

ORDINANCE NUMBER O- 21461 (NEW SERIES)

DATE OF FINAL PASSAGE JUN 03 2022

AN ORDINANCE AMENDING CHAPTER 14, ARTICLE 1, DIVISION 3 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 141.0302, RELATING TO RESIDENTIAL USE CATEGORY--SEPARATELY REGULATED USES, ACCESSORY DWELLING UNITS.

WHEREAS, the California Legislature passed AB 671 in 2019 which requires local jurisdictions to incentivize the construction of deed restricted affordable accessory dwelling units (ADUs); and

WHEREAS, in 2020, the City Council of the City of San Diego (Council) adopted an ADU Bonus Program that is codified in San Diego Municipal Code (Municipal Code) Chapter 14, Article 1, Division 3, Section 141.0302; and

WHEREAS, on February 8, 2022, the Homes for All of Us: Housing Action Package was introduced at Council. The Homes for All of Us: Housing Action Package aims to incentivize and promote new housing opportunities throughout the City for all income levels; and

WHEREAS, during the February 8, 2022, hearing, the Council requested modifying the ADU Bonus for Affordable ADUs Program to reduce the time restriction from 15 years to 10 years for low- and very low-income restricted units and to continue the 15-year restriction for moderate-income ADUs; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That 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 and Junior Accessory Dwelling Units*

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

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

(1) [No change in text.]

(2) *Development Regulations for ADUs*

(A) through (F) [No change in text.]

(G) *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) through (iii) [No change in text.]

Table 141-03A
Qualifying Criteria for Affordable *ADU* Bonus

[No change in text.]

(d) [No change in text.]

Section 2. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 3. That prior to becoming effective, this Ordinance shall be submitted to the San Diego County Regional Airport Authority acting as the Airport Land Use Commission (ALUC) for a consistency determination.

That if the ALUC finds this Ordinance consistent with the Airport Land Use Compatibility Plans (ALUCP) for San Diego International Airport, Marine Corps Air Station Miramar, Gillespie Field, Montgomery Field, and Brown Field Airport (collectively, Airports), this Ordinance shall take effect and be in force on the thirtieth day from and after the finding of consistency, or on the thirtieth day from and after its final passage, whichever is later, except that the 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, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

That if the ALUC determines that this Ordinance is inconsistent or conditionally consistent, subject to proposed modifications, with the ALUCP for the Airports, the Ordinance shall be submitted to the Council for reconsideration.

That if the ALUC determines that this Ordinance is conditionally consistent with the ALUCP for the Airports, but that consistency is subject to proposed modifications, with the ALUCP for the Airports, the Ordinance shall be submitted to the Council for reconsideration.

That if the ALUC determines that this Ordinance is conditionally consistent with the ALUCP for the Airports, but that consistency is subject to proposed modifications, the Council may amend this Ordinance to accept the proposed modifications, and this Ordinance as amended shall take effect and be in force on the thirtieth day from and after its final passage, except that the provisions of this Ordinance as amended inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

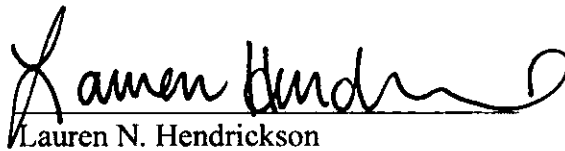
That a proposed decision by the Council to overrule a determination of inconsistency or to reject the proposed modifications for a finding of conditional consistency shall include the findings required pursuant to Public Utilities Code section 21670 and require a two-thirds vote. The proposed decision and findings shall be forwarded to the ALUC, the California Department of Transportation, Division of Aeronautics, and the airport operators for the Airports. The Council shall hold a second hearing not less than 45 days from the date the proposed decision and findings were provided, at which hearing any comments submitted by the public agencies shall be considered and a final decision to overrule a determination of inconsistency shall require a two-thirds vote.

