



THE CITY OF SAN DIEGO

Report to the Planning Commission

DATE ISSUED: April 24, 2025 REPORT NO. PC-25-016

HEARING DATE: May 1, 2025

SUBJECT: Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) Regulation Amendments to the San Diego Municipal Code and Local Coastal Program Amendment; Process 5

SUMMARY

Issue: Should the Planning Commission recommend City Council approve the adoption of the Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) Regulation Amendments to the San Diego Municipal Code (SDMC) and Local Coastal Program?

Proposed Action: Recommend that the City Council adopt an ordinance amending the ADU and JADU Regulations, including amendments to the ADU Home Density Bonus Program.

Fiscal Considerations: None

Housing Impact Statement: The proposed modification to remove eligibility for the ADU Home Density Bonus Program in the RS-1-1, RS-1-2, RS-1-3, RS-1-4, RS-1-8, RS-1-9, RS-1-10 and RS-1-11 base zones would remove approximately 25,689 acres from program eligibility. Additionally, 82,970 acres would remain eligible, with 38,583 acres located within the Sustainable Development Area (SDA) and 44,387 acres located outside the SDA. Other proposed amendments to the ADU Home Density Bonus Program include requirements related to evacuation route access, automatic fire sprinkler installation, parking requirements for developments located outside of a Transit Priority Area, increased penalties for violations, and the introduction of new community enhancement fees. These amendments may further affect the number of ADU homes that can be developed on eligible properties.

The proposed amendments to align the ADU and JADU regulations with state law would clarify that on lots developed with a single-family home, up to three units may be permitted, which include one detached ADU home, one converted ADU home (from existing space), and a JADU home. These three ADU homes that state law requires the City to permit are collectively referred to as state required ADU homes. Additionally, on lots with an existing multi-family residential structure, up to eight detached ADU homes may be permitted by right.

Community Planners Committee Recommendation: The Community Planners Committee (CPC) placed an item on the agenda for its March 25, 2025, meeting to consider recommendations regarding the ADU Home Density Bonus Program. In response, Planning Director Heidi Vonblum sent a letter dated March 21, 2025, providing an update on the program and welcoming the CPC's feedback (Attachment 1). Following this correspondence, the CPC established an Ad Hoc ADU Bonus Program Committee, which convened on April 2, 2025, to review the City's proposed revisions and develop possible alternatives. The Ad Hoc Committee presented its recommendations to the full CPC on April 22, 2025, and the CPC approved two motions:

- 1) Approve changes to all RS zones in their RS Zones Matrix. Motion approved: 21-2-0.
- 2) Approve their Proposal #3 for RM zones: Allow 2 City Bonus Affordable ADUs on every RM lot if allowed by the FAR. Excluded from the City Bonus Affordable ADU program would be lots which have maxed out, or even over-built their unit density allowance. These lots, along with all others will still allow State ADUs, up to 8. Approval included recommendations in their RM matrix. Motion approved: 21-0-2.

Environmental Impact: The Environmental Policy Section of the City Planning Department has reviewed the Code Amendment and determined that the adoption of the proposed amendments revising the ADU Regulations and the City's ADU Home Density Bonus program is statutorily exempt from CEQA pursuant to CEQA Guidelines Section 15282(h) which exempts the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 66314 and 66333 of the Government Code as set forth in Section 21080.17 of the Public Resources Code. The adoption of the proposed amendments is also categorically exempt from CEQA pursuant to CEQA Guidelines Section 15332 (In-fill Development Projects), as ADU and JADU projects meet the conditions of the Class 32 exemption. Adoption of the proposed amendments will remove zones from eligibility for the ADU Home Density Bonus program and limit the number of dwelling units that can be developed in eligible zones per the proposed amendments to the City's ADU Regulations and ADU Home Density Bonus program. These proposed amendments will decrease allowable ADU development in comparison to the existing regulations, which would decrease the potential for any physical effects on the environment.

Furthermore, the Environmental Policy Section of the City Planning Department has reviewed the Code Amendment and determined that the adoption of the proposed amendments revising the ADU Regulations and the City's ADU Home Density Bonus program is consistent with the Final Addendum to the General Plan Program Environmental Impact Report (PEIR) for the General Plan Housing Element Update 2021-2029 (Project No. 104495/SCH No. 2006091032), which was adopted by the San Diego City Council on June 18, 2020 (Resolution R-313099). Therefore, the proposed action is a subsequent discretionary action and is not considered to be a separate project for the purposes of CEQA review pursuant to State CEQA Guidelines Sections 15378(c) and 15060(c)(3). Pursuant to CEQA Statute Section 21166 and CEQA Guidelines Section 15162, there is no change in circumstance, additional information, or project changes to warrant additional environmental review for this action.

BACKGROUND

The City has undertaken several legislative actions to align local regulations with evolving state laws aimed at increasing the production of homes through the development of ADU homes and JADU homes. These efforts reflect an ongoing commitment to addressing the City's housing crisis by expanding opportunities for homes on residentially zoned properties, streamlining permitting processes, and reducing regulatory barriers.

The City amended the Companion Unit and Junior Unit regulations in 2017 to align with state law requirements for ADU homes. The regulations have been updated as part of subsequent amendments to the Land Development Code. The following summarizes the legislative packages that have incorporated new state requirements and local policy priorities, such as affordability, accessibility, sustainability, and neighborhood compatibility, to ensure that ADU regulations effectively support the City's broader housing needs.

[Companion Unit/Junior Unit Regulations \(2017\)](#)

On September 12, 2017, the City Council adopted the Companion Units and Junior Units Regulations, which implemented Senate Bill 1069 (Wieckowski, 2016), Assembly Bill 2299 (Bloom, 2016), and Assembly Bill 2406 (Thurmond, 2016). These regulations streamlined the construction of companion and junior units on residential properties with reduced requirements for parking, zoning setbacks, fire sprinklers, public utilities and fees.

[Housing Legislation Code Update \(2020\)](#)

On October 27, 2020, the City Council adopted the Housing Legislation Code Update, replacing the Companion Unit and Junior Unit regulations with new ADU and JADU regulations. This update implemented Assembly Bill 68 (Ting, 2019), Assembly Bill 587 (Gabriel, 2019), Assembly Bill 881 (Bloom, 2019), and Senate Bill 13 (Wieckowski, 2019). Key amendments included expanded allowances for ADU homes in multi-unit developments, prohibiting replacement parking for garages or carports converted to ADUs or JADUs, and ensuring that at least one ADU home is permitted per premises, regardless of maximum lot coverage, floor area ratio, or minimum open space requirements. In addition, as part of the Housing Legislation Code Update, parking requirements for the state required ADUs and JADUs were eliminated.

This package also implemented Assembly Bill 671 (Friedman, 2019), which required local jurisdictions to incentivize the construction of deed restricted affordable ADU homes. This led to the creation of the now-existing ADU Bonus Program, an affordable housing incentive that allowed for the construction of one additional ADU home for every deed restricted affordable ADU home designated for very low-, low-, or moderate-income households for a period of at least 15 years. Outside of a Transit Priority Area (TPA), only one bonus ADU home was permitted, whereas within a TPA, the number of bonus ADU homes allowed was limited by the height, lot coverage, and floor area ratio of the base zone. The bonus ADU homes were limited to the same total size that a single-family home would otherwise be allowed to be developed on a property.

[Housing Action Package 1.0 \(2022\)](#)

The City Council adopted Housing Action Package 1.0 on March 1, 2022. As part of this package, amendments were made to the ADU regulations to align with Senate Bill 9 (Atkins, 2021) and to respond to community concerns regarding privacy, the loss of mature landscaping, and the need for supportive infrastructure. These amendments included new setback requirements, updated

landscaping, street tree standards to support the urban tree canopy, and a scaled Development Impact Fee applicable to each ADU beyond the second that is also greater than 750 square feet, to address infrastructure needs. State law prohibits the City from collecting development impact fees for any ADU home that is less than 750 square feet.

[Housing Action Package 1.0 – ADU Bonus Program Amendment \(2022\)](#)

On May 24, 2022, the City Council adopted the Housing Action Package ADU Bonus Program Amendment. This amendment resulted from a request made at the February 8, 2022, City Council hearing to modify the ADU Density Bonus Program, specifically the deed restriction term for very low and low-income ADU homes. The action reduced the deed restriction period for ADU homes reserved for very low- and low-income households from 15 years to no less than 10 years. The deed restriction for moderate-income affordable ADU homes was not modified as part of this amendment.

[2022 Land Development Code Update \(2023\)](#)

The 2022 Land Development Code Update, adopted by the City Council on March 7, 2023, introduced the Sustainable Development Area (SDA), a geographic designation aimed at focusing the City's housing incentive programs in areas with convenient access to high-quality transit, and safe, enjoyable options for walking, rolling, and biking. The ADU Home Density Bonus program was also modified to require that eligible developments be located within an SDA, rather than a TPA. This change expanded the program's reach by approximately 4,612 additional developable acres. The SDA eliminated areas that were located outside of certain walking distances due to geographic or other physical barriers and instead utilized a distance measured by a pedestrian path of travel.

[Housing Action Package 2.0 \(2024\)](#)

The City Council adopted Housing Action Package 2.0 on January 4, 2024. This package modified the ADU Home Density Bonus program by creating the Accessible ADU Home Incentive, which encourages the development of ADU homes that meet the accessibility requirements of the California Building Code. Under this amendment, one additional accessible ADU home is allowed if a residential development includes at least two deed restricted affordable ADU homes. This action clarified that JADU homes may only be constructed within an existing single-family home.

[2024 Land Development Code Update \(2024\)](#)

The City Council adopted the 2024 Land Development Code Update on July 22, 2024. This update included minor modifications to clarify the street tree requirements for ADU homes and to align the regulations with state law regarding setbacks for ADU homes and kitchen requirements for JADU homes.

[Accessory Dwelling Unit Bonus Program \(2025\)](#)

On March 4, 2025, the City Council approved an action item requesting that staff return with amendments to the ADU Bonus Program. The City Council voted (6-3-0) to approve the following motion:

- 1) Request City staff to return to City Council within 90 days with an action item to remove the applicability of the ADU Bonus Program from the San Diego Municipal Code conforming the local ADU Bonus Program to state-mandated ADU regulations for single family zoned parcels in RS-1-1, RS-1-2, RS-1-3, RS-1-4, RS-1-8, RS-1-9, RS-1-10, and RS-1-11 zoned parcels; and

- 2) Request the City Planning Department to bring forward revisions to the ADU Density Bonus program including, but not limited to, those provided in the February 28, 2025, memorandum to the Land Use and Housing Committee for consideration (Attachment 2).

DISCUSSION

On March 4, 2025, the City Council requested that the City Planning Department return to Council within 90 days with an ordinance to remove the applicability of RS-1-1, RS-1-2, RS-1-3, RS-1-4, RS-1-8, RS-1-9, RS-1-10, and RS-1-11 base zones from the ADU Density Bonus Program. The City Council also directed the City Planning Department to bring forward additional revisions to the ADU Home Density Bonus Program, as outlined in the City Planning Department's February 28, 2025, memorandum to the Land Use and Housing Committee. In response to the City Council's discussion urging expeditious action and the need to consider all amendments to the ADU Home Density Bonus Program comprehensively to address community and City Council concerns, the City Planning Department is proposing an ordinance to amend the ADU Home Density Bonus Program and make other revisions necessary to comply with state laws related to ADU homes.

The City received comments from the California Department of Housing and Community Development (HCD) on October 30, 2024, which identified differences and inconsistencies between the City's current ADU regulations and state law and requested that the regulations be brought into compliance (Attachment 3). To address HCD's comments, the proposed action includes amendments to the citywide ADU and JADU regulations to ensure consistency with state law with respect to state-required ADU and JADU homes. This will also help to avoid delays in bringing this proposal to City Council since the City is required to submit all proposed amendments to the ADU and JADU regulations to HCD following City Council adoption.

Considering the ADU Home Density Bonus Program more comprehensively allows for a robust discussion on how the proposed amendments can simultaneously address issues related to public safety, development scale, and neighborhood enhancement funding. The proposal also allows the City Planning Department to efficiently coordinate with HCD to ensure that these reforms can go into effect in line with the Council's desire for quick action. The single proposed action ensures certainty that these changes will be enacted simultaneously, rather than in phases. Adopting these proposed amendments together ensures the City Council and the public understand where and how many ADU homes are allowed throughout the City.

