

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; 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.

§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) [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~~ 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* 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 ~~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, 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

¹ through ¹³ [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:~~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* 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) The following regulations are applicable to both ADUs and JADUs: ADU Development Regulations.
- (1) Use RegulationsOn 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 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) An ADU or JADU shall not be used for a rental term of less than 31 consecutive days. One attached or detached ADU.

- (C) ~~Guest quarters and non-habitable accessory structures shall be permitted in addition to ADUs and JADUs.~~
 - (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. For example, non-livable space includes, but is not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages; and
- (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, provided that the number of detached ADUs shall not exceed the

number of existing *multiple dwelling units* in the *multiple dwelling unit structure*.

- (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*, 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).~~
- (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). 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, 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)(10)(D).
- (D) 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*.

- (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 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) ~~In addition to the requirements in Section 141.0302(a), the following additional regulations are applicable to ADUs:~~Development Regulations for JADUs.
- (1) ~~Use Regulations~~On a premises with an existing or proposed single dwelling unit, 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 only allow for ingress and egress;
- (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*; 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) ~~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~~
 - (ii) ~~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 <i>ADUs</i> | For-Sale <i>ADUs</i>⁽¹⁾ |
|--|--|--|
| | shall be affordable, including an allowance for utilities, at a rent that does not exceed: | shall be affordable at an affordable housing cost that does not exceed: |
| <i>Very-Low Income 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.
- (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) 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), additional bonus ADUs and affordable ADUs shall be permitted subject to 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~~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 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) ~~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, the lot shall not 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 permits *single dwelling unit developments*, but not *multiple dwelling unit developments*, the maximum *floor area ratio* shall be determine 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-1-5, 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 development* 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.

Table 141-03A

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

| <u>Lot Area (square feet)</u> | <u>Maximum Number of ADUs and JADUs¹</u> |
|--|--|
| <u>Less than 6,000</u> | <u>4</u> |
| <u>6,000 – 6,999</u> | <u>5</u> |
| <u>7,000 to 7,999</u> | <u>6</u> |
| <u>8,000 or greater</u> | <u>7</u> |

¹ 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 Moderate, 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 for the duration of the deed restriction or affordability covenant term.

(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.

§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.

CLN:cm:jn2:amt
March 12, 2025
Or.Dept: City Planning
Doc. No. 4082425