Bonus for Accessible ADUs*. For *development* utilizing the *ADU Bonus for Affordable ADUs* in accordance with Section 141.0302(c)(2)(H), a maximum of one additional accessible *ADU* shall be permitted if the *development* includes:

~~(i) At least two ADUs shall be affordable to very low income, low income, or moderate income households; and~~

~~(ii) The accessible ADU shall comply with the following:~~

~~(a) Accessibility requirements in Chapter 11A of the California Building Code, including at least one accessible bathroom, one accessible kitchen, and one accessible bedroom; and~~

~~(b) The accessible ADU shall be located on an accessible route, as defined by the California Building Code.~~

(3) Density. JADUs are not subject to the density limitations for the premises.

(4) Gross Floor Area.

(A) The gross floor area of a JADU shall not be included in the floor area ratio for the premises.

(B) A JADU shall not be less than 150 square feet and shall not exceed 500 square feet within an existing or proposed single dwelling unit or attached garage.

(5) Exterior Entry. A JADU shall have a separate exterior entry from the primary dwelling unit.

(6) Kitchen. A JADU shall include the following:

- (A) A cooking facility with appliances;
- (B) A food preparation counter of a reasonable size in relation to the size of the JADU; and
- (C) Storage cabinets that are of a reasonable size in relation to the size of the JADU.

(7) Parking.

- (A) No on-street parking spaces or off-street parking spaces are required for a JADU.
- (B) Notwithstanding Section 141.0302(a)(4), if the construction of a JADU causes an existing driveway curb cut to no longer comply with the dimensions required in Table 142-05K of Section 142.0560 for an off-street parking space, the driveway shall be closed to the satisfaction of the City Engineer.

(d) In addition to the requirements in Section 141.0302(b), JADUs are subject to the following additional regulations ADU Home Density Bonus. In addition to the ADUs and JADUs permitted under Sections 141.0302(b) and 141.0302(c), one additional bonus ADU shall be permitted for every additional affordable ADU permitted, if the premises and affordable and bonus ADUs meet all of the following:

- (1) Use Regulations Location Requirements
 - (A) ~~One JADU is permitted on a premises located within a Single Dwelling Unit Zone with an existing or proposed~~

~~primary single dwelling unit. The premises is not located within any of the following base zones: RS-1-1, RS-1-2, RS-1-3, RS 1-4, RS-1-8, RS-1-9, RS-1-10 or RS-1-11.~~

- (B) ~~The JADU may not be sold or conveyed separately from the primary dwelling unit For development on a premises that is outside of the Sustainable Development Area, On a premises within the Sustainable Development Area one additional bonus ADU shall be permitted for every additional affordable ADU.~~
- (C) ~~Before a Building Permit may be issued for a JADU, the record owner shall enter into an agreement with the City in a form that is approved by the City Attorney. The agreement shall include the following provisions: the JADU may not be sold or conveyed separately from the primary dwelling unit; the agreement may be enforced against future purchasers; and the record owner shall reside on the premises. The City shall submit the agreement to the County Recorder for recordation. The agreement shall run with the land for the life of the JADU. On a premises outside of the Sustainable Development Area, a maximum of one bonus ADU and one affordable ADU shall be permitted.~~

(D) When a premises is located in more than one base zone, only the portion of the premises that meets the requirements of Section 141.0302(d)(1)(A) shall be eligible for more than one bonus ADU.

(2) *Development Regulations* Lot requirements

(A) ~~One JADU is permitted on a premises located within a Single Dwelling Unit Zone with an existing or proposed primary single dwelling unit. Within High and Very High Fire Hazard Severity Zones the applicant must demonstrate that the lot fronts an improved public street with at least two evacuation routes to the satisfaction of the Fire Code Official; and~~

(B) ~~A JADU of not less than 150 square feet and not more than 500 square feet is permitted within an existing or proposed single dwelling unit, or an attached garage. Within High and Very High Fire Hazard Severity Zones in no case shall the lot front a cul-de-sac or be located on a premises that only has one point of ingress or egress.~~

(C) ~~A JADU shall have a separate exterior entry from the primary dwelling unit~~

(D) ~~The JADU shall include the following:~~

(i) ~~A cooking facility with appliances;~~

- ~~(ii) A food preparation counter of a reasonable size in
relation to the size of the JADU; and~~
- ~~(iii) Storage cabinets that are of a reasonable size in
relation to the size of the JADU~~

(3) Floor Area Ratio.

