

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-

(NEW SERIES)

DATE OF FINAL PASSAGE

AN ORDINANCE AMENDING CHAPTER 14, ARTICLE 3, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING NEW DIVISION 10, SECTIONS 143.1001, 143.1002, 143.1005, 143.1010, 143.1015, 143.1020, AND 143.1025 RELATING TO COMPLETE COMMUNITIES HOUSING SOLUTIONS REGULATIONS.

Article 3: Supplemental Development Regulations

Division 10: Complete Communities Housing Solutions Regulations

§143.1001 Purpose and Intent of the Complete Communities Housing Solutions Regulations

The purpose of these regulations is to provide an alternative incentive program for development within Transit Priority Areas that provides housing for very low income, low income, and/or moderate income households and provides neighborhood-serving infrastructure amenities through value capture. These regulations are intended to materially assist in providing adequate housing for all economic segments of the community; to provide a balance of housing opportunities within the City with an emphasis on housing near transit; and to encourage use of mobility alternatives through the construction of neighborhood-serving infrastructure amenities. The purpose of these regulations is not to implement California Government Code Section 65915 (State Density Bonus Law), which is implemented through San Diego Municipal Code Chapter 14, Article 3, Division 7.

§143.1002 When the Complete Communities Housing Solutions Regulations Apply

(a) The regulations in this Division shall be applied to any *development* at the request of the *applicant* where the zoning is commercial, residential, or mixed-use for the *premises* of the proposed *development* allows for five or more *dwelling units*, not including additional units permitted under this Division, in exchange for all of the following:

(1) The provision of *dwelling units* affordable to *very low income*, *low income*, or *moderate-income* households, in accordance with Section 143.1015.

(A) Within the categories of *very low income*, *low income*, and *moderate income* households, affordable *dwelling units* may be further targeted or restricted for senior citizens, as defined under California Civil Code Section 51.3 and 51.11.

(B) Within the *very low income* category, affordable *dwelling units* may be further targeted or restricted for transitional foster youth, as defined in Section 66025 of the California Education Code; disabled veterans as defined in Section 18541 of the California Government Code; or homeless persons as defined in the McKinney-Vento Homeless Assistance Act.

(C) The affordable *dwelling units* may be provided through either of the following means:

- (i) A portion of the total *dwelling units* in the *development* being reserved for *very low income*, *low income*, or *moderate-income* households in accordance with Section 143.1015; or
 - (ii) The construction of off-site *dwelling units* reserved for *very low income*, *low income*, or *moderate income* households, in accordance with Section 143.1015. To be eligible for the Complete Communities Housing Solutions Program, the off-site *dwelling units* must be constructed within a *Transit Priority Area* within the boundaries of the same community planning area in which the *development* is located, or within one mile of the *premises of the development*.
 - (2) The provision of neighborhood-serving infrastructure amenities, in accordance with Section 143.1020.
- (b) The following types of *development* are not eligible to request the application of the regulations in this Division:
 - (1) *Development* outside of the Centre City Planned District and the Mixed-Use base zones that proposes a total number of *dwelling units* that equates to a residential *density* that is less than 80 percent of the maximum permitted *density* of the applicable base zone(s) or Planned District.

- (2) Development within the Centre City Planned District that does not meet the maximum *base floor area ratio* of the base zone.
- (3) Development zoned Mixed-Use that does not meet the maximum *floor area ratio* of the base zone.
- (4) Development that proposes to concurrently utilize the *density* bonus provided in Chapter 14, Article 3, Division 7 (Affordable Housing Regulations). Existing *development* that was constructed in accordance with the Affordable Housing Regulations and proposes to construct additional *dwelling units* through a new *development* application may utilize the Complete Communities Housing Regulations to add *gross floor area* and *density* to the existing *development* if the project complies with all of the following:
- i. The existing *development* that was approved in accordance with the Affordable Housing Regulations constructed the maximum *density* bonus available based on the affordability level of the project.
- (5) The new *development* allowed under this Division shall be determined in accordance with Section 143.1002(c).
- (6) Development located within Proposition A lands.
- (7) Development located within a designated *historical district* or subject to the Old Town San Diego Planned District.