Additionally, the City Planning Department will be engaging with the public and interested stakeholders to assist in developing the Neighborhood Homes for All of Us initiative later this year. Neighborhood homes are townhomes, rowhomes, and small-scale multiple-home buildings that are built to the same scale as surrounding traditional single homes, which can provide home options for first-time homebuyers, families with children, and middle-income households. Neighborhood Homes for All of Us will include home design guidelines to provide sample plans, layouts, designs, financing strategies and regulations to allow for the development of these homes in more areas in the City to enhance the City's neighborhoods.

A summary of the 24 proposed amendments is provided below, and a detailed description is included in the ADU and JADU Regulation Amendments list (Attachment 4) and the draft Strikeout/Underline Ordinance (Attachment 5).

Analysis

Between 2021 and 2024, the City permitted 4,388 projects, resulting in a total of 5,720 ADU homes, as shown in Table 1. Approximately 98 percent of these projects (4,308) resulted in the development of 1 to 3 ADU homes, accounting for 5,182 permitted ADU homes. Additionally, 51 projects, totaling 223 ADU homes, included 4 to 6 ADU homes, while 29 projects, totaling 315 ADU homes, included 7 or more ADU homes.

Table 1: Permitted ADU Homes 2021-2024				
	Permitted ADU Home Project Size			Total
	1 to 3 ADU Homes	4 to 6 ADU Homes	7+ ADU Homes	
Total ADU Home Projects	4,308	51	29	4,388
Total ADUs Homes Permitted	5,182	223	315	5,720

The ADU Home Density Bonus Program currently applies to 108,668 acres within the City. The proposed removal of the RS-1-1, RS-1-2, RS-1-3, RS-1-4, RS-1-8, RS-1-9, RS-1-10 and RS-1-11 base zones would result in approximately 25,698 fewer acres eligible for the program, which would account for a reduction of 24 percent of the current applicable acreage as shown in Table 2. Of this total, 3,374 acres are located within the SDA. In comparison, the remaining 22,324 acres are located outside the SDA (where a maximum of 1 bonus ADU home and 1 affordable ADU home are allowed). With this proposed amendment, 82,970 acres would remain eligible for the ADU Home Density Bonus program, including 38,583 acres within the SDA and 44,387 acres outside the SDA.

Table 2: Current ADU Home Density Bonus Program Applicability			
Zones	Within the SDA (Acres)	Outside of the SDA (Acres)	Total (Acres)
RS-1-1, RS-1-2, RS-1-3, RS-1-4, RS-1-8, RS-1-9, RS-1-10 & RS-1-11 Zones	3,374	22,324	25,698
All Other Eligible Zones	38,583	44,387	82,970
Total	41,957	66,711	108,668

Between 2021 and 2024, the ADU Home Density Bonus Program facilitated the permitting of 348 projects, resulting in 368 affordable ADU homes and 507 market-rate ADU homes, for a total of 875 permitted ADU homes, as shown in Table 3. The ADU Home Density Bonus Program represents approximately 8 percent of the total 4,388 ADU projects and 14 percent of the total 5,720 ADU homes permitted.

Table 3: ADU Homes Permitted through the ADU Home Density Bonus Program 2021-2024				
	Number of Projects	Affordable ADU Homes	Market Rate ADU Homes	Total ADU Homes
ADU Home Density Bonus Program	348	368	507	875
Percent of Total ADU Home Development	8%	100%	9%	14%

In the RS (Residential-Single Unit) base zones, the City permitted 410 ADU homes through 70 ADU Home Density Bonus Program projects between 2021 and 2024, as shown in Table 3. Of these, 2 projects in the RS-1-1 base zone permitted 6 ADUs; 2 projects in the RS-1-6 base zone permitted 13 ADU homes; 2 projects in the RS-1-14 base zone permitted 8 ADU homes; and 64 projects in the RS-1-7 base zone permitted 383 ADU homes.

Table 4: ADU Homes Permitted through the ADU Home Density Bonus Program in RS Zones 2021-2024				
RS Zone	ADU Home Density Bonus Program			
	Number of Projects	Percent of Projects in RS Zones	Number of ADU Homes	Percent of ADU Homes in RS Zones
RS-1-1	2	3%	6	1%
RS-1-6	2	3%	13	3%
RS-1-7	64	91%	383	93%
RS-1-14	2	3%	8	2%
Total	70	100%	410	100%

Between 2021 and 2024, the City permitted 3,009 state-required ADU homes within the City's RS base zones as shown in Table 5. The City permitted 2,529 state-required ADU homes within the RS-1-7 base zone, representing 84 percent of the total state-required ADU homes, while covering 42 percent of the total acreage within RS base zones. The City permitted 308 state-required ADU homes within the RS-1-14 base zone, accounting for 10 percent of the total state-required ADU homes and covering 21 percent of the RS base zone acreage. The City permitted 58 ADU state-required homes (2 percent) within the RS-1-4 base zone and 42 state-required ADU homes (1 percent) within the RS-1-6 zone. The City permitted between 3 and 27 state-required ADU homes within the RS-1-1, RS-1-2 and RS-1-3 base zones despite representing varying proportions of the RS base zone acreage. The City permitted 4 state-required ADU homes within the RS-1-8 base zone, which covers 22 percent of the RS base zone acreage.

Table 5: State-Required ADU Homes Permitted in the RS Zones 2021-2024			
Zone	Number of ADU Homes	Percent of ADU Homes in RS Zones	Percent of RS Zones Acreage
RS-1-1	14	0.5%	3.3%
RS-1-2	27	0.9%	2.8%
RS-1-3	3	0.1%	0.4%
RS-1-4	58	1.9%	2.8%
RS-1-5	12	0.4%	0.6%
RS-1-6	42	1.4%	1.2%
RS-1-7	2,529	84.0%	42.0%
RS-1-8	4	0.1%	22.2%
RS-1-9	1	0.0%	0.7%
RS-1-10	0	0.0%	0.0%
RS-1-11	1	0.0%	0.5%
RS-1-12	1	0.0%	0.6%
RS-1-13	9	0.3%	2.0%
RS-1-14	308	10.2%	21.0%
Total	3,009	100.0%	100.0%

A total of 2,514 projects were approved in the RS-1-7 base zone, resulting in the permitting of 2,912 ADU homes between 2021 and 2024, as shown in Table 6. Almost all the projects, representing approximately 99 percent (2,501 projects), included 1 to 3 ADU homes, producing 2,809 ADU homes. In the RS-1-7 base zone, 9 projects were comprised of 4 to 6 ADU homes, resulting in 43 ADU homes, while 4 projects resulted in 7 or more ADU homes, totaling 60 ADU homes.

Table 6: ADU Home Projects and Permitted ADU Homes in the RS-17 Zones 2021-2024				
	1 to 3 ADUs	4 to 6 ADUs	7+ ADUs	Total
Number of ADU Home Projects	2,501	9	4	2,514
ADU Homes Permitted	2,809	43	60	2,912

General ADU and JADU Regulation Amendments (13 Items)

Thirteen proposed amendments would update the ADU and JADU regulations to align with state law. Each proposed amendment has a corresponding item number in the ADU and JADU Regulation Amendments list (Attachment 4).

ADU Home Minimum and Maximum Size (Item 1)

The definition of an ADU in the Land Development Code and the related regulations are not currently aligned with state law. Specifically, the Land Development Code defines an ADU as a dwelling unit that is 1,200 square feet in size or less. However, the California Department of Housing and Community Development has interpreted Government Code Section 66321(b)(1) to mean that ADUs created through the conversion of existing space,

regardless of whether they are within a single dwelling unit or multiple dwelling unit structure, are not subject to a maximum size limit.

This proposed amendment would remove the 1,200 square feet from the definition of an ADU home and clarify in the regulations that only attached and detached ADU homes are subject to the 1,200 square feet maximum. ADU homes constructed entirely within an existing single dwelling unit or accessory structure are not subject to a maximum gross floor area, and they may also include up to 150 square feet of additional floor area for ingress and egress only, consistent with state law. Additionally, ADU homes within an existing multi-dwelling unit structure are not subject to a maximum gross floor area.

ADU and JADU Zoning (Item 2)

Government Code Section 66323(a)(1) allows for the development of an ADU home on a lot with a proposed or existing single dwelling unit. Additionally, Government Code Section 66333(a) permits one JADU home on lots zoned for single-family residential use. This proposed amendment updates the Use Table for Agricultural Zones to permit ADU and JADU homes, subject to the applicable separately regulated use regulations, in the Agricultural-General Zones, where single dwelling units are already a permitted use. This change ensures consistency with state law and clarifies that residential accessory uses such as ADU and JADU homes are allowed in these zones.

Fire Sprinkler Requirements (Item 3)

Government Code Sections 66314(d)(12) and 66323(d) prohibit a local agency from requiring the installation of fire sprinklers in the existing primary dwelling unit or existing multiple dwelling units solely as a result of constructing ADU homes. This proposed amendment clarifies that the construction of an ADU home shall not trigger a requirement to install fire sprinklers in the existing primary dwelling unit or multiple dwelling unit, unless such installation is otherwise required under the California Building Standards Code, ensuring consistency with state law.

Converted ADU and JADU Homes within the Coastal Overlay Zone (Item 4)

ADU and JADU homes converted from an existing dwelling unit or accessory structure located outside of the Coastal Overlay Zone must be approved through a ministerial process per state law. This proposed amendment clarifies that the following development regulations apply only within the Coastal Overlay Zone: An existing structure may not be converted or reconstructed into an ADU or JADU home if it does not conform to the wetlands regulations in Section 143.0141(b), sensitive coastal bluff regulations in Section 143.0143, coastal beach regulations in Section 143.0144, and the Supplemental Regulations of the Coastal Overlay Zone in Section 132.0403.

JADU Home Rental Terms (Item 5)

Government Code Section 63315 permits local agencies to enact a minimum stay requirement for ADU homes. However, the City's current regulations impose a minimum rental period of 31 consecutive days for both ADUs and JADUs homes. This proposed amendment removes the minimum rental term requirement for JADU homes to ensure alignment with state law.

Number of Permitted ADU and JADU Homes with an Existing or Proposed Single Dwelling Unit (Item 6)

HCD interprets Government Code Section 66323(a) to require local agencies to permit one JADU home, one converted ADU home within a single-family home or accessory structure (i.e., converting an existing detached garage into an ADU), and one detached ADU home on a lot with an existing or proposed single dwelling unit. This proposed amendment clarifies that, on a lot with an existing or proposed single dwelling unit, one JADU home, one converted ADU home, and one detached ADU home may be permitted.

Tree Requirements (Item 7)

HCD has determined that Government Code Section 66323 prohibits a local agency from requiring any development or design standard for ADU or JADU homes that are not mandated by state law. This proposed amendment removes the ADU and JADU landscaping requirements for trees, since HCD has determined that the City may not impose these requirements. The City Planning Department will consider other options for increasing tree requirements in other housing programs where not otherwise prohibited by state law.

Number of Permitted ADU Homes with an Existing or Proposed Multiple Dwelling Unit Structure (Item 8)

Government Code Section 66323 allows the development of up to two detached ADU homes on a lot with a proposed multiple dwelling unit structure and permits the construction of up to eight detached ADU homes on a lot with an existing multiple dwelling unit structure. Additionally, it allows the creation of ADU homes within non-livable spaces of the existing structure, up to 25 percent of the total number of existing dwelling units, with a minimum of one ADU home. This proposed amendment aligns the City's regulations with state law by implementing the following:

- On lots with a proposed multiple dwelling unit structure:
 - Allows the development of up to two detached ADU homes.
- On lots with an existing multiple dwelling unit structure:
 - Allows the development of up to eight detached ADU homes;
 - Permits the creation of ADU homes within non-livable spaces (e.g., storage rooms, garages), with the number of ADU homes not exceeding 25 percent of the total number of existing units, and a minimum of one ADU home required; and
 - Ensures that the combined total of detached ADU homes and ADU homes within non-livable space does not exceed the number of existing multiple dwelling units in the structure.

Floor Area Ratio Maximums (Item 9)

HCD has determined that ADUs and JADUs allowed under Government Code Section 66323 are not subject to the floor area ratio (FAR) maximums of the underlying base zone. The proposed amendment specifies that ADU and JADU homes permitted under state law are not subject to the FAR requirements of the underlying base zone. However, these ADU and JADU homes remain subject to applicable setback and height limits, which continue to regulate the allowable development area. In addition, if a development utilizes the ADU Home Density Bonus Program, the state required ADU homes will count toward the

overall FAR requirements of the underlying base zone.