(A) Within a base zone that only permits *single dwelling units*,
the maximum *floor area ratio* shall be determined as
follows:

(i) Where the *lot* contains *environmentally sensitive
lands*, the maximum permitted *floor area ratio* shall
be determined using only the area of the *lot* that
does not contain *environmentally sensitive lands*;

(ii) In no case shall the maximum permitted
floor area ratio be determined using more than
10,000 square feet for the *lot* area; and

(iii) For the RS-1-5, RS-1-6, RS-1-7 base zones, the
applicable *floor area ratio* shall be determined
in accordance with Table 131-04J using the
adjusted *lot* area as described in Sections
141.0302(d)(3)(A)(i) and 141.0302(d)(3)(A)(ii).

(B) Within a base zone that permits *multiple dwelling units* and
where the *lot* contains *environmentally sensitive lands*, the
maximum permitted *floor area ratio* shall be determined

using only the *area* of the *lot* that does not contain *environmentally sensitive lands*.

(4) Fire Sprinklers. All affordable *ADUs* and bonus *ADUs* in the *development* shall include an automatic fire sprinkler system in accordance with the California Building Standards Code;

(5) Minimum Required *Off-Street Parking Spaces*. One *off-street parking space* shall be required for each affordable *ADU* and bonus *ADU* located outside of a *transit priority area*.

(6) *ADU Home Density Bonus Agreement*. The affordable *ADUs* shall be guaranteed through a written agreement and a deed of trust securing the agreement, entered in by the *applicant* and the *President and Chief Executive Officer of the San Diego Housing Commission*, or their designee, prior to the issuance of a *Building Permit* for the first affordable *ADU* or bonus *ADU*, whichever occurs first, that meets the following requirements:

(A) Rental. A rental affordable *ADU* home density bonus agreement shall utilize the following qualifying criteria:

(i) One additional bonus *ADU* shall be permitted for every affordable *ADU* on the *premises* that is set aside as affordable to *very low income households* for a period of not less than 10 years at a rent that does not exceed 30 percent of 50 percent of the area median income as adjusted for household size;

(ii) One additional bonus ADU shall be permitted for every affordable ADU on the premises that is set aside as affordable to low income households for a period of not less than 10 years at a rent that does not exceed 30 percent of 60 percent of the area median income as adjusted for household size;

(iii) One additional bonus ADU shall be permitted for every affordable ADU on the premises that is set aside as affordable to moderate income households for a period of not less than 15 years at a rent that does not exceed 30 percent of 110 percent of the area median income as adjusted for household size;

and

(iv) The very low, low, and moderate income affordable ADUs shall be comparable in bedroom mix and amenities to the bonus ADUs in the development.

(B) For-Sale. A for-sale affordable ADU home density bonus agreement shall utilize the following qualifying criteria:

(i) One additional bonus ADU shall be permitted for every affordable ADU on the premises that is set aside as affordable to very low income households for a period of not less than 10 years at an affordable housing cost that does not exceed 30

percent of 50 percent of the area median income as adjusted for household size;

(ii) One additional bonus ADU shall be permitted for every affordable ADU on the premises that is set aside as affordable to low income households for a period of not less than 10 years at a rent that does not exceed 30 percent of 70 percent of the area median income as adjusted for household size;

(iii) One additional bonus ADU shall be permitted for every affordable ADU on the premises that is set aside as affordable to moderate income households for a period of not less than 10 years at a rent that does not exceed 30 of 110 percent of the area median income as adjusted for household size;

(iv) The very low, low, and moderate income affordable ADUs shall be comparable in bedroom mix and amenities to the bonus ADUs in the development;

(v) The initial occupant of all for-sale affordable ADUs shall be a very low, low, or moderate income household;

(vi) Prior to, or concurrent with, the sale of each affordable ADU, the applicant shall require the buyer to execute and deliver a promissory note in

favor of the San Diego Housing Commission so that the repayment of any initial subsidy is ensured;

(vii) Each for-sale affordable ADU shall be occupied by the initial record owner at all times until the resale of the ADU; and

(viii) Upon the first resale of an affordable ADU, the seller shall comply with all conditions regarding the sale of an affordable ADU, as applied by the San Diego Housing Commission.

