

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; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 3 BY RETITLING AND AMENDING SECTION 141.0302; 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.

RECITALS

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

A. California Government Code sections 66310 through 66342 (State ADU Law) require a local agency to either adopt an ordinance that permits state-required Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) by ministerial approval in accordance with specified standards and conditions or approve applications for state-required ADUs ministerially if a local ordinance is not adopted.

B. By Ordinance O-21254, the Council adopted an Accessory Dwelling Unit (ADU) Bonus Program, establishing a program to incentivize and promote the creation of accessory dwelling units that can be offered at affordable rent for very, low-, or moderate-income households.

C. On October 11, 2023, the California Governor approved Assembly Bill 434 (Grayson, 2023), which modified Government Code section 65585 to require enforcement of

State ADU Law in local agency regulations by California Department of Housing and Community Development (HCD).

E. On October 30, 2024, the City received comments from HCD, which included revisions to the City's ADU regulations needed to align with State ADU Law. The comments addressed maximum ADU size, applicable zones, fire sprinklers, ADU conversions, number of ADUs allowed on a lot, landscaping, floor area ratios, side yard setbacks, replacement parking and JADU owner-occupancy requirements.

F. On March 4, 2025, the Council requested that the City Planning Department return to Council within 90 days with an ordinance to remove the applicability of RS-1-1, RS-1-2, RS-1-3, RS-1-4, RS-1-8, RS-1-9, RS-1-10, and RS-1-11 base zones from the ADU Density Bonus Program and bring forward additional revisions to the ADU Density Bonus Program outlined in the City Planning Department's February 28, 2025, memorandum to the Land Use and Housing Committee.

G. The City Planning Department has prepared the ADU and JADU Regulation Amendments to the San Diego Municipal Code and Local Coastal Program Amendment, which proposes to comprehensively address concerns raised with respect to the ADU Home Density Bonus Program, as well as to make other revisions to the City's ADU regulations necessary to address HCD comments and align with State ADU Law, as well as to allow for the separate sale of ADU homes as allowed by Assembly Bill 1033.

H. 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, including requirements related to fire separation, defensible space, and structure placement, particularly in areas with elevated wildfire risk. This Ordinance requires ADU homes located within High or Very High Fire Hazard Severity Zones to maintain a minimum four-foot interior

side and rear yard setback to provide adequate defensible space between all structures on the premises and adjacent native or naturalized vegetation, and ensures authority for the Fire Code Official to require greater interior side or rear yard setbacks when necessary to ensure compliance with the California Fire Code and to address specific site conditions related to fire safety. This change is also intended to provide certainty for applicants at the beginning of the development process.

I. Government Code section 51182 requires the creation of an ember-resistant zone within five feet of a structure located in Very High Fire Hazard Severity Zones, recognizing that combustible materials within the immediate five feet of a structure contribute to the greatest risk of embers directly or indirectly igniting the home. In addition, Assembly Bill 3074, approved by the Governor in 2020, directs the State Board of Forestry to adopt regulations known as “Zone 0”, which will require an ember-resistance zone within five feet of structures in California’s highest fire severity zones.

J. The ADU Home Density Bonus Program currently applies in all zones that allow residential uses, which can result in ADU developments constructed through this program that can be out of scale with the surrounding neighborhood. This Ordinance prohibits the application of the ADU Home Density Bonus Program in the following residential zones: RS1-1, RS-1-2, RS-1-3, RS-1-4, RS-1-8, RS-1-9, RS-1-10, and RS-1-11, unless the portion of the premises proposed for development is located in an area identified as a High or Highest High or Highest California Tax Credit Allocation Committee (CTCAC) Opportunity Area at the time the development application is deemed complete and is in an area identified as residential in a land use plan. These zones have a minimum lot size requirement of 10,000 square feet or greater with the purpose of providing development regulations to implement land use plan designations with very low densities and were not intended to be developed with significant new densities absent

further rezoning actions. In addition, this provision affirmatively furthers fair housing by ensuring that neighborhoods with the greatest access to economic opportunity remain eligible for the ADU Home Density Bonus Program.

K. The ADU Bonus Program does not currently include requirements related to emergency evacuation in High and Very High Fire Hazard Severity Zones. This Ordinance requires lots otherwise eligible for the ADU Home Density Bonus Program in High or Very High Fire Hazard Severity Zones to be on an improved public street with at least two evacuation routes, and prohibits the program on lots in High and Very High Fire Hazard Severity Zones that front a cul-de-sac or have only one point of ingress or egress in order to better ensure adequate emergency access and evacuation safety for ADU homes permitted under the Program.