Side Yard Setbacks for ADU Structures (Item 10)

HCD has interpreted state law to require a minimum setback for all side yards, including street side yards for ADU homes. This proposed amendment specifies that ADU structures are allowed a street side yard setback of four feet or the base zone street side yard setback, whichever is less, to be consistent with state law.

Fire Safety Setbacks (Item 11)

The California Building Standards Code (Title 24) authorizes local agencies to enforce fire and life safety requirements where necessary to protect public health and safety. These standards include requirements related to fire separation, defensible space, and structure placement, particularly in areas with elevated wildfire risk. This proposed amendment requires ADU homes located within High or Very High Fire Hazard Severity Zones to maintain a minimum five-foot interior side and rear yard setback to provide adequate defensible space between all structures on the premises and adjacent native or naturalized vegetation. Additionally, the amendment further ensures authority for the Fire Code Official to require greater interior side or rear yard setbacks when necessary to ensure compliance with the California Fire Code and to address specific site conditions related to fire safety.

Replacement Parking (Item 12)

Government Code Section 66314(d)(11) prohibits local agencies from requiring off-street replacement parking when an uncovered parking space is demolished or converted for the construction of an ADU home. This proposed amendment adds uncovered parking spaces to the list of parking types that do not require replacement when removed to accommodate an ADU home. However, consistent with existing local regulations, replacement parking for the removal of uncovered spaces will still be required for properties located within the Beach Impact Area of the Parking Impact Overlay Zone and outside of a Transit Priority Area, where parking demand is of particular concern.

JADU Home Owner Occupancy Requirement Exemption (Item 13)

Government Code Section 66333(b) exempts governmental agencies, land trusts, and housing organizations from the owner-occupancy requirement for JADU homes. This proposed amendment updates the City's JADU regulations to exempt governmental agencies, land trusts, and housing organizations from the owner-occupancy requirement, ensuring consistency with state law and facilitating affordable housing development.

ADU Home Separate Sale or Conveyance (Item 23)

Government Code Sections 66340-66342 authorize cities to adopt an ordinance permitting the conversion of ADU homes into separate condominium units, allowing them to be sold independently from the primary residence. This proposed amendment implements AB 1033 by establishing local regulations that allow for the subdivision of eligible ADU homes into individual condominium units, enabling them to be sold separately from the main dwelling, subject to applicable mapping, building, and ownership requirements. ADU homes that have received financing or other forms of assistance from the San Diego Housing Commission, as well as other deed restricted ADU

homes, cannot be converted into condominiums or sold separately from the primary residence for the duration of the deed restriction agreement. By allowing existing or proposed ADU homes to be sold independently, this proposed amendment expands opportunities for homeownership in the City.

ADU Home Density Bonus Program Amendments (10 Items)

Ten proposed amendments affect the ADU Home Density Bonus Program. Since the program is an opt-in program that allows for the development of more ADU homes than state law requires, the City may apply additional regulations for these developments. Each proposed amendment is referenced by its corresponding item number in the ADU and JADU Regulation Amendments list (Attachment 4).

ADU Home Density Bonus - Applicability (Item 14)

The ADU Home Density Bonus Program currently applies in all zones that allow residential uses. This can result in ADU developments in residential zones that allow very low-density development, resulting in ADU homes that can be out of scale with the surrounding neighborhood context. The proposed amendment would prohibit the application of the ADU Home Density Bonus Program in the following very low-density residential zones: RS-1-1, RS-1-2, RS-1-3, RS-1-4, RS-1-8, RS-1-9, RS-1-10, and RS-1-11. Each of these zones has minimum lot sizes of 10,000 square feet or greater. As discussed above, prohibiting these zones would remove 25,689 acres from the opt-in program.

ADU Home Density Bonus - Evacuation Routes (Item 15)

The ADU Home Density Bonus Program does not include specific regulations that address evacuation routes. This proposed amendment would apply specific evacuation route requirements. Specifically, it would require lots otherwise eligible for the ADU Home Density Bonus Program in High or Very High Fire Hazard Severity Zones to be on an improved public street with at least two evacuation routes. The proposed amendment also prohibits the program on lots in High and Very High Fire Hazard Severity Zones that front a cul-de-sac or have only one point of ingress or egress. These changes are intended to improve emergency access and evacuation safety for ADU homes permitted under the program.

ADU Home Density Bonus - Development Scale (Item 16)

The development scale of projects utilizing the ADU Home Density Bonus Program is intended to be appropriately scaled to the surrounding area. There are instances where unusually large lots or lots that contain undevelopable environmentally sensitive lands can lead to outlier results under the existing program. This proposed amendment would require ADU Home Density Bonus Program projects on lots that only permit single family homes and exceed the minimum base zone lot size to have their floor area ratio (FAR) capped at 10,000 square feet. In addition, if the lot contains environmentally sensitive lands, the FAR would be calculated using only the portion of the lot that does not contain environmentally sensitive lands, using a maximum lot area of 10,000 square feet. For the RS-1-5, RS-1-6, and RS-1-7 base zones, which use a scaled system to determine the FAR, the FAR would be calculated using the adjusted lot area. On lots that allow for the development of multiple units, family homes, and contain environmentally sensitive lands, the FAR would be calculated using only the portion of the lot that does not contain

environmentally sensitive land. This proposed change is intended to address concerns raised by the Council as well as community groups and community members about projects located primarily in the RS-1-7 base zone (5,000 square foot minimum lot size) that have resulted in larger floor building sizes because the lots have contained environmentally sensitive lands or are located on unusually large lots.

- As an example, under this proposed amendment, a 10,000 square foot premises within the RS-1-7 base zone that contains 5,000 square feet of environmentally sensitive lands would have a 0.60 floor area ratio calculated based on 5,000 square feet, resulting in a maximum allowable floor area of 3,000 square feet. Where an existing 1,500 square foot primary dwelling currently exists, this would leave 1,500 square feet remaining for the development of ADU homes on that property, inclusive of the state required ADU homes.
- As another example, a 30,000 square foot premises within the RS-1-7 base zone that contains no environmentally sensitive lands would have a 0.55 floor area ratio calculated based on 10,000 square feet, resulting in a maximum allowable floor area of 5,500 square feet. Where an existing 1,500 square foot primary dwelling currently exists, this would leave 4,000 square feet remaining for development of ADU homes, inclusive of the state required ADU homes.

ADU Home Density Bonus - Required Automatic Fire Sprinkler System (Item 17)

The ADU Home Density Bonus Program allows for the development of additional ADU homes beyond what state law allows. Therefore, this proposed amendment would clearly require fire sprinklers to enhance public safety and mitigate fire risks. Specifically, all detached affordable ADU homes and bonus ADU homes permitted under the ADU Home Density Bonus Program would be required to include an automatic fire sprinkler system, consistent with the requirements for multiple dwelling unit buildings.

ADU Home Density Bonus - Parking (Item 18)

The ADU Home Density Bonus Program currently does not require parking. However, the development of multiple ADU homes on a lot may increase demand for on-street parking. This proposed amendment would require one off-street parking space for each affordable ADU home and bonus ADU home located outside of a Transit Priority Area. In accordance with state law, the City cannot require parking for ADU homes located within a Transit Priority Area.

ADU Home Density Bonus - Deed Restriction Agreement for Affordable ADU Homes (Item 19)

The ADU Home Density Bonus Program requires a written agreement and a deed of trust, executed by the applicant and the President and Chief Executive Officer of the San Diego Housing Commission, for each permitted affordable ADU home. However, clarification is needed regarding the timeline for completing the agreement. This proposed amendment specifies that the written agreement and deed of trust must be executed prior to the issuance of the first building permit for either an affordable ADU home or bonus ADU home, whichever occurs first.

ADU Home Density Bonus - Affordable ADU Home and Accessible ADU Home Requirements (Item 20)

The ADU Home Density Bonus Program does not address the required size or bedroom mix for affordable or accessible ADU homes. This proposed amendment clarifies that affordable ADU homes and accessible ADU homes constructed through the program must be comparable in size and include at least the same number of bedrooms as the bonus ADU homes.

ADU Home Density Bonus - Compliance (Item 21)

Landowners who rent affordable ADU homes built under the ADU Home Density Bonus Program in violation of the deed restriction to rent the ADU home to qualified households are currently subject to penalties based on the amount overcharged, plus 10 percent interest. Increasing the penalty could further deter violations and strengthen enforcement. This proposed amendment increases the penalty for violations of the deed restriction on affordable ADU homes permitted under the ADU Home Density Bonus Program. Specifically, if the terms of the deed restriction agreement to rent or sell the ADU home to a qualified household are violated, the applicant or record owner shall be liable for a minimum penalty of \$10,000 per ADU home per month, in addition to any other fines outlined in the deed restriction agreement. By increasing the penalty, this proposed amendment aims to ensure that affordable ADU homes remain available to qualifying households, aligning with the program's intent of increasing affordable housing opportunities.

ADU Home Density Bonus - Community Enhancement Fee (Item 22)

California Government Code Section 66324(c)(1) prohibits local agencies from imposing Development Impact Fees on ADU homes that are under 750 square feet. However, homes developed through the ADU Home Density Bonus Program can increase the demand on neighborhood-serving infrastructure. This proposed amendment requires applicants opting into the ADU Home Density Bonus Program to pay an ADU Home Density Bonus Program Community Enhancement Fee for all affordable and bonus ADU homes under 750 square feet permitted through the program. This will ensure that all ADU Homes permitted through the ADU Home Density Bonus Program are subject to either Citywide Development Impact Fees or the ADU Home Density Bonus Program Community Enhancement Fee.

The City would calculate the fee based on the square footage of each affordable and bonus ADU home under 750 square feet. This would mirror the Citywide Development Impact Fee typically applied to multifamily dwelling units, as outlined in the Citywide Mobility DIF (Resolution R-314273), Citywide Library DIF (Resolution R-314272), and Citywide Fire DIF (Resolution R-314271). The City would use the fee to fund neighborhood-enhancing infrastructure, including active transportation projects, fire facilities, libraries, and parks and recreation improvements. The draft ADU Home Density Bonus Program Community Enhancement Fee Resolution is included as Attachment 6. The funds would be available to be expended on needed infrastructure and would be prioritized in accordance with Council Policy 800-14, Prioritizing Capital Improvement Program Projects.

Sustainable Development Area (SDA) – Definition Clarification (Item 24)

The ADU Home Density Bonus allows for additional ADU homes within the SDA. The Municipal Code defines the SDA based on a defined walking distance along a pedestrian path of travel to a major transit stop. The City Planning Department's interpretation of a pedestrian path of travel includes safe areas for pedestrians to walk, separated from vehicular travel, indicated by the presence of sidewalks. This proposed amendment clarifies the City Planning Department's interpretation that the pedestrian path of travel must include a sidewalk to be considered a pedestrian path of travel, as defined in the City's Street Design Manual.

OUTREACH

Due to the 90-day timeline for bringing this proposal to City Council, the City Planning Department could not conduct dedicated outreach meetings specific to the proposed amendments to the ADU and JADU regulations and the ADU Home Density Bonus Program. However, information was shared in a memorandum from the City Planning Department to the Community Planners Committee on March 21, 2025 (Attachment 1), to facilitate discussions related to a recommendation from the Committee. Additionally, the City Planning Department continues to welcome feedback from community members and stakeholders through the hearing process, including hearings at the Planning Commission, Land Use & Housing Committee, and the City Council.

CONCLUSION

The City Planning Department recommends approval of the proposed amendments to the ADU and JADU regulations and the ADU Home Density Bonus Program. The proposed amendments to the Municipal Code will bring the City's ADU regulations into alignment with state law and provide greater clarity. The proposed reforms to the ADU Home Density Bonus Program will also encourage continued development while enhancing public safety and ensuring the ADU homes are consistent with the surrounding neighborhoods. Therefore, staff recommends that the Planning Commission forward a recommendation to the City Council to approve the proposed amendments to the ADU and JADU regulations in the San Diego Municipal Code and Local Coastal Program.