(C) Violations.

(i) Rental affordable ADU home density bonus agreement. In the event that the terms of the rental affordable ADU home density bonus agreement are violated by the applicant, the applicant shall be liable for a minimum penalty of \$10,000 per ADU per month, in addition to any fines outlined in the rental affordable ADU home density bonus agreement with the San Diego Housing Commission.

(ii) For-Sale affordable ADU home density bonus. In the event that the terms of the for-sale affordable ADU home density bonus agreement are violated by the applicant the applicant shall be liable for a

minimum penalty of \$10,000 per ADU per month, in addition to any fines outlined in the rental affordable ADU home density bonus agreement with the San Diego Housing Commission. In the event that the terms of the for-sale affordable ADU home density bonus agreement are violated by the record owner the record owner shall be liable for a minimum penalty of \$10,000 per ADU per month, in addition to any fines outlined in the rental affordable ADU home density bonus agreement with the San Diego Housing Commission.

(7) The applicant shall pay an ADU Home Density Bonus Program Community Enhancement Fee as established by San Diego Resolution R-x (Date). The fee shall be calculated based on the gross floor area of the affordable ADUs and bonus ADUs that are less than 750 square feet in gross floor area.

(e) ADU Bonus for Accessible ADUs. For development utilizing the ADU Home Density Bonus Program in accordance with Section 141.0302(d), a maximum of one additional accessible ADU shall be permitted if the development includes:

- (1) At least two ADUs that are affordable to very low income, low income, or moderate income households; and
- (2) The accessible ADU meets the following:

- (A) Accessibility requirements in Chapter 11A of the California Building Code, including at least one accessible bathroom, one accessible kitchen, and one accessible bedroom; and
 - (B) The accessible ADU shall be located on an accessible route, as defined by the California Building Code.
 - (C) The accessible ADU shall be comparable in bedroom mix and amenities to the bonus ADUs in the development.
- (f) Sale or Conveyance of ADUs. New or existing ADUs may be converted into condominiums and shall be sold or otherwise conveyed separately from the primary residence in accordance with this Section or pursuant to Section 141.0302(g) and subject to all of the following:
- (1) All structures and buildings included as part of a condominium development shall conform to the requirements applicable to the base zone or planned district in which the development is located. Designation of individual condominium units shall not be deemed to reduce or eliminate any of the base zone or planned district requirements applicable to the buildings or structures, except for ADUs pursuant to Section 143.0302(b)(2);

 - (A) The condominium subdivision shall be created pursuant to the Davis-Stirling Common Interest Development Act Part 5 (commencing with Section 4000) of Division 4 of the California Civil Code);

(B) The condominium *subdivision* shall be created in conformance with the *Subdivision Map Act* (Division 2 commencing with California Government Code Section 66410) and the Condominium Conversion Regulations in Chapter 14, Article 4, Division 5;

(C) Neither a *subdivision map* nor a condominium plan shall be recorded without each lienholder's consent. The following shall apply to the consent of a lienholder:

(i) A lienholder may refuse to give written consent;

or

(ii) A lienholder may consent provided that any terms and conditions required by the lienholder are satisfied.

(D) Prior to recordation of the initial or any subsequent modifications to the condominium plan, written evidence of the lienholder's consent shall be provided to the Office of the County Recorder of San Diego County along with a signed statement from each lienholder that states as follows: "(Name of lienholder) hereby consents to the recording of this condominium plan in their sole and absolute discretion and the borrower has or will satisfy any additional terms and conditions the lienholder may have."