L. The ADU Bonus Program does not have requirements to determine the developable area on single family zoned lots to ensure the development is appropriately scaled to the surrounding area, and there are instances where larger developable lots or lots that contain undevelopable environmentally sensitive lands can lead to development that was not consistent with the purpose of the lower density zones under the existing program. This Ordinance requires ADU Home Density Bonus Program projects on lots that only permit single family homes and exceed the minimum base zone lot size to have their floor area ratio (FAR) capped at 8,000 square feet, and if the lot contains environmentally sensitive lands, the FAR would be calculated using only the portion of the lot that does not contain environmentally sensitive lands, using a maximum lot area of 8,000 square feet. In addition, this Ordinance sets a maximum ADU cap based on the lot square footage. This requirement is intended to ensure ADU development is similar in scale to the surrounding neighborhood.

M. This Ordinance increases the penalty for violations of the deed restriction on affordable ADU homes permitted under the ADU Home Density Bonus Program to ensure the

homes remain available to qualifying households, aligning with the program's intent of increasing affordable housing opportunities.

N. ADUs permitted through the ADU Home Density Bonus Program should – in exchange for the allowance of additional ADUs – contribute toward neighborhood enhancements. This Ordinance requires applicants opting into the ADU Home Density Bonus Program to pay an ADU Home Density Bonus Program Community Enhancement Fee for all affordable and bonus ADUs under 750 square feet to be eligible for this opt-in bonus program.

O. The Office of the City Attorney prepared this Ordinance 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 ordained by the Council of the City of San Diego:

Section 1. Chapter 11, Article 3, Division 1 of the San Diego Municipal Code is amended by amending section 113.0103, to read as follows:

#### **§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 provides complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation, and is located on 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) [No change in text.]
- (b) Within Mobility Zone 4, as defined in Section 143.1103, the defined walking distance is 0.75 mile.
- (c) [No change in text.]

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.]

Section 2. Chapter 12, Article 5, Division 4 of the San Diego Municipal Code is amended by amending section 125.0431, to read as follows:

**§125.0431 Additional Notice for a Condominium Conversion Map**

- (a) For a *tentative map* for 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 *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.]

Section 3. Chapter 13, Article 1, Division 3 of the San Diego Municipal Code is amended by amending section 131.0322, to read as follows:

**§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, Interim Ground Floor Residential [No change in text.]		[No change in text.]			
Junior Accessory Dwelling Units		L		[No change in text.]	
Residential, Separately Regulated Residential Uses, Live/Work Quarters through Signs, Separately Regulated Signs Use, Theater Marquees [No change in text.]		[No change in text.]			

**Footnotes for Table 131-03B**

<sup>1</sup> through <sup>13</sup> [No change in text.]

Section 4. Chapter 14, Article 1, Division 3 of the San Diego Municipal Code is amended by amending section 141.0302, to read as follows:

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

*Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs);*  
are permitted 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) Regulations for *ADUs* and *JADUs*.
  - (1) 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) 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* and they shall not be subject to the *setback* requirements in Section 141.0302(b)(9).



- (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 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.
- (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 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) *ADU* Development Regulations.
  - (1) On a *premises* with an existing or proposed *single dwelling unit*, the following is permitted:
    - (A) One *ADU* that is 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 *gross floor* area of an existing *accessory structure* up to

150 square feet to only allow for ingress and egress;  
and

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

(B) One attached or detached *ADU*.

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

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

(A) 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. For example, non-livable space includes, but is not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages; and

(B) A maximum of eight detached *ADUs* may be permitted on the *premises*, provided that the number of detached *ADUs* shall not exceed the number of existing *multiple dwelling units* in the *multiple dwelling unit structure*.

- (4) In accordance with Government Code section 66321(b)(3), one attached or detached *ADU* with a *gross floor area* of 800 square feet or less may be permitted in accordance with Sections 141.0302(a)(1)-(a)(3), provided that the *development* results in no more than one attached or detached *ADU* on the *premises*. The *ADU* shall not be subject to maximum *lot coverage*, maximum *floor area ratio*, a front *yard setback*, and minimum open space requirements of the underlying base zone.
- (5) Lot Size. A minimum *lot* size is not required for the construction of an *ADU*.
- (6) Density. *ADUs* are not subject to the *density* limitations of the base zone for the *premises*.
- (7) *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 or proposed *single dwelling unit structure* shall not have a maximum *gross floor area* requirement.
  - (D) An *ADU* constructed within an existing *accessory structure* on a *single dwelling unit lot* shall not have a maximum *gross floor area* requirement and may construct an

additional 150 square feet to only allow for ingress and egress.

