



THE CITY OF SAN DIEGO

Report to the Planning Commission

DATE ISSUED: May 24, 2023

REPORT NO. PC-23-009

HEARING DATE: June 1, 2023

SUBJECT: Homes for All of Us: Housing Action Package 2.0 Amendments to the San Diego Municipal Code and Local Coastal Program – Action Item

REFERENCE: **Homes for All of Us: Housing Action Package**

SUMMARY

Issue: Should the Planning Commission recommend City Council approval of the 13 amendments to the San Diego Municipal Code, Local Coastal Program, and Neighborhood Enhancement Fund (R-313282) included in the Housing Action Package 2.0?

Staff Recommendation: Recommend to the City Council approval of the proposed Housing Action Package 2.0 (HAP 2.0).

Community Planners Committee: On April 28, 2022, the Community Planners Committee (CPC) voted (19-1-4) to recommend that SB 10 not be implemented in San Diego at the current time. CPC also voted (15-4-5) to recommend Section 143.1520 be amended to increase affordability requirement to 30 percent, with 15 percent being set aside for very low and low income households and 15 percent for moderate income households. Motion also recommends amending Section 143.1525 to direct Development Impact Fees generated under SB 10 to areas where projects are built.

Environmental Review: The Environmental Policy Section of the Planning Department has reviewed HAP 2.0 and conducted a consistency evaluation pursuant to CEQA Guidelines Section 15162. Implementation of this project's actions would not result in new or more severe significant direct, indirect, or cumulative impacts over and above those disclosed in the following certified and adopted environmental documents:

1. Final Environmental Impact Report (EIR) for the Land Development Code (DEP No. 96-033/SCH No. 1996081056) certified by the San Diego City Council on November 18, 1997 (Resolution R-289458);
2. Final Program EIR (PEIR) for the General Plan (Project No. 104495/SCH No. 2006091032) certified by the San Diego City Council on March 14, 2008 (Resolution R-303472);
3. Addendum to the General Plan PEIR for the General Plan Housing Element Update 2021-2029 (Project No. 104495/SCH No. 2006091032) adopted by the San Diego City Council on June 18, 2020 (Resolution R-313099);

4. Final PEIR for Complete Communities: Housing Solutions and Mobility Choices (SCH No. 2019060003) certified by the San Diego City Council on November 17, 2020 (Resolution R-313279);
5. Final PEIR for the Climate Action Plan (Project No. 416603/SCH No. 2015021053) certified by the San Diego City Council on January 4, 2016 (Resolution R-310175); and
6. Addendum to the Climate Action Plan PEIR for the City of San Diego Climate Action Plan Update (Project No. 416603/SCH No. 2015021053) adopted by the San Diego City Council on August 10, 2022 (Resolution R-314298).

The adoption of the proposed amendments revising the City's ADU Home Density Bonus program to incentivize the development of ADUs that meet the American's with Disabilities Act (ADA) accessibility requirements is statutorily exempt from CEQA pursuant to CEQA Guidelines Section 15282(h) which exempts the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code.

As specified in Senate Bill (SB) 10, additions and amendments to the Land Development Code to implement SB 10 are not considered to be "Projects" subject to CEQA.

Fiscal Impact Statement: N.A.

Code Enforcement Impact: N.A.

Housing Impact Statement: The proposed amendments apply citywide. The proposed amendments streamline regulatory requirements, reduce constraints, and provide additional incentives to increase the supply of new homes.

BACKGROUND

How does the Housing Action Package 2.0 address the City's [Strategic Plan](#)?

Housing Action Package 2.0 focuses on the following priority areas of the Strategic Plan:

- [Create Homes for All of Us](#). Allows additional home opportunities for people of all incomes, abilities, and family compositions in all communities, especially in higher-resource communities currently lacking affordable homes.
- [Champion Sustainability](#). Allows for more homes where residents can walk, roll, bike and take transit.
- [Foster Regional Prosperity](#). Promotes homes for people of all incomes in all communities, so San Diego continues to have a strong economy.

What is the Housing Action Package?

The first Housing Action Package, adopted in February 2022, was a part of the Homes for All of Us initiative. HAP 2.0 builds upon the first Housing Action Package by encouraging the development of more new homes by creating and amending new programs and initiatives. Through amendments to the [Land Development Code](#), HAP 2.0 aims to incentivize and promote new home opportunities throughout the City that San Diegans of all income levels can afford.

Why is the City proposing amendments to the Land Development Code to address housing?

The regulations in the Land Development Code implement the policies in the City's General Plan and community plans. Housing is critical to the City's economic well-being and quality of life for all community members. Therefore, San Diego must have an adequate supply of homes to meet its present and future demands. For decades, the rate of construction of new homes within the city has not kept pace with demand. This is especially true for affordable homes, where production only meets a small fraction of the need. The lack of construction of new homes needed to meet demands has led to a housing and homelessness crisis in San Diego and beyond.

Adding and amending the City's home incentive programs in the Land Development Code will assist in combating the current housing and homelessness crises. As population and job growth occur, the City needs policies and programs that make building homes at all income levels easier. Without additional home opportunities, the City risks losing its community members to areas outside of San Diego, making it more difficult for businesses to attract and retain high quality employees. In addition, this further strains the budgets of moderate and low income community members as a more significant portion of their income is used to pay for a home. Longer commutes also contribute to greenhouse gas emissions, poor air quality, and a lower quality of life. In addition to developing new homes, protections are needed to ensure that new development does not displace existing residents and negatively affect communities and neighborhoods.

What policies does the City currently have to address housing?

General Plan

The [General Plan](#) is the comprehensive guide for development, providing policy guidance to address the needs of the City over the next 20 to 30 years. The General Plan includes the City of Villages strategy, which focuses the need for homes into mixed-use centers, districts and corridors that are pedestrian-friendly and linked to the regional transit system. The General Plan consists of multiple elements or chapters, which include the Housing Element.

Housing Element

The [Housing Element](#) serves as the City's housing plan. The foundation for the Housing Element is the Regional Housing Needs Assessment (RHNA), which estimates the region's housing needs for all income groups for the upcoming eight years. The City's portion of the San Diego RHNA target for the 2021-2029 Housing Element period is 108,036 new homes. This goal is further broken down by income group. The City must identify enough potentially developable land zoned for residential use to meet the City's RHNA housing capacity/production target. It must provide goals, objectives, policies, and programs to meet the City's housing needs.

Community Plan Updates

Community plans build upon the General Plan policies, including the City of Villages strategy. Since adopting the General Plan in 2008, the Planning Department has completed comprehensive updates to 15 community plans to better reflect current conditions and the long-term vision under the City of Villages strategy. As part of these [community plan updates](#), the City has planned for the development of higher density residential development near transit to provide additional housing opportunities for all income groups in alignment with the City's climate and housing goals.

Climate Action Plan

The [Climate Action Plan](#) (CAP) establishes a citywide goal of net zero greenhouse gas (GHG) emissions by 2035. Strategy 3 of the CAP sets citywide goals for reducing vehicle miles traveled

and increases the ability for people to safely and enjoyably walk, roll, bike or use transit, resulting in reduced GHG emissions. As part of community plan updates, the City has also strategically planned for the development of higher density residential development near transit to advance the City's CAP goals.

Complete Communities: Housing Solutions and Mobility Choices

The City Council adopted [Complete Communities: Housing Solutions and Mobility Choices](#) in 2020. These regulations are intended to increase new home production in areas closest to transit and to provide more pedestrian, bicyclist, and transit investments, particularly in areas with the greatest needs and where such investments serve the most people. These investments near the greatest need produce the greatest potential to increase the number of people who can safely and enjoyably walk, roll, bike or use transit, reducing GHG emissions while creating additional opportunities for homes.

Parking - Transit Priority Areas

The City amended parking requirements in Transit Priority Areas in 2019 to increase affordability and supply of homes, create communities as places to live and work, and reduce individuals' reliance on cars to decrease vehicle generated GHG emissions and alleviate vehicular congestion in the surrounding roadway for all San Diegans.

Sustainable Development Area

In February 2023, the Land Development Code was amended to include a new geographic designation – the Sustainable Development Area (SDA) - for specific City housing programs that had previously used the geographic area defined as a Transit Priority Area (TPA). The SDA aligns with the CAP goals to ensure that the City's home development incentive programs have convenient access to high quality transit and safe and enjoyable walking, rolling, and biking options for moving around. Locating new homes near transit where people are more likely to have lower rates of vehicular travel is a crucial component identified in CAP Strategy 3.

Annual Housing Report

The City's [2021 Annual Report on Homes](#) details the City's progress in building new homes and implementing new housing initiatives. In 2021, the City approved over 5,000 new homes, including 871 accessory dwelling units. The report demonstrated that housing initiatives like Complete Communities Housing Solution program have had a positive impact but also underscored the need for further action to create more homes for more people in all communities. The Planning Department anticipates releasing the 2022 Annual Report on Homes during the summer of 2023.

Have any revisions been made to HAP 2.0 since the Planning Commission Workshop?

Minor revisions have been made to the proposed Land Development Code regulations in HAP 2.0 since the Planning Commission Workshop based on community input received, as listed in Attachment 1. The Draft Land Development Code amendments for each item are included in Attachment 2 to this report.

DISCUSSION

HAP 2.0 is comprised of eleven items that are separated into the following four parts:

- **Part 1: Encouraging New Homes** – promotes the development of new homes by implementing recently adopted state law, revising existing regulations and affordable housing programs to encourage new homes on public land and for students.

- **Part 2: Fair Housing for All** – strengthens regulations to further fair housing and promotes the development of new homes for families, including middle-income San Diegans.
- **Part 3: Thriving Neighborhoods** – fortifies regulations, adds new language to reduce displacement caused by new development, and amends existing regulations that govern the continuation of harmful uses near residential areas.
- **Part 4: Missing Middle Housing** – implements recently adopted state Senate Bill 10 to encourage the development of missing middle homes within areas that can most efficiently be served with investments in transit, walking, rolling, and biking.

A. **Part 1: Encouraging New Homes**

1. Assembly Bill 2097 (AB 2097) Implementation

How does the implementation of [Assembly Bill 2097](#) affect the City?

Justification: AB 2097 removes parking minimums from properties within Transit Priority Areas (TPAs). This results in an increase in the number of areas without parking minimums. AB 2097 prohibits a public agency from imposing or enforcing any minimum automobile parking requirement on a residential, commercial, or other development projects if the project is located within one-half mile of a major transit stop.

Amendment: AB 2097 is presently in effect and mandatory for the City to adhere to. HAP 2.0 implements AB 2097 by amending the City’s existing parking regulations to eliminate parking minimums for new residential and commercial developments within TPAs in compliance with the state law requirement.

2. Junior Accessory Dwelling Unit (JADU) Revisions

Why is the City proposing to revise the current Junior Accessory Dwelling Unit Regulations?

Justification: The proposed code amendments align the City’s current JADU regulations with guidelines recommended by the California Department of Housing and Community Development (HCD), in its letter to the City (Attachment 3), by no longer allowing JADUs to be built inside detached garages and other ADUs.

Amendment: HAP 2.0 modifies Junior Accessory Dwelling Unit Regulations by no longer allowing JADUs to be built inside detached garages and other ADUs.

3. Accessible Accessory Dwelling Units (ADU) Home Incentive

Why is the City proposing an incentive to build accessible Accessory Dwelling Unit Homes?

Justification: By providing an incentive, the proposed code amendment expands housing opportunities for people with disabilities, mobility limitations, and special needs. As the population ages, the need for more accessible homes to accommodate people with disabilities will continue to rise, and this amendment will assist in meeting the General Plan Housing Element goals.

Amendment: HAP 2.0 modifies the ADU Home Density Bonus program to incentivize the development of ADUs that meet the accessibility requirements in the California Building Code. The amendment allows one additional market rate ADU home if a residential development includes one accessible ADU home. In addition, the development will be eligible for the accessible ADU home incentive if the project includes at least two deed restricted affordable ADU homes.

4. Housing on Publicly Owned Land

Why is the City proposing to allow additional floor area and flexibility to develop homes on publicly owned land?

Justification: The proposed code amendment provides public agencies greater flexibility in developing homes on publicly owned land by increasing the building Floor Area Ratio (FAR) bonuses and allowing affordable homes development on properties zoned as commercial or residential. The first Housing Action Package amended the land development code to allow by-right affordable and middle-income housing developments on publicly owned properties to increase affordable opportunities for middle income community members like teachers, first responders, and nurses to live near where they work. Providing additional opportunities for affordable and middle-income homes helps to meet the General Plan Housing Element goals.

Amendment: HAP 2.0 amends the Land Development Code for qualifying housing developments on publicly owned land, by increasing the Floor Area Ratio (FAR) bonuses in exchange for providing additional base-unit affordable homes. This amendment allows for greater flexibility in developing affordable homes on publicly owned land, as shown in the table below.

Floor Area Ratios by Mobility Zone, Income Level and Percent of Homes that are Affordable

<u>Mobility Zone</u>	<u>Affordable Income Level</u>	<u>Floor Area Ratio by Percent of Homes that are Affordable</u>		
		25-34%	35-49%	50-100%
1	Very Low, Low and Moderate	-	-	-
2	Very Low, Low	6.0	7.0	8.0
	Moderate	5.0	6.0	7.0
3	Very Low, Low	4.0	5.0	6.0
	Moderate	3.0	4.0	5.0

5. Housing on Underutilized Commercial Sites

Why is the City proposing incentives for homes on sites with commercial uses?

Justification: The proposed amendment incentivizes the production of mixed-used development with homes on commercial sites to support the implementation of community plan updates. As part of past and recent community plan updates, the City has planned for the development of higher density residential development on sites designated for commercial and mixed-use along corridors and nodes. These sites are served by existing or planned higher frequency transit services and within the recently

adopted Sustainable Development Areas. The development of these sites will help to meet General Plan Housing Element goals.

Amendment: HAP 2.0 amends the Land Development Code to provide a 0.5 FAR bonus for residential or mixed-use development on sites in the Sustainable Development Area with a base commercial zone that allows for residential or mixed-use, but currently has a non-residential use. This FAR bonus may be used in addition to other incentives in the Affordable Housing in All Communities program.

6. Off-Campus Student Housing

Why is the City proposing revisions to the Land Development Code for off-campus student housing?

Justification: Providing additional opportunities for affordable student homes near college and university campuses within Sustainable Development Areas supports the City's General Plan Housing Element and Climate Action Plan goals. The City is home to multiple community colleges and major universities; however, the supply of on-campus homes has yet to meet the demand for student housing, given the shortage of affordable off-campus rental housing options. The shortage of on-campus housing creates a need for more affordable off-campus housing, especially for low income students.

While the City's existing affordable home density bonus program encourages the development of affordable homes for students, it limits it to a fixed 35 percent affordable density bonus. The City also has development regulations that only allow student housing in higher density multifamily zones near a college or university campus which can limit the locations where student housing can be constructed. The affordable density bonus and development regulations require an agreement with a college or university, which has served as a barrier to producing off-campus student housing.

Amendment: HAP 2.0 amends the following:

- Affordable Density Bonus: HAP 2.0 amends the affordable home density bonus program to allow for a density bonus range based on the percentage of homes deed restricted for low income students consistent with the City's multifamily affordable home density bonus program. It also removes the requirement for student housing to provide an operating agreement with a college or university.
- Supplemental Development Regulations: The amendment allows student housing development in any zone that allows for multifamily housing within a Sustainable Development Area or within 1-mile of a college or university campus. It also increases bicycle parking requirements while removing automobile parking minimums.

7. Building Permit Extension

Why is the City proposing to extend Building Permit applications?

Justification: The proposed Land Development Code amendment provides additional flexibility for developments that face delays due to unforeseen circumstances beyond

their control. Providing increased flexibility for building permits creates additional stability and predictability for developing new homes.

Amendment: HAP 2.0 amends the Land Development Code to allow the City Building Official to extend a building permit an additional 180 days, for a total of two times for a period not to exceed 360 calendar days.

B. Part 2: Fair Housing for All

8. Single Room Occupancy (SRO) Incentive

Why is the City proposing incentives for Single Room Occupancy housing?

Justification: The proposed amendment incentivizes the construction of new SRO housing to support production of homes, particularly at the very low-income level. SRO housing provides a low-cost home option for community members, especially seniors and people with disabilities, to assist with meeting the City's Housing Element goals. Generally, existing SRO homes are within older buildings, and very few new SRO housing have been constructed in the last 30 years. This housing type often provides homes and shelter for those most vulnerable to becoming homeless and can either be a hotel guest room or a small self-contained room.

Amendment: HAP 2.0 amends the Affordable Housing in All Communities program to include SROs as a qualifying project. Amending this program will allow for ministerial approval for SRO homes in areas near transit where affordable housing is either unavailable or very limited.

9. Complete Communities: Housing Solutions (CCHS) Amendments

CCHS is a City housing incentive program that provides a building floor area ratio bonus to developments that provide affordable homes and neighborhood amenities.