(E) The lienholder's written consent shall be included on the condominium plan, or attached to the condominium plan that includes the following information:

- (i) The lienholder's signature;
- (ii) The name of the record owner or ground lessee;
- (iii) The legal description of the real property;
- (iv) The identities of all parties with an interest in the real property as reflected in the real property records; and
- (v) The lienholder's written consent shall be recorded in the Office of the County Recorder of San Diego County.

(2) The condominium conversion *development* shall require a *tentative map* or *tentative map* waiver in accordance with Chapter 12, Article 5, Division 1;

(3) The condominium conversion *development* shall be subject to the Condominium Conversion Regulations in Chapter 14, Article 4, Division 5;

(4) If an *ADU* is established as a condominium, the *applicant* shall notify providers of utilities, including water, sewer, gas, and electricity, of the condominium creation and separate conveyance; and

- (5) The condominium conversion *development* shall be located on a single parcel or *lot* that was previously mapped and monumented in a manner satisfactory to the City Engineer in accordance with Subdivision Map Act Section 66428(b).
- (6) ADUs that have received financing or other forms of assistance from the San Diego Housing Commission shall not be converted into condominiums and shall not be sold or otherwise conveyed separately from the primary residence during the term specified in the deed restriction agreement.
- (7) Rental ADUs that are rent restricted by law or covenant to persons and families of *very low income, low income, or moderate income* shall not be converted into condominiums and shall not be sold or otherwise conveyed separately from the primary residence for the duration of the deed restriction or affordability covenant term.
- (g) Sale or Conveyance of an ADU by a nonprofit corporation.
- (1) An ADU may be sold or conveyed separately from the primary dwelling unit by a qualified nonprofit corporation.
- (2) For the purpose of Section 141.0302(g), a qualified nonprofit corporation means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the California Revenue

and Taxation Code for properties intended to be sold to *low income* families who participate in a special no-interest loan program.

(3) For an *ADU* to be sold or conveyed separately from the primary dwelling unit by a qualified nonprofit corporation, the following shall apply:

(A) There is an enforceable restriction on the use of the premises on which the *ADU* is located pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation. For the purposes of Section 141.0302(g)(1), a qualified buyer means *very low income, low income, median income, or moderate income* households, as specified in Section 141.0302(d)(6)(B).

(B) The lot where the *ADU* is located is held pursuant to a recorded tenancy in common agreement that includes:

(i) An allocation to each qualified buyer of an undivided, unequal interest in the lot based on the size of the *ADU* each qualified buyer occupies;

(ii) A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property;

(iii) A requirement that the qualified buyer occupy the property as the qualified buyer's principal residence; and

(iv) Affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for very low income, low income, median income, or moderate income households for 45 years for owner-occupied housing and will be sold or resold to a qualified buyer.

(C) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the Office of the Recorder in San Diego County.

(D) A Preliminary Change of Ownership Report shall be filed concurrently with the grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.

(E) If requested by a utility providing service to the primary residence, the ADU has a separate water, sewer, or electrical connection to that utility.

§143.0815 When Coastal Overlay Zone Affordable Housing Replacement

Regulations Apply

- (a) [No change in text.]
- (b) The following *development* types shall be reviewed for compliance with the regulations in this Division:

(1) Conversion from rental units or accessory dwelling units to condominium units (cooperative or similar form of ownership);

(2) through (3) [No change in text.]

(c) [No change in text.]

§144.0501 Purpose of Condominium Conversion Regulations

The purpose of the Condominium Conversion Regulations is to allow the conversion of apartments and Accessory Dwelling Units to condominiums while protecting the interests of tenants by requiring that tenants receive adequate notice of proposed *condominium conversions*, are advised of their rights with respect to the conversion of their apartment or Accessory Dwelling Unit to a condominium, and are afforded reasonable relocation assistance. It is also the intent of these regulations to protect the interests of the community and prospective purchasers by requiring the *applicant* to provide certain information regarding the condition of the structure and to require reasonable improvements for the health, safety, and general welfare of the public.