Respectfully submitted,



Tait Galloway
Deputy Director
City Planning Department



Liz Saidkhanian
Principal Planner
City Planning Department

Attachments:

1. Memorandum to the Community Planners Committee from March 21, 2025
2. Memorandum to the Land Use and Housing Committee from February 28, 2025
3. Correspondence from the Department of Housing and Community Development from October 30, 2024
4. ADU and JADU Regulation Amendments List
5. Draft Strikeout/Underline Ordinance
6. Draft ADU Home Density Bonus Program Community Enhancement Fee Resolution

March 21, 2025

Andrea Schlageter, Chair
Community Planners Committee
Via Email to aeschlag@gmail.com

SUBJECT: UPDATE REGARDING PROPOSED CHANGES TO CITY ADU REGULATIONS RELATED TO
MARCH 25, 2025 COMMUNITY PLANNERS COMMITTEE AGENDA ITEM

Dear Ms. Schlageter:

On February 28, 2025, I distributed a memorandum to the San Diego City Council regarding the City's Accessory Dwelling Unit (ADU) Home Density Bonus Program (ADU Bonus Program), which outlined an approach to include reforms to the ADU Bonus Program as part of the Land Development Code Update process. On March 4, 2025, the City Council heard an item related to the ADU Bonus Program, and voted to 1) request that City staff return to Council within 90 days with an action item to remove applicability of the ADU Density Bonus program from the San Diego Municipal Code, conforming the local ADU Bonus Program to state-mandated ADU regulations for single-family zoned parcels in RS-1-1, RS-1-2, RS-1-3, RS-1-4, RS-1-8, RS-1-9, RS-1-10, and RS-1-11 zoned parcels, and 2) request the City Planning Department to bring forward revisions to the ADU Density Bonus program including, but not limited to, those provided in the February 28, 2025, memorandum to the Land Use and Housing Committee for consideration.

The Community Planner's Committee agenda for March 25, 2025 includes an item for discussion of my February 28, 2025 memo regarding the ADU Bonus Program. Since this item is on your upcoming agenda, I wanted to provide a brief update on the status of the proposed amendments, which are intended to ensure that the ADU Bonus Program's success with respect to providing affordable home options is consistent with the scale and character of San Diego's neighborhoods.

The City Planning Department plans to bring all proposed reforms related to ADU homes to the City Council as one action item as quickly as possible with anticipated Council action by June in order to meet the desired intent for swift action within 90 days. To address concerns raised regarding neighborhood scale, infrastructure and fire safety – and in line with the City Council's request for staff to propose revisions to the ADU Density Bonus Program – City staff will present a comprehensive package of ADU reforms to the City Council early this summer.

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 Ms. Andrea Schlageter
 March 21, 2025

Proposed changes to the ADU Density Bonus Program currently include:

- **Address Infrastructure Needs:** Propose options to collect fees from ADU Density Bonus home builders to fund needed infrastructure, such as parks and libraries.
- **Development Scale:** Amend the applicability of the ADU Density Bonus Program by applying base zone height and overall allowable building area of a property in a manner that ensures ADU Density Bonus homes are similar in scale with the surrounding neighborhood.
- **Parking:** Apply parking requirements to ADU Density Bonus Program development outside of the Transit Priority Area. State law prevents the City from requiring parking inside the Transit Priority Area.
- **Compliance:** Increase fines for violations of the deed restriction for affordable rents on homes created through the ADU Density Bonus Program.
- **Adequate Evacuation Routes:** Eliminate the ADU Density Bonus Program's applicability in High and Very High Fire Hazard Severity Zones unless adequate emergency and evacuation routes exist.
- **Fire Code:** Apply fire code requirements for multifamily buildings to ADU Density Bonus Program developments, including fire sprinkler requirements.
- **Setbacks:** Align all ADU home setbacks to be consistent with fire code regulations related to brush management.

I want to thank you for your leadership in placing this item on the Committee's agenda and welcome the Committee's feedback from the discussion. I invite you to visit the Land Development Code Update [webpage](#) to learn more and sign up for updates, as well as to share ongoing feedback on the proposed amendments as they move forward for City Council consideration.

Sincerely,



HEIDI VONBLUM, Planning Director

Enclosure: January 28, 2025 Memorandum to the San Diego City Council re Accessory Dwelling Unit (ADU) Home Density Bonus Program

cc: Tait Galloway, Deputy Director, City Planning Department
 Seth Litchney, Program Manager, City Planning Department
 Marlon Pangilinan, Program Coordinator, City Planning Department
 Liz Saidkhanian, Principal Planner, City Planning Department



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: February 28, 2025

TO: Honorable Council President and Members of the City Council

FROM: Heidi Vonblum, City Planning Director

SUBJECT: Accessory Dwelling Unit (ADU) Home Density Bonus Program

The purpose of this memorandum is to provide an update to the City Council on the City Planning Department's efforts related to the City's Accessory Dwelling Unit (ADU) Home Density Bonus Program (ADU Bonus Program). Based on ongoing public feedback, the City Planning Department's regular monitoring of the Land Development Code, as well as recent Council office input, this memorandum outlines an approach to include reforms to the ADU Bonus Program as part of the 2025 Land Development Code Update, with opportunities for ongoing community and Council engagement.

Background

State law includes various requirements that cities and counties must comply with regarding the permitting of ADU homes. State law generally requires that up to 3 ADU homes be permitted ministerially in single-family zones and potentially up to 8 ADU homes in multifamily zones. Government Code § 66323(a)(1), (a)(2)(B), (a)(4)(A)). State law also requires cities and counties as part of their state required General Plan Housing Element to develop a program that incentivizes and promotes the creation of ADU homes offered at affordable rent for very low-, low- or moderate-income households. Government Code § 65583(c)(7).

State law also applies additional requirements related to ADU homes. A summary of state law requirements related to ADU homes compared to City of San Diego regulations is provided as Attachment 1 to this memorandum for the Council's information.

Existing ADU Bonus Program Requirements

In 2020, the San Diego City Council adopted the "Housing Legislative Package," which included, among other things, the addition of San Diego Municipal Code section [141.0302\(c\)\(2\)\(H\)](#), which includes the ADU Bonus Program. The ADU Bonus Program generally allows additional ADU homes to be built in both single-family and multi-family zones in the Sustainable Development Area where, for every additional ADU home built, another one is built that is deed restricted for a period of 10 years (at very low- and low-

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Honorable Council President and Members of the City Council
February 28, 2025

income levels) or 15 years (at moderate-income levels), subject to certain limitations discussed below.

Pedestrian Path of Travel

The ADU Bonus Program applies in the City's Sustainable Development Area, meaning that there must be a pedestrian path of travel from a major transit stop to the project site to qualify. See San Diego Municipal Code section 113.0103. This means that under *existing* regulations, properties that lack sidewalks between a major transit stop and a project site are not eligible for the ADU Bonus Program.

Height and Floor Area Ratio

Under the ADU Bonus Program, the total development on a project site with an ADU home development must still comply with the base zone height and floor area ratio requirements. For a typical 5,000 square foot lot zoned RS-1-7, this means the entire ADU development and primary home could not exceed 30 feet in height or the 3,000 square foot maximum allowed floor area due to the 30-foot height limit and 0.6 floor area ratio¹ limit for the RS-1-7 zone. San Diego Municipal Code § 131.0446(a).

Development Impact Fees

Under the City's current development regulations, the first two ADU homes on any lot are exempt from the payment of Development Impact Fees (DIF), and under state law, the City may not impose any DIF on any ADU homes that are less than 750 square feet.

Existing ADU Bonus Program Data

The 2024 Annual Report on Homes contains the most recently verifiable data on the ADU Bonus Program, which shows that the City has permitted 239 ADU homes, of which 109 homes have been deed restricted at the moderate-income level, 3 homes at the low-income level, and 3 homes at the very low-income level. These developments have been permitted across the City, with the greatest amounts permitted in the College Area, Clairemont, North Park, Uptown, Otay Mesa-Nestor, and Southeastern San Diego community planning areas. The City Planning Department anticipates these numbers to be higher for 2024 but is currently reviewing and verifying the 2024 permitting data. In the coming weeks, we will be able to complete our review of all relevant 2024 data and provide a more comprehensive review and analysis of the ADU Bonus Program based on that data, including information such as whether DIF was paid, the scale of the developments, and where the ADU homes are located.

Recent Council Actions

On January 29, 2025, the City Council heard [Item 331](#) for the removal of footnote 7 from Table 131-04D in the Land Development Code related to allowed regulations in the single-family RS-1-2 zone in the Encanto Neighborhoods and Southeastern San Diego community planning areas. Although that item did not involve any regulations related to ADU development, the City Council also voted to request that staff bring an item to the City Council to repeal the ADU Home Density Bonus Program within 60 days. A law firm subsequently notified the City that it alleged that the Council's motion violated the Brown Act. The item related to the removal of footnote 7 will be reheard by the City Council on March 4, 2025 including the rescission of the Council's January 29, 2025 actions.

¹ Floor area ratio means the numerical value obtained by dividing the gross floor area of all buildings on a premises by the total area of the premises on which the buildings are located. San Diego Municipal Code § 113.0103.

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Honorable Council President and Members of the City Council
February 28, 2025

Additionally, Council District 4 has placed an additional item on the March 4, 2025 Council agenda proposing to “request City Staff to return to City Council within 60 days with an action item to repeal the ADU Bonus Program from the San Diego Municipal Code, conforming the local ADU Bonus Program to state mandated ADU regulations for single-family zoned parcels.”

Housing Element Certification

A wholesale repeal of the ADU Bonus Program would violate State housing laws in the absence of corresponding replacement regulations that incentivize and promote the creation of affordable ADU homes. A violation of State housing laws could result in the decertification of the City’s adopted Housing Element by the Department of Housing and Community Development. Without a certified Housing Element, the City would be ineligible for State housing and homelessness [funding](#) opportunities and would be unable to deny certain development projects. Specifically, without a compliant Housing Element, the City would be ineligible for Permanent Local Housing Allocation (PLHA), Affordable Housing Sustainable Communities (AHSC), SB1 Planning grants, CalHOME funding, Infill Infrastructure Grants (IIG), Local Housing Trust Fund (LHTF), and Regional Transportation Funding. Additionally, the City’s Prohousing Designation may be reconsidered by the state, which may carry funding eligibility consequences. Lastly, a Housing Element that is out of compliance may subject the city to Builder’s Remedy laws.

Current City Planning Department Efforts

Prior to the January 29, 2025 Council hearing, based on our Department’s ongoing monitoring of the City’s Land Development Code, as well as feedback we have heard from the Council and members of the public, we had already identified potential reforms to the ADU Bonus Program, and had already intended to address these through the 2025 Land Development Code Update. We recently heard additional feedback from the Council offices, which have been very helpful in further developing a concept for reforms, which will be brought forward as part of the 2025 Land Development Code Update process. We welcome your ongoing feedback on these potential reforms, as well as on ongoing discussion on how we can best achieve other needed reforms, while still ensuring that the parts of the program that have been successful remain available and successful. The purpose of these reforms is to ensure that the ADU Bonus Program continues to incentivize affordable ADU homes while ensuring that it at the same time results in development that is compatible with the surrounding community and addresses project impacts. The following reforms are currently proposed:

- **Opt-in Fee:** Work with the City Attorney’s Office to identify options to impose an opt-in fee for ADU homes under 750 square feet for projects that choose to enter the ADU Bonus Program in lieu of DIF payments which are limited by state law. This would allow the City to collect an opt-in fee from the ADU bonus homes that are less than 750 square feet to fund needed infrastructure. This would also help to support the production of homes for families by removing an incentive to only build smaller units.

- Development Scale: Continue to limit the applicability of the ADU Bonus Program using the base zone height and floor area ratio requirements, and require the floor area ratio to be calculated based only on the land that is allowed to be developed outside of environmentally sensitive lands or other preserved open space and canyon lands. Additionally, reduce the ADU Bonus Program applicability in very low-density residential zones, such as RS-1-1, RS-1-2, RS-1-3, RS-1-8, RS-1-9 and RS-1-10 since such zones have not been comprehensively planned for increases in density and have typically been zoned for low density due to the constrained developability of the land in those instances.
- Parking: Apply multifamily parking requirements to ADU Bonus Program development outside of the Transit Priority Area. State law prevents the City from requiring parking inside the Transit Priority Area.
- Compliance: Increase the fines for violations of the deed restriction for affordable homes developed through the ADU Bonus Program. Currently, the San Diego Housing Commission can recover the amount charged above the affordable rent each month with 10 percent interest. This proposal would increase the penalty to a higher amount to further ensure that affordable homes built under the ADU Bonus Program are available for qualifying households.
- Adequate Evacuation Routes: Eliminate the ADU Bonus Program's applicability in High and Very High Fire Hazard Severity Zones unless adequate standards for fire prevention and fire rescue (ingress and egress) exist and unless the entirety of the evacuation route meets City streets standards and/or have sufficient emergency access.
- Fire Code: Apply fire code requirements for multi-family buildings to ADU Bonus Program developments. This would require fire sprinklers like multi-family buildings.
- Setbacks: Align all ADU setbacks to be consistent with fire code regulations related to brush management. This would provide greater clarity between the Land Development Code regulations and the Fire Code regulations regarding brush management and clear spaces.