A. CCHS Development Regulations

Why is the City proposing to amend the Complete Communities: Housing Solutions development regulations?

Justification: The proposed amendments removes or waives development requirements that discourage the use of the CCHS and/or discourage the development of new homes for families. Current regulations like current fence requirements or private exterior open space requirements can discourage the development of new homes under the CCHS programs.

Amendment: HAP 2.0 adjusts the development regulations that disincentivize family homes and/or the use of the CCHS program. New projects may receive a waiver of the private exterior open space requirement for development if at least 10 percent of all homes have three or more bedrooms.

B. CCHS Development Impact Fees

Why is the City proposing to amend the Development Impact Fees for the Complete Communities: Housing Solutions program?

Justification: The proposed amendments eliminate Development Impact Fund (DIF) fee waivers that disincentivize the development of homes with two or more bedrooms by providing a DIF waiver for homes under 500 square feet. DIF waivers for small homes also prevent the City from collecting fees from a common type of development to help fund future facility and infrastructure improvements. Since CCHS was adopted in 2021, the City Council has adopted Citywide impact fees that are scaled based on unit size, with smaller homes generally subject to payment of lower fees than larger homes. Therefore, the scaled fees that were included in CCHS have become obsolete.

Amendment: HAP 2.0 amends CCHS program by removing scaled DIF and replaces the fee waiver for homes under 500 square feet with a fee waiver for homes with more than three bedrooms.

C. 100 Percent Moderate Income Option

Why is the City proposing to provide a 100 percent moderate income option to the Complete Communities: Housing Solutions program?

Justification: The proposed amendments provide an alternative pathway to providing deed-restricted affordable homes under the CCHS program. The current regulations provide two options for providing affordable homes:

- Setting aside 40 percent (10 percent of pre-density homes for very low income, 15 percent for low income, and 15 percent for moderate income), or
- Setting aside 40 percent of base homes for low-income residents.

All levels of affordability are important to address the City's housing needs. In 2021, of the total homes permitted, less than 0.5 percent were deed restricted at levels affordable for moderate-income households (approximately 9 percent were deed restricted at levels affordable to very low income and low income households). By amending the CCHS program to promote moderate income homes, the City can incentivize the development of more homes for moderate income families, who often compete with low income and very low income families for naturally affordable occurring homes.

Amendment: HAP 2.0 creates a 100 percent base unit moderate income option for the CCHS program. The new moderate income option requires that at least 100 percent of base homes be deed-restricted as affordable for moderate income households. Additionally, at least half of all required rental homes must be rented at a cost that does not exceed 30 percent of 80 percent of Area Median Income, and the remainder must be rented at a cost that does not exceed 30 percent of 120 percent of Area Median Income.

D. Incentivizing Family Housing

Why is the City proposing a building Floor Area Ratio (FAR) Bonus for developments that create new homes for families?

Justification: The proposed amendment incentivizes developing family housing by providing a FAR bonus. Recent developments in the City have tended to skew toward smaller single bedroom homes, which makes finding “starter homes” and homes for families with children and intergenerational families more difficult and competitive. By incentivizing the development of homes with two or more bedrooms, CCHS better addresses the needs of families looking for homes closer to jobs, transit, and amenities. Additional development incentives for homes with two or more bedrooms can encourage the development of these needed housing product types for families.

Amendment: HAP 2.0 provides up to a 1.5 FAR bonus to a development that creates homes for families. To qualify for the bonus, at least 10 percent of total homes must have at least two bedrooms, and 10 percent of total homes must have at least three bedrooms. Additionally, each home is required to be under one lease agreement per home. The proposed FAR bonus is in addition to other programs.

E. Off-Site Affordable Option

Why is the City proposing an off-site affordable option to the Complete Communities: Housing Solutions program?

Justification: The proposed amendments provide the option to develop CCHS required affordable homes off-site. Allowing for off-site development of affordable housing can provide greater flexibility for the development of affordable homes and overall total homes, therefore making it easier to develop more homes for all income-levels.

Amendment: HAP 2.0 allows for affordable off-site homes under CCHS with the following additional requirements:

- *Locational:*
 - Within a Sustainable Development Area, and
 - Within an area identified as a High or Highest Resource Opportunity Area as determined by the California Tax Allocation Committee at the time of application, and
- *Neighborhood Enhancement Fund:*
 - Required for both the market-rate and affordable sites, with the fee applied to the receiver site capped at the size of the subject development site.
- *Deed Restriction:*
 - Required to record a deed restriction prior to the first building permit that documents the number of affordable units to be provided, and

- Assigns foreclosure rights of the development to the San Diego Housing Commission.

C. Part 3: Thriving Communities

10. Anti-Displacement Measures

Why is the City proposing Anti-Displacement Measures?

Justification: The proposed amendments promote the preservation of affordable homes and protect people from displacement caused by new market rate development. As part of past and recent community plan updates, the City has planned for the development of higher density residential development on sites designated in community plans for commercial and mixed-use along corridors and nodes. These sites are served by existing or planned higher frequency transit services within the recently adopted Sustainable Development Areas. The City has embarked on an ambitious program to increase opportunities for additional housing in areas served by high frequency transit to address housing shortages and reduce greenhouse gas emissions with community plan updates and code amendments. However, there can be unintended consequences, in particular, the displacement of low income community members, especially in communities of concern. This proposal also creates new regulations about priority rental preference for affordable units, rental unit withdrawal from the market, and condo conversions. HAP 2.0 will complement the work of the Mayor and Council President to replace the Tenant's Right to Know Regulations with new Residential Tenant Protection Regulations that strengthen noticing requirements and relocation assistance for tenants.

Amendment: HAP 2.0 amends existing regulations and introduce new measures aimed at reducing displacement by development, as follows:

- Dwelling Unit Protections:
 - Removes the citywide expiration date of January 1, 2025, and make the dwelling unit protection regulations permanent.
 - Removes the exemption from housing unit replacement for commercial and all mixed-use projects.
 - Clarifies that Dwelling Unit Protections only applies to previously renter-occupied units.
- Coastal Overlay Zone Affordable Housing Replacement:
 - Expands protections and require replacement of affordable dwelling units with very low-income units,
 - Expanded to apply to premises with two or more structures containing a total of five or more units.
 - Eliminates the three-mile allowance for replacing affordable units and disallow the replacement of affordable units in low or very low resource California Tax Credit Allocation Committee Opportunity Areas. Off-site replacement affordable units in high or highest resource California Tax Credit Allocation Committee Opportunity Areas need to be relocated in an area that is also a high or highest resource California Tax Credit Allocation Committee Opportunity Areas.

- Clarifies that affordable housing replacement requirements do not apply to previously owner-occupied units.
- Priority Rental Preference for Affordable Units: HAP 2.0 introduces an ordinance that gives existing residents in Low Resource or High Segregation and Poverty Resource California Tax Credit Allocation Committee Opportunity Areas, according to the most recent California State Treasurer TCAC/HCD Opportunity Area Maps, priority preference to rent new deed-restricted affordable units.

The development of a program to ensure priority preference is made available to community members in these areas will require collaboration with stakeholders, funding, and other actions to ensure it is effective in addressing displacement. Therefore, the priority preference requirements would not be implemented until a program can be developed and approved as part of a future action of the Housing Authority and/or City Council to ensure successful implementation.

- Condo Conversion Regulations: HAP 2.0 amends the regulations to allow tenants of rental units proposed for conversion into a condominium to have the first opportunity to buy before the seller accepts other offers.

11. Discontinued Harmful Uses

Why is the City proposing amendments to previously conforming use regulations?

Justification: The proposed amendments provide an incentive to build homes on land zoned for housing, stop allowing the continuation of a discontinued use and no longer be permitted after 15 years for previously conforming uses considered to be harmful in the Promise Zone. As part of past and recent community plan updates, the City has planned for the development of higher density residential development on sites designated in community plans for residential, commercial and mixed-use near transit. These sites are served by existing or planned higher frequency transit services within the recently adopted Sustainable Development Area. The City has embarked on an ambitious program to increase opportunities for additional homes in areas served by high frequency transit to address housing shortages and reduce greenhouse gas emissions with community plan updates and code amendments.

Certain existing previously conforming uses, such as wrecking and dismantling motor vehicles, storage and material scrap yards, and certain types of recycling facilities are in areas that have been rezoned to allow for homes and mixed-use development as part of a community plan update. These existing uses can negatively affect community members and reduce the quality of life in these neighborhoods, resulting in serious environmental justice conflicts.

Many of these previously conforming uses are in the Promise Zone, which the federal government has recognized as the City's most disadvantaged and underserved communities. The Promise Zone includes portions of: Downtown, Barrio Logan, Southeastern San Diego, and the Encanto Neighborhoods. The goals of the Promise Zone include increasing economic activity, increasing access to affordable housing and promoting access to healthy communities.

While Community plan updates and rezones have increased home opportunities, previously conforming regulations allow for harmful uses to continue in perpetuity while also allowing for expansion in some cases. The proposed amendments recognize that business operators need sufficient time to change uses and provide legacy business owners 15 years to transition their premises to an allowed use, while addressing serious existing environmental justice conflicts.

Amendment: HAP 2.0 amends the following:

- FAR Incentive: HAP 2.0 provides a building FAR incentive to sites zoned for housing with previously conforming uses considered harmful in the Promise Zone if the existing use is redeveloped into a conforming use with homes. This incentive must be used within 15 years of identifying the site as a harmful use.
- Discontinuation: HAP 2.0 amends the Land Development Code to no longer allow the continuation of discontinued previously conforming use considered harmful in the Promise Zone if the use is ended for any reason other than building maintenance and repair or safety.
- No Longer Permitted: HAP 2.0 amends the Land Development Code to not allow previously conforming uses considered harmful in the Promise Zone after 15 years.

12. Amendments to Neighborhood Enhancement In Lieu Fee (R-313282)

Why is the City amending the Neighborhood Enhancement In Lieu Fee?

Justification: In order to implement policies introduced by recent Land Development Code Updates and HAP 2.0, the resolution for the Neighborhood Enhancement In Lieu fee needs to be updated.

Amendment: HAP 2.0 amends R-313282 to implement changes adopted in the 2022 Land Development Code update as well as HAP 2.0. Specifically, the amendments will replace the definition of a Transit Priority Area with a Sustainable Development Area to allow these funds to be expended in Sustainable Development Areas. Additionally, amendments provide additional clarifications regarding the distribution of funds. Amendments to R-313282 also include provisions regarding development utilizing Missing Middle Housing Regulations. Revisions to R-313282 are included as Attachment 4.

D. Part 4: Missing Middle Housing

13. Missing Middle Regulations (Senate Bill 10)

Why is the City proposing to implement Missing Middle Regulations?

Justification: Senate Bill 10 (SB10) was signed by the Governor in September 2021. The bill allows a local jurisdiction the option to adopt an ordinance to zone a parcel for up to 10 units of residential density per parcel. Qualifying areas eligible for SB 10 development must be within 0.5 miles from a major transit stop or on urban infill sites, defined in the bill as parcels surrounded 75 percent by urban uses like homes, commercial uses, or

other development. SB 10 cannot be used to reduce density or ministerially approve projects greater than 10 dwelling units. SB 10 specifies that ordinances to implement SB 10 are not considered as “projects” for California Environmental Quality Act (CEQA) consideration. SB 10 allows for the City to tailor its regulations to meet the needs and conditions of the City.

HAP 2.0 creates new opportunities to build “missing middle” homes near jobs, schools, transit, and other amenities. As part of the City Missing Middle Housing regulations, the implementation of SB 10 provides an opportunity for missing middle homes like duplexes, townhomes, rowhomes, and small-scale multifamily development. The Missing Middle Housing regulations also provide an opportunity to provide affordable homes, family homes, opportunities for home ownership, and furthering fair housing. The amendments make it easier to build more homes on a single parcel of land to create more affordable, entry-level homes aimed at providing more home opportunities for middle income individuals and families. These changes provide additional home opportunities for homes for middle income community members. Providing additional opportunities for middle income housing near transit helps to meet the General Plan Housing Element and Climate Action Plan objectives and goals.

Amendment: HAP 2.0 amends the code to include the following requirements to implement the City’s Missing Middle Housing regulations:

Applicability

- Applies to parcels that are within the Sustainable Development Area.
- Does not apply to parcels that are:
 - More than 0.5 miles from a major transit stop and are not 75 percent surrounded by urban uses.
 - In Very High Fire Severity Zones, on hazardous waste sites, on earthquake fault zones, and floodways, unless mitigation measures are included to address the impact of these hazards.
 - In Multi-Habitat Planning Areas, environmentally sensitive lands, historic districts and designated historic resources, open space, and parks.
 - On sites with existing deed-restricted affordable homes or SROs.
 - On parcels that front streets that do not meet certain City standards such as without sidewalks.

Residential Maximums

- Allows for up to a maximum of 10 homes on parcels zoned for multifamily residential.
- Allows for one home for every 1,000 square feet of lot area on parcels zoned for single family or townhome residential with a maximum of 10 homes.

Affordable Homes

- Requires the following for developments with more than four homes:

- Requires one home affordable to very low, low, or moderate-income households.
- Requires an additional home affordable to very low- or low-income residents in High or Highest Resource Opportunity Areas as defined by the California Tax Credit Allocation Committee. This results in two affordable homes.
- As an alternative method of compliance, the Inclusionary in Lieu Fee will be charged as follows:
 - If located within a High Segregation and Poverty or Low Resource Opportunity area, 100 percent of the Inclusionary in Lieu Fee will be charged.
 - If located within a Moderate Resource Opportunity area, 125 percent of the Inclusionary in Lieu Fee will be charged.
 - If located within a High or Highest Resource Opportunity area, 150 percent of the Inclusionary in Lieu Fee will be charged.
- Applicants providing the required affordable homes on-site are eligible for one of the following incentives:
 - A Waiver of the payment of a fee for the Neighborhood Enhancement Fund
 - The replacement of one required three-bedroom home and with one additional two-bedroom home.
 - A deviation from Development Regulations consistent with Affordable Housing Regulations.

Development Regulations

- RM-1-1 base zone development requirements apply except for the following: lot area, lot dimensions, setback regulations, height restrictions, lot coverage, FAR, and common open space. Development regulations require the following:
 - Setbacks: Four feet
 - Maximum building height: 35 feet or the maximum height of the underlying zone, whichever is greater. Thirty-five feet is being proposed to accommodate three story townhome development.
 - Lot area: Not less than 1,000 square feet.
 - Floor Area Ratio (FAR): 3.0 or maximum of the underlying zone.

Bedrooms

- Requires the following for developments with more than four homes:
 - At least two homes have three or more bedrooms, and
 - At least one home must have two or more bedrooms

Parking

- Inside a Transit Priority Area (TPA), off-street parking is not required (consistent with the state law requirements of AB 2097).
- Outside a TPA, off-street parking is not required for the first two homes. Each home after the first two is required to provide one parking space per home.
- Provides regulations for when off-street parking is provided.

Homeownership

- Requires the parcel could be subdivided into individual ownership without requiring additional physical improvements to the property.

ADUs

- Allows two attached or detached ADUs and two JADUs to be included in accordance with the ADU and JADU regulations on multifamily zones.
- Establishes a maximum of no more than one ADU and one JADU permitted on single family zones.
- Establishes a maximum limit of 10 total homes allowed on a parcel including ADUs and JADUs.
- Requires any ADU or JADU constructed to be deed restricted for very low-or low-income households.

Fees

- To collect funds for future public improvements the following fees will be charged:
 - Development Impact Fees
 - Neighborhood Enhancement Fund Fees

Outreach

What type of outreach has the Planning Department undertaken to get feedback from the community regarding the proposed amendments in HAP 2.0?

The Planning Department has provided a summary of the proposals on the [Housing Action Package webpage](#) and has held two virtual public workshops and two in-person public workshops to discuss and obtain feedback from the community about the policy concepts and issues associated with the proposed regulations:

Virtual Workshops:

[February 21, 2023](#): to review policy proposals relating to *Encouraging New Homes*

[February 23, 2023](#): to review policy proposals relating to and *Furthering Fair Housing*

In-Person Workshops:

March 2, 2023: at the Mission Valley Branch Library to review policy proposals for the *Missing Middle regulations*.

March 13, 2023: at the Valencia Park - Malcolm X Branch Library to review policy proposals for *Anti-displacement and Discontinued Harmful Uses regulations*.

Next Steps

The Planning Department anticipates the following hearing schedule for HAP 2.0:

- Land Use & Housing Committee: June 2023
- City Council: July 2023

CONCLUSION

For decades, the rate of construction of new homes within the City has not kept pace with demand. This is especially true for affordable homes, where production has only met a very small fraction of the need. Prior housing initiative programs like the Complete Communities have positively impacted the City while also underscoring the need for further action to create more homes for more people in all communities. HAP 2.0 builds upon the first Housing Action Package by amending existing programs to encourage the production of more homes with a greater variety.