That if the Council makes a final decision to overrule a determination of inconsistency, this Ordinance shall take effect and be in force on the thirtieth day from and after that final decision, except that the 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, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

Section 4. That San Diego Ordinances O-21416, O-21432, and O-21439, which have been recently considered by the Council, also amend San Diego Municipal Code sections amended by this Ordinance; therefore, 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 within this section upon the final passage of the Ordinances, without further action by the City Council, pursuant to San Diego Charter section 275.

APPROVED: MARA W. ELLIOTT, City Attorney

By



Lauren N. Hendrickson
Deputy City Attorney

LNH:cm
February 16, 2022
June 30, 2022 REV.
Or.Dept: Planning
Doc. No. 2895910_2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of MAY 24 2022.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

(NOTE: See attached memo and signature page.)

**Office of
The City Attorney
City of San Diego**

MEMORANDUM

DATE: July 1, 2022
TO: Matthew Hilario, Legislative Recorder
FROM: Lauren N. Hendrickson, Deputy City Attorney
SUBJECT: Correction to O-21461 (Jun. 3, 2022) (O-2022-94 REV.): Residential Use Category – Separately Regulated Uses, Accessory Dwelling Units

This Memorandum is presented, pursuant to San Diego Charter (Charter) section 275(a), to notify the Office of the City Clerk that this Office is requesting to correct typographical or clerical errors in section 141.0302 with respect to San Diego Ordinance O-21461 (O-2022-94 REV.). This Office approves of the requested corrections, as permitted under the provision of Charter section 275(a).¹

We are submitting a revised clean copy and strikeout of the Residential Use Category – Separately Regulated Uses, Accessory Dwelling Units ordinance (both REV. copies) to reflect the following changes in Section 141.0302:

- It is correct to delete “allowing encroachment into the interior side *yard* and rear *yard setbacks* up to the *property line*,” from the first half of the section.
- “(a) [No change in text.]” has been changed to read “(a) through (b) [No change in text.]”
- Subsection 141.0302(b) was renumbered to 141.0302(c).
- Subsection 141.0302(c) was renumbered to 141.0302(d).

No other substantive changes were made on the ordinance or strikeout.

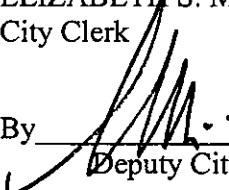
LNH:cm
Doc. No. 3019736
Attachments: O-2022-94 REV. Ordinance
O-2022-94 REV. Strikeout
cc: Gil Sanchez, Associate Management Analyst
Sonia Pickens, Municipal Code Administrator

¹ Charter section 275 addresses modifications to ordinances as follows:

An alteration necessary only to correct a typographical or clerical error or omission may be performed by the City Clerk with the written approval and concurrence of the City Attorney, so long as the alteration does not materially or substantially alter the contents, requirements, rights, responsibilities, conditions, or prescriptions contained in the original text of the ordinance. A typographical or clerical error shall include, but is not limited to, incorrect spelling, grammar, numbering, punctuation, transposed words or numbers, and duplicate words or numbers.

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of MAY 24 2022.

ELIZABETH S. MALAND
City Clerk

By  _____
Deputy City Clerk

Approved: 6/2/22

(date)

 _____
TODD GLORIA, Mayor

Vetoed: _____

(date)

TODD GLORIA, Mayor

(NOTE: The date of final passage is June 3, 2022, which represents the day this ordinance was returned to the Office of the City Clerk with the Mayor's signature of approval.)

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck-Out~~

NEW LANGUAGE: Double Underline

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Table 141-03A
Qualifying Criteria for Affordable *ADU* Bonus

[No change in text.]

- (d) [No change in text.]

LNH:cm
February 16, 2022
June 30, 2022 REV.
Or.Dept: Planning
Doc. No. 2895911_2

Passed by the Council of The City of San Diego on MAY 24 2022, by the following vote:

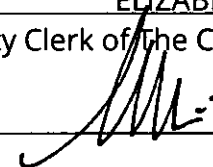
Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 03 2022.

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

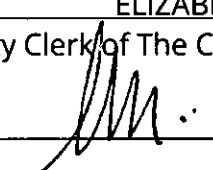
(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.
By , Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on APR 11 2022, and on JUN 03 2022.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.
By , Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 21461