Conclusion

As part of the 2025 Land Development Code Update process, we plan to share information on our webpage, hold public workshops, receive input, and then bring the item forward for a recommendation from the Community Planners Committee and Planning Commission, prior to presenting the item to Land Use and Housing Committee, and then the City Council. We estimate that this process will allow us to begin the hearing process this Summer. This process also includes having the State Department of Housing and Community Development review the proposed changes to the ADU Bonus Program.

The City Planning Department remains committed to working with the Council to bring forward reforms to the ADU Bonus Program that address community concerns related to infrastructure, scale, emergency and fire safety, and other areas of concern identified by the Council. While the ADU Bonus Program has seen great success in increasing new home

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opportunities, especially at the moderate-income level, it is always important to monitor the entirety of the implementation of a program to ensure that its outcomes best serve our City while still helping to meet our state mandated housing goals and affirm our commitment as a prohousing City.

We value the Council's feedback so we can work together to ensure continued opportunities for much needed affordable housing across our City, while also ensuring that the ADU Bonus Program results in development that is compatible with the surrounding community, ensures public safety and results in revenue to invest in necessary infrastructure in our communities. Along with this discussion, we look forward to ongoing discussions with the City Council on other ways to increase opportunities for much needed housing – particularly affordable housing in high resource areas.

As announced in the Mayor's State of the City address, the City Planning Department will be developing a new program to further the City's commitment to addressing the housing crisis and affirmatively furthering fair housing, specifically by proposing new Citywide zones that allow for more small-scale neighborhood home infill development in a manner that enhances the surrounding community.

If you have any questions, please let us know, and if you have any specific feedback, please continue to share that feedback as we bring the 2025 Land Development Code Update forward for Council consideration. As always, we welcome your ongoing feedback and input throughout the process.



Heidi Vonblum
City Planning Director

Attachment 1: Summary of ADU Regulations

cc: Honorable Mayor Todd Gloria
Honorable City Attorney Heather Ferbert
Paola Avila, Chief of Staff, Office of the Mayor
Nick Serrano, Deputy Chief of Staff, Office of the Mayor
Charles Modica, Independent Budget Analyst
Casey Smith, Deputy Chief Operating Officer
Matt Yagyagan, Director of Policy, Office of the Mayor
Christopher Ackerman-Avila, Senior Policy Advisor, Office of the Mayor
Kohta Zaiser, City Council Affairs Advisor, Office of the Mayor
Elyse Lowe, Director, Development Services Department
Chief Deputy City Attorney Corrine Neuffer
Deputy City Attorney Lauren Hendrickson
Tait Galloway, Deputy Director, City Planning Department
Seth Litchney, Program Manager, City Planning Department

Summary of ADU Regulations			
ADU Regulation	CA State Law	SD Municipal Code	City of San Diego ADU Home Density Bonus Regulations
Number of ADUs Allowed Single Family Lots	Local regulations must allow at least one ADU constructed from existing inhabitable space, one newly constructed detached ADU, and one JADU.	<p><u>More Restrictive than State Law</u> - Only Allow One ADU and One JADU</p> <p>*Updating ADU regulations to be consistent</p>	<p><u>Exceeds State Law</u> - Allows one additional ADU for every ADU set aside as affordable to moderate, very low, or low income households in Sustainable Development Area.</p> <p>Development must be consistent with base zone height, FAR, and lot coverage.</p> <p>One bonus ADU is permitted outside a Sustainable Development Area</p>
Number of ADUs Allowed Multifamily Lots	Local regulations must allow 8 detached ADUs on a lot with an existing or proposed multifamily homes and at least one conversion ADU with an existing multifamily dwelling unit up to 25 percent of the number of units in the existing multifamily dwelling unit.	<p><u>More Restrictive than State Law</u> - Allow Two ADUs.</p> <p>*Updating ADU regulations to be consistent</p>	<p><u>Exceeds State Law</u> - Allows one additional ADU for every ADU set aside as affordable to moderate, very low, or low income households in Sustainable Development Area.</p> <p>Development must be consistent with base zone height, FAR, and lot coverage.</p> <p>One bonus ADU is permitted outside a Sustainable Development Area</p>
Height	Local regulations may not impose a height limit that is less than: - 18 feet for a detached ADU - 25 feet for a attached ADU	<u>Exceeds State Law</u> - Height Limit of Base Zone (most single family zones set 30' height limit)	<u>Exceeds State Law</u> - Height Limit of Base Zone
Setbacks	<p><u>Front Setback</u>: A local agency may apply front yard setbacks for ADUs, but front yard setbacks cannot preclude an ADU of at least 800 square feet from being built on the property.</p> <p><u>Side/Rear Setback</u>: A setback of no more than four feet from the side and rear lot lines shall be required for an attached or detached ADU.</p>	<p><u>Consistent With State Law</u> - Front setbacks of base zone apply.</p> <p>4 foot side/rear setback for multistory ADU abutting a Residential Use.</p> <p><u>Exceeds State Law</u> - Zero side/rear setback for single story ADU.</p> <p>Zero side/rear setback for multistory ADU abutting a non-residential use</p> <p>*Updating regulations to ensure setbacks consistent with fire requirement setbacks</p>	<p><u>Consistent With State Law</u> - Front setbacks of base zone apply.</p> <p>4 foot side/rear setback for multistory ADU abutting a Residential Use.</p> <p><u>Exceeds State Law</u> - Zero side/rear setback for single story ADU.</p> <p>Zero side/rear setback for multistory ADU abutting a non-residential use.</p>
Floor Area Ratio (FAR) Requirements	<p>Limits on lot coverage or any FAR requirements cannot preclude the creation of an ADU of at least 800 square feet that maintains four-foot rear and side setbacks.</p> <p>Local agencies may impose FAR requirements but they may not unreasonably restrict the creation of ADUs.</p>	<u>Consistent with State Law.</u>	<u>Consistent with State Law.</u>
Maximum ADU Size (Attached)	A local jurisdiction may establish a maximum unit size requirement for attached ADUs. Must be at least 850 square feet, or 1,000 square feet for attached ADUs with more than one bedroom.	<u>Exceeds State Law</u> - Allow ADUs up to 1,200 square feet	<u>Exceeds State Law</u> - Allow ADUs up to 1,200 square feet
Maximum ADU Size (Detached)	A local jurisdiction may establish a maximum unit size requirement for detached ADUs. Must be at least 850 square feet, or 1,000 square feet for attached ADUs with more than one bedroom.	<u>Exceeds State Law</u> - Allow ADUs up to 1,200 square feet	<u>Exceeds State Law</u> - Allow ADUs up to 1,200 square feet
Minimum ADU Size (Attached and Detached)	150 square feet	<u>Consistent with State Law.</u>	<u>Consistent with State Law.</u>
Parking	<p>No parking required within a Transit Priority Area</p> <p>Local regulations may not exceed one parking space per ADU or per bedroom, whichever is less.</p>	<u>Exceeds State Law</u> - No Parking Required for ADUs Outside of Beach Impact Area	<u>Exceeds State Law</u> - No Parking for ADUs Outside of Beach Impact Area
Owner Occupancy	<p>JADU: Property owner must reside on the premises</p> <p>ADUs: No owner occupancy requirement</p>	<u>Consistent with State Law.</u>	<u>Consistent with State Law.</u>
ADU Leasing	Local agencies may require that ADUs be used for rentals of terms longer than 30 days.	<u>Consistent with State Law.</u>	<u>Consistent with State Law.</u>
ADU Bonus Program	Cities are required to develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent for very low, low, or moderate-income households.	<u>Exceeds State Law</u> : A maximum of one additional accessible ADU permitted if the development includes at least two affordable ADU's to very low income, low income, or moderate income households, limited by FAR and height of the underlying zone.	<u>Exceeds State Law</u> : City's certified Housing Element includes identified "a program to incentivize construction of ADUs that are covenant-restricted for very low, low, and moderate income households." While amendments may be made to City's ADU Home Density Bonus Program, regulations must still remain in effect that incentivize affordable ADUs.
Development Impact Fees	Local agencies may not charge an impact fee for an ADU that is less than 750 sf	<u>Exceeds State Law</u> : No DIF for first two ADUs regardless of size.	<u>Exceeds State Law</u> : No DIF for first two ADUs regardless of size.



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: February 28, 2025

TO: Honorable Council President and Members of the City Council

FROM: Heidi Vonblum, City Planning Director

SUBJECT: Accessory Dwelling Unit (ADU) Home Density Bonus Program

The purpose of this memorandum is to provide an update to the City Council on the City Planning Department's efforts related to the City's Accessory Dwelling Unit (ADU) Home Density Bonus Program (ADU Bonus Program). Based on ongoing public feedback, the City Planning Department's regular monitoring of the Land Development Code, as well as recent Council office input, this memorandum outlines an approach to include reforms to the ADU Bonus Program as part of the 2025 Land Development Code Update, with opportunities for ongoing community and Council engagement.

Background

State law includes various requirements that cities and counties must comply with regarding the permitting of ADU homes. State law generally requires that up to 3 ADU homes be permitted ministerially in single-family zones and potentially up to 8 ADU homes in multifamily zones. Government Code § 66323(a)(1), (a)(2)(B), (a)(4)(A)). State law also requires cities and counties as part of their state required General Plan Housing Element to develop a program that incentivizes and promotes the creation of ADU homes offered at affordable rent for very low-, low- or moderate-income households. Government Code § 65583(c)(7).

State law also applies additional requirements related to ADU homes. A summary of state law requirements related to ADU homes compared to City of San Diego regulations is provided as Attachment 1 to this memorandum for the Council's information.

Existing ADU Bonus Program Requirements

In 2020, the San Diego City Council adopted the "Housing Legislative Package," which included, among other things, the addition of San Diego Municipal Code section [141.0302\(c\)\(2\)\(H\)](#), which includes the ADU Bonus Program. The ADU Bonus Program generally allows additional ADU homes to be built in both single-family and multi-family zones in the Sustainable Development Area where, for every additional ADU home built, another one is built that is deed restricted for a period of 10 years (at very low- and low-

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income levels) or 15 years (at moderate-income levels), subject to certain limitations discussed below.

Pedestrian Path of Travel

The ADU Bonus Program applies in the City's Sustainable Development Area, meaning that there must be a pedestrian path of travel from a major transit stop to the project site to qualify. See San Diego Municipal Code section 113.0103. This means that under *existing* regulations, properties that lack sidewalks between a major transit stop and a project site are not eligible for the ADU Bonus Program.

Height and Floor Area Ratio

Under the ADU Bonus Program, the total development on a project site with an ADU home development must still comply with the base zone height and floor area ratio requirements. For a typical 5,000 square foot lot zoned RS-1-7, this means the entire ADU development and primary home could not exceed 30 feet in height or the 3,000 square foot maximum allowed floor area due to the 30-foot height limit and 0.6 floor area ratio¹ limit for the RS-1-7 zone. San Diego Municipal Code § 131.0446(a).

Development Impact Fees

Under the City's current development regulations, the first two ADU homes on any lot are exempt from the payment of Development Impact Fees (DIF), and under state law, the City may not impose any DIF on any ADU homes that are less than 750 square feet.

Existing ADU Bonus Program Data

The 2024 Annual Report on Homes contains the most recently verifiable data on the ADU Bonus Program, which shows that the City has permitted 239 ADU homes, of which 109 homes have been deed restricted at the moderate-income level, 3 homes at the low-income level, and 3 homes at the very low-income level. These developments have been permitted across the City, with the greatest amounts permitted in the College Area, Clairemont, North Park, Uptown, Otay Mesa-Nestor, and Southeastern San Diego community planning areas. The City Planning Department anticipates these numbers to be higher for 2024 but is currently reviewing and verifying the 2024 permitting data. In the coming weeks, we will be able to complete our review of all relevant 2024 data and provide a more comprehensive review and analysis of the ADU Bonus Program based on that data, including information such as whether DIF was paid, the scale of the developments, and where the ADU homes are located.