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

(F) The *gross floor area* of an *ADU* shall be included in the *floor area ratio* for the *premises*.

(8) Height.

(A) On *lots* that permit *single dwelling unit development* but not *multiple dwelling unit development*, detached *ADU structures* shall not exceed two *stories*.

(B) On *lots* that permit *single dwelling unit development* but not *multiple dwelling unit development*, *ADUs* attached to an existing *accessory structure* shall not exceed two *stories*.

(C) *ADUs* shall comply with the overall maximum *structure* height of the underlying base zone and overlay zone.

(9) 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, California Code of Regulations (CCR), Title 14, Section 1276.01, and the International Fire Code (IFC), including section 504.1.

(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 4 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, California Code of Regulations (CCR), Title 14, Section 1276.01, and the International Fire Code (IFC), including section 504.1.

- (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, California Code of Regulations (CCR), Title 14, Section 1276.01, and the International Fire Code (IFC), including section 504.1.
  - (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 4 feet to provide defensible space between

all *structures* on the *premises* and any contiguous areas of native or naturalized vegetation or as otherwise required, except that the Fire Code Official may require a greater *setback* to ensure compliance with the California Fire Code, California Code of Regulations (CCR), Title 14, Section 1276.01, and the International Fire Code (IFC), including section 504.1.

(10) Parking.

- (A) No on-street parking spaces or *off-street parking spaces* are required for *ADUs*, except as specified in Section 141.0302(b)(10)(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)(10)(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, or covered parking structure 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)(10)(D).
- (D) When an 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.
- (E) If *off-street parking spaces* are required in accordance with Section 141.0302(b)(10)(B) or 141.0302(b)(10)(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*.
- (F) Notwithstanding Section 141.0302(a)(4), if the construction of an *ADU* causes an existing driveway curb cut to no longer comply with the minimum *off-street parking spaces* dimensions required in Table 142-05K of Section 142.0560, the driveway shall be closed to the satisfaction of the City Engineer.
- (11) The *record owner* is not required to live on the same *premises* of an *ADU*.
- (c) Development Regulations for *JADUs*.
  - (1) On a *premises* with an existing or proposed *single dwelling unit*, one *JADU* is permitted, subject to the following:
    - (A) The *JADU* shall be within an existing or proposed *single dwelling unit* or attached garage;
    - (B) *Construction* of the *JADU* may expand the floor area of the existing *single dwelling unit* up to 150 square feet to only allow for ingress and egress;
    - (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*; and
  - (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)(E) and Section 141.0302(c)(1)(F).
- (2) Lot Size. *JADUs* are not subject to a minimum *lot* size.
  - (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*.
- (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) When an attached garage is converted to a *JADU*, 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 a *transit priority area*, in which case parking shall be replaced in a location consistent with Section 141.0302(c)(7)(C).

- (C) If *off-street parking spaces* are required in accordance with Section 141.0302(c)(7)(B) or if the *applicant* chooses to provide *off-street parking spaces* for *JADUs* 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*.
- (D) Notwithstanding Section 141.0302(a)(4), if the construction of a *JADU* causes an existing driveway curb cut to no longer comply with the minimum *off-street parking space* dimensions required in Table 142-05K of Section 142.0560, the driveway shall be closed to the satisfaction of the City Engineer.
- (d) *ADU Home Density Bonus*. In addition to the *ADUs* and *JADUs* permitted under Sections 141.0302(b) and 141.0302(c), additional bonus *ADUs* and affordable *ADUs* shall be permitted subject to the following:
  - (1) Location Requirements.

- (A) The portion of the *premises* proposed for *development* may not be within 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, unless the following apply:
    - (i) The *premises* is in an area identified as a High or Highest California Tax Credit Allocation Committee (CTCAC) Opportunity Area when the *development* application is *deemed complete*; and
    - (ii) The *premises* is identified as Residential in a *land use plan*.
  - (B) On a *premises* within the *Sustainable Development Area*, one additional bonus *ADU* shall be permitted for every additional affordable *ADU*.
  - (C) 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 bonus *ADUs* and affordable *ADUs* as specified in Sections 141.0302(d)(1)(B) or 141.0302(d)(1)(C).
- (2) *Lot Requirements.*
- (A) Within High and Very High Fire Hazard Severity Zones, the *applicant* shall 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) Within High and Very High Fire Hazard Severity Zones, the *lot* shall not front a cul-de-sac or be located on a *premises* that only has one point of ingress or egress.