(c) Existing development that proposes to construct additional dwelling units through a new development application may utilize the Complete Communities Housing Solutions Regulations to add gross floor area to the development. The new development allowed under this Division shall be determined as follows:

(1) To determine the additional gross floor area permitted by this Division, first subtract the lot coverage of the existing development from the lot area of the premises to determine the remaining lot area. Then, multiply that difference by the applicable floor area ratio in Section 143.1010(a).

Example:

20,000 s.f. lot area – 10,000 s.f existing lot coverage = 10,000 s.f.
remaining lot area

10,000 s. f. remaining lot area x 4.0 FAR = 40,000 s.f. of new gross
floor area permitted by this Division.

(2) To determine the minimum number of dwelling units required by this Division, first calculate the maximum number of dwelling units that could be constructed on the remaining lot area by dividing the remaining lot area by the maximum permitted density in the applicable base zone table. Then multiply that number by 0.80 and round up to the next whole number if the product exceeds a whole number by more

than 0.50. The product is the minimum number of dwelling units required for the new *development*.

Example:

20,000 s.f. lot area – 10,000 s.f existing lot coverage = 10,000 s.f.
remaining lot area

10,000 s.f. remaining lot area ÷ 2,000 (in a zone that requires 2,000 s.f.
of lot area per dwelling unit) = 5 dwelling units (maximum permitted
density)

5 dwelling units x 0.80 = 4 dwelling units (minimum.

- (d) The required number of affordable *dwelling units* shall be calculated in accordance with Section 143.1015 based upon the number of *dwelling units* proposed in compliance with Section 143.1002(c)(1) and 143.1002(c)(2). Existing covenant-restricted affordable *dwelling units* may not be counted towards the affordable housing requirement in this Division.
- (e) The regulations in this Division shall not supersede the regulations of any other Land Development Code Section, unless specified.

§143.1005 Required Replacement of Existing Affordable Units

- (a) An applicant is ineligible for any incentive under this Division if the premises on which the development is proposed contains, or during the five years preceding the application, contained, rental dwelling units that have had the rent restricted by law or covenant to persons and families of moderate income, low income or very low income, or have been occupied by persons and families of moderate income, low income, or very low income, unless the proposed development replaces the affordable dwelling units, and either:
- (1) Provides affordable dwelling units at the percentages set forth in Section 143.1015 (inclusive of the replacement dwelling units), or
 - (2) Provides all of the dwelling units in the development as affordable to low income or very low income households, excluding any manager's unit(s).
- (b) The number and type of required replacement affordable dwelling units shall be determined as follows:
- (1) For development containing any occupied affordable dwelling units, the development must contain at least the same number of replacement affordable dwelling units, of equivalent size and bedrooms, and must be made affordable to and occupied by persons and families in the same or a lower income category as the occupied affordable dwelling units. For unoccupied affordable dwelling units in the development, the replacement affordable dwelling units shall be made affordable to and occupied by persons

and families in the same or lower income category as the last household in occupancy. If the income category of the last household is unknown, it is rebuttably presumed that the affordable dwelling units were occupied by lower income renter households in the same proportion of lower income renter households to all renter households within the City of San Diego, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database, and replacement affordable dwelling units shall be provided in that same percentage.

- (2) If all of the affordable dwelling units are vacant or have been demolished within the five years preceding the application, the development must contain at least the same number of replacement affordable dwelling units, of equivalent size and bedrooms, as existed at the highpoint of those units in the five-year period preceding the application, and must be made affordable to and occupied by persons and families in the same or a lower income category as those in occupancy at that same time. If the income categories are unknown for the highpoint, it is rebuttably presumed that the dwelling units were occupied by very low income and low income renter households in the same proportion of very low income and low income renter households to all renter households within the City of San Diego, as determined by the most recently

available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database, and replacement *dwelling units* shall be provided in that same percentage.