Recent Council Actions

On January 29, 2025, the City Council heard [Item 331](#) for the removal of footnote 7 from Table 131-04D in the Land Development Code related to allowed regulations in the single-family RS-1-2 zone in the Encanto Neighborhoods and Southeastern San Diego community planning areas. Although that item did not involve any regulations related to ADU development, the City Council also voted to request that staff bring an item to the City Council to repeal the ADU Home Density Bonus Program within 60 days. A law firm subsequently notified the City that it alleged that the Council's motion violated the Brown Act. The item related to the removal of footnote 7 will be reheard by the City Council on March 4, 2025 including the rescission of the Council's January 29, 2025 actions.

¹ Floor area ratio means the numerical value obtained by dividing the gross floor area of all buildings on a premises by the total area of the premises on which the buildings are located. San Diego Municipal Code § 113.0103.

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Additionally, Council District 4 has placed an additional item on the March 4, 2025 Council agenda proposing to “request City Staff to return to City Council within 60 days with an action item to repeal the ADU Bonus Program from the San Diego Municipal Code, conforming the local ADU Bonus Program to state mandated ADU regulations for single-family zoned parcels.”

Housing Element Certification

A wholesale repeal of the ADU Bonus Program would violate State housing laws in the absence of corresponding replacement regulations that incentivize and promote the creation of affordable ADU homes. A violation of State housing laws could result in the decertification of the City’s adopted Housing Element by the Department of Housing and Community Development. Without a certified Housing Element, the City would be ineligible for State housing and homelessness [funding](#) opportunities and would be unable to deny certain development projects. Specifically, without a compliant Housing Element, the City would be ineligible for Permanent Local Housing Allocation (PLHA), Affordable Housing Sustainable Communities (AHSC), SB1 Planning grants, CalHOME funding, Infill Infrastructure Grants (IIG), Local Housing Trust Fund (LHTF), and Regional Transportation Funding. Additionally, the City’s Prohousing Designation may be reconsidered by the state, which may carry funding eligibility consequences. Lastly, a Housing Element that is out of compliance may subject the city to Builder’s Remedy laws.

Current City Planning Department Efforts

Prior to the January 29, 2025 Council hearing, based on our Department’s ongoing monitoring of the City’s Land Development Code, as well as feedback we have heard from the Council and members of the public, we had already identified potential reforms to the ADU Bonus Program, and had already intended to address these through the 2025 Land Development Code Update. We recently heard additional feedback from the Council offices, which have been very helpful in further developing a concept for reforms, which will be brought forward as part of the 2025 Land Development Code Update process. We welcome your ongoing feedback on these potential reforms, as well as on ongoing discussion on how we can best achieve other needed reforms, while still ensuring that the parts of the program that have been successful remain available and successful. The purpose of these reforms is to ensure that the ADU Bonus Program continues to incentivize affordable ADU homes while ensuring that it at the same time results in development that is compatible with the surrounding community and addresses project impacts. The following reforms are currently proposed:

- **Opt-in Fee:** Work with the City Attorney’s Office to identify options to impose an opt-in fee for ADU homes under 750 square feet for projects that choose to enter the ADU Bonus Program in lieu of DIF payments which are limited by state law. This would allow the City to collect an opt-in fee from the ADU bonus homes that are less than 750 square feet to fund needed infrastructure. This would also help to support the production of homes for families by removing an incentive to only build smaller units.

- Development Scale: Continue to limit the applicability of the ADU Bonus Program using the base zone height and floor area ratio requirements, and require the floor area ratio to be calculated based only on the land that is allowed to be developed outside of environmentally sensitive lands or other preserved open space and canyon lands. Additionally, reduce the ADU Bonus Program applicability in very low-density residential zones, such as RS-1-1, RS-1-2, RS-1-3, RS-1-8, RS-1-9 and RS-1-10 since such zones have not been comprehensively planned for increases in density and have typically been zoned for low density due to the constrained developability of the land in those instances.
- Parking: Apply multifamily parking requirements to ADU Bonus Program development outside of the Transit Priority Area. State law prevents the City from requiring parking inside the Transit Priority Area.
- Compliance: Increase the fines for violations of the deed restriction for affordable homes developed through the ADU Bonus Program. Currently, the San Diego Housing Commission can recover the amount charged above the affordable rent each month with 10 percent interest. This proposal would increase the penalty to a higher amount to further ensure that affordable homes built under the ADU Bonus Program are available for qualifying households.
- Adequate Evacuation Routes: Eliminate the ADU Bonus Program's applicability in High and Very High Fire Hazard Severity Zones unless adequate standards for fire prevention and fire rescue (ingress and egress) exist and unless the entirety of the evacuation route meets City streets standards and/or have sufficient emergency access.
- Fire Code: Apply fire code requirements for multi-family buildings to ADU Bonus Program developments. This would require fire sprinklers like multi-family buildings.
- Setbacks: Align all ADU setbacks to be consistent with fire code regulations related to brush management. This would provide greater clarity between the Land Development Code regulations and the Fire Code regulations regarding brush management and clear spaces.

Conclusion

As part of the 2025 Land Development Code Update process, we plan to share information on our webpage, hold public workshops, receive input, and then bring the item forward for a recommendation from the Community Planners Committee and Planning Commission, prior to presenting the item to Land Use and Housing Committee, and then the City Council. We estimate that this process will allow us to begin the hearing process this Summer. This process also includes having the State Department of Housing and Community Development review the proposed changes to the ADU Bonus Program.

The City Planning Department remains committed to working with the Council to bring forward reforms to the ADU Bonus Program that address community concerns related to infrastructure, scale, emergency and fire safety, and other areas of concern identified by the Council. While the ADU Bonus Program has seen great success in increasing new home

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opportunities, especially at the moderate-income level, it is always important to monitor the entirety of the implementation of a program to ensure that its outcomes best serve our City while still helping to meet our state mandated housing goals and affirm our commitment as a prohousing City.

We value the Council's feedback so we can work together to ensure continued opportunities for much needed affordable housing across our City, while also ensuring that the ADU Bonus Program results in development that is compatible with the surrounding community, ensures public safety and results in revenue to invest in necessary infrastructure in our communities. Along with this discussion, we look forward to ongoing discussions with the City Council on other ways to increase opportunities for much needed housing – particularly affordable housing in high resource areas.

As announced in the Mayor's State of the City address, the City Planning Department will be developing a new program to further the City's commitment to addressing the housing crisis and affirmatively furthering fair housing, specifically by proposing new Citywide zones that allow for more small-scale neighborhood home infill development in a manner that enhances the surrounding community.

If you have any questions, please let us know, and if you have any specific feedback, please continue to share that feedback as we bring the 2025 Land Development Code Update forward for Council consideration. As always, we welcome your ongoing feedback and input throughout the process.



Heidi Vonblum
City Planning Director

Attachment 1: Summary of ADU Regulations

cc: Honorable Mayor Todd Gloria
Honorable City Attorney Heather Ferbert
Paola Avila, Chief of Staff, Office of the Mayor
Nick Serrano, Deputy Chief of Staff, Office of the Mayor
Charles Modica, Independent Budget Analyst
Casey Smith, Deputy Chief Operating Officer
Matt Yagyagan, Director of Policy, Office of the Mayor
Christopher Ackerman-Avila, Senior Policy Advisor, Office of the Mayor
Kohta Zaiser, City Council Affairs Advisor, Office of the Mayor
Elyse Lowe, Director, Development Services Department
Chief Deputy City Attorney Corrine Neuffer
Deputy City Attorney Lauren Hendrickson
Tait Galloway, Deputy Director, City Planning Department
Seth Litchney, Program Manager, City Planning Department

Summary of ADU Regulations			
ADU Regulation	CA State Law	SD Municipal Code	City of San Diego ADU Home Density Bonus Regulations
Number of ADUs Allowed Single Family Lots	Local regulations must allow at least one ADU constructed from existing inhabitable space, one newly constructed detached ADU, and one JADU.	<p><u>More Restrictive than State Law</u> - Only Allow One ADU and One JADU</p> <p>*Updating ADU regulations to be consistent</p>	<p><u>Exceeds State Law</u> - Allows one additional ADU for every ADU set aside as affordable to moderate, very low, or low income households in Sustainable Development Area.</p> <p>Development must be consistent with base zone height, FAR, and lot coverage.</p> <p>One bonus ADU is permitted outside a Sustainable Development Area</p>
Number of ADUs Allowed Multifamily Lots	Local regulations must allow 8 detached ADUs on a lot with an existing or proposed multifamily homes and at least one conversion ADU with an existing multifamily dwelling unit up to 25 percent of the number of units in the existing multifamily dwelling unit.	<p><u>More Restrictive than State Law</u> - Allow Two ADUs.</p> <p>*Updating ADU regulations to be consistent</p>	<p><u>Exceeds State Law</u> - Allows one additional ADU for every ADU set aside as affordable to moderate, very low, or low income households in Sustainable Development Area.</p> <p>Development must be consistent with base zone height, FAR, and lot coverage.</p> <p>One bonus ADU is permitted outside a Sustainable Development Area</p>
Height	Local regulations may not impose a height limit that is less than: - 18 feet for a detached ADU - 25 feet for a attached ADU	<u>Exceeds State Law</u> - Height Limit of Base Zone (most single family zones set 30' height limit)	<u>Exceeds State Law</u> - Height Limit of Base Zone
Setbacks	<p><u>Front Setback</u>: A local agency may apply front yard setbacks for ADUs, but front yard setbacks cannot preclude an ADU of at least 800 square feet from being built on the property.</p> <p><u>Side/Rear Setback</u>: A setback of no more than four feet from the side and rear lot lines shall be required for an attached or detached ADU.</p>	<p><u>Consistent With State Law</u> - Front setbacks of base zone apply.</p> <p>4 foot side/rear setback for multistory ADU abutting a Residential Use.</p> <p><u>Exceeds State Law</u> - Zero side/rear setback for single story ADU.</p> <p>Zero side/rear setback for multistory ADU abutting a non-residential use</p> <p>*Updating regulations to ensure setbacks consistent with fire requirement setbacks</p>	<p><u>Consistent With State Law</u> - Front setbacks of base zone apply.</p> <p>4 foot side/rear setback for multistory ADU abutting a Residential Use.</p> <p><u>Exceeds State Law</u> - Zero side/rear setback for single story ADU.</p> <p>Zero side/rear setback for multistory ADU abutting a non-residential use.</p>
Floor Area Ratio (FAR) Requirements	<p>Limits on lot coverage or any FAR requirements cannot preclude the creation of an ADU of at least 800 square feet that maintains four-foot rear and side setbacks.</p> <p>Local agencies may impose FAR requirements but they may not unreasonably restrict the creation of ADUs.</p>	<u>Consistent with State Law.</u>	<u>Consistent with State Law.</u>
Maximum ADU Size (Attached)	A local jurisdiction may establish a maximum unit size requirement for attached ADUs. Must be at least 850 square feet, or 1,000 square feet for attached ADUs with more than one bedroom.	<u>Exceeds State Law</u> - Allow ADUs up to 1,200 square feet	<u>Exceeds State Law</u> - Allow ADUs up to 1,200 square feet
Maximum ADU Size (Detached)	A local jurisdiction may establish a maximum unit size requirement for detached ADUs. Must be at least 850 square feet, or 1,000 square feet for attached ADUs with more than one bedroom.	<u>Exceeds State Law</u> - Allow ADUs up to 1,200 square feet	<u>Exceeds State Law</u> - Allow ADUs up to 1,200 square feet
Minimum ADU Size (Attached and Detached)	150 square feet	<u>Consistent with State Law.</u>	<u>Consistent with State Law.</u>
Parking	<p>No parking required within a Transit Priority Area</p> <p>Local regulations may not exceed one parking space per ADU or per bedroom, whichever is less.</p>	<u>Exceeds State Law</u> - No Parking Required for ADUs Outside of Beach Impact Area	<u>Exceeds State Law</u> - No Parking for ADUs Outside of Beach Impact Area
Owner Occupancy	<p>JADU: Property owner must reside on the premises</p> <p>ADUs: No owner occupancy requirement</p>	<u>Consistent with State Law.</u>	<u>Consistent with State Law.</u>
ADU Leasing	Local agencies may require that ADUs be used for rentals of terms longer than 30 days.	<u>Consistent with State Law.</u>	<u>Consistent with State Law.</u>
ADU Bonus Program	Cities are required to develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent for very low, low, or moderate-income households.	<u>Exceeds State Law</u> : A maximum of one additional accessible ADU permitted if the development includes at least two affordable ADU's to very low income, low income, or moderate income households, limited by FAR and height of the underlying zone.	<u>Exceeds State Law</u> : City's certified Housing Element includes identified "a program to incentivize construction of ADUs that are covenant-restricted for very low, low, and moderate income households." While amendments may be made to City's ADU Home Density Bonus Program, regulations must still remain in effect that incentivize affordable ADUs.
Development Impact Fees	Local agencies may not charge an impact fee for an ADU that is less than 750 sf	<u>Exceeds State Law</u> : No DIF for first two ADUs regardless of size.	<u>Exceeds State Law</u> : No DIF for first two ADUs regardless of size.