Respectfully submitted,


Tait Galloway
Deputy Director
Planning Department


Jeffrey Ryan
Development Project Manager
Planning Department

Attachment:

1. Summary of Changes from the HAP 2.0 Planning Commission Workshop
2. Proposed Municipal Code Amendments
3. Letter from the Department of Housing and Community Development recommending changes to the City Accessory Dwelling Unit Regulations
4. DRAFT Amendments to R-313282 (Neighborhood Enhancement In Lieu Fee Resolution)

Attachment 1

Changes to Propose Code Amendments from April 5, 2023 Draft

- **§127.0108 Abandonment of Previously Conforming Uses**
 - Amended language on when discontinued uses can be continued
- **§127.0112 Replacing Harmful Uses**
 - Refined types of harmful land uses to include recycling facilities
 - Provides a 15-year amortization schedule for replacement of harmful uses
- **§129.0211 Closing of Building Permit Application**
 - Allows for building permit extensions of up to 180 calendar days under specific circumstances
- **§141.0302 Accessory Dwelling Units and Junior Accessory Dwelling Units**
 - Removed Minor Accessory Dwelling Unit provisions
 - Removed priority rental preference requirement for affordable ADUs
- **§141.0305 Fraternity Houses and Sorority Houses**
 - Amends section title to Fraternity Houses and Sorority Houses
 - Existing requirements for fraternities and sororities remain in effect.
- **§141.0319 Student Housing**
 - Creates new provisions specific to student housing facilities
 - Provides regulations specific to parking, occupancy, onsite management, student amenities, and onsite facilities
- **§143.0746 Affordable Housing in All Communities – SRO Incentive/Publicly Owned Sites**
 - Clarifies provisions on SRO Hotel Rooms deed-restriction requirements
 - Clarifies provision on veteran housing
 - Clarifies where regulations do not apply
 - Clarifies that when development occurs on more than two Mobility Zones, the lowest mobility zone regulations apply
 - Eliminates FAR bonus within Mobility Zone 4 for publicly owned sites
 - Specifies that developments within the Coastal Overlay Zone may be granted a maximum of 2.5 FAR bonus.
- **§143.0747 Incentives for Development of a Previously Conforming Use**
 - Moves proposed development incentives in Section 127.0112 to a new section in Affordable Housing
 - Specifies 15-year timeframe for development to use incentives
 - Specifies FAR bonuses are additive
- **§143.1010 Complete Communities Housing Solutions Incentives in Exchange for Sustainable Development Area Affordable Housing and Infrastructure Amenities**

- Replaces DIF waiver for homes under 500 sq ft with a DIF waiver for homes with more than three bedrooms
- **§143.1015 Complete Communities Housing Solutions Required Provision of Affordable Dwelling Units**
 - Updates organization of affordable housing requirements
 - Specifies when Neighborhood Enhancement Fund fee is to be used for off-site affordable housing
 - Specifies concurrent development timeframes for offsite affordable housing
 - Criteria to qualify for family housing FAR bonus amended
- **§143.1505 Applicability of Missing Middle Housing Regulations**
 - Specifies timeframes for historic district exemptions
- **§143.1510 Missing Middle Housing Supplemental Development Regulations**
 - Specifies how incentives and waivers apply
 - Included requirements for landscaping and mechanical screening
 - Includes requirement for off-street parking
 - Includes requirement for pedestrian access
 - Clarifies off-street parking requirements within the Beach Impact Area of the Parking Impact Overlay Zone
- **§143.1520 Missing Middle Housing Required Provision of Affordable Dwelling Units**
 - Updates language regarding affordable housing requirements
 - Allows for payment of affordable housing Inclusionary In Lieu Fee
 - Creates incentives for development of on-site affordable housing

Attachment 2

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

MAJOR AMENDMENTS FROM APRIL 5, 2023 DRAFT: **Highlighted**

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 7, DIVISION 1 BY AMENDING SECTION 127.0108, ADDING SECTION 127.0112; AMENDING CHAPTER 12, ARTICLE 2, DIVISION 2 BY AMENDING SECTION 129.0211; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 4 BY AMENDING SECTIONS 131.0420, 131.0422, AND 131.0449; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 5 BY AMENDING SECTION 131.0522; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 7 BY AMENDING SECTION 131.0707; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 4 BY RETITLING AND AMENDING SECTIONS 141.0302 AND 141.0305 AND ADDING 141.0319; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 5 BY AMENDING SECTIONS 142.0501, 142.0505, 142.0520, 142.0525, AND 142.0528; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 5 BY RETITLING AND AMENDING SECTIONS 142.0530 AND 142.0531; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 6 BY AMENDING SECTION 142.0640; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 13 BY AMENDING SECTION 142.1304; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 7 BY AMENDING SECTIONS 143.1720, 143.0740, 143.0745, 143.0746, AND 143.0747; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 8 BY AMENDING SECTIONS 143.0810, 143.0815, 143.0820, 143.0830, 143.0840, 143.0850, AND 143.0860; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 10 BY AMENDING SECTIONS 143.1005, 143.1010, 143.1015, AND 143.1025; AMENDING CHAPTER 14,

ARTICLE 3, DIVISION 12 BY AMENDING SECTIONS 143.1201 AND 143.1203, REPEALING SECTION 143.1205, AND AMENDING SECTIONS 143.1207, AND 143.1212; AMENDING CHAPTER 14 BY ADDING ARTICLE 3, DIVISION 15 AND ADDING SECTIONS 143.1501, 143.1505, 143.1510, 143.1515, 143.1520, AND 143.1525; AND AMENDING CHAPTER 14, ARTICLE 4, DIVISION 5 BY AMENDING SECTION 144.0505, ALL RELATING TO THE HOMES FOR ALL OF US: HOUSING ACTION PACKAGE 2.0 CODE UPDATE.

§113.0103 Definitions

Abutting property through Net building area through Parking space, off-street

(See off-street parking space) [No change in text.]

~~*Minor Accessory Dwelling Unit (MADU) means a dwelling unit that is 500 square feet or less in size and is contained entirely within an existing or proposed detached garage or Accessory Dwelling Unit on a residential single dwelling unit lot. A MADU must include separate sanitation facilities if constructed within a detached garage and may share sanitation facilities if constructed within an Accessory Dwelling Unit.*~~

~~*Parking standards transit priority area means the area defined in California Public Resources Code Section 21099, as may be amended, or an area within one-half mile of a major transit stop that is existing or planned, if the planned major transit stop is scheduled to be completed within the current San Diego Association of Governments (SANDAG) Regional Transportation Improvement Program (RTIP).*~~

Parkway through Yard [No change in text.]

§127.0108 Abandonment of Previously Conforming Uses

- (a) If a *previously conforming* use is discontinued for a period of less than two consecutive years, excepting uses and premises subject to Section 127.0112, operations may be resumed, or changed to another use in the same category in accordance with Section 127.0107.
- (b) If a *previously conforming* use has been discontinued for a period of two or more consecutive years, excepting uses and premises subject to Section 127.0112, resumption of the use requires a Neighborhood Use Permit. Discontinuance of the use for a period of two or more consecutive years creates a presumption in favor of abandonment, against which the owner or person asserting the *previously conforming* status may offer evidence sufficient to satisfy the City Manager that one or more of the following has occurred:
- (1) The discontinuance is in accordance with Section 127.0108(d); or
 - (2) An active Neighborhood Use Permit approves or conditionally approves resumption of the *previously conforming* use.
- (c) A *previously conforming* use that is brought into conformance is no longer *previously conforming* and shall not resume operations or revert to a *previously conforming* status. A *previously conforming* use can maintain *previously conforming* status, excepting uses and premises subject to Section 127.0112, during construction in accordance with Section 127.0108(d) without being considered to have been abandoned.

- (d) If the *previously conforming* use, excepting uses and premises subject to Section 127.0112, is temporarily discontinued while repairs, remodeling, or major alterations of the *structure* are under construction, maintenance of an active *construction permit* and the Business Tax Certificate shall mean that the use has not been discontinued during the construction and the use's *previously conforming* status is maintained.

§127.0112 **Replacing Harmful Uses**

The purpose of this section is to address harmful discontinued land uses near residential uses. Certain existing previously conforming uses, such as wrecking and dismantling of motor vehicles, storage and material scrap yards, are in areas that have been rezoned to allow for homes and mixed-use development. These uses can cause a negative effect to community members and reduce the quality of life in these neighborhoods. The intent of this section is to disallow harmful uses to continue near residential uses and to encourage a land use more suitable for these neighborhoods.

- (a) The following *previously conforming* uses, when located within 50 feet to residential areas, are considered harmful uses: Junk Yards, Wrecking and Dismantling of Motor Vehicles, Very Heavy Industrial Uses, and the following types of Recycling Facilities: Large Collection Facilities, Large Construction and Demolition Debris Recycling Facility, Large Processing Facility Accepting at least 98% of Total Annual Weight of Recyclables

from Commercial and Industrial Traffic, Large Processing Facility
Accepting All Types of Traffic, and Tire Processing Facilities.

(b) The following requirements apply to *previously conforming uses*
considered harmful uses located within the *San Diego Promise Zone*:

(1) If a *previously conforming use* is discontinued for any period of
time, the use is no longer permitted to operate on the *premises*, and
operations may not be resumed, or changed to another use in the
same category, except when temporarily discontinued due to
repairs.

(2) The *previously conforming use* will cease to be permitted to
operate after 15 years.

(A) All property owners and tenants will be notified through
certified mail of the date when the *previously conforming*
use ceases to be permitted to operate. Notification shall be
considered complete at the time of deposit in the United
States Mail.

(B) The date when the *previously conforming use* will cease to
be permitted will be 15 years after the notification is sent to
the property owners and tenants pursuant to section
127.0112 (b)(2)(A).

- (c) Development on a previously conforming premises that meet the above qualifications may use development incentives as specified by Section 143.0747.

§129.0211 Closing of Building Permit Application

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

- (c) The Building Official may extend a Building Permit application ~~one~~ two times, for a period not exceeding 180 calendar days, if the Building Official determines that circumstances beyond the control of the *applicant* prevented issuance of the Building Permit.

§131.0420 Use Regulations of Residential Zones

The regulations of Section 131.0422 apply in the residential zones where indicated in Table 131-04B.

- (a) The uses permitted in any residential zone may be further limited or expanded by the following:

(1) through (3) [No change in text.]

(4) Chapter 14, Article 3, Division 13 (Multi-Dwelling Unit and Urban Lot Split Regulations for Single Family Zones);

(5) Chapter 14, Article 3, Division 15 (Missing Middle Housing Regulations);

(4-6) Any other applicable provision of the San Diego Municipal Code.

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

§131.0422 Use Regulations Table for Residential Zones

The uses allowed in the residential zones are shown in Table 131-04B.

Legend for Table 131-04B

[No change in text.]

Table 131-04B

Use Regulations Table for Residential 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 >>	RM-												
	3rd >>	1-			2-			3-			4-		5-	
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12	
Open Space through Separately Regulated Residential Uses, Employee Housing: Greater than 12 Employees [No change in text.]	[No change in text.]													
Fraternities, and Sororities and Student Dormitories Student Housing	<u>C(11)</u>	<u>C(11)</u>	<u>C(11)</u>	<u>C(11)</u>	<u>C(11)</u>	<u>C(11)</u>	<u>C(11)</u>	<u>C(11)</u>	<u>C(11)</u>	<u>C(11)</u>	<u>C(11)</u>	<u>C(11)</u>		
<u>Student Housing</u>	<u>L(11)</u>	<u>L(11)</u>	<u>L(11)</u>	<u>L(11)</u>	<u>L(11)</u>	<u>L(11)</u>	<u>L(11)</u>	<u>L(11)</u>	<u>L(11)</u>	<u>L(11)</u>	<u>L(11)</u>	<u>L(11)</u>		
Separately Regulated Residential Uses, Garage, Yard, & Estate Sales through Separately Regulated Residential Uses, Low Barrier Navigation Center [No change in text.]	[No change in text.]													

Footnotes for Table 131-04B

¹ through ¹⁰ [No change in text.]

¹¹ Development of multiple dwelling units permitted in accordance with Sections 141.0305 and 141.0319

§131.0449 Garage Regulations in Residential Zones

(a) [No change in text.]

(b) Garages in RT Zones

- (1) Two *off-street parking spaces* are required, except for residential or commercial development in a transit priority area where all or a portion of the premises is located within a transit priority area. Off-street parking spaces that are provided in a transit priority area are exempt from the unbundled parking requirement in Section 142.0528(b)(1). An enclosed and detached one-car garage is required except as otherwise provided in this section. The second *off-street parking* may be provided in an enclosed and detached garage or an unenclosed space located consistent with the garage location requirements in Section 131.0449(b)(5).

(2) through (10) [No change in text.]

§131.0522 Use Regulations Table for Commercial Zones

The uses allowed in the commercial zones are shown in Table 131-05B.

Legend for Table 131-05B

[No change in text.]

Table 131-05B

Use Regulations Table for Commercial 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 >>	CN ⁽¹⁾ -	CR-		CO-			CV-	CP-					
3rd >>	1-	1-	2-	1-	2-	3-	1-	1-						
4th >>	1 2 3 4 5 6	1	1	1	2	1	2	1	2	3	1	2	1	
Open Space through Separately Regulated Residential Uses, Greater than 12 Employees [No change in text.]	[No change in text.]													
Fraternities <u>and</u> Sororities and <u>Student Dormitories</u>	EL ⁽²⁾	EL	-	EL	-	-	EL ⁽²⁾	-						
<u>Student Housing</u>														

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 >>	CC-																								
3rd >>	1-	2-		3-			4-			5-																
4th >>	1	2	3	1	2	3	4	5	4	5	6	7	8	9	1	2	3	4	5	6	1	2	3	4	5	6
Open Space through Separately Regulated Residential Uses, Employee Housing, Greater than 12 Employees [No change in text.]	[No change in text.]																									
Fraternities and Sororities	C	-	C	C	C																					
<u>Student Housing</u>	L	-	L	L	L																					
Separately Regulated Residential Uses, Garage, Yard, & Estate Sales through Signs, Separately Regulated Signs Uses, Theater Marquees [No change in text.]	[No change in text.]																									

Footnotes for Table 131-05B

[No change in text.]

§131.0707 Use Regulations Table for Mixed-Use Zones

The uses allowed in the mixed-use zones are shown in Table 131-07A.

Legend for Table 131-07A

[No change in text.]

Table 131-07A**Use Regulations Table for Mixed-Use Zones**

Use Categories/Subcategories	Zone Designator	Zones					
		RMX			EMX		
[See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	1st >>						
	2nd >>	1	2	3	1	2	3
Open Space through Separately Regulated Residential Uses , Employee Housing, Greater than 12 Employees [No change in text.]		[No change in text.]					
Fraternities <u>and</u> Sororities <u>and</u> Student Dormitories		C	C	C	C ⁽¹⁾	C ⁽¹⁾	C ⁽¹⁾
Student Housing		L	L	L	L	L	L
Separately Regulated Residential Uses , Garage, Yard, & Estate Sales through Signs , Separately Regulated Signs Uses , Theater Marquees [No change in text.]		[No change in text.]					

Footnotes for Table 131-07A

[No change in text.]

§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) [No change in text.]

(b) The following regulations are applicable to both *ADUs* and *JADUs*, unless specified otherwise:

(1) [No change in text.]

(2) *Development Regulations*

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

(E) ~~*ADU and JADU structures*~~ must comply with the front yard and *street side yard setbacks* of the base zone. Interior side yard and rear yard setbacks for new ~~*ADU and JADU structures*~~ shall be provided as follows:

(i) ~~*One-story ADUs or JADUs*~~ 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 or JADUs*~~ with a *structure height* that exceeds 16 feet and multi-story ~~*ADU or JADU 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* shall apply.

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

(3) Parking Regulations

(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).~~

(B) through (E) [No change in text.]

(4) [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.]

~~(iv) *Very low income, low income and moderate income* households located in an area identified as a Low or Lowest Resource California Tax Credit Allocation Committee Opportunity Area according to the most recent California State Treasurer TCAC/HCD Opportunity Area Maps shall receive priority preference for new covenant restricted *dwelling* units created under this Section.~~

Table 141-03A
Qualifying Criteria for Affordable ADU Bonus
[No change in text.]

~~(H) For development utilizing the ADU Bonus for Affordable ADUs in accordance with Section 141.0302(c)(2)(G) and providing no less than two ADUs on the premises set aside as affordable to very low income, low income, or moderate income households as prescribed, only one additional ADU shall be permitted for one ADU on the premises that meets the accessibility requirements in Chapter 11A of the California Building Code and includes at least one accessible bathroom; at least one accessible kitchen; at least~~

one accessible bedroom; and at least one accessible living room on an accessible route.