- (3) All replacement affordable *dwelling unit* calculations resulting in fractional units shall be rounded up to the next whole number.
- (4) All rental replacement affordable *dwelling units* shall be affordable for at least 55 years.
- (5) All for-sale replacement affordable *dwelling units* shall be subject to the provisions of Section 143.1015(a)(3).

§143.1010 Incentives in Exchange for Transit Priority Area Housing and Infrastructure Amenities

An applicant proposing development that is consistent with the criteria in Section 143.1002 shall be entitled to the following incentives:

- (a) Waiver of the existing *floor area ratio* and a new maximum *floor area ratio* based upon whether the *development* is located in FAR Tier 1, FAR Tier 2, or FAR Tier 3 as shown on the "Complete Communities Housing Solutions *Floor Area Ratio* (FAR) Map" in the Land Development Manual. If a mixed-use *development* is proposed, the *floor area ratio* of the non-residential portion of the *development* shall not exceed the maximum *floor area ratio* of the applicable base zone or Planned District.
 - (1) Within FAR Tier 1, there shall be no maximum *floor area ratio*.
 - (2) Within FAR Tier 2, the new maximum *floor area ratio* shall be 8.0.

(3) Within FAR Tier 3, the new maximum *floor area ratio* shall be 4.0.

(b) Waiver of the maximum permitted residential *density* of the land use designation(s) in the applicable land use plan. *Density* shall be limited by the allowable *floor area ratio* and the requirements of the California Building Code as adopted and amended by the City of San Diego.

(c) Waiver of the following applicable base zone or Planned District regulations:

(1) Maximum permitted residential *density*.

(2) Maximum *structure height*.

(3) Maximum *lot area*.

(4) *Street frontage* requirements, if safe and adequate access to the *premises* can be provided to the satisfaction of the City Building Official and the Fire Department.

(5) Maximum *lot coverage*.

(6) *Floor Area Ratio Bonus for Residential Mixed Use. Development utilizing the Complete Communities Housing Solutions Program shall not be eligible for other FAR or *density* bonuses.*

(7) Maximum front *setback* or *street side setback* if the maximum is less than 20 feet and the *development* is constructing a promenade in accordance with Section 143.1020.

- (d) Waiver of any of the following applicable overlay zone regulations:
- (1) Maximum permitted residential *density*.
 - (2) Outside the Coastal Height Limit Overlay Zone and the Airport Land Use Compatibility Overlay Zone, maximum *structure height*.
 - (3) The requirement to obtain a Site Development Permit in areas mapped as CPIOZ Type B, if the *development* complies with the *development* standards or criteria in the applicable community plan. Compliance with the *development* standards or criteria does not include compliance with maximum permitted residential *density* and/or maximum *structure height*.
- (e) Waiver of the personal storage area requirement in Section 131.0454 and the private exterior open space requirement in Section 131.0454 for all *dwelling units* in the *development* if at least 10 percent of the total *dwelling units* in the *development* are three bedroom *dwelling units*.
- (f) Scaling of Development Impact Fees based on square footage, rather than number of *dwelling units* in the proposed *development*, in accordance with Section 142.0640(b)(2).
- (g) Waiver of Development Impact Fees for all covenant-restricted affordable *dwelling units*.
- (h) Use of up to five Affordable Housing Incentives. An *applicant* utilizing the Complete Communities Housing Solutions Regulations shall be entitled to incentives as described in this subsection for any *development* for which a written agreement and a deed of trust securing the agreement in entered into by the *applicant* and the President and Chief Executive

Officer of the San Diego Housing Commission. The City shall process an incentive requested by an *applicant* as set forth in this subsection.

(1) An incentive means any of the following:

(A) A deviation to a *development* regulation, with the exception of any regulations or requirements of this Division;

(B) Approval of mixed use zoning in conjunction with a residential *development* provided that commercial, office, or industrial uses;

(i) Reduce the cost of the residential *development*; and

(ii) Are compatible with the proposed residential *development*; and

(iii) Are compatible with existing or planned *development* in the area where the proposed residential *development* will be located.