(3) *Floor Area Ratio.*

- (A) Within a base zone that permits *single dwelling unit developments* but not *multiple dwelling unit developments*, 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 8,000 square feet for the *lot* area; and
- (iii) For the RS-1-1, RS-1-2, RS-1-3, RS-1-4, 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 unit developments* where the *lot* contains *environmentally sensitive lands*, the maximum permitted *floor area ratio* shall be determined by using the area of the *lot* that does not contain *environmentally sensitive lands*.
- (4) Total Maximum number of permitted *ADUs* and *JADUs* on *single dwelling unit lots*. The total maximum number of *ADUs* and *JADUs* that may be permitted on a *lot* within a base zone that permits *single dwelling unit development* but not *multiple dwelling unit development*, shall be based on the *lot* area in accordance with Table 141-03A. If the *lot* contains *environmentally sensitive lands*, the *lot area* shall be determined using the area of the *lot* that does not contain *environmentally sensitive lands*.

**Table 141-03A**

**Maximum Number of Permitted *ADUs* and *JADUs* on *Single Dwelling Unit Lots***

<b>Lot Area (square feet)</b>	<b>Maximum Number of <i>ADUs</i> and <i>JADUs</i><sup>1</sup></b>
8,000 or less	4
8,001 to 10,000	5
10,001 or greater	6

<sup>1</sup> The maximum number of *ADUs* and *JADUs* is inclusive of the total number of *ADUs* and *JADUs* that are permitted in accordance with Section 141.0302.

- (5) 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.



- (6) 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*.
- (7) Landscape Requirements. 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.
- (8) *ADU Home Density Bonus Agreement*. The affordable *ADUs* shall be guaranteed through a written agreement and a deed of trust securing the agreement, entered into by the *applicant* and 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) A rental affordable *ADU* home density bonus agreement shall utilize the following qualifying criteria:

- (i) *Very Low Income ADU Home Density Bonus.* 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) *Low Income ADU Home Density Bonus.* 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) *Moderate Income ADU Home Density Bonus.* 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 income*, *low income*, and *moderate income* affordable *ADUs* shall be comparable in

bedroom mix and amenities to the bonus *ADUs* in  
the *development*.

- (B) Violations. If 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.
- (9) *ADU* Home Density Bonus Program Community Enhancement Fee. The *applicant* shall pay an *ADU* Home Density Bonus Program Community Enhancement Fee as established by San Diego Resolution, calculated based on the *gross floor area* of the affordable *ADUs* and bonus *ADUs*, except that the *gross floor area* of any affordable *ADUs* that meet all the following shall not be included in the calculation:
  - (A) The affordable *ADU* is deed restricted to *very low income* or *low income* households in accordance with Section 141.0302(d)(8)(A)(i) or 141.0302(d)(8)(A)(ii); and
  - (B) The *premises* is located in an area identified as a High or Very High Resource California Tax Credit Allocation Committee (CTCAC) Opportunity Area when the *development application* is deemed complete.
- (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*;
    - (B) The accessible *ADU* shall be located on an accessible route, as defined by the California Building Code; and
    - (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 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*. Unless otherwise allowed for *ADUs* pursuant to Section 141.0302(b);

- (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));
- (C) Neither a *subdivision map* nor a condominium plan shall be recorded without each lienholder's written 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 the following: "(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 *development* shall be subject to the Subdivision requirements in Chapter 12, Article 5.
- (3) The condominium *development* shall be subject to the Condominium Conversion Regulations in Chapter 14, Article 4, Division 5 if any of the *ADUs* in the *development* were occupied.
- (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.
- (5) The condominium *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) For a minimum period of 30 days from the date an *ADU* that is established as a condominium is first listed for sale, the *record owner* shall offer the *ADU* through at least two publicly accessible real estate websites or databases with a disclosure stating that the *ADU* is being offered for at least 30 days to buyers intending to use the *ADU* as their primary residence.
- (7) *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.
- (8) 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 the California Revenue and Taxation