(d) In addition to the requirements in Section 141.0302(a), *Junior Accessory Dwelling Units* are subject to the following additional regulations:

(1) [No change in text.]

(2) *Development Regulations*

(A) [No change in text.]

(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 ~~or detached~~ garage, ~~or an ADU.~~ A *JADU* constructed within an existing *structure* may construct an additional 150 square feet for ingress and egress only.

(C) [No change in text.]

§141.0305 Fraternity Houses and Sorority Houses, ~~and Student Dormitories~~

(a) Fraternity houses, and sorority houses, ~~and student dormitories~~ are facilities that are designed or used as a residence for students that are members of an organized university or college fraternity or sorority and enrolled at an institution of higher learning. Fraternity houses, and sorority houses, ~~and student dormitories~~ may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base

Zones) subject to the following regulations. Fraternity houses, and sorority houses, ~~and student dormitories~~ may be permitted only in the following locations:

(1) through (2) [No change in text.]

(b) If the ~~facility~~ fraternity house or sorority house is not located on a college or university campus, off-street parking shall be provided as follows:

(1) At a rate of 1 parking space for each resident if the fraternity house or sorority house is located outside of a transit priority area, or

(2) Through a parking agreement between the college or university with which the ~~facility~~ fraternity house or sorority house is affiliated and the *applicant*, which will allow the *applicant* to use college or university parking facilities to meet the parking requirement.

(c) [No change in text.]

(d) The ~~facility~~ fraternity house or sorority house must be officially recognized by the college or university.

(e) [No change in text.]

§141.0319 Student Housing

Student housing are facilities that are specifically designed and used as a residence for students enrolled at an institution of higher learning. This includes the following types of student housing: student dormitories or student

apartments. Student housing is permitted as a limited use in the zones indicated with a “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations:

(a) Student housing may be permitted only in the following locations:

(1) Within an area specifically designated for these facilities by the applicable *land use plan*,

(2) When the applicable *land use plan* does not contain a designated area, such facilities may be located within a 1-mile radius of the boundary of a college or university campus, in any zone that permits *multiple dwelling unit* development, or

(3) Within a *sustainable development area*, in any zone that permits *multiple dwelling unit* development.

(b) Parking regulations

(1) The required automobile *parking spaces* shall be in compliance with Section 142.0525 for a *rooming house* use, unless the *development* is located in a *transit priority area*, in which case, automobile parking shall be provided in accordance with Section 142.0528.

(2) If the student housing facility is located on a college or university campus, the facility can meet the parking requirement through a parking agreement between the

college or university with which such facility is affiliated and the applicant, which allows the applicant to use college or university parking facilities; and

(3) Within a transit priority area, bicycle parking at a rate of 0.5 spaces per bed that are located in enclosed and secure areas.

(c) Occupancy regulations

(1) Student dormitories shall be occupied exclusively by undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges; and

(2) The enrollment of a student shall be verified by documentation provided by an institution of higher education.

(d) Onsite management regulations

(1) A resident manager is required to live on the premises.

(2) At least one staff member shall be located on the premises 24 hours per day.

(e) Student amenity regulations

(1) A minimum of 10 percent of the structures' ground floor gross floor area shall be dedicated to student amenities, excluding leasing or manager offices, including one or more of the following: gyms, community rooms, shared resources, and facilities such as study rooms or co-study spaces.

(2) Student housing shall include onsite laundry facilities.

§ 142.0501 Purpose of the Parking Regulations

The purpose of these regulations is to provide a unified set of standards for public and private transportation related improvements throughout the City. The standards are designed to work together to accommodate a multi modal transportation system and encourage transportation mode alternatives to the single occupant automobile. The intent is to provide for a safe and efficient transportation system delivering a high degree of personal mobility; to reduce traffic congestion and improve air quality; and to reasonably accommodate the peak parking needs of *development*, balanced by the needs of pedestrians, bicyclists, and transit users, ~~and~~ by the preservation and enhancement of community character, and to further the City's housing and climate goals.

§142.0505 When Parking Regulations Apply

These regulations apply in all base zones and planned districts, with the exception of those areas specifically identified as being exempt from the regulations, whether or not a permit or other approval is required.

Table 142-05A identifies the applicable regulations and the type of permit required by this division, if any, for the type of *development* shown.

**Table 142-05A
Parking Regulations Applicability**

Type of <i>Development</i> Proposal	Applicable Regulations	Required Permit Type/ Decision Process
Any <i>single dwelling unit</i> residential <i>development</i> through Any <i>multiple dwelling unit</i> residential <i>development</i> that includes housing that meets the criteria stated in Section 142.0527 (Affordable Housing Parking Regulations) [No change in text.]	Sections 142.0510-, 142.0520, and 142.0560	[No change in text.]
Any <i>multiple dwelling unit</i> residential <i>development</i> that meets the criteria in Section 142.0528 (Parking Standards Transit Priority Area Regulations)	[No change in text.]	[No change in text.]
Any nonresidential <i>development</i> through <i>Shared parking</i> for nonspecified uses [No change in text.]	[No change in text.]	[No change in text.]

§142.0520 Single Dwelling Unit Residential Uses — Required Parking Ratios

The required number of *off-street parking spaces* for *single dwelling units* and related uses are shown in Table 142-05B.

Table 142-05B

**Minimum Required Parking Spaces for
Single Dwelling Units and Related Uses**

Type of Unit and Related Uses	Number of Required Parking Spaces
[No change in text.]	[No change in text.]

Type of Unit and Related Uses	Number of Required Parking Spaces
[No change in text.]	[No change in text.]
<u>All single dwelling units where all or a portion of the premises is located within a transit priority area</u>	<u>0 spaces per dwelling unit</u>

Footnotes for Table 142-05B [No change in text.]

§142.0525 Multiple Dwelling Unit Residential Uses — Required Parking Ratios

- (a) Minimum Required Parking Spaces. The required automobile parking spaces, motorcycle parking spaces, and bicycle parking spaces for development of multiple dwelling units, whether attached or detached, and related and accessory uses are shown in Table 142-05C. Other allowances and requirements, including the requirement for additional common area parking for some projects, are provided in Section 142.0525(b) through (d).

Table 142-05C

Minimum Required Parking Spaces for Multiple Dwelling Units and Related Accessory Uses

<i>Multiple Dwelling Unit Type and Related and Accessory Uses</i>	Automobile Spaces Required Per Dwelling Unit (Unless Otherwise Indicated)				Motorcycle Spaces Required Per Dwelling Unit⁽⁹⁾	Bicycle Spaces Required Per Dwelling Unit⁽⁵⁾
	Basic⁽¹⁾	Transit Area⁽²⁾	Parking Standards Transit Priority Area Transit Priority Area⁽⁹⁾	Parking Impact⁽⁴⁾		

<i>Multiple Dwelling Unit Type and Related and Accessory Uses</i>	Automobile Spaces Required Per Dwelling Unit (Unless Otherwise Indicated)				Motorcycle Spaces Required Per Dwelling Unit⁽⁹⁾	Bicycle Spaces Required Per Dwelling Unit⁽⁵⁾
	Basic ⁽¹⁾	Transit Area ⁽²⁾	Parking Standards Transit Priority Area Transit Priority Area ⁽⁹⁾	Parking Impact ⁽⁴⁾		
Studio up to 400 square feet through <i>Condominium conversion</i>⁽⁸⁾ 1 bedroom or studio over 400 Square feet, 2 bedrooms, 3 + bedrooms [No change in text.]	[No change in text.]					
Rooming house	[No change in text.]		0.75 per tenant 0		[No change in text.]	
Residential care facility (6 or fewer persons)	[No change in text.]		1 per 4 beds or per permit 0		[No change in text.]	
Small lot subdivision in accordance with Section 143.0365	[No change in text.]					
Studio up to 400 square feet	[No change in text.]		1.0 0		[No change in text.]	
1 bedroom or studio over 400 square feet	[No change in text.]		1.25 0		[No change in text.]	
2+ bedrooms	[No change in text.]		1.75 0		[No change in text.]	
Transitional Housing Facilities (6 or fewer persons) through <i>Permanent Supportive Housing</i> [No change in text.]	[No change in text.]					
Continuing Care Retirement Communities						
<i>Dwelling units</i>	[No change in text.]		0.75 0		[No change in text.]	
Convalescent and memory care rooms	[No change in text.]		1.0 per 3 beds 0		[No change in text.]	
Employees	[No change in text.]		0.75 per peak Shift 0		[No change in text.]	
Accessory uses (spaces per square feet⁽⁷⁾)	[No change in text.]		Retail Sales: 2.5 per 1,000 0 Eating and Drinking Estb.: 5 per 1,000 0		[No change in text.]	

Footnotes for Table 142-05C

¹ Basic. The basic parking ratio applies to *development* that does not qualify for a reduced parking requirement (in accordance with the *transit area* or ~~Parking Standards Transit Priority Area~~ *transit priority area* parking ratio or the *very low income* parking ratio), or for an increased parking requirement in accordance with the Parking Impact Area as described in Chapter 13, Article 2, Division 8 (Parking Impact Overlay Zone). *Development* qualifying for both a reduced parking ratio (*transit area* or *very low-income* parking ratio) and an increased parking ratio (Parking Impact Area) shall also use the basic parking ratio.

² through ³ [No change in text.]

⁴ Parking Impact. The parking impact ratio applies to *development* where all or a portion of the *premises* is located within a designated beach impact area or a campus impact area as described in Chapter 13, Article 2, Division 8 (Parking Impact Overlay Zone), unless otherwise noted, but does not apply to *development* where all or a portion of the *premises* is located within a ~~Parking Standards Transit Priority Area~~ *transit priority area*.

⁵ Bicycle. -Bicycle racks are not required for a ~~dwelling unit~~ *dwelling unit* with a garage accessible only by residents of the *dwelling unit*.

⁶ 5+ Bedrooms in Parking Impact Areas. -Beach impact area: 2.5 spaces per ~~dwelling unit~~ *dwelling unit*. Campus impact area: 1 space per bedroom.

⁷ through ⁸ [No change in text.]

⁹ ~~Parking Standards Transit Priority Area~~. The ~~Parking Standards Transit Priority Area~~ *transit priority area* parking ratio applies to *development* where all or a portion of the *premises* is located within a ~~Parking Standards Transit Priority Area~~ *transit priority area* as described in Section 142.0528 and supersedes any other applicable parking ratio.

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

§142.0528 ~~Parking Standards Transit Priority Area~~ Parking Regulations

The ~~Parking Standards Transit Priority Area~~ *Transit Priority Area* Regulations establish the parking requirements for *multiple dwelling unit* residential *development* where all or a portion of the *premises* is located within a ~~Parking Standards Transit Priority Area~~ *transit priority area*. For purposes of this section, ~~Parking Standards Transit Priority Area~~ means the area defined in California Public Resources Code Section 21099, as may be amended, or an area within one-half mile of a *major transit stop* that is existing or planned, if the planned *major transit stop* is scheduled to be completed within the San Diego Association of

Governments (SANDAG) Regional Transportation Improvement Program (RTIP). The RTIP covers five fiscal years and incrementally implements the long-range Regional Transportation Plan for the San Diego region. *Multiple dwelling unit residential development* that involves four or fewer *dwelling units*, or that includes at least 20 percent on-site housing that is affordable to persons with a household income equal to or less than 50 percent of the area median income as determined in accordance with California Health and Safety Code section 50093 and is subject to an affordability restriction for a minimum of 55 years, or *multiple dwelling unit residential development where the off-street parking spaces are provided in garages that are attached to and directly accessible from the dwelling unit*, is exempt from the *unbundled parking* requirement in subsection 142.0528(b)(1). Reasonable accommodations to parking requirements shall be granted if necessary to afford people with disabilities equal housing opportunities under state or federal law, in accordance with Section 131.0466. *Multiple dwelling unit residential development* in the Centre City and Gaslamp Planned Districts is exempt from the transportation amenity requirement in subsection 142.0528(c).

(a) Parking Requirements. ~~*Off-street parking spaces are not required.*~~

(1) through (4) [No change in text.]

(b) [No change in text.]

(c) Transportation Amenities. All *multiple dwelling unit residential*

development where all or a portion of the *premises* is located within a

~~Parking Standards Transit Priority Area~~ transit priority area shall provide transportation amenities based on its Transportation Amenity Score.

Transportation amenity, as used herein, means a feature provided by a *development* that reduces vehicle trips by informing, educating, and incentivizing transit use, bicycling, walking, and ridesharing. The types of transportation amenities are listed in Land Development Manual Appendix Q.

(1) through (3) [No change in text.]

§142.0530 Nonresidential Uses — Parking Ratios

(a) Retail Sales, Commercial Services, and Mixed-Use Development.

Table 142-05E establishes the ratio of required parking spaces to building *floor* area in the commercial zones, industrial zones, mixed-use zones, and planned districts shown, for retail sales uses and for those commercial service uses that are not covered by Table 142-05F or 142-05G. Table 142-05E also establishes the required parking ratios for mixed-use developments in a single *structure* that include an allowed use from at least two of the following use categories: (1) retail sales, (2) commercial services, and (3) offices.

Table 142-05E

Parking Ratios for Retail Sales, Commercial Services, Offices, and Mixed-Use Development

Zone	Parking Spaces Required per 1,000 Square Feet of <i>Floor Area</i> Unless Otherwise Noted (<i>Floor Area</i> Includes <i>Gross Floor Area</i> plus Below <i>Grade Floor Area</i> and Excludes <i>Floor Area</i> Devoted to Parking)			
	Required Automobile Parking Spaces⁽¹⁾			
	Minimum Required Outside a <i>Transit Area</i> -or <i>Parking Standards-Transit Priority Area</i>	Minimum Required Within a <i>Parking Standards-Transit Priority Area</i>⁽⁶⁾	Minimum Required Within a <i>Transit Area</i>⁽²⁾	Maximum Permitted
Commercial Zones				
Commercial Zones, CC-1-2, CC-2-2, CC-4-2, CC-5-2 through Mixed-Use Zones, EMX-3 [No change in text.]	[No change in text.]			
Planned Districts				
Barrie Logan Subdistrict B	1.0 ⁽⁴⁾	0	1.0 ⁽⁴⁾	5.5

Zone	Parking Spaces Required per 1,000 Square Feet of <i>Floor Area</i> Unless Otherwise Noted (<i>Floor Area</i> Includes <i>Gross Floor Area</i> plus Below <i>Grade Floor Area</i> and Excludes <i>Floor Area</i> Devoted to Parking)			
	Required Automobile Parking Spaces ⁽¹⁾			
	Minimum Required Outside a <i>Transit Area</i> -or <i>Parking Standards-Transit Priority Area</i>	Minimum Required Within a <i>Parking Standards-Transit Priority Area</i> ⁽⁶⁾	Minimum Required Within a <i>Transit Area</i> ⁽²⁾	Maximum Permitted
Barrio Logan: Except Subdistrict B	2.5	0	2.1	6.5
Planned Districts, Carmel Valley through Planned Districts, La Jolla Shores [No change in text.]	5.0	0	4.3	6.5
Mid-City: CN-3 and CV-3	1.25	0	1.25	5.5
Mid-City: Except CN-3, CV-3	2.5	0	2.1	6.5
Mount Hope	3.3	0	2.8	6.5
Mission Valley: CV	2.5	0	2.1	6.5
Mission Valley: Except CV	5.0	0	4.3	6.5
Planned				

Zone	Parking Spaces Required per 1,000 Square Feet of <i>Floor Area</i> Unless Otherwise Noted (<i>Floor Area</i> Includes <i>Gross Floor Area</i> plus Below <i>Grade Floor Area</i> and Excludes <i>Floor Area</i> Devoted to Parking)			
	Required Automobile Parking Spaces ⁽¹⁾			
	Minimum Required Outside a <i>Transit Area</i> -or <i>Parking Standards-Transit Priority Area</i>	Minimum Required Within a <i>Parking Standards-Transit Priority Area</i> ⁽⁶⁾	Minimum Required Within a <i>Transit Area</i> ⁽²⁾	Maximum Permitted
Districts, Old Town [No change in text.]	[No change in text.]			
West Lewis Street	1.0 ⁽⁴⁾	0	1.0 ⁽⁴⁾	5.5

Footnotes for Table 142-05E

¹ through ⁵ [No change in text.]

⁶ The ~~*parking standards transit priority area*~~ parking ratio ~~apply~~ applies to development where all or a portion of the premises is located within a ~~*parking standards transit priority area*~~ as described in Section 142.0534 and supersedes any other applicable parking ratio. Vehicle Miles Travelled Reduction Measures are applicable as described in Section 143.1103(b)(1).

(b) Eating and Drinking Establishments. Table 142-05F establishes the required ratio of parking spaces to building *floor area* in the commercial zones, industrial zones, and planned districts shown, for eating and drinking establishments that are the *primary use* on a *premises*.