October 30, 2024

City of San Diego Ordinance No. 21836 Coastal ADU & SB 9 Flyover

Reviewed by: David Barboza

SB 9 Section¹ Reviewed by: Brandon Yung

The following comments reflect conflicts between current State ADU Laws and the current ADU regulations found in the City of San Diego's Ordinance No. 21836, adopted on July 22, 2024. Where local ADU regulations conflict with State ADU Law without basis in any superseding laws, the City must amend the ADU Ordinance to bring the local regulations into compliance with State ADU Law. This flyover review represents a non-exhaustive list of conflicts to identify major inconsistencies particularly due to recent State ADU Law updates.

ADU Findings

1. Section 141.0302(b)(1)(A)² states: "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*." However, Government Code section 66323, subdivision (a) requires a local agency to permit "any of the following" ADU types and lists one single-family conversion ADU, one JADU and one detached ADU in conjunction with a single-family primary dwelling. These units may be combined on a single lot.
2. Section 141.0302(b)(1)(B) states: "An *ADU* or *JADU* shall not be used for a rental term of less than 31 consecutive days." While this is a valid restriction for an ADU, there is no basis in State JADU law to prohibit short-term rentals of a JADU.³
3. Section 141.0302(b)(2)(C) states: "The *gross floor area* of an *ADU* and *JADU* shall be included in the *floor area ratio* for the *premises*." However, ADUs described by Government Code section 66321, subdivision (b)(3) and section 66323 are not subject to floor area ratio requirements.
4. Section 141.0302(b)(2)(D) states: "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)." However, to the extent that an ADU or JADU is being proposed inland of the Coastal Zone, the application must be reviewed ministerially.⁴
5. Section 141.0302(b)(2)(E) describes landscaping requirements for trees. However, such requirements do not apply to an ADU described by Government Code section 66323.

¹ See page three. SB 9, Chapter 162, Statutes of 2021.

² All references to sections listed first in each finding are to Ordinance No. 21836, unless otherwise noted.

³ Gov. Code, §§ 66323, subd. (d) & 66333-66339.

⁴ Gov. Code, §§ 66316, 66329 & 66335, subd. (a).

6. Section 141.0302(b)(2)(F) states: “ADUs and JADUs shall not be required to provide fire sprinklers if they are not required for the primary *dwelling unit*.” Government Code section 66314, subdivision (d)(12) also states: “The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.”
7. Section 141.0302(b)(3)(C) states: “When a **garage, carport, or covered parking structure** is demolished in conjunction with the construction of an ADU or JADU, or converted to 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).” This is related to Government Code section 66314, subdivision (d)(11). However, SB 1211 (Chapter 296, Statutes of 2024) will amend subdivision (d)(11) to add an uncovered parking space to the list of parking space types that are not required to be replaced.⁵ SB 1211 will take effect on January 1, 2025.
8. Section 141.0302(c)(1)(B)(i) states: “For the purposes of Section 141.0302(b)(1)(B)(i), [...]” However, while section 141.0302(b)(1)(B) appears in the Ordinance, 141.0302(b)(1)(B)(i) does not. It appears that this reference is intended for section 141.0302(c)(1)(B)(i).
9. Section 141.0302(c)(2)(B) states: “One ADU shall be permitted in a Single Dwelling Unit Zone on a *premises* with an existing or proposed *single dwelling unit*.” However, as noted in Finding 1, Government Code section 66323, subdivision (a) requires a local agency to permit “any of the following” ADU types and lists one single-family conversion ADU, one JADU and one detached ADU in conjunction with a single-family primary dwelling. These units may be combined on a single lot.
10. Section 141.0302(c)(2)(C)(i) states in specific multifamily contexts: “Two ADUs that are attached to and/or detached from an existing or proposed *structure* are permitted”. However, SB 1211 will allow up to eight ADUs which are detached from an existing multifamily dwelling structure, provided that the number of such ADUs does not exceed the number of existing units on the lot.
11. Section 141.0302(c)(2)(D) states: “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.” However, Government Code section 66321, subdivision (b)(3) also exempts an ADU of up to 800 square feet and which is set back at least four feet from side and rear property lines from other requirements not listed in the quote.
12. Section 141.0302(c)(2)(F) states: “The maximum *gross floor area* of an ADU shall not exceed 1,200 square feet” and notes the exception for a conversion ADU. However, multifamily detached ADUs described by Government Code section 66323, subdivision (a)(4) have no floor area limit either.

⁵ Parking replacement requirements may still be permissible under the Coastal Act.

13. Section 141.0302(c)(2)(G) states: “*ADU structures* shall comply with the front *yard* and *street side yard setbacks* of the base zone.” However, State ADU Law prohibits a side yard setback requirement greater than four feet for an ADU, even on a corner lot.⁶ For corner lots, the City may designate the property line paralleling one street frontage as the front property line and apply a front yard setback to an ADU unless an exception applies.⁷ Property lines paralleling secondary frontages are not front property lines.
14. Section 141.0302(d)(1)(C) requires for a JADU: “the *record owner* shall reside on the *premises*.” However, owner-occupancy is not required if the owner is a “governmental agency, land trust, or housing organization.”⁸
15. Please be advised that two new ADU bills have recently been signed into law and will take effect on January 1, 2025. As mentioned above, SB 1211 (Chapter 296, Statutes of 2024) changes the allowances for multifamily detached ADUs, among other things. AB 2533 (Chapter 834, Statutes of 2024) changes the standards for permitting unpermitted ADUs.

The following comments reflect conflicts between current State SB 9 Laws and the SB 9 regulations found in the City of San Diego (City) Municipal Code, adopted by Ordinance No. 21439 and amended by Ordinance No. 21836. This flyover review is non-exhaustive of all conflicts but identifies major inconsistencies between state SB 9 law and the City’s local implementing regulations.

SB 9 Findings

1. Section 143.1310(b) states: “Notwithstanding Section 143.1310(a), a second dwelling unit with a maximum gross floor area of 800 square feet shall be permitted on a premises with an existing or proposed dwelling unit, regardless of non-compliance with one or more development regulations.” However, Government Code section 65852.21, subdivision (b)(2)(A) states that “the local agency shall not impose objective... standards that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area.” In other words, standards must be waived by a local agency if they are found to physically preclude a proposal for one or two units proposed pursuant to SB 9. Additionally, standards must be waived if they are found to preclude either of those units being at least 800 sq ft.

Next Steps

Please contact us using the information below if you have any questions or comments about this review.

⁶ Gov. Code, §§ 66314, subd. (d)(7) & 66323 subds. (a)(2) & (a)(4).

⁷ Gov. Code, §§ 66321, subd. (b)(3) & 66323

⁸ Gov. Code, § 66333, subd. (b).

Contact Information***David J. Barboza, AICP (he/him)***

Senior Housing Policy Specialist
Housing & Community Development
651 Bannon Street, Suite 400 | Sacramento, CA 95811
Phone: 916.907.3002
Email: david.barboza@hcd.ca.gov

**Brandon Yung**

Housing Policy Analyst
Division of Housing Policy Development
Housing Accountability Unit
Phone: (916) 562-5948

Housing & Community Development
651 Bannon Street, Suite 400
Sacramento, CA 95811

ADU and JADU Regulation Amendments List

ATTACHMENT 4

Number	Name of Item	Code Section(s)	Why Is This Amendment Needed?	What Does This Amendment Do?
1	ADU Home Minimum and Maximum Size	113.0103 141.0302(b)(6)(D)	ADUs are currently defined as being 1,200 square feet or less. Government Code Section 66321(b)(1) does include a maximum size for converted ADUs, regardless of whether they are within a single dwelling unit or multiple dwelling unit structure.	Amends the definition of an ADU to align with state law. It also clarifies that only attached and detached ADUs shall not exceed 1,200 square feet, and ADUs constructed within an existing multiple dwelling unit structure do not have a maximum size limit.
2	ADU and JADU Zoning	131.0322 – Table 131-03B	Certain zones that allow a single dwelling unit do not currently allow for the development of an ADU or JADU. However, Government Code Section 66323(a)(1) allows for the development of ADUs on lots with a proposed or existing single dwelling unit. Additionally, Government Code Section 66333(a) permits one JADU on lots zoned for single family residences.	Updates the Use Table for the Agricultural Zones to permit ADUs and JADUs, subject to separately regulated use regulations, in the Agricultural-General Zones.
3	Fire Sprinkler Requirements	141.0302(a)(6)(C)	Government Code Sections 66314(d)(12) and 66323(d) prohibit the construction of an ADU from triggering a requirement to install fire sprinklers in the existing primary dwelling unit or multiple dwelling unit.	Specifies that constructing an ADU shall not trigger a requirement to install fire sprinklers in the existing primary dwelling unit or multiple dwelling unit unless required in accordance with the California Building Standards Code.
4	Converted ADU and JADU Homes within the Coastal Overlay Zone	141.0302(a)(7)	ADUs and JADUs converted from an existing dwelling unit or accessory structure outside of the Coastal Overlay Zone must be approved through a ministerial process, however, additional requirements are included for ADUs and JADUs in the Coastal Zone.	Clarifies that the following development regulation applies only within the Coastal Overlay Zone: an existing structure may not be converted or reconstructed into an ADU or JADU if it does not conform to the wetlands regulations in Section 143.0141(b), sensitive coastal bluff regulations in Section 143.0143, coastal beach regulations in Section 143.0144, and the Supplemental Regulations of the Coastal Overlay Zone in Section 132.0403.
5	JADU Home Rental Terms	141.0302(a)(8)	Government Code Section 63315 only allows local agencies to enact a minimum stay requirement for ADUs. However, the City's current regulations require a minimum rental period of 31 consecutive days for both ADUs and JADUs.	Deletes the minimum rental term requirement for JADUs to align with state law, ensuring that rental term restrictions apply only to ADUs.
6	Number of Permitted ADU and JADU Homes with an Existing or Proposed Single Dwelling Unit	141.0302(b)(1)	The Department of Housing and Community Development has determined that Government Code Section 66323(a) requires local agencies to permit one detached ADU, one converted ADU, and one JADU on a lot with an existing or proposed single dwelling unit.	Clarifies that on a lot with an existing or proposed single dwelling, one JADU, one converted ADU, and one detached ADU are permitted.
7	Tree Requirements	141.0302(b)(2)(E)	The Department of Housing and Community Development has determined that Government Code Section 66323 prohibits a local agency from requiring any development or design standard for ADUs or JADUs that are not mandated by state law. Currently, the City has landscaping requirements for ADU and JADU development.	Deletes the ADU and JADU landscaping requirements for trees, as these standards are not required by state law and are therefore prohibited.
8	Number of Permitted ADU Homes with an Existing or Proposed Multiple Dwelling Unit Structure	141.0302(b)(2) 141.0302(b)(3)	Senate Bill 1211 (Skinner, 2024) allows the development of up to two ADUs on a lot with a proposed multiple dwelling unit structure and allows up to eight detached ADUs and a specific number of ADUs within non-livable spaces on a lot with existing multiple unit structures.	Allows the development of up to two detached ADUs on a lot with a proposed multiple dwelling unit structure and allows up to eight detached ADUs on a lot with an existing multiple dwelling unit structure, consistent with state law. Additionally, allows ADUs totaling up to 25% of the total number of existing dwelling unit to be built within non-livable areas of the existing structure with a minimum of one ADU. The combined total of detached ADUs and ADUs within the non-livable space of an existing structure may not exceed the number of existing dwelling units in the multiple dwelling unit structure, consistent with state law.
9	Floor Area Ratio Maximums	141.0302(b)(6)(E) 141.0302(c)(4)(A)	The Department of Housing and Community Development has determined that ADUs and JADUs allowed under Government Code Section 66323 are not subject to the floor area ratio maximums of the underlying base zone.	Specifies that ADUs and JADUs allowed under state law are not subject to the floor area ratio (FAR) requirements of the underlying base zone. However, these ADUs and JADUs would still be subject to applicable setbacks and height limits, which continue to regulate the allowable development area. If a development utilizes the ADU Home Density Bonus Program, the ADU units are subject to the FAR requirements of the underlying base zone.
10	Side Yard Setbacks for ADU Structures	141.0302(b)(7)(B)	Government Code Section 66314(d)(7) prohibits a local agency from requiring a side setback greater than four feet for an ADU. However, the City's existing ADU regulations require that structures comply with the street side yard setback of the base zone, which may be greater than four feet.	Specifies that the street side yard setback for ADU structures must be four feet or the base zone side setback, whichever is less, in order to comply with state law.
11	Fire Safety Setbacks	141.0302(b)(7)(C)	The California Building Standards Code (Title 24) authorizes local agencies to enforce fire and life safety requirements where necessary to protect public health and safety.	Requires five foot minimum interior side yard and rear yard setbacks for ADUs within a High or Very High Fire Hazard Severity Zone to provide defensible space between all structures on the premises and adjacent native or naturalized vegetation. In addition, allows the Fire Code Official to require a greater interior side yard or rear side yard setback to ensure compliance with the California Fire Code.
12	Replacement Parking	141.0302(b)(8)(C)	Senate Bill 1211 (Skinner, 2024) prohibits local agencies from requiring the replacement of off-street parking spaces when an uncovered parking space is demolished or converted to construct an ADU.	Adds uncovered parking spaces to the list of parking space types that do not need to be replaced when demolished to construct an ADU. Replacement parking for the removal of uncovered parking spaces is still required for properties located within the Beach Impact Area of the Parking Impact Overlay Zone and outside of a Transit Priority Area.