(C) Any other incentive proposed by the *applicant*, other than those identified in Section 143.1010(h)(2), that results in identifiable, actual cost reductions.

(2) Items not considered incentives by the City of San Diego include, but are not limited to the following:

(A) A waiver of a required permit;

(B) A waiver of fees or dedication requirements, except as allowed under Section 143.0101(g);

(C) A direct financial incentive;

(D) A waiver of any of the requirements, regulations or standards of this Division.

(3) An incentive requested as part of a *development* meeting the requirements of this Division shall be processed according to the following:

(A) Upon an *applicant's* request, *development* that meets the applicable requirements of this Division shall be entitled to incentives pursuant to Section 143.1010(h) unless the City makes a written *finding* of denial based upon substantial evidence, of any of the following:

(i) The incentive is not required in order to provide for affordable housing costs, as defined in California Health and Safety Code Sections 50052.5 and 50053;

(ii) The incentive would have a specific adverse impact upon public health and safety as defined in Government Code Section 65589.5, the physical environment, including *environmentally sensitive lands*, or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact

without rendering the *development* unaffordable to
low income and *moderate income* households;

(iii) The incentive would be contrary to state or federal
law. Requested incentives shall be analyzed in
compliance with the California Environmental
Quality Act as set forth in Chapter 12, Article 8, and
no incentive shall be granted without such
compliance; or

(iv) Within the Coastal Overlay Zone, the incentive
would be inconsistent with the resource protection
standards of the City's Local Coastal Program or
the *environmentally sensitive lands* regulations,
with the exception of *density*.

(B) The granting of an incentive shall not require a General
Plan amendment, zoning change, a *development permit*, or
other discretionary approval.

(C) When a *development permit* is otherwise required, the
decision to deny a requested incentive shall be made by the
decision maker for the *development permit*.

(4) The number of incentives available are as follows:

(A) Two incentives for a *development* that includes at least 10
percent of the total *dwelling units* for *lower income*

households and at least 10 percent for persons and families of moderate income in a common interest development.

(B) Three incentives for a development that includes at least 30 percent of the total units for lower income households, at least 10 percent for very low income households, and at least 20 percent for persons and families of moderate income in a common interest development.

(C) Five incentives for a development that includes one hundred percent of the total dwelling units, exclusive of a manager's unit or units, for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the total dwelling units in the development may be for moderate income households, as defined in Section 50053 of the Health and Safety Code.

(i) Affordable Housing waivers may be granted, except that waivers cannot be used to deviate from the requirements of this Division. An applicant utilizing the Complete Communities Housing Solutions Regulations shall be entitled to a waiver as described in this subsection for any development for which a written agreement and a deed of trust securing the agreement is entered into by the applicant and the President and Chief Executive Officer of the San Diego Housing Commission.

- (1) A waiver means a request by an *applicant* to waive or reduce a *development* standard that physically precludes construction of *development* meeting the criteria of this Division.
- (2) Upon an *applicant's* request, *development* that meets the applicable requirements of this Division shall be entitled to a waiver unless the City makes written *finding* of denial based upon substantial evidence, of any of the following:
- (A) The waiver would have a significant, quantifiable, direct, and unavoidable impact upon health, safety, or the physical environment for which there is no feasible method to mitigate or avoid the impact;
- (B) The waiver would have an adverse impact on any real property that is listed in the California Register or Historical Resources;
- (C) The waiver would be contrary to state or federal law. Requested waivers shall be analyzed in compliance with the California Environmental Quality Act as set forth in Chapter 12, Article 8, and no waiver shall be granted without such compliance; or
- (D) Within the Coastal Overlay Zone, the waiver would be inconsistent with the resource protection standards of the City's Local Coastal Program or the *environmentally sensitive lands* regulations, with the exception of *density*.

(3) The granting of a waiver shall not require a General Plan amendment, zoning change, *development permit*, or other discretionary approval.