Table 142-05F
Parking Ratios for Eating and Drinking Establishments

Zone	Parking Spaces Required per 1,000 Square Feet of Eating and Drinking Establishment⁽¹⁾ <i>Floor Area Unless Otherwise Noted (Floor Area Includes Gross Floor Area plus Below Grade Floor Area and Excludes Floor Area Devoted to Parking)</i>			
	Required Automobile Parking Spaces⁽²⁾			
	Minimum Required Outside a Transit Area or <i>Parking Standards-Transit Priority Area</i>	Minimum Required Within a <i>Parking Standards-Transit Priority Area</i>⁽⁶⁾	Minimum Required Within a <i>Transit Area</i>⁽³⁾	Maximum Permitted
Commercial Zones, CC-1-1, CC-2-1, CC-4-1, CC-5-1 through Mixed-Use Zones, EMX-3 [No change in text.]				
Industrial Zones				
IH-1-1 IH-2-1	15.0	12.8 0	12.8	25.0
IL-1-1 IL-2-1	15.0	12.8 0	12.8	25.0
Industrial Zones, IL-3-1 through Industrial Zones, IBT-1-1	[No change in text.]			
Planned Districts				
Barrio Logan: Subdistrict B	1.0 ⁽⁵⁾	0	1.0 ⁽⁵⁾	20.0
Barrio Logan: Except Subdistrict B	2.5	0	2.1	20.0
Planned Districts, Carmel Valley through Planned Districts, La Jolla Shores [No change in text.]	[No change in text.]			

Zone	Parking Spaces Required per 1,000 Square Feet of Eating and Drinking Establishment ⁽¹⁾ <i>Floor Area Unless Otherwise Noted (Floor Area Includes Gross Floor Area plus Below Grade Floor Area and Excludes Floor Area Devoted to Parking)</i>			
	Required Automobile Parking Spaces ⁽²⁾			
	Minimum Required Outside a <i>Transit Area or Parking Standards-Transit Priority Area</i>	Minimum Required Within a <i>Parking Standards-Transit Priority Area</i> ⁽⁶⁾	Minimum Required Within a <i>Transit Area</i> ⁽³⁾	Maximum Permitted
Mid-City: CN-3 and CV-3	1.25	0	1.25	20.0
Mid-City: Except CN-3, CV-3	2.5	0	2.1	25.0
Mount Hope	3.3	0	2.8	25.0
Mission Valley: CV	5.0	0	4.3	25.0
Mission Valley: Except CV	15.0	0	12.8	25.0
Planned Districts, Old Town [No change in text.]	[No change in text.]			
West Lewis Street	1.0 ⁽⁵⁾	0	1.0 ⁽⁵⁾	20.0

Footnotes for Table 142-05F

- ¹ Eating and Drinking Establishments. The minimum parking ratios apply to eating and drinking establishments that do not have a common parking area with any other uses. There is no minimum parking requirement or maximum permitted parking for outdoor dining. ~~Within Transit Priority Areas, minimum required parking can be replaced by a placemaking project if a Temporary Use Permit is obtained in accordance with Section 123.0402.~~ Within the CN, CO and CV Zones, minimum parking required can also be replaced with bicycle parking at a ratio of 2 bicycle parking spaces provided for every required vehicle parking space. Within the Coastal Overlay Zone, outdoor dining areas such as decks, patios, terraces, etc., are considered part of the eating and drinking establishment's *gross floor area* and are included in calculating parking requirements.

² through ⁵ [No change in text.]

⁶ The ~~parking standards-transit priority area~~ parking ratio ~~apply~~ applies to development where all or a portion of the premises is located within a ~~parking standards-transit priority area~~ as described in Section 142.0531 and supersedes any other applicable parking ratio. Vehicle Miles Travelled Reduction Measures are applicable as described in Section 143.1103(b)(1).

(c) Nonresidential Uses. -Table 142-05G establishes the required ratio of parking spaces to building *floor* area for the nonresidential uses shown that are not covered by the parking requirements in Section 142.0530(a) and (b).

Table 142-05G

Parking Ratios for Specified Non-Residential Uses

Use	Parking Spaces Required per 1,000 Square Feet of <i>Floor</i> Area Unless Otherwise Noted (<i>Floor</i> Area Includes <i>Gross Floor Area</i> plus below <i>Grade Floor</i> Area, and Excludes <i>Floor</i> Area Devoted to Parking)			
	Required Automobile Parking Spaces ⁽¹⁾			
	Minimum Required Outside a <i>Transit Area</i> or <i>Parking Standards-Transit Priority Area</i>	Minimum Required Within a <i>Parking Standards-Transit Priority Area</i> ⁽⁸⁾	Minimum Required Within a <i>Transit Area</i> ⁽²⁾	Maximum Permitted
Institutional				
Separately Regulated Uses				
Botanical Gardens and Arboretums	[No change in text.]			
Educational facilities:				
Kindergarten through grade 9	2.0 per classroom if no assembly area or 30 per 1,000 square feet assembly area	85% of Minimum <u>0</u>	85% of Minimum	N/A
Grade 10 through grade 12	1 per 5 students at maximum occupancy	85% of Minimum <u>0</u>	85% of Minimum	N/A

Use	Parking Spaces Required per 1,000 Square Feet of <i>Floor Area</i> Unless Otherwise Noted (<i>Floor Area</i> Includes <i>Gross Floor Area</i> plus below <i>Grade Floor Area</i> , and Excludes <i>Floor Area</i> Devoted to Parking)			
	Required Automobile Parking Spaces ⁽¹⁾			
	Minimum Required Outside a <i>Transit Area</i> or <i>Parking Standards-Transit Priority Area</i>	Minimum Required Within a <i>Parking Standards-Transit Priority Area</i> ⁽⁸⁾	Minimum Required Within a <i>Transit Area</i> ⁽²⁾	Maximum Permitted
Vocational/trade schools	1 per student at maximum occupancy	85% of Minimum <u>0</u>	85% of Minimum	N/A
Exhibit Halls & Convention Facilities	1 per 3 seats; 30.0 if no fixed seats	85% of Minimum <u>0</u>	85% of Minimum	N/A
Hospitals	2 per bed	85% of Minimum <u>0</u>	85% of Minimum	N/A
Intermediate care facilities and nursing facilities	1 per 3 beds	85% of Minimum <u>0</u>	85% of Minimum	N/A
Interpretive Centers	3.3	2.8 <u>0</u>	2.8	N/A
Museums	3.3	2.8 <u>0</u>	2.8	N/A
Radio & Television Broadcasting	3.3	2.9 <u>0</u>	2.9	5.0
Retail Sales: See Table 142-05E [No change in text.]				
Commercial Services				
Eating & Drinking Establishments	[No change in text.]			
Public assembly & entertainment, Theaters through Swimming pools [No change in text.]				
All other assembly and entertainment	1 per 3 seats or 1 per 60 inches of bench or pew seating, whichever is greater; or 30 per 1,000 square feet of assembly area if seating is not fixed	85% of Minimum <u>0</u>	85% of Minimum ⁽⁷⁾	N/A
Visitor accommodations	[No change in text.]			
Separately Regulated Uses				

Use	Parking Spaces Required per 1,000 Square Feet of Floor Area Unless Otherwise Noted (<i>Floor Area Includes Gross Floor Area plus below Grade Floor Area, and Excludes Floor Area Devoted to Parking</i>)			
	Required Automobile Parking Spaces ⁽¹⁾			
	Minimum Required Outside a <i>Transit Area</i> or <i>Parking Standards-Transit Priority Area</i>	Minimum Required Within a <i>Parking Standards-Transit Priority Area</i> ⁽⁸⁾	Minimum Required Within a <i>Transit Area</i> ⁽²⁾	Maximum Permitted
Child Care Centers	1 per staff	85% of Minimum <u>0</u>	85% of Minimum	N/A
Funeral parlors & Mortuaries	1 per 3 seats; 30.0 for assembly area if no fixed seats	85% of Minimum <u>0</u>	85% of minimum	N/A
Private clubs, lodges, fraternal organizations (except fraternities and sororities) through Single room occupancy hotels (For <i>SRO Hotels</i> that meet the criteria for affordable housing <i>dwelling units</i> stated in Section 142.0527, see Section 142.0527 for parking requirements) [No change in text.]	[No change in text.]			
Veterinary clinics & hospitals	2.5	2.1 <u>0</u>	2.1	N/A
Offices⁽⁴⁾				
Business & professional/ Government/ Regional & corporate headquarters (except in IS Zone) through All office uses in the IS Zone [No change in text.]	[No change in text.]			
Vehicle & Vehicular Equipment Sales & Service				
Automobile service stations	2 per Station; with Maintenance Facility, 3 per Station Plus 1 per Service Bay	85% of Minimum <u>0</u>	85% of Minimum	N/A

Use	Parking Spaces Required per 1,000 Square Feet of <i>Floor Area</i> Unless Otherwise Noted (<i>Floor Area</i> Includes <i>Gross Floor Area</i> plus below <i>Grade Floor Area</i> , and Excludes <i>Floor Area</i> Devoted to Parking)			
	Required Automobile Parking Spaces ⁽¹⁾			
	Minimum Required Outside a <i>Transit Area</i> or <i>Parking Standards-Transit Priority Area</i>	Minimum Required Within a <i>Parking Standards-Transit Priority Area</i> ⁽⁸⁾	Minimum Required Within a <i>Transit Area</i> ⁽²⁾	Maximum Permitted
	Retail Sales: 3.0			
Vehicle repair & maintenance	5.0	4.3 <u>0</u>	4.3	N/A
Vehicle sales & rentals	1 per each 10 display cars	85% of Minimum <u>0</u>	85% of Minimum	N/A
Distribution and Storage ⁽⁴⁾				
All distribution and storage uses through Self Storage Facilities [No change in text.]	[No change in text.]			
Industrial				
Heavy Manufacturing (except in IS Zone)	1.5 ⁽⁶⁾	1.5 <u>0</u> ⁽⁶⁾	1.5 ⁽⁶⁾	4.0
Light manufacturing (except in IS Zone)	2.5 ⁽⁶⁾	2.1 <u>0</u> ⁽⁶⁾	2.1 ⁽⁶⁾	4.0
Research & development (except in IS Zone) through All industrial uses in the IS Zone [No change in text.]	[No change in text.]			

Footnotes for Table 142-05G¹ through ⁷ [No change in text.]

⁸ The ~~parking standards-transit priority area~~ parking ratio ~~apply~~ applies to development where all or a portion of the premises is located within a ~~parking standards transit priority area as described in Section 142.0531~~ and supersedes any other applicable parking ratio. Vehicle Miles Travelled Reduction Measures are applicable as described in Section 143.1103(b)(1).

(d) through (h) [No change in text.]

§142.0531 ~~Parking Standards-Transit Priority Area Regulations for Non-Residential Uses~~

- (a) Table 142-05E establishes the ratio of required parking spaces to building *floor* area within a ~~*parking standards transit priority area*~~ in the commercial zones, industrial zones, mixed-use zones, and planned districts shown.
- (b) [No change in text.]
- (c) Where no *off-street parking spaces* are provided on a *premises* in a ~~*parking standards transit priority area*~~:
 - (1) through (2) [No change in text.]
- (d) Where *off-street parking spaces* are provided on a *premises* in a ~~*parking standards transit priority area*~~, a *premises* with 11 to 25 *off-street parking spaces* must provide at least 2 accessible *off-street parking spaces*. A *premises* with greater than 25 *off-street parking spaces* shall be subject to the requirements in the California Building Standards Code.

§142.0640 Development Impact Fees for Public Facilities and Spaces

- (a) [No change in text.]
- (b) Payment of Fees

Development Impact Fees (as defined in California Government Code Section 66000) for applicable *development* shall be paid prior to requesting a final inspection. A final inspection shall not occur until the applicable DIFs are paid in areas where DIFs have been established by City Council resolution or ordinance. Notwithstanding the above, the City

Manager may also require the payment of DIFs for development that would increase demand for public facilities and/or result in the need for new public facilities. DIFs shall not be required for inclusionary dwelling units provided pursuant to Chapter 14, Article 2, Division 13 if the applicant has satisfied all the requirements of Division 13 for inclusionary dwelling units on the same premises as the market-rate dwelling units. The DIF amount due shall be based upon the DIF schedule in effect when the *development* application was submitted, or the DIF schedule in effect when the fees are paid, whichever amount is lower, plus an automatic increase consistent with Section 142.0640(c), if applicable.

Exemptions:

(1) through (3) [No change in text.]

(4) For *development* utilizing the Complete Communities: Housing Solutions Regulations in Chapter 14, Article 3, Division 10, all covenant-restricted affordable *dwelling units* and *dwelling units* that contain at least three bedrooms ~~do not exceed 500 square feet~~ are exempt from DIFs.

(5) ~~For *development* utilizing the Complete Communities: Housing Solutions Regulations in Chapter 14, Article 3, Division 10, the DIF for the residential *development* shall be scaled in accordance with Table 142-06A based upon the *dwelling unit* size.~~

- (65) For *development* of a streetary, in accordance with Section 141.0621, the DIFs shall be assessed at a rate of 1/15th of the Development Impact Fees established by City Council resolution or ordinance, and shall be collected every two years with the issuance of the applicable Public Right of Way Permit.
- (76) Active sidewalks developed in accordance with Section 141.0621 are exempt from DIFs.
- (87) The first two *dwelling units* constructed in accordance with Chapter 14, Article 3, Division 13 shall be exempt from the requirement to pay DIF. The third and fourth *dwelling units* constructed in accordance with Chapter 14, Article 3, Division 13 shall be required to pay DIF, which shall be scaled in accordance with Table 142-06A, based upon the *dwelling unit* size.

Table 142-06A
Scaled Development Impact Fee Rate for Specific Residential Development

[No change in text.]

- (98) *Development* that designs and constructs an onsite park that satisfies the *development's* park standard identified in the Parks Master Plan, shall not be subject to the requirement to pay the Citywide Park DIF, where the requirements set forth in San Diego Resolution R-313688 have been satisfied. *Development* that designs and constructs an onsite park that satisfies a portion of the

development's parks standards shall be subject to a proportionate share credit of the DIF for the Citywide Park DIF where the requirements set forth in San Diego Resolution R-313688 have been satisfied. To be eligible for any exemption under this subsection, the following additional requirements shall apply:

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

~~(109)~~ Interim residential *development* that obtains a Building Permit in accordance with Section 141.0309 shall be required to pay one-third of the applicable residential DIF. At the end of 10 years from issuance of the Neighborhood Use Permit, if the interim residential use and associated Neighborhood Use Permit is extended beyond the initial term, the remaining two-thirds of the applicable residential DIF in effect at the time of the granting of the initial Building Permit shall be paid.

(101) For *development* utilizing the Missing Middle Housing Regulations in Chapter 14, Article 3, Division 15, all *dwelling units* are subject to the payment of DIF at the rate for *multiple dwelling units*.

(c) through (g) [No change in text.]

§142.1304 Inclusionary Affordable Housing Requirements

From July 1, 2020 through June 30, 2024, the requirements of Subsections (a) and (b) of this Section 142.1304 shall be implemented incrementally as set forth in the

Inclusionary Affordable Housing Implementation and Monitoring Procedures Manual on file with the San Diego Housing Commission (Procedures Manual). Effective July 1, 2024, all residential *development* subject to this Division shall include inclusionary *dwelling units* as follows:

(a) through (d) [No change in text.]

(e) *Development* of inclusionary *dwelling units* shall be subject to the following:

(1) through (2) [No change in text.]

(3) Sale or lease of the inclusionary *dwelling units* shall follow the marketing requirements and procedures in the Procedures Manual. *Very low income, low income and moderate income households located in an area not identified as a Moderate, High or Highest Resource California Tax Credit Allocation Committee (CTCAC) Opportunity Area when the complete development application was submitted, shall receive priority preference for new covenant-restricted dwelling units created under this Section.*

(4) through (5) [No change in text.]

(f) through (h) [No change in text.]

§143.0720 Density Bonus in Exchange for Affordable Housing Units

(b) If the facility is not located on a college or university, off-street parking shall be provided as follows:

(1) At a rate of 1 parking space for each resident, or

(2) Through a parking agreement between the college or university with which the facility is affiliated and the *applicant*, which will allow the *applicant* to use college or university parking facilities to meet the parking requirement.

(c) A resident manager is required to live on the *premises*.

(d) The facility must be officially recognized by the college or university.

(e) The frequency and duration of organized outdoor activities and social events shall be limited as needed to minimize adverse impacts on neighboring *development*.

§143.0720 Density Bonus in Exchange for Affordable Housing Units

(a) through (f) [No change in text.]

(g) A *lower income student's* housing *density* bonus agreement shall utilize the following qualifying criteria:

(1) At least ~~20~~ 10 percent of the pre-*density* bonus units in the *development* shall be affordable to *lower income students* at a rent that does not exceed 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

(A) through (B) [No change in text]

(2) All units in the student housing *development* shall be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges

or the Accrediting Commission for Community and Junior Colleges. ~~The *applicant* shall, as a condition of receiving a certificate of occupancy, provide evidence to the satisfaction of the City Manager that the *applicant* has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions.~~

(3) [No change in text]

(4) The lower income student units shall be comparable in mix and amenities to the market-rate student units in the development and be dispersed throughout the development.