Number	Name of Item	Code Section(s)	Why Is This Amendment Needed?	What Does This Amendment Do?
13	JADU Home Owner Occupancy Requirement Exemption	141.0302(c)(1)(G)	Government Code Section 66333(b) exempts a governmental agency, land trust, or housing organization from the owner occupancy requirement for a JADU.	Adds a provision to the JADU regulations exempting governmental agencies, land trusts, and housing organizations from the owner occupancy requirements.
14	ADU Home Density Bonus - Applicability	141.0302(d)(1)(A)	The ADU Home Density Bonus Program applies in any zone that allows residential uses, which can result in ADU developments that are out of scale with the surrounding neighborhoods, especially neighborhoods with large minimum lot sizes.	Prohibits the ADU Home Density Bonus Program in the RS-1-1, RS-1-2, RS-1-3, RS-1-4, RS-1-8, RS-1-9, RS-1-10 and RS-1-11 zones.
15	ADU Home Density Bonus - Fire Safety and Evacuation Routes	141.0302(d)(2)	The ADU Home Density Bonus Program is currently allowed within High and Very High Fire Hazard Severity Zones without regulations to ensure adequate evacuation routes serve the development.	ADU Home Density Bonus Program projects located on lots within High or Very High Fire Hazard Severity Zones must be on an improved public street that has at least two evacuation routes. It also prohibits the program on lots that front a cul-de-sac or only have one point of ingress or egress.
16	ADU Home Density Bonus - Development Scale	141.0302(d)(3)	The ADU Home Density Bonus Program does not have requirements to determine the developable area on a single family zoned lots to ensure the development is appropriately scaled to the surrounding area.	This proposed amendment would require ADU Home Density Bonus Program projects on lots that only allow single dwelling units to calculate the floor area ratio (FAR) with a cap of 10,000 square feet. In addition, if the lot contains environmentally sensitive lands, the FAR would be calculated based on the portion of the lot that does not contain environmentally sensitive land, with the same 10,000 square foot cap. In multiple dwelling unit zones, the FAR would be calculated based on the portion of the lot that does not contain environmentally sensitive lands.
17	ADU Home Density Bonus - Required Automatic Fire Sprinkler System	141.0302(d)(4)	Under state law, ADUs are not required to provide fire sprinklers if the primary dwelling unit is not subject to that requirement. However, the ADU Home Density Bonus Program allows additional ADUs that should be required to include fire sprinklers to enhance public safety.	Requires that all detached affordable ADUs and bonus ADUs proposed under the ADU Home Density Bonus Program include an installed automatic fire sprinkler system.
18	ADU Home Density Bonus - Parking	141.0302(d)(5)	The ADU Home Density Bonus Program does not require parking. However, when multiple ADUs are approved under this program, it may increase demand for on-street parking in the surrounding neighborhood.	Requires one off-street parking space for each affordable ADU and bonus ADU developed through the ADU Home Density Bonus Program for development located outside of the Transit Priority Area. State law prohibits the City from requiring parking within a Transit Priority Area.
19	ADU Home Density Bonus Program - Deed Restriction Agreement For Affordable ADU Homes	141.0302(d)(6)	The ADU Home Density Bonus Program requires a written agreement and a deed of trust, executed by the applicant and the President and Chief Executive Officer of the San Diego Housing Commission, for each affordable ADU built. Clarification is needed on the timeline for completing the agreement.	Clarifies that the written agreement and deed of trust securing the agreement for the ADU Home Density Bonus Program must be executed prior to the issuance of the first building permit for either an affordable ADU or a bonus ADU, whichever occurs first.
20	ADU Home Density Bonus Program - Affordable ADU Home and Accessible ADU Home Requirements	141.0302(d)(6)(A)(iv) 141.0302(e)(C)	The ADU Home Density Bonus Program does not include requirement for the size or bedroom mix for affordable ADUs or accessible ADUs.	Clarifies that affordable ADUs and accessible ADUs constructed through the ADU Home Density Bonus Program must be comparable in size and contain at least the same number of bedrooms as the bonus ADUs.
21	ADU Home Density Bonus - Compliance	141.0302(d)(6)(C)	Violations of the affordability requirements in the deed restriction for affordable ADUs under the ADU Home Density Bonus Program are subject to penalties based solely on the amount overcharged, plus interest. An increased amount could assist in preventing future violations.	Increases the penalty for affordability requirements deed restriction violations regarding affordable ADUs built under the ADU Home Density Bonus Program , ensuring that affordable homes remain available for qualifying households.
22	ADU Home Density Bonus - ADU Bonus Program Community Enhancement Fee	141.0302(d)(7)	Under state law, the City is unable to charge Development Impact Fees to ADUs under 750 square feet. However, additional ADUs permitted through the ADU Home Density Bonus Program contribute to increased demand for neighborhood-serving infrastructure.	Requires applicants opting into the ADU Home Density Bonus Program to pay an ADU Home Density Bonus Program Community Enhancement Fee based on the square footage of the bonus and affordable ADUs that are under 750 square feet. The fee would be used to fund neighborhood-serving infrastructure amenities that include active transportation, fire facilities, libraries, and park and recreation improvements.
23	ADU Home Separate Sale or Conveyance	125.0431 141.0302(f) 143.0815 144.0501	Assembly Bill 1033 (Ting, 2023) allows Cities to pass an ordinance to allow for the conversion of ADUs into separate condominium units, allowing the ADUs to be purchased independently of the primary residence.	Establishes regulations to allow for the subdivision of ADUs into separate condominium units that can be sold individually.
24	Sustainable Development Area (SDA) - Definition Clarification	113.0103	The SDA is measured using a defined walking distance along a pedestrian path of travel to a major transit stop. The intent of the regulation was that the pedestrian path of travel is along a sidewalk.	Clarifies that walking distance to a major transit stop must include a sidewalk to be considered a pedestrian path of travel.

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.]			
Accessory Dwelling Units		-L		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.]			
Junior Accessory Dwelling Units		-L		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 [†]
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	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 households</i>	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 households</i>	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 households</i>	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.

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING THE ACCESSORY DWELLING
UNIT HOME DENSITY BONUS PROGRAM COMMUNITY
ENHANCEMENT FEE.

RECITALS

The Council of the City of San Diego (Council) adopts this Resolution based on the following:

A. San Diego Ordinance O-_____, related to the Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) Regulations Amendment, requires the payment of the ADU Home Density Bonus Program Community Enhancement Fee for development that utilizes the opt-in ADU Home Density Bonus program, was considered by the San Diego City Council (City Council) together with this Resolution.

B. The ADU Home Density Bonus program is an opt-in program that allows for the development of affordable and bonus ADU homes in addition to the ADU homes allowed under state law.

C. California Government Code (Government Code) section 66324(c)(1) prohibits cities from imposing Development Impact Fees on ADU homes under 750 square feet in size.

D. Government Code section 66324(c)(1) provides a development incentive for ADU homes under 750 square feet while disincentivizing larger ADU homes that could accommodate larger families.

E. The City of San Diego's General Plan Housing Element includes Policies HE-C.5, HE-I.14, and HE-M.5, which support the inclusion of new housing for larger families, including families with children and intergenerational families, in all neighborhoods.

F. The City's General Plan Public Facilities, Services and Safety Element includes Policy PF-B.4, which calls for new development to fully address impacts to public facilities and services.

G. The additional homes created through the ADU Home Density Bonus program, which are in addition to the allowance for permitting ADU homes under state law, result in the need for enhanced community improvements in exchange for the benefits received by opting into the program and services.

H. While Government Code section 66324(c)(1) limits the City's ability to fund public infrastructure and services for ADU homes allowed under state law, the City nonetheless desires to ensure that ADUs permitted through the ADU Home Density Bonus program, which is an opt-in program, and is in addition to allowances for ADU homes under state law, contribute to enhanced public improvements and services in the community, consistent with the City's General Plan.

I. The ADU Home Density Bonus Program Community Enhancement Fee will be used to fund needed neighborhood enhancing improvements and services, including recreational amenities, mobility improvements and programs, and library and fire-rescue enhancements.

J. The Office of the City Attorney prepared this Resolution based on the information provided by City staff (including information provided by affected third parties and verified by City staff), with the understanding that this information is complete and accurate.

ACTION ITEMS

Be it resolved by the Council of the City of San Diego:

1. An ADU Home Density Bonus Program Community Enhancement Fee

equivalent to the Citywide Development Impact Fee (DIF) that would be charged to a multifamily dwelling unit in accordance with the Citywide Mobility DIF (Resolution R-314273), Citywide Library DIF (Resolution R-314272), and Citywide Fire DIF (Resolution R-314271), which include up to a 5 percent administrative fee, to be imposed in accordance with San Diego Municipal Code (Municipal Code) section 141.0302, is approved.

2. The ADU Home Density Bonus Program Community Enhancement Fee shall only be charged for the development of affordable and bonus ADU homes allowed under the ADU Home Density Bonus program as described in Municipal Code section 141.0301(d)(7), as amended, which is an opt-in program.

3. The ADU Home Density Bonus Program Community Enhancement Fee shall not be charged to ADU homes allowed under the Government Code or other ADU homes allowed under the Municipal Code.

4. The ADU Home Density Bonus Program Community Enhancement Fee shall be paid prior to requesting a final inspection for the first affordable or bonus ADU. A final inspection shall not occur until the ADU Home Density Bonus Program Community Enhancement Fee has been paid.

5. The Chief Financial Officer is authorized to establish an interest-bearing fund for funds received from payment of the ADU Home Density Bonus Program Community Enhancement Fee, to be used solely to fund needed neighborhood enhancing improvements and services, including recreational amenities, mobility improvements and programs, and library and fire-rescue enhancements, and shall be prioritized in accordance with Council Policy 800-14 with respect to any capital infrastructure.

6. This Resolution shall be effective on the effective date of San Diego Ordinance

O-_____ adopting the ADU and JADU Regulations Amendment and shall be in effect at the time building permits are issued, in accordance with Municipal Code section 141.0302.

APPROVED: HEATHER FERBERT, City Attorney

By _____
Corrine L. Neuffer
Senior Chief Deputy City Attorney

CLN:cm
April 11, 2025
Or.Dept: City Planning
Doc. No. 4022401

I certify that the Council of the City of San Diego adopted this Resolution at a meeting held on _____.

DIANA J.S. FUENTES
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date) _____
TODD GLORIA, Mayor

Vetoed: _____
(date) _____
TODD GLORIA, Mayor