

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.

Page 2
 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-

Page 2

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.

Page 3

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

Page 5

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

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-

Page 2

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.

Page 3

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

Page 5

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

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.	More Restrictive than State Law - Only Allow One ADU and One JADU *Updating ADU regulations to be consistent	Exceeds State Law - Allows one additional ADU for every ADU set aside as affordable to moderate, very low, or low income households in Sustainable Development Area. Development must be consistent with base zone height, FAR, and lot coverage. One bonus ADU is permitted outside a Sustainable Development Area
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.	More Restrictive than State Law - Allow Two ADUs. *Updating ADU regulations to be consistent	Exceeds State Law - Allows one additional ADU for every ADU set aside as affordable to moderate, very low, or low income households in Sustainable Development Area. Development must be consistent with base zone height, FAR, and lot coverage. One bonus ADU is permitted outside a Sustainable Development Area
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	Exceeds State Law - Height Limit of Base Zone (most single family zones set 30' height limit)	Exceeds State Law - Height Limit of Base Zone
Setbacks	<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. <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.	Consistent With State Law - Front setbacks of base zone apply. 4 foot side/rear setback for multistory ADU abutting a Residential Use. Exceeds State Law - Zero side/rear setback for single story ADU. Zero side/rear setback for multistory ADU abutting a non-residential use *Updating regulations to ensure setbacks consistent with fire requirement setbacks	Consistent With State Law - Front setbacks of base zone apply. 4 foot side/rear setback for multistory ADU abutting a Residential Use. Exceeds State Law - Zero side/rear setback for single story ADU. Zero side/rear setback for multistory ADU abutting a non-residential use.
Floor Area Ratio (FAR) Requirements	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. Local agencies may impose FAR requirements but they may not unreasonably restrict the creation of ADUs.	Consistent with State Law.	Consistent with State Law.
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.	Exceeds State Law - Allow ADUs up to 1,200 square feet	Exceeds State Law - 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.	Exceeds State Law - Allow ADUs up to 1,200 square feet	Exceeds State Law - Allow ADUs up to 1,200 square feet
Minimum ADU Size (Attached and Detached)	150 square feet	Consistent with State Law.	Consistent with State Law.
Parking	No parking required within a Transit Priority Area Local regulations may not exceed one parking space per ADU or per bedroom, whichever is less.	Exceeds State Law - No Parking Required for ADUs Outside of Beach Impact Area	Exceeds State Law - No Parking for ADUs Outside of Beach Impact Area
Owner Occupancy	JADU: Property owner must reside on the premises ADUs: No owner occupancy requirement	Consistent with State Law.	Consistent with State Law.
ADU Leasing	Local agencies may require that ADUs be used for rentals of terms longer than 30 days.	Consistent with State Law.	Consistent with State Law.
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.	Exceeds State Law: 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.	Exceeds State Law: 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	Exceeds State Law: No DIF for first two ADUs regardless of size.	Exceeds State Law: 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 [†]
--	-------------	----------------------------

	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