~~(4)~~(5) Rental units shall remain available as affordable units for a period of 55 years or longer, as may be required by other laws or covenants.

(h) through (k) [No change in text]

(l) A *development* proposal requesting an affordable housing *density* bonus is subject to the following:

(1) through (5) [No change in text]

(6) For *development* meeting the criteria for *lower income students*, the *density* bonus shall be ~~35 percent of the total pre-*density* bonus units, calculated in accordance with Section 143.0720(g)(1)(B) in~~

accordance with Table 143-07B.

(7) through (15) [No change in text]

(m) through (n) [No change in text]

(o) A residential or mixed-use *development* consistent with all base zone requirements may receive a 0.5 floor area ratio bonus that may be combined with programs and incentives in this Section if the *development* is located on a *premise* that is:

(1) Located in a *sustainable development area*; and

(2) Within a commercial base zone that allows for residential or mixed use development; and

(3) Has an existing land use that is not residential

(p) Very low income, low income and moderate income households located in an area identified as a Low Resource or High Segregation and Poverty Resource California Tax Credit Allocation Committee (CTCAC) Opportunity Area when the complete *development* application was submitted, shall receive priority preference for new covenant-restricted *dwelling units* created under this Section.

§143.0740 Incentives in Exchange for Affordable Housing Dwelling Units

An *applicant* proposing *density* bonus shall be entitled to incentives as described in this Division 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. The City shall process an incentive requested by an *applicant* as set forth in this section.

(a) through (e) [No change in text.]

(f) ~~For *development* meeting the criteria for *lower income students* in accordance with Section 143.0720(g), two incentives shall be available.~~

Table 143-07A

[No change in text.]

Table 143-07B

[No change in text.]

Table 143-07C

[No change in text.]

§143.0745 Locating Required Affordable Dwelling Units Off-site

A *development* that complies with the Affordable Housing Regulations may provide all or a portion of the required affordable *dwelling units* off-site in accordance with the following:

(a) through (e) [No change in text.]

(f) 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 or the Residential Tenant Protection Regulations in accordance with Chapter 9, Article 8, Division 7, whichever is greater.

(g) [No change in text.]

§143.0746 Affordable Housing in All Communities

(a) Affordable housing uses not otherwise allowed in High or Highest Resource California Tax Credit Allocation Committee (CTCAC) Areas. Affordable housing may be permitted in High or Highest Resource CTCAC Areas in accordance with Process One on a *premises* located within a non-residential base zone that does not otherwise allow *multiple dwelling unit development*, subject to all of the following:

(1) The *development* proposes to construct one or more of the following:

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

(C) Transitional housing; ~~or~~

(D) An emergency shelter; or

(E) A SRO Hotel in which the SRO Hotel Rooms meet the deed restriction requirement in section 143.0746(a)(7).

(2) The *premises* is located within all of the following:

(A) [No change in text.]

(B) An area identified as a High or Highest Resource CTCAC

Opportunity Area when the complete *development*

application was submitted;

(C) through (D) [No change in text.]

(3) through (7) [No change in text.]

(b) Affordable housing may be permitted on a *premises* owned by a public agency or a qualified nonprofit corporation (consistent with Chapter 2 of the Municipal Code) in accordance with Process One on a *premises* located within a base zone that does not allow *multiple dwelling unit development*, subject to all of the following:

(1) [No change in text.]

(2) The *development* includes one of the following:

(A) [No change in text.]

(B) *Multiple dwelling unit development for use by public agency employees to be constructed by a public agency or through a contract with a public agency;*

(C) *Multiple dwelling unit development for use by active or retired military personnel or veterans, to be constructed by the federal government or through a contract with the federal government;*

(D) *Multiple dwelling unit development for use by lower income students constructed by a community college district, state operated university, or through a contract with a community college district or a state operated university;*

- (~~BE~~) *Permanent supportive housing;*
 - (~~CF~~) *Transitional housing; or*
 - (~~DG~~) *An emergency shelter.*
- (3) The *premises* is located:
- (A) [No change in text.]
 - (B) Outside of an area ~~identified as designated for~~ Industrial, Park, or Open Space in a *land use plan*.
- (4) The residential *density* maximums for development shall be determined for the applicable portion of the *premises* as follows: not apply.
- (A) ~~Within Mobility Zone 1, (the Downtown Community Planning Area), the *density* and *floor area ratio* shall be unlimited.~~
 - (B) ~~Within an area as defined in Section 143.1103(a)(2) as Mobility Zone 2, *density* shall be limited by a maximum *floor area ratio* of 6.5.~~
 - (C) ~~Within an area as defined in Section 143.1103(a)(3) as Mobility Zone 3, *density* shall be limited by a maximum *floor area ratio* of 4.0.~~
- (5) ~~Residential *development* shall comply with the *development* regulations of the RM-2-5 zone with the exception of *density, floor area ratio, lot area, and lot dimensions* which shall comply with~~

the base zone.

(5) The residential maximum floor area ratio shall be determined by the Mobility Zone as defined in Section 143.1103 and percentage of very low income, low income and moderate income dwelling units provided as identified in Table 143-07E.

(A) Where a premises is located in two or more Mobility Zones, the entire premises shall be subject to the regulations applicable to the lowest Mobility Zone with the largest Floor Area Ratio bonus.

(B) Development located within the Coastal Overlay Zone and the Coastal Height Limit Overlay Zone as shown on Map No. C-380, filed in the office of the City Clerk as Document No. 743737, shall be limited to a maximum floor area ratio of 2.5, and to a maximum height of 30 feet, with the exception of those areas located within Mobility Zone 1.

Table 143-07E

Maximum Floor Area Ratios by Mobility Zone

<u>Mobility Zone</u>	<u>Affordability Level</u>	<u>Percent Affordable Dwelling Units after applied bonus</u>		
		<u>25-34%</u>	<u>35-49%</u>	<u>50-100%</u>
<u>1¹</u>	<u>Very Low Income, Low Income, and Moderate Income</u>	<u>Unlimited</u>	<u>Unlimited</u>	<u>Unlimited</u>

<u>2</u>	<u>Very Low Income or Low Income</u> ²	<u>6.0</u>	<u>7.0 FAR</u>	<u>8.0 FAR</u>
	<u>Moderate Income</u> ³	<u>5.0 FAR</u>	<u>6.0 FAR</u>	<u>7.0 FAR</u>
<u>3</u>	<u>Very Low Income or Low Income</u> ²	<u>4.0 FAR</u>	<u>5.0 FAR</u>	<u>6.0 FAR</u>
	<u>Moderate Income</u> ³	<u>3.0 FAR</u>	<u>4.0 FAR</u>	<u>5.0 FAR</u>

Footnotes for Table 143-07E

¹ Within Mobility Zone 1, there shall be no maximum floor area ratio.

² For base zones that have a maximum floor area ratio equal or greater than the floor area ratio specified in Table 143-07E, the development shall receive an additional floor area ratio bonus of 3.0 for very low income and low income dwelling units.

³ For base zones that have a maximum floor area ratio equal or greater than the floor area ratio specified in Table 143-07E, the development shall receive an additional floor area ratio bonus of 1.5 for moderate income dwelling units.

(6) Residential development shall comply with the following

development regulations:

(A) Within Mobility Zone 1, residential development shall comply with the underlying base zone, with the exception of the floor area ratio.

(B) Within Mobility Zones 2 and 3 and 4 residential development shall comply with the development regulations of the RM-2-5 zone with the exception of density, floor area ratio maximums, lot area, and lot dimensions.

(7) Development in Mobility Zone 4 shall be required to provide 10 points of VMT Reduction Measures in accordance with the Land

Development Manual, Appendix T or the *applicant* may the Active Transportation In Lieu Fee referenced in Section 143.1103(e) in lieu of providing the VMT Reduction Measures for the *development*.

(7) Development consistent with the criteria in this section shall be entitled to incentives and waivers in accordance with Sections 143.0740 through 143.0743.

(8) Development shall comply with the regulations of the Airport Land Use Compatibility Overlay Zone in accordance with Chapter 13, Article 2, Division 15.

(9) Affordable dwelling units within a multiple dwelling unit development shall remain available and affordable for a period of 55 years or longer, as may be required by other laws or covenants

§143.0747 Incentives for Development of a Previously Conforming Use

Development that is identified as a previously conforming use according to Section 127.0720 and the premises is located within the boundaries of the San Diego Promise Zone as federally designated on June 6, 2016, is entitled to the following incentives:

(1) If a complete development application is submitted within 15 years of the date of notification in accordance with Section 127.0112

(b)(2)(A), the development may increase its maximum floor area

ratio allowed in the base zone by 0.5. The increased density shall be in addition to any other increase in density allowed in this Division.

- (2) If a development on the premises includes 50 percent of its pre-density bonus dwelling units set aside as affordable to very low income, low income, or moderate income households for a period of not less than 55 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, is submitted to the City within 15 years of date the notification in accordance with Section 127.0112 (b)(2)(A), the development may increase its maximum floor area ratio allowed base zone by 1.0. The increased density shall be in addition to any other increase in density allowed in this Division.

§143.0810 Purpose of Coastal Zone Affordable Housing Replacement Regulations

The purpose of these regulations is to preserve existing ~~dwelling units~~ dwelling units within the Coastal Overlay Zone that are occupied by very low income, low income, or moderate income families as defined by Government Code Section 65590(b). These regulations are intended to implement Government Code Section 65590 and the City of San Diego's own pro-housing policies, by providing for replacement housing within the Coastal Overlay Zone.

§143.0815 When Coastal Overlay Zone Affordable Housing Replacement Regulations Apply

- (a) This division applies to any *development* that proposes the conversion or demolition of ~~dwelling units~~ rental dwelling units within the Coastal Overlay Zone that are occupied by persons or *families* of very low income, low income, moderate income, except as provided in Section 143.0820.
- (b) The following *development* types shall be reviewed for compliance with the regulations in this division:
 - (1) through (2) [No change in text.]
 - (3) Demolition of a residential *structure* with three or more ~~dwelling units~~ dwelling units or demolition of at least ~~eleven units~~ five dwelling units when two or more *structures* are involved.
- (c) [No change in text.]

§143.0820 Exemptions from the Coastal Overlay Zone Affordable Housing Replacement Regulations

This division is not applicable to the following:

- (a) through (b) [No change in text.]
- (c) The conversion or demolition of a residential *structure* that contains less than three ~~dwelling units~~ dwelling units; and
- (d) The conversion or demolition of ~~10-4~~ or fewer dwelling units on a *premises* with more than one residential *structure*.

§143.0830 Coastal Overlay Zone Affordable Housing Replacement Requirements

- (a) Within the Coastal Overlay Zone, the conversion or demolition of ~~dwelling units~~ dwelling units occupied by households of very low income, low income, or moderate income is prohibited unless provision is made for the replacement of the units on a one-to-one basis.
- (b) The replacement requirements to provide ~~dwelling units~~ dwelling units affordable to, and occupied by, very low income, low income, or moderate income families can be met in any of the following ways:
- (1) Conversion of existing market-rate ~~dwelling units~~ dwelling units to units affordable to, and occupied by, very low income, low income, or moderate income persons or *families*;
 - (2) Conversion of existing nonresidential *development* to ~~dwelling units~~ dwelling units affordable to, and occupied by, very low income, low income or moderate income persons or *families*;
 - (3) *Development* of new ~~dwelling units~~ dwelling units affordable to, and occupied by, very low income, low income, or moderate income persons or *families* to replace those housing units converted or demolished;
 - (4) Substantial rehabilitation of deteriorated or dilapidated ~~dwelling units~~ dwelling units to units affordable to, and occupied by, very low income, low income, or moderate income persons or *families*;
- or
- (5) [No change in text.]

§143.0840 General Rules for Coastal Overlay Zone Affordable Housing Replacement Regulations

(a) The Executive Director of the San Diego Housing Commission shall be responsible for determining very low income, low income, and *moderate income* affordability standards and residents' qualifications.

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

§143.0850 Development Review Procedures and Requirements for Coastal Overlay Zone Affordable Housing Replacement

(a) [No change in text.]

(b) Within 45 calendar days of receipt of the application for *development*, the Executive Director of the San Diego Housing Commission shall determine whether the ~~dwelling units~~ dwelling units to be converted or demolished are occupied by persons or *families* of very low income, low income, or *moderate income*. -This determination shall be based upon a survey of the residents. -Information on tenant income shall be provided under penalty of perjury and shall include income from all sources, including reasonable return on tenant assets. -A ~~dwelling units~~ dwelling unit need not be replaced if, based upon a tenant income survey of the residents, the Executive Director determines that the unit is not occupied by persons or *families* of very low income, low income, or *moderate income*.

(c) Where a proposed *development* is required to provide replacement units that are affordable to very low income, low income, or *moderate income* persons or *families*, the *applicant* shall enter into a Coastal Affordable

Housing Compliance Agreement with the San Diego Housing Commission and shall be issued. -The agreement shall include the following provisions:

- (1) A description of the *coastal development* project, including its location and the number of ~~dwelling units~~dwelling units to be developed, converted, or demolished;
- (2) [No change in text.]
- (3) A description of the method to be used to insure the affordability of the replacement ~~dwelling units~~dwelling units. -The term of affordability shall be for at least 5 years. -Affordability shall include the rent or estimated housing cost and, in the case of for-sale units, the *applicant* shall identify the techniques to be used to limit future resales. -The agreement shall be recorded and shall be an encumbrance upon the applicant's project until the provisions of this section are satisfied.

- (d) If an *applicant* chooses to pay an in-lieu fee instead of providing replacement ~~dwelling units~~dwelling units, the agreement shall include a provision that the San Diego Housing Commission shall develop, and make available as soon as feasible, the number and type of ~~dwelling units~~dwelling units the *applicant* would otherwise have been required to provide. -The agreement shall also include the amount of the fee and the manner in which the fee shall be paid in accordance with the following:

(1) In the case of conversions, the fee shall be due upon commencement of sales of ~~dwelling units~~dwelling units converted to residential ownership status or upon approval of the final permits for change of use to nonresidential use;

(2) through (4) [No change in text.]

(e) through (f) [No change in text.]

§143.0860 Standards for Coastal Overlay Zone Affordable Housing Replacement Dwelling Units

(a) Replacement ~~dwelling units~~dwelling units shall provide housing opportunities similar to those provided by the ~~dwelling units~~dwelling units converted or demolished. Replacement ~~dwelling units~~dwelling units shall be acceptable to the Executive Director of the San Diego Housing Commission in accordance with a Coastal Affordable Housing Compliance Permit. The replacement ~~dwelling units~~dwelling units need not be identical to those converted or demolished, but should be provided in the same *bedroom* ratio.

(b) Priority for location of replacement ~~dwelling units~~dwelling units shall be as follows and in accordance with Section 143.0860(c):

(1) [No change in text.]

(2) Elsewhere in the Coastal Overlay Zone within the same community plan area; or

(3) Elsewhere in the Coastal Overlay Zone; ~~or~~

(4) ~~If location on the site or elsewhere within the Coastal Overlay Zone is not feasible, the replacement dwelling units shall be located within three miles of the Coastal Overlay Zone. However, in no case shall the replacement dwelling units be located outside the Coastal Overlay Zone within any census tract impacted by an over-concentration of persons and families of low income, as defined by the Progress Guide and General Plan Housing Element.~~

(c) Replacement dwelling units that are not located on the same premises as the converted or demolished affordable dwelling units shall comply with all of the following:

(1) Replacement dwelling units shall not be constructed within an area identified as a Low Resource or High Segregation and Poverty California Tax Credit Allocation Committee (CTCAC) Opportunity Area when the complete development application was submitted.

(2) If the converted or demolished affordable dwelling units were located on a premises within an area identified as a High or Highest Resource CTCAC Opportunity Area when the complete development application was submitted, the replacement dwelling units shall also be constructed within a High or Highest Resource CTCAC Opportunity Area, and in no case shall be constructed in a lower Opportunity Area

than the Opportunity Area in which the subject premises is located.

(ed) Replacement ~~dwelling units~~ dwelling units shall be provided and available for occupancy within three years of the date that a converted unit is offered for sale to the public or that the physical demolition of a demolished unit is substantially complete.

(e) Very low income, low income and moderate income households located in an area identified as a Low Resource or High Segregation and Poverty California Tax Credit Allocation Committee (CTCAC) Opportunity Area when the complete development application was submitted, shall receive priority preference for new affordable dwelling units created under this Division.

(1) through (3) [No change in text.]

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

§143.1005 Required Replacement of Existing Affordable Units

(a) [No change in text.]

(b) The number and type of required replacement affordable *dwelling units* shall be determined as follows:

(1) through (3) [No change in text.]