Code section 214.15 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 agreement between the qualified buyer and the qualified nonprofit corporation. For the purposes of Section 141.0302(g)(3)(A), a qualified buyer means *very low income, low income, median income, or moderate income* households, as specified below:

- (i) *Very low income ADUs* shall be affordable to *very low income* households at an affordable housing cost that does not exceed 30 percent of 50 percent of the area median income, as adjusted for household size, appropriate for the *ADU*;
- (ii) *Low income ADUs* shall be affordable to *low income* households at an affordable housing cost that does not exceed 30 percent of 70 percent of the area median income, as adjusted for household size, appropriate for the *ADU*;



- (iii) *Moderate income ADUs* shall be affordable to *moderate income* households at a housing cost that does not exceed 35 of 110 percent of the area median income, as adjusted for household size, appropriate for the *ADU*.
- (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 the California Revenue and Taxation Code section 480.3.
- (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.

Section 5. Chapter 14, Article 3, Division 8 of the San Diego Municipal Code is amended by amending section 143.0815, to read as follows:

**§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.]

Section 6. Chapter 14, Article 4, Division 5 of the San Diego Municipal Code is amended by amending section 144.0501, to read as follows:

**§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.

Section 7. The Council dispenses with a full reading of this Ordinance before its passage because a written copy of this Ordinance was made available to the Council and the public before the date of its passage.

Section 8. Ordinances O-21758 (Jan. 16, 2024) and O-21836 (July 22, 2024) were considered by the Council and may amend San Diego Municipal Code sections also amended by this Ordinance. Ordinances O-21758 and O-21836 also require California Coastal Commission certification prior to becoming effective in the Coastal Overlay Zone. The California Coastal Commission may propose modifications to San Diego Municipal Code sections also amended by this Ordinance. The City Clerk, with the written approval and concurrence of the City Attorney, is authorized to reconcile the numbering of sections and placement of text upon the final passage of the Ordinances, without further action by the Council, pursuant to San Diego Charter section 275.

Section 9. Before becoming effective, this Ordinance will be submitted to the San Diego County Regional Airport Authority (SDCRAA) acting as the Airport Land Use

Commission (ALUC) for a consistency finding with the Airport Land Use Compatibility Plan (ALUCP) for the San International Airport, Marine Corps Air Station Miramar, Gillespie Field, Montgomery Field, and Brown Field Airports (collectively, Airports). If the ALUC determines this Ordinance is consistent with the ALUCP for the Airports, this Ordinance shall take effect and be in force on the date of the finding of consistency, provided that at least 30 days have passed from the date of final passage, except that provisions of this Ordinance inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, will not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.


If the ALUC determines this Ordinance is inconsistent or conditionally consistent, subject to proposed modifications, with the ALUCP, this Ordinance will be submitted to the Council for reconsideration. If the ALUC determines this Ordinance is conditionally consistent with the ALUCP for the Airports, but consistency is subject to the proposed modifications, the Council may amend this Ordinance to accept the proposed modifications, and this Ordinance as amended will take effect and be in force on the thirtieth day from and after its final passage, except that provisions of this Ordinance inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, will not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment. A proposed decision by the Council to overrule a determination or inconsistency, or to reject the proposed modifications for a finding of conditional consistency, will include the findings required pursuant to California Public Utilities Code section 21670 and require a two-thirds vote. The proposed decision and findings will be forwarded to the ALUC, the California Department of Transportation, Division of Aeronautics,

and the airport operators for the applicable airports; and the Council will hold a second hearing not less than forty-five days from the date the proposed decision and findings were provided. At the hearing, any comments submitted by the public agencies will be considered and a final decision to overrule a determination of inconsistency will require a two-thirds vote.

If the Council makes a final decision to overrule a determination of inconsistency, this Ordinance will take effect on the thirtieth day after that final decision, except that provisions of this Ordinance inside the Coastal Overlay Zone, subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, will not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

Section 10. That no permits shall be issued for development that is inconsistent with the provisions of this Ordinance unless deemed complete applications for such permits are submitted to the City prior to the date on which the applicable provisions of this Ordinance become effective.

APPROVED: HEATHER FERBERT, City Attorney

By  FOR  
Corrine L. Neuffer  
Senior Chief Deputy City Attorney

CLN:cm:jn2:amt:cm:jn2  
April 24, 2025  
June 13, 2025 COR. COPY  
June 17, 2025 REV.  
Or.Dept: City Planning  
Doc. No. 4082424\_3

I certify that the Council of the City of San Diego adopted this Ordinance 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