(4) There is no limit on the number of waivers an *applicant* may request.

(j) Compliance with the Complete Communities Housing Solutions Regulations shall satisfy compliance with the City's Inclusionary Affordable Housing Regulations in Chapter 14, Article 2, Division 13 and the *applicant's* affordable housing obligations.

§143.1015 Required Provision of Affordable Dwelling Units

(a) In accordance with Section 143.1002(a)(1), the *applicant* requesting application of the regulations in this Division shall provide a written agreement to provide affordable *dwelling units*, entered into by the *applicant* and the President and Chief Executive Officer of the San Diego Housing Commission and secured by a deed of trust, that meets the following requirements:

(1) Provides a minimum number of affordable *dwelling units* in accordance with all of the following:

(A) Ten (10) percent of the *dwelling units* within the *development*, excluding any additional *dwelling units* allowed under a *floor area ratio* bonus, shall be constructed at the following affordability levels:

(i) Rental *dwelling units* shall be made available for rent by *very low income* households at a cost,

including an allowance for utilities, that does not exceed 30 percent of 50 percent of the area median income, as adjusted for household size.

(ii) For-sale dwelling units:

(1) At least fifteen (15) percent of total dwelling units shall be made available for purchase at a cost affordable to moderate income households.

(B) An additional percentage of the dwelling units within the development, excluding any additional dwelling units allowed under the floor area ratio bonus, shall be affordable to very low income, low income, and moderate income households in accordance with Section 143.1015(a)(2) and Section 143.1015(a)(3). The additional percentage required shall be determined by subtracting the percentage of affordable dwelling units provided in accordance with Section 143.1015(a)(1)(A) from 20. In no instance shall the required percentage of affordable dwelling units exceed 20 percent of the total pre-density bonus dwelling units. For the purposes of this section, floor area ratio bonus shall be defined as the floor area ratio provided by this Division that exceeds the maximum floor area ratio of the base zone, or the maximum base floor

area ratio of the Centre City Planned District, as applicable.

(1) For rental *dwelling units* to be counted as affordable and meet the requirements of this Division, the following qualifying criteria shall be met:

(A) *Very low income dwelling units* in the development shall be affordable, including an allowance for utilities, to *very low income* households at a rent that does not exceed 30 percent of 50 percent of the area median income, as adjusted for household size.

(B) *Low income dwelling units* in the development shall be affordable, including an allowance for utilities, to *low income* households at a rent that does not exceed 30 percent of 60 percent of the area median income, as adjusted for household size.

(C) *Moderate income dwelling units* in the development shall be affordable, including an allowance for utilities, to *moderate income* households at a rent that does not exceed 30 percent of up to 120 percent of the area median income, as adjusted for household size.

(D) The affordable *dwelling units* shall be designated be comparable in *bedroom* mix and amenities to the market-rate *dwelling units* in the development, as determined by

the San Diego Housing Commission, except that the affordable *dwelling* units shall not be required to exceed three *bedrooms* per *dwelling unit*. The affordable *dwelling units* shall have access to all common areas and amenities provided by the *development*. The square footage and interior features of the affordable units shall be good quality and consistent with current building standards for new housing in the City of San Diego.

(E) The affordable *dwelling units* shall remain available and affordable for a period of at least 55 years.

(2) For for-sale *dwelling units* to be counted as affordable and meet the requirements of this Division, the following qualifying criteria shall be met:

(A) *Moderate income dwelling units* in the *development* shall be affordable, including an allowance for utilities, to *moderate income* households at a rent that does not exceed 30 percent of up to 120 percent of the area median income, as adjusted for household size.

(B) The initial occupant of all for-sale affordable *dwelling units* shall be a *moderate income* household, as specified in Section 143.1015(a)(1).

(C) Prior to, or concurrent with, the sale of each affordable *dwelling unit*, the applicant shall require the buyer to

execute and deliver a promissory note in favor of the San Diego Housing Commission so that the repayment of any initial subsidy is ensured.