(4) All rental replacement affordable *dwelling units* shall be affordable for at least 55 years. Very low income, low income and moderate income households located within an area identified as a Low

Resource or High Segregation and Poverty California Tax Credit Allocation Committee (CTCAC) Opportunity Area when the complete *development* application was submitted, shall receive priority preference for new covenant-restricted *dwelling units* created under this Division.

- (5) [No change in text.]
- (6) The *applicant* agrees to provide relocation benefits to the occupants of those affordable residential *dwelling units*, and the right of first refusal for a comparable *dwelling unit* available in the new housing *development* at a rent affordable to *very low* or *low income* households.
- (A) [No change in text.]
- (B) For any *very low*, *low*, or *moderate income* household displaced by conversion, the *applicant* shall pay to such household an amount in accordance with Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the California Government Code or the Residential Tenant Protection Regulations located in Chapter 9, Article 8, Division 7, whichever is greater.
- (7) [No change in text.]

§143.1010 Incentives in Exchange for Sustainable Development Area Affordable 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 *floor area ratio* based upon whether the *development* is located in FAR Tier 1, FAR Tier 2, FAR Tier 3, or FAR Tier 4. 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.

Development located within the Coastal Overlay Zone and the Coastal Height Limit Overlay Zone as shown on Map No. C-380, filed in the office of the City Clerk as Document No. 743737, shall be limited to a maximum *floor area ratio* of 2.5, and to a maximum height of 30 feet, with the exception of those areas located within the FAR Tier 1.

(1) through (4) [No change in text.]

(5) An additional *floor area ratio* bonus of 1.5 shall be added to the maximum *floor area ratio* identified in Section 143.1010(a)(2)-(4)

if:

- (A) At least 10 percent of the total *dwelling units* in the *development* are at least two *bedroom dwelling units* and at least 10 percent of the total *dwelling units* in the *development* are at least three *bedroom dwelling units*; and

(B) Each *dwelling unit* is under only one lease agreement per

dwelling unit.

- (b) through (d) [No change in text.]
- (e) Waiver of the private exterior open space requirement in Section 131.0455 for all *dwelling units* in the *development* if at least 10 percent of the total *dwelling units* in the *development* are at least three *bedroom dwelling units*, and each *dwelling unit* in the *development* is under only one lease agreement per *dwelling unit*.
- (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)(4).~~
- (g) Waiver of Development Impact Fees for all covenant-restricted affordable *dwelling units* and all *dwelling units* that ~~do not exceed 500 square feet~~ contain at least three *bedrooms*, if the *development* provides a residential *density* that is at least 120 percent of the maximum permitted *density* of the applicable base zone or Planned District.
- (h) Waiver of the Neighborhood Enhancement Fee for *development* that meets the affordable housing requirements set forth by this Division and restricts 100 percent of the *dwelling units*, not including any managers units, to households earning no more than 50 percent of the area *median income*.
- (i) Use of up to five Affordable Housing Incentives. An *applicant* utilizing the regulations in this Division shall be entitled to incentives as described in Section 143.1010(i) 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. The City shall process an incentive requested by an *applicant* in accordance with Section 143.1010(i).

(1) through (4) [No change in text.]

- (j) Affordable Housing waivers may be granted, except that waivers cannot be used to deviate from the requirements of this Division. An *applicant* utilizing the regulations in this Division shall be entitled to a waiver as described in Section 143.1010(j) 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) through (4) [No change in text.]

- (k) Compliance with the regulations in this Division 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), an *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) through (3) [No change in text.]

(4) As an alternative to the requirements in Sections 143.1015(a) (1)-(3) ~~or 1431.1015(a)(4)~~, an *applicant* may meet one of the following requirements: ~~at least 40 percent of rental dwelling units in the development, excluding any additional dwelling units allowed under a floor area ratio bonus, for rent by 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.;~~

(A) Provides at least 40 percent of the rental *dwelling units* in the *development*, excluding any additional *dwelling units* allowed under a *floor area ratio* bonus, 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; or

(B) Provides 100 percent of the total *dwelling units*, not including any managers units, in the *development* for rent by *low income* households, including an allowance for utilities, that does not exceed 30 percent of 60 percent of the area *median income*, as adjusted for household size; or

(C) Provides 100 percent of the rental *dwelling units* in the *development*, excluding any additional *dwelling units* allowed under a *floor area ratio* bonus, for rent by *moderate income* households at a cost, including an allowance for utilities, that does not exceed:

(i) 30 percent of 80 percent of the area *median income*, as adjusted for household size for at least 50 percent of the required rental *dwelling units*; and

(ii) 30 percent of 120 percent of the area *median income*, as adjusted for household size for remainder of the required rental *dwelling units*.

(5) through (6) [No change in text.]

(7) As an alternative to the requirements in Section 143.1015(a) to provide the required rental *dwelling units* onsite, the required rental *dwelling units* may be provided on different *premises* from the *development* subject to all of the following requirements:

(A) The required rental *dwelling units* shall be located on a receiver site that is located within:

(i) A *Sustainable Development Area*; and

(ii) An area identified as a Moderate, High, or Highest Resource California Tax Credit Allocation

Committee (CTCAC) Opportunity Area when the

complete development application was submitted;

(B) The applicant shall pay a fee to the “Neighborhood Enhancement Fund,” as established by City Council Resolution R-313282, that is calculated based on the square feet of lot area for the development premises and the premises for the receiver site for the required rental dwelling units.

i) The fee to the “Neighborhood Enhancement Fund,” for the receiver site shall not exceed the amount of the fee for the development premises.

(C) A final inspection shall not occur for the development until a deed of trust for the affordable dwelling units located at the receiver site has been entered by the applicant and the President and the Chief Executive Officer of the San Diego Housing Commission.

(D) The applicant shall record a deed restriction prior to the issuance of the first Building Permit for the development that:

(i) Documents the required number of affordable dwelling units to be provided; and

(ii) Assigns foreclosure rights of the development

premises to the San Diego Housing Commission as

follows: For new *development*, if the affordable *dwelling units* have not received a certificate of occupancy within 54 months of the issuance of the first Building Permit. For an existing *structure*, if the affordable *dwelling units* have not received a certificate of occupancy within 36 months of the issuance of the first Building Permit.

(b) [No change in text.]

(c) ~~Notwithstanding Section 143.1015(a), as an alternative to the requirements in Section 143.1015(a)(1) (3), an *applicant* may provide 100 percent of the total dwelling units, not including any managers units, in the *development* for rent by *low income* households, including an allowance for utilities, that does not exceed 30 percent of 60 percent of the area *median income*, as adjusted for household size.~~

§143.1025 Supplemental Development Regulations

Development utilizing the regulations in this Division must comply with the following Supplemental Development Regulations and may not utilize the waivers provided in Section 143.1010(h) to deviate from the requirements in Section 143.1025.

(a) Pedestrian Circulation Space. All *development* shall include the following pedestrian circulation improvements:

(1) through (3) [No change in text.]

(4) ~~Gated entryways and street yard fencing is prohibited.~~

(54) Each *dwelling unit* on the ground *floor* fronting a *public right-of-way* or a private drive shall have a separate ground *floor* entrance or path adjacent to the *public right-of-way* or a private drive.

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

(d) Buffer from Adjacent Freeways. *Development*, except for *development* within the Centre City Planned District, on a *premises* within 50 feet of a freeway shall comply with the following:

(1) [No change in text.]

(2) Outdoor areas such as ~~balconies, patios,~~ parks, plazas, and other common spaces occupied used by residents, customers or members of the public shall be oriented away from the freeway.

(e) through (f) [No change in text.]

§143.1201 Purpose of the Dwelling Unit Protection Regulations

The purpose of these regulations is to specify when and how a residential *development* that proposes demolition of existing *dwelling units* and/or *protected dwelling units* must replace those *dwelling units*. These regulations are intended to implement California Government Code Section 66300(d) and the City of San Diego's own pro-housing policies by requiring replacement of *dwelling units* and *protected dwelling units* for any residential *development* subject to this Division.

§143.1203 When the Dwelling Unit Protection Regulations Apply

This Division applies to the following *developments* with a complete *development* application ~~between~~ submitted on or after January 1, 2020 and December 31, 2024:

- (a) through (b) [No change in text.]
- (c) Mixed-use *developments* consisting of residential and non-residential uses where at least two-thirds of the square footage is designated for residential use; and
- (d) Transitional housing facilities and *permanent supportive housing*; and
- (e) Commercial *development* in zones that permit residential *development*.

§143.1205 ~~Expiration of the *Dwelling Unit Protection Regulations*~~

~~Consistent with California Government Code Section 66301, the regulations of this Division shall remain in effect until January 1, 2025, and as of that date are repealed unless a later enacted ordinance deletes or extends that date.~~

§143.1207 ~~Definitions~~

The following definitions apply to this Division in addition to the definitions found in Chapter 11, Article 3, Division 1 of the Land Development Code. Each word or phrase that is defined in this Division or in Chapter 11, Article 3, Division 1 of the Land Development Code appears in the text in italicized letters.

- (a) *Protected dwelling unit* means any of the following:
 - (1) *Dwelling units* located outside of the Barrio Logan Plan Area that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to *very low income* or *low*

income households during the five--year period preceding the application.

(2) *Dwelling units located outside of the Barrio Logan Plan Area* that are or were ~~occupied~~ rented by *very low income* or *low income* households during the five--year period preceding the application.

(3) *Dwelling units located within the Barrio Logan Plan Area* that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to *very low income* or *low income* households during the seven -year period preceding the application.

(4) *Dwelling units located within the Barrio Logan Plan Area* that are or were rented by *very low income* or *low income* households during the seven -year period preceding the application.

(35) *SRO hotel rooms* or other *dwelling units* that were withdrawn from rent or lease in accordance with California Government Code Sections 7060 through 7060.7 during the 10--year period preceding the application.

§143.1212 Replacement of *Protected Dwelling Units*

Development subject to this Division that proposes demolition of vacant or occupied *protected dwelling units* on the *premises* shall comply with all the following:

(a) through (c) [No change in text.]

- (d) The *applicant* shall provide existing residents of *protected dwelling units* with all of the following:
- (1) The ability to occupy their units until six months before the start of construction activities with proper notice, pursuant to California Government Code Sections 7260 through 7277. In the Barrio Logan Community Plan Area, any existing residents shall be allowed to occupy their ~~dwelling units~~ dwelling units until six months before the start of construction activities with proper notice, which shall occur at least 12 months prior to the anticipated termination of residency. The ~~record owner~~ ~~record owner~~ applicant shall deliver a notice of intent to terminate residency to the San Diego Housing Commission and to each resident household.
 - (2) The ability to return at their prior rental rate if the demolition does not proceed and the property is returned to the rental market.
 - (3) To those households that remain in a *protected dwelling unit*, the *applicant* shall provide:
 - (A) Relocation benefits consistent with the requirements of California Government Code Sections 7260 through 7277 ~~for public agencies or the Residential Tenant Protection Regulations located in Chapter 9, Article 8, Division 7, whichever is greater.~~ The applicant or the applicant's agent applicant for development in the Barrio Logan Community

Plan Area shall engage a qualified third-party contractor or consultant to oversee the provision of the required relocation benefits. The third-party contractor or consultant shall provide a letter to the San Diego Housing Commission certifying compliance with the relocation benefits requirements after completion of the relocation process.

(B) [No change in text.]

(C) For development located within the Barrio Logan Community Plan Area, residents living within one mile of the ~~development~~ development at the time of application shall receive priority for 75 percent of the affordable ~~dwelling units~~ dwelling units in the ~~development~~ development that are reserved for ~~very low income~~ very low income, ~~low income~~ low income, or ~~moderate income~~ moderate income households.

Table 143-12A

[No change in text.]

(e) Any *protected dwelling units* replaced in accordance with this Division may be counted toward compliance with the Inclusionary Affordable Housing Regulations in Chapter 14, Article 2, Division 13, ~~and the~~ Affordable Housing Regulations in Chapter 14, Article 3, Division 7, and

the Coastal Overlay Zone Affordable Housing Replacement Regulations in Chapter 14, Article 3, Division 8.

- (f) Very low income, low income, and moderate income households located within an area identified as a Low Resource or High Segregation and Poverty California Tax Credit Allocation Committee (CTCAC) Opportunity Area when the complete *development* application was submitted, shall receive priority preference for new covenant-restricted *dwelling units* created under this Division.

Article 3: Supplemental Development Regulations

Division 15: Missing Middle Housing Regulations

§143.1501 Missing Middle Housing Regulations

These regulations are intended to implement California Senate Bill 10 (2021-2022) and California Government Code Sections 65913.5 by allowing the construction of additional *dwelling units* on residentially-zoned *lots*, as specified in this Division. These regulations specify when and how additional *dwelling units* may be permitted in a base zone that allows residential uses and includes supplemental development regulations applicable to *development* proposed under this Division. These regulations shall not apply if any other density bonuses from Chapter 14, Article 3, Division 7 are being utilized.

§143.1505 Applicability of Missing Middle Housing Regulations

- (a) This Division applies to *premises* that do not otherwise allow for at least 10 *dwelling units* per base zone *density*, and that are located within or partially within all of the following:
- (1) *Sustainable Development Area*; and
 - (2) A RS, RX, RT, RM zone, or a Planned District zone that permits only *single dwelling unit* or *multiple dwelling unit development*.
- (b) This Division is not applicable in the following circumstances:
- (1) When the *premises* is located within any of the following:
 - (A) *Wetlands*;
 - (B) The Very High Fire Hazard Severity Zone, unless the *development* complies with Chapter 7A of the California Building Code, which mitigates wildfire exposure risk through materials and construction methods;
 - (C) A hazardous waste site that is listed pursuant to California Government Code Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the California Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses;

State Geologist in any official maps published by the California State Geologist, unless the *development* complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by the Development Services Department;

(E) *Special Flood Hazard Areas, unless:*

(i) The *premises* has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction; or

(ii) The *premises* meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

- (F) A regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the *development* has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If an *applicant* is able to satisfy all applicable federal qualifying criteria in order to provide that the *premises* satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, an application shall not be denied on the basis that the *applicant* did not comply with any additional City permit requirement, standard, or action that is applicable to that *premises*:
- (G) The *MHPA* of the *MSCP Subarea Plan*;
- (H) *Environmentally Sensitive Lands* conserved by dedication in fee title, covenant of easement, or conservation easement; or
- (I) A *historical district* that is a *designated historical resource*, or on a *premises* that contains a *designated historical resource* as of January 1, 2023.
- (J) Land designated in a *land use plan* as open space or park.

- (K) On parcels adjacent to streets that do not meet the requirements for street improvements, including sidewalks, as described in Section 142.0670(a).
- (2) If the *development* requires demolition or alteration of a *dwelling unit* that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate income, low income, or very low income.
- (3) If the *premises* contains SRO hotel rooms or other *dwelling units* that were withdrawn from rent or lease in accordance with California Government Code Sections 7060 through 7060.7 during the 15-year period preceding the application.
- (4) If the *development* is located on a *premises* located more than 0.5 miles from a *major transit stop* in which less than 75 percent of the perimeter of the *premises* adjoins parcels that are developed with urban uses as defined as any residential, commercial, industrial, public institutional, transit, transportation passenger facility, or retail use, or any combination of those uses or as otherwise specified in California Health and Safety Code 53545.12(h) as amended.

§143.1510 Supplemental Development Regulations

An *applicant* seeking to utilize the provisions of this Division shall comply with all of the regulations in this Section.

- (a) The *development* regulations of the RM-1-1 base zone shall apply, except for the following regulations specified in this section.
- (b) *Density Regulations.* The maximum number of *dwelling units* on the *premises* shall not exceed the following:
- (1) *Development on a premises within a RM and Planned District Zone that permits multiple dwelling unit development, no more than 10 total dwelling units shall be permitted unless the development includes ADUs or JADUs allowed under Section 143.1510 (n), in which case the dwelling unit limit in 143.1510 (n)(1)(c) would apply.*
- (2) *Development on a premises within a RS, RX, RT and Planned District Zones that permits single dwelling unit development, no more than one dwelling unit for every 1,000 square feet of lot area or 10 dwelling units, whichever is less, shall be permitted, unless the development includes ADUs or JADUs allowed under Section 143.1510 (n), in which case the dwelling unit limit in 143.1510 (n)(1)(c) shall apply.*
- (c) *Lot Regulations.*
- (1) *Lot Area.* The minimum *lot* area shall not be less than 1,000 square feet.
- (2) *Lot Dimensions.* The minimum *lot* dimensions shall not be less than the following:

(A) Lot Width: 18 feet

(B) Lot Width (corner): 20 feet

(C) Lot Depth: 50 feet

(d) Setback Regulations.

(1) For development on a premises within a RS Zone, the following setback regulations shall apply.