(D) Each for-sale *dwelling unit* shall be occupied by the initial owner at all times until the resale of the *dwelling unit*.

(E) Upon the first resale of a *dwelling unit*, the seller shall comply with all conditions regarding the sale of a *dwelling unit*, as applied by the San Diego Housing Commission, and as set forth in California Government Code Section 65915(c)(2).

(F) The affordable *dwelling units* shall be designated units, be comparable in *bedroom* mix and amenities to the market-rate *dwelling units* in the *development*, and be dispersed throughout the *development*, except that the affordable *dwelling units* shall not be required to exceed three *bedrooms* per *dwelling unit*. The square footage and interior features of the affordable units shall be good quality and consistent with current building standards for new housing in the City of San Diego.

(b) A *development* may provide all or a portion of the required affordable *dwelling units* off-site in accordance with the following:

(1) Off-site affordable *dwelling units* shall be located within a *Transit Priority Area* either within the boundaries of the same community

planning area in which the *premises* of the *development* are located, or within a 1-mile radius of the *premises*.

- (2) At a minimum, the same number of affordable *dwelling units* required of the *development* must be provided, at the same affordability levels and the same total *bedroom* count as the *development*. The *applicant* may provide different *bedroom* mixes to meet the total *dwelling unit* and *bedroom* count minimums.
- (3) The *applicant*, prior to the issuance of the first building permit for the *development*, shall secure the required number of off-site affordable *dwelling units* and enter into an agreement(s) with the President and Chief Executive Officer of the San Diego Housing Commission establishing the same terms and conditions set forth in Section 143.1015 for the applicable type of *dwelling units*.
- (4) Off-site affordable *dwelling units* may be located in an existing *structure(s)*, provided the *applicant* provides evidence that the existing *structure* has a remaining useful life of at least 55 years from the issuance of a Certificate of Occupancy pursuant to Section 143.0745(f)(2)(B) and complies with current Building Code standards, to the satisfaction of the City Manager. Off-site affordable *dwelling units* that are occupied at the time the application is *deemed complete* shall comply with the State Relocation Act pursuant to Government Code Section 7260.

- (5) Prior to the issuance of the first building permit, the *applicant* shall record a deed restriction against the off-site *development* that:
- (A) Documents the required number of *affordable dwelling units* to be provided; and
- (B) Assigns foreclosure rights of the *development premises* to the San Diego Housing Commission as follows:
- (i) For new *development*, if the *affordable dwelling unit(s)* has not received a certificate of occupancy within 54 months of the issuance of the first building permit.
- (ii) For an existing *structure(s)*, if the *affordable dwelling unit(s)* has not received a certificate of occupancy within 36 months of the issuance of the first building permit.
- (c) Nothing in this Division shall preclude an *applicant* from using *affordable dwelling units* constructed by another *applicant* to satisfy the requirements of this Division, including contracting with an *affordable housing developer* with experience obtaining tax-exempt bonds, low income housing tax credits, and other competitive sources of financing, upon approval by the San Diego Housing Commission pursuant to the standards set forth in the Inclusionary Affordable Housing Implementation and Monitoring Procedures Manual on file with the San Diego Housing Commission.

§143.1020 Required Provision of Infrastructure Amenities

Improvements to the infrastructure of a community enhance a sense of place, facilitate pedestrian circulation, improve connections to transit, and promote the livability and vitality of such *development* and the community. Investing in neighborhood-serving infrastructure that creates destinations and encourages walking, biking and use of transit, particularly within *Transit Priority Areas*, is also critical to the City's Climate Action Plan goal to reduce greenhouse gas emissions. In accordance with Section 143.1002(a)(2), an *applicant* requesting application of the regulations in this Division shall provide infrastructure amenities as follows:

- (a) Neighborhood Enhancement Fund. All *developments*, with the exception of *developments* where 100 percent of dwelling units are affordable to very low income, low income, or moderate income households, shall pay a fee to the "Neighborhood Enhancement Fund", as established by City Council Resolution. This fund shall be used for design, construction, and/or maintenance of neighborhood-serving infrastructure amenities.
 - (1) The fee shall be set at \$9.00 per square foot of *lot* area. *Structures* over 90 feet in height shall pay an additional 25 percent of the established fee.
 - (2) The fees paid shall be divided with 50 percent of the fee invested in infrastructure improvements within the same community planning area as the *development*, and 50 percent of the fee invested in infrastructure improvements within Communities of

Concern, as determined by the City Manager until such time as defined in the City's General Plan.

- (b) Public promenade alternative. As an alternative to the fee described in Section 143.1020(a), *development* on a *premises* of 25,000 square feet in area or larger with at least 200 linear feet of *street frontage* or a parcel within the *Transit Priority Area* where the *development* is located and with an equivalent-sized *premises* or larger with at least 200 linear feet of *street frontage*, may construct public amenities in the form of a public promenade.
- (1) The applicant shall hold a minimum of two design charettes for the community to receive information and provide feedback on proposed promenade design concepts.
- (2) A notice describing the provided public promenade shall be posted in a prominent and accessible location within a common area of the development or parcel adjacent to the promenade where it can be easily seen by the community. The notice shall include contact information and a statement that the public promenade is required pursuant to the San Diego Municipal Code and to the satisfaction of the Development Services Department.
- (3) Prior to issuance of a Certificate of Occupancy, the *applicant* shall provide the City Manager documentation that all required on-site public amenities have been constructed and are operational.

(4) The *applicant* shall record a public recreation easement(s) against all parcels comprising the *premises* of the *development* to the satisfaction of the City Manager.

(5) The *applicant* shall record a maintenance agreement ensuring that the required on-site public amenities are maintained in perpetuity.

(6) *Development* that includes a promenade in accordance with this section shall be exempt from requirements to provide private or common open space for the residential *dwelling units*.

(7) A promenade is a public open space that adjoins or is visible from a public *right-of-way* along the longest *street frontage*. The promenade shall meet the following standards and will be exempt from Council Policy 600-33.

(A) The promenade shall span the length of the longest *street frontage* and shall extend inward from the *property line* abutting the longest *street frontage* at a distance of not less than 20 feet.

(B) The sidewalk within the *public right-of-way* shall be widened to a minimum of 8 feet, measured perpendicular to the *street*.

(C) The promenade shall be publicly accessible from 7:00 am to 7:00 pm. Create landscape designs that provide viewable surveillance, including visibility from surrounding properties. Group plantings strategically and keep existing

planting or trees trimmed or controlled to allow clear sight lines into the promenade.

(D) A minimum of 50 percent of a promenade shall be free of physical obstructions, such as walls or gates.

(E) Garage entrances, driveways, parking spaces, passenger drop-offs, loading berths, trash storage facilities, as well as the access or service for these facilities are not permitted within a promenade, unless it is necessary to provide access or service for these facilities through a single garage or driveway entrance.

(F) Pedestrian circulation paths within the promenade shall connect to all *streets* and building entrances that front the promenade.

- (G) Landscaping shall be provided as follows:
- (a) At least one, 24-inch box canopy form tree is required for each 25 ft of street frontage on each side of the required sidewalk.
 - (b) No less than twenty percent of the promenade area shall be comprised of planting, which can include hanging plants, planting beds or living walls.
- (H) Lighting shall be provided to ensure adequate security and its design shall be coordinated with lighting used in the *public right-of-way* and with the building's architectural lighting.
- (I) Wayfinding signage shall be prominently displayed near the *public right-of-way* that directs pedestrians and cyclists to nearby attractions and transit connections. Attractions include recreational facilities, such as public parks, trails, or recreation centers; landmarks; and community assets, such as libraries or community centers.
- (J) Seating shall be provided in the promenade. This may be satisfied by providing movable seating, fixed individual seats, benches with or without backs, and design feature seating, such as seat walls, ledges and seating steps.
- (K) One trash receptacle and one recycling container shall be provided for every 150 feet of *street frontage*.

- (L) At least one of the following recreation amenities must be provided:
- (i) Playground equipment;
 - (ii) Fitness circuit equipment; or
 - (iii) Game equipment (e.g., bocce ball court, oversized chess set).
- (M) At least one of the following additional amenities must be provided:
- (i) Water feature;
 - (ii) Art installation; or
 - (iii) Food and beverage kiosk.
- (N) Patios, tables and seating operated by on-site commercial tenants may be included within the promenade, provided that they are accessible to the public during non-business hours and are limited to no more than 50 percent of the promenade area.
- (O) Required best management practices (BMPs) for storm water may be constructed within the required landscaped area of the promenade, including within the public right-of-way, so long as pedestrian access to and within the promenade is not hindered by the BMPs.
- (P) The development may utilize the public right-of-way adjacent to the promenade to implement the standards

required in Section 143.1020(b)(5)(I-M). Utilization of the
public right-of-way is subject to an Encroachment
Maintenance and Removal Agreement in accordance with
Section 129.0715. If the *applicant* is required to remove the
amenities within the *public right-of-way*, they shall be
replaced within the promenade on the *premises*.

(8) If site constraints such as topography or the desire to avoid
archaeological, tribal cultural, historical or environmental
resources make siting the promenade along the *public right-of-way*
infeasible, it may be located on another portion of the *premises*,
subject to the following:

(A) The square footage of the promenade must be equal to or
greater than the length of the longest *street frontage*
multiplied by 20 and must be contiguous.

(B) The promenade must comply with Sections
143.1020(b)(5)(C-O).

§143.1025 Supplemental Development Regulations

Development utilizing these regulations must comply with the following
Supplemental Development Regulations, and may not utilize incentives or
waivers provided in Section 143.1010(h) to deviate from them.

(a) Bulk Standards for Buildings over 90 Feet on *Premises* over 20,000 Square
Feet in Area. For purposes of this Section, bulk and scale are divided into the
two main areas of the building base and the tower. Buildings over 90 feet in

height located on a premises over 20,000 square feet in area shall adhere to the following requirements:

- (1) For the purposes of this Section, building base means the structural envelope located immediately above existing grade, proposed grade, or a basement. The maximum height of the building base shall be 90 feet.
- (2) The minimum height of the street wall shall be 30 feet, except as required under the Centre City Planned District.
- (3) A street wall shall be provided for 70 percent of the building frontage along the public right-of-way, with the following exceptions, which may be subtracted from the length of the frontage:
 - (A) Publicly or privately-owned plazas or promenades;
 - (B) Courtyard entrances up to 30 feet wide for residential uses;
 - (C) Recessed entrances up to a maximum of 25 feet in width and a maximum of 15 feet in depth;
 - (D) Entries into interior or auto courts, or auto drop-offs may be allowed behind the required street wall; and
 - (E) Areas where the existing grade of the public right-of-way differs from the building pad by more than two feet.
- (4) For the purposes of this Section, tower means the structural envelope located immediately above the building base to the top of the building.
 - (A) The maximum lot coverage of the tower shall be 75 percent of the lot coverage of the building base.

- (B) Within a single *development*, towers shall be separated by a minimum of 50 feet.
- (5) *Development* must comply with the private open space and common open space requirements of the applicable base zone or Planned District.
- (b) Buffer from Adjacent Freeways. *Development*, except for *development* within the Centre City Planned District, on a *premises* within 500 feet of a freeway shall comply with the following:
- (1) Land use buffers such as *off-street parking* and landscaping shall be provided between the residential and commercial uses and the freeway; and
- (2) Outdoor areas such as balconies, patios, parks, plazas, and other spaces occupied by residents, customers or members of the public shall be oriented away from the freeway.
- (c) Climate Action Plan (CAP) Consistency Checklist Requirements. To ensure consistency with the City's CAP, all *development* shall comply with each of the measures identified in Step 2 of the CAP Consistency Checklist.

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02/28/2020
Or.Dept: Planning
Doc. No.: 2339316