(A) Minimum Front Setback 5 feet [See section 131.0443(c)(1)]

(B) Maximum Front Setback 15 feet [See section 131.0443(c)(1)]

(C) Minimum Side Setback 4 feet

(D) Minimum Side Street Setback 4 feet

(E) Minimum Rear Setback 4 feet

(2) For development on a premises within a RX, RT, RM or Planned District Zone, the setback regulations of section 143.1510(d)(1) shall apply unless the setback regulations for the base zone are less.

(e) Structure Height Regulations.

(1) The maximum structure height shall be 35 feet or the maximum structure height of the base zone, whichever is greater.

- (2) Within the Coastal Height Limit Overlay Zone, the maximum structure height shall be 30 feet, which shall be determined in accordance with section 113.0270(a)(4)(D).
- (f) Lot Coverage Regulations. Maximum lot coverage shall not apply to development constructed in accordance with this Division.
- (g) Floor Area Ratio Regulations. The maximum floor area ratio shall not exceed 3.0 or the maximum floor area ratio of the base zone, whichever is greater.
- (h) Private Exterior Open Space Regulations. Private exterior open space regulations shall not apply on a premises less than 10,000 square feet for development within the RM and Plan District Zones.
- (i) Common Open Space Regulations. Common open spaces regulations shall not apply on a premises less than 10,000 square feet for development on a premises within the RM or Planned District Zones.
- (j) Bedroom Regulations. Development exceeding a total of four dwelling units shall provide:
- (1) At least two dwelling units that contain three or more bedrooms,
and
- (2) At least one additional dwelling unit that contains two or more bedrooms.
- (l) Parking Regulations.

(1) Within a transit priority area, off-street parking spaces shall not be required.

(2) Outside of a transit priority area, off-street parking spaces shall be provided as follows:

(A) Off-street parking spaces are not required for the first two dwelling units. For any dwelling units constructed after the first two, one off-street parking space per dwelling unit is required.

(B) Within the Beach Impact Area of the Parking Impact Overlay Zone, one off-street parking space shall be required per dwelling unit.

(C) For development providing off-street parking spaces, the following regulations shall apply:

(1) The required front yard shall be limited to a maximum of 40 percent paving and hardscape.

(2) Within the required street yard, paving and hardscape shall be limited to:

(a) A drive aisle consistent with the requirements in §142.0521 with direct vehicular access to off-street parking spaces; and

(b) A walkway to facilitate pedestrian access to dwelling units; and

(3) Any decorative paving or hardscape that is not designed for vehicular access.

(m) Pedestrian Access Regulations. The *development* shall include at least one pedestrian walkway from a street frontage other than an alley to provide access to all *dwelling units*.

(n) Homeownership Opportunity Regulations. The *development* shall ensure that the *dwelling units* can be subdivided into individual ownership through a Subdivision Map Act action without requiring additional improvements to the structure. Any *Accessory Dwelling Units* or *Junior Accessory Dwelling Units* must be located on the *premises* in a manner that would facilitate individual ownership of a *dwelling unit* with any *Accessory Dwelling Units* or *Junior Accessory Dwelling Units*.

(o) *Accessory Dwelling Unit* and *Junior Accessory Dwelling Unit* Regulations. This Division may be utilized in conjunction with *Accessory Dwelling Unit* and *Junior Accessory Dwelling Unit* development consistent with the following regulations:

(1) *An applicant* may construct no more than two attached or detached *Accessory Dwelling Units* and no more than two *Junior Accessory Dwelling Units* in addition to the *dwelling units* permitted in accordance with this Division.

(A) Under no circumstances shall the total number of *dwelling units* on the *premises*, inclusive of *Accessory Dwelling*

Units and Junior Accessory Dwelling Units, exceed 10 dwelling units.

- (B) The Accessory Dwelling Units shall comply with the regulations in Section 141.0302, except that no more than two Accessory Dwelling Units shall be permitted on the premises in a Multiple Dwelling Unit Zone, and no more than one Accessory Dwelling Unit shall be permitted on a premises in a Single Dwelling Unit Zone.
- (C) The Junior Accessory Dwelling Units shall comply with the regulations in Section 141.0302(d), except that no more than two Junior Dwelling Units shall be permitted on the premises in a Multiple Dwelling Unit Zone, and no more than one Junior Accessory Dwelling Unit shall be permitted on a premises in a Single Dwelling Unit Zone.
- (D) Development constructed pursuant to this Division may not include bonus Accessory Dwelling Units allowed in section 141.0302(c)(2)(G).
- (E) Any Accessory Dwelling Units or Junior Accessory Dwelling Units constructed under this section shall be deed-restricted for very low income or low income households for a period of at least 55 years.

(q) Any mixed-use *development* proposed under this Division is limited to no more than 30 percent of the square footage of the *development* for non-residential uses.

(r) *Development* proposed under this Division shall comply with the regulations of the Airport Land Use Compatibility Overlay Zone (Chapter 13, Article 2, Division 15).

§143.1515 Rental of Dwelling Units Constructed in Accordance with this Division

A *dwelling unit* constructed in accordance with this Division shall not be rented for fewer than 31 days.

§143.1520 Required Provision of Affordable Dwelling Units

(a) In accordance with Section 143.1505, an *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) *Development* exceeding a total of four *dwelling units* shall provide at least one primary *dwelling unit* that is set aside as affordable to very low income, low income, or moderate income households for a period of not less than 55 years, guaranteed through a written agreement and a deed of trust securing the agreement.

(2) *Developments* located in an area identified as a High or Highest Resource California Tax Credit Allocation Committee (CTCAC) Opportunity Area when the complete *development* application was submitted, exceeding a total of four *dwelling units*, at least one additional primary *dwelling unit* shall be affordable to *low income* or *very low-income* households for a period of at least 55 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.

(b) An applicant may pay the Inclusionary In Lieu Fee in accordance with Section 142.1306 as an alternative method of compliance with section 143.1520(a). The fee amount shall be increased as follows:

(1) *Development* located in an area identified as a High or Highest Resource California Tax Credit Allocation Committee (CTCAC) Opportunity Area when the complete *development* application was submitted shall pay 150% of the amount of the Inclusionary In Lieu Fee in accordance with section 142.1306.

(2) *Development* located in an area identified as a Moderate Resource California Tax Credit Allocation Committee (CTCAC) Opportunity Area when the complete *development* application was

submitted shall pay 125% of the amount of the Inclusionary In
Lieu Fee in accordance with Section 142.1306.

(c) An applicant providing affordable dwelling units on site in accordance
with section 143.1520(a) is eligible for one of the following:

(1) A waiver of the payment of a fee for the “Neighborhood
Enhancement Fund” requirement in Section 143.1525(a); or

(2) A waiver of the requirement to provide a three or more bedroom
dwelling unit in accordance with section 143.1510(j)(1). This
requirement shall be replaced with the requirement to provide one
additional two or more bedroom dwelling unit in accordance with
Section 143.1510(j)(2); or

(3) An incentive consistent with Sections 143.0740(a)(1),
143.0740(b)(1)-(3), and 143.0740(c).

§143.1525 Required Provision of Infrastructure Amenities

In accordance with section 143.1505, an applicant requesting application of the
regulations in this Division shall provide infrastructure amenities as follows:

(a) Neighborhood Enhancement Fund. All development shall pay a fee to the
“Neighborhood Enhancement Fund.” as established by City Council
Resolution R-313282, unless applicant utilizes the waiver established in
section 143.1520(c)(1).

§144.0505 Tenant Benefits, Rights and Obligations

(a) — The *subdivider* of a *condominium conversion* project shall provide all of the following benefits ~~specified in section 144.0505(b)~~ to any person whose tenancy in the project the *subdivider* terminates due to the *condominium conversion*:

(a) The right of first refusal to purchase their *dwelling unit* or another *dwelling unit* in the *condominium conversion* project.

(b) The *applicant* shall provide a relocation assistance payment to all tenants of the project. ~~The relocation payment shall be three months' rent based on the current San Diego "fair market rent" for apartment size, as established by the U.S. Department of Housing and Urban Development. The relocation payment shall be paid no later than the day on which the *applicant* gives notice to the tenant to vacate the premises and shall be based upon the fairmarket rent at the time of the notice.~~ Relocation Assistance in accordance with the Residential Tenant Protection Regulations in Chapter 9, Article 8, Division 7. In the Barrio Logan Community Plan Area, the *applicant* shall provide relocation benefits to all tenants of the project pursuant to California Government Code Sections 7260 through 7277 or the Residential Tenant Protection Regulations located in Chapter 9, Article 8, Division 7, whichever is greater.

(c) [No change in text.]

LNH:cm
April 7, 2023
Or.Dept: Planning
Doc. No. 3273408

DRAFT

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
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October 14, 2022

Heidi Vonblum, Planning Director
Planning Department
City of San Diego
9485 Aero Dr, M.S. 413
San Diego, CA 92123

Dear Heidi Vonblum:

RE: Review of the City of San Diego's Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, § 65852.2)

Thank you for submitting the City of San Diego's (City) accessory dwelling unit (ADU) Ordinance No 21254 (Ordinance), adopted October 30, 2020, to the California Department of Housing and Community Development (HCD). The Ordinance was received on September 15, 2021. HCD has reviewed the Ordinance and submits these written findings pursuant to Government Code section 65852.2, subdivision (h). HCD finds that the Ordinance does not comply with section 65852.2 in the manner noted below. Under that statute, the City has up to 30 days to respond to these findings. Accordingly, the City must provide a written response to these findings no later than November 12, 2022.

HCD commends the City's commitment to ADU and junior accessory dwelling unit (JADU) creation and understands that the JADU provisions are meant to provide a wider range of options. HCD also recognizes that the Ordinance is more permissive in some areas than required by statute, such as requiring smaller setbacks and waiving parking requirements, and that the Ordinance offers incentives to encourage ADU production. HCD appreciates these efforts and encourages the City to continue to seek creative solutions within the opportunities and constraints provided by statute.

The ADU Ordinance addresses many statutory requirements; however, HCD finds that the Ordinance does not comply with State ADU Law in the following respects:

- Section 113.0103 – Efficiency Kitchen Definition – The Ordinance states that “*Efficiency kitchen* means a food storage and preparation area of containing a kitchen sink, cooking appliance, and refrigeration facilities, each having a clear working space of not less than 30 inches in front.” However, the sink requirement, previously specified in Government Code section 65862.22,

subdivision (a)(6), was removed and efficiency kitchen is now defined as “[a] cooking facility with appliances.” (Gov. Code, § 65852.22, subd. (a)(6)(A).) It shall include “[a] food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.” (Gov. Code, § 65852.22, subd. (a)(6)(B).) The City must remove the sink requirement and the reference to refrigeration facilities and the working space of not less than 30 inches to comply with existing statute. HCD recommends adopting language strictly per the above-mentioned subdivisions for conciseness and compliance.

- Section 141.0302 (a)(2)(D)(ii) – JADUs & “New Structures” – The Ordinance states that “New ADU and JADU structures must comply with front yard and street side yard setbacks....” However, JADUs are only permitted within the walls of a primary single-family dwelling; therefore, separate setbacks do not apply to JADUs. The City should remove the reference to JADUs.
- Section 141.0302 (a)(2)(F) – Max Size – The Ordinance states that “the maximum gross floor area of an ADU shall not exceed 1,200 square feet.” However, converted ADUs created pursuant to Government Code section 65852.2, subdivision (e)(1)(A), may not be subject to size limitations. The City should add language to explain this exception.
- Section 141.0302 (c)(2)(B) – JADUs – The Ordinance states, “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, an attached or detached garage, or an ADU. A JADU constructed within an existing structure may construct an additional 150 square feet for ingress and egress only.” The City’s provision to allow JADUs in ADUs and accessory structures—while allowing greater flexibility for JADU construction—goes beyond what State ADU and JADU law prescribe and conflicts with Government Code section 65852.22, subdivision (h)(1), which defines a JADU as a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. HCD has maintained that this includes attached garages, as attached garages are considered within the walls of the existing single-family residence. (HCD ADU Handbook, July 2022, p. 24)

Please also note that JADUs are not allowed in accessory structures, ADUs, and *detached* garages. The creation of a JADU must be within the single-family residence per Government Code section 65852.22, subdivision (a)(4). Furthermore, only ADUs are allowed to add up to 150 square feet beyond the physical dimensions of the existing accessory structure to provide for ingress and egress. (Gov. Code, § 65852.2, subds. (e)(1)(A)(i) and (iv).) The City must remove this section from its ordinance to comply with state law.

In response to the findings in this letter, and pursuant to Government Code section 65852.2, subdivision (h)(2)(B), the City must either amend the Ordinance to comply with State ADU Law or adopt the Ordinance without changes. Should the City choose to adopt the Ordinance without the changes specified by HCD, the City must include findings in its resolution that explain the reasons the City finds that the Ordinance complies with State ADU Law despite the findings made by HCD. Accordingly, the City's response should provide a plan and timeline to bring the Ordinance into compliance.

Please note that, pursuant to Government Code section 65852.2, subdivision (h)(3)(A), if the City fails to take either course of action and bring the ordinance into compliance with State ADU Law, HCD may notify the City and the California Office of the Attorney General that the City is in violation of State ADU Law.

HCD appreciates the City's efforts in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the City in fully complying with State ADU Law. Please feel free to contact Mike Van Gorder, of our staff, at (916) 776-7541 or at mike.vangorder@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Shannan West". The signature is written in a cursive, flowing style.

Shannan West
Housing Accountability Unit Chief
Housing Policy Development Division

Attachment 4

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO AMENDING THE NEIGHBORHOOD
ENHANCEMENT IN LIEU FEE RESOLUTION.

WHEREAS, the Housing Action Package 2.0 includes amendments to San Diego Resolution R-313282 (Resolution R-313282), approving the Neighborhood Enhancement In Lieu Fee; and

WHEREAS, on November 17, 2020, the San Diego City Council (Council) approved Resolution R-313282, approving the Neighborhood Enhancement In Lieu Fee; and

WHEREAS, Housing Action Package 2.0 includes a provision requiring the payment of a Neighborhood Enhancement in Lieu Fee, prior to issuance of a building permit, for development utilizing the Missing Middle Housing Regulations; and

WHEREAS, the 2022 Update to the Land Development Code adopted the new definition of a Sustainable Development Area to replace the Transit Priority Area to certain development incentive programs; and

WHEREAS, Resolution R-313282 included a provision on how funds collected within the Neighborhood Enhancement Fund shall be expended, and additional clarification is needed regarding the distribution of funds; and

WHEREAS 50 percent of the funds will be used for affordable housing preservation and the remaining 50 percent will be used to fund recreation amenities, active transportation and transit infrastructure projects that are not vehicular accommodating in Sustainable Development Areas within Communities of Concern; and

WHEREAS, the Office of the City Attorney has drafted this Resolution based on the

information provided by City staff, with the understanding that the information is complete, true, and accurate; NOW THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego that with respect to Resolution R-313687:

1. That a Neighborhood Enhancement In Lieu fee, currently \$9.96 per square foot of lot area, or \$12.19 per square foot of lot area for projects over 95 feet in height, which includes up to a 5 percent administrative fee, to be imposed in accordance with San Diego Municipal Code Chapter 14, Article 3, Division 10, and Chapter 14, Article 3 Division 15 is adopted.

2. That the Chief Financial Officer is authorized to distribute funds collected from the Neighborhood Enhancement In Lieu fee in accordance with this Resolution and San Diego Municipal Code Chapter 14, Article 3, Division 10 and Chapter 14, Article 3, Division 15. 50 percent of the funds received shall be expended on affordable housing preservation activities (Fund 400877 Neighborhood Enhancement – Affordable Housing). The remaining 50 percent of the funds received shall be expended on recreation amenities, active transportation and transit infrastructure projects that are not vehicular-accommodating in Sustainable Development Areas within Communities of Concern (Fund 400878 Neighborhood Enhancement – Communities of Concern), as determined by the City Manager.

3. That the Chief Financial Officer is authorized to distribute 5 percent of the fees collected in Fund 400877 Neighborhood Enhancement – Affordable Housing and 5 percent of the fees collected in Fund 400878 Neighborhood Enhancement – Communities of Concern, to be allocated for administration costs.

4. That the Chief Financial Officer is authorized to redistribute funds previously received in Fund 400877 Neighborhood Enhancement – Affordable Housing and Fund 400878 Neighborhood Enhancement – Communities of Concern as identified in Sections 2 and 3.

5. That this Resolution shall be effective on the effective date of Ordinance No. _____, adopting the Housing Action Package 2.0, and shall be in effect at the time building permits are issued, in accordance with San Diego Municipal Code Chapter 14, Article 3, Division 10, plus automatic annual increases in accordance with San Diego Municipal Code section 142.0640(b).

APPROVED: MARA W. ELLIOTT, City Attorney

By _____
XXXXXXXXXXXXXXXXXXXX
Deputy City Attorney

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

DIANA J.S FUENTES
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

TODD GLORIA , Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor