

DRAFT

HOUSING ACTION PACKAGE

Amendments to the Municipal Code

November 19, 2021



The City of San Diego is pleased to present the Draft Housing Action Package, a selection of amendments to the City's Municipal Code designed to increase housing options that all San Diegans can afford.

The Draft Housing Action Package includes a variety of local housing programs and incentives; implementing regulations for California Senate Bill 9 (SB 9), passed by the legislature in 2021 and effective State-wide on January 1, 2022; and amendments to the City's Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) Regulations that address privacy, enhancement of the urban tree canopy, and contributions to needed infrastructure.

The Draft Housing Action Package presents the amendments in three sections for clarity and ease of navigation:

Section 1: Local Housing Programs and Incentives

Section 2: Implementing Regulations for SB 9

Section 3: Amendments to the City's Accessory Dwelling Unit and Junior Accessory Dwelling Unit Regulations.

The City welcomes review and comment from the public on the Draft Housing Action Package. Questions and comments can be submitted via email to: rmezo@sandiego.gov. To stay up-to-date on the status of this initiative, please sign-up for notifications through [Constant Contact](#).

Section 1: Local Housing Programs and Incentives

Employee Housing Incentive Program

§98.0502 Establishment of the San Diego Affordable Housing Fund

- (a) There is established a fund to be known as the San Diego Affordable Housing Fund. The Affordable Housing Fund shall consist of funds received from the commercial development linkage fees paid to the City pursuant to Chapter 9, Article 8, Division 6 of the San Diego Municipal Code; revenues from the Transient Occupancy Tax as provided in Section 35.0128 of the San Diego Municipal Code; funds received from the Employee Housing Incentive Program Fee paid to the City pursuant to Section 143.0742 of the San Diego Municipal Code; funds received from in lieu fees paid to the City and revenues received from promissory note repayments, shared equity payments, or other payments collected pursuant to Chapter 14, Article 2, Division 13 of the San Diego Municipal Code; and any other appropriations as determined from time to time by legislative action of the City Council. The Affordable Housing Fund shall be administered by the San Diego Housing Commission pursuant to the provisions of this Division, the appropriation ordinances and applicable Council policies.
- (b) There is also established within the Affordable Housing Fund, a San Diego Housing Trust Fund account. Except for funds received from the

Employee Housing Incentive Program Fee paid to the City pursuant to Section 143.0742 of the San Diego Municipal Code and funds received from in lieu fees paid to the City and revenues received from promissory note repayments, shared equity payments, or other payments collected pursuant to Chapter 14, Article 2, Division 13 of the San Diego Municipal Code; all funds received by the Affordable Housing Fund, either from special funds or general fund appropriations, shall be deposited in the Housing Trust Fund account. The administration and use of monies from the San Diego Housing Trust Fund shall be subject to all provisions under this Division related to the Affordable Housing Fund.

- (c) There is also established within the Affordable Housing Fund, an Inclusionary Housing Fund account. Funds received from the Employee Housing Incentive Program Fee paid to the City pursuant to Section 143.0742 of the San Diego Municipal Code, and funds received from in lieu fees paid to the City and revenues received from promissory note repayments, shared equity payments, or other payments collected pursuant to Chapter 14, Article 2, Division 13 of the San Diego Municipal Code shall be deposited in the Inclusionary Housing Fund account. The administration and use of monies from the Inclusionary Housing Fund shall be subject to all provisions under this Division related to the Affordable Housing Fund.

§143.0742 ~~Commercial~~ Non-Residential Development

~~An applicant for a commercial development that has entered into an agreement with an applicant for a residential development that provides at least 15 percent of the dwelling units as affordable to very low income households or at least 30 percent of the dwelling units as affordable to low income households in accordance with Section 143.0720 shall be entitled to a development bonus in accordance with Government Code Section 65915.7(b) provided that:~~

~~(a) — The agreement shall be approved by the City Manager and identify how the applicant for the commercial development will contribute to affordable housing in one of the following ways:~~

~~(1) — Directly constructing the affordable dwelling units;~~

~~(2) — Donating a portion of the commercial site or another site that meets the criteria in Section 143.0742(b) for development of the affordable dwelling units; or~~

~~(3) — Financially contributing to the development of the affordable dwelling units.~~

~~(b) — The residential development shall be located within the City of San Diego, in close proximity to public amenities, and within a Transit Priority Area.~~

An applicant for a non-residential development as defined in this Section that contributes to the construction of affordable housing through the payment of the

Employee Housing Incentive Program Fee, as adopted by City Council Resolution, shall be entitled to receive one or more incentives, as follows:

(a) Employee Housing Incentive Requirements

(1) The non-residential *development* shall be located in a *Transit Priority Area*.

(2) For purposes of this Section, non-residential *development* includes all subcategories within the Retail Sales, Commercial Services, and Office use categories, and the Light Manufacturing and Research & Development subcategories within the Industrial use category, but does not include separately Regulated Uses within these use categories or residential mixed-use *development*.

(b) The Employee Housing Incentive Program Fee shall be determined as follows:

(1) One incentive = \$(tbd) per square foot of *gross floor area* of the *development*.

(2) Two incentives = \$(tbd) per square foot of *gross floor area* of the *development*.

(c) Incentives shall be granted in accordance with Sections 143.0740(a)(1), 143.0740(b), and 143.0740(c), with the following exceptions:

(1) Incentives may not be used to deviate from requirements related to

minimum floor area ratio for residential uses.

(2) Floor Area Ratio may not be increased by more than 0.5.

Live/Work Flexibility

§131.0623 Additional Use Regulations of Industrial Zones

The additional use regulations identified in this Section are applicable to uses where indicated in Table 131-06B. In addition to the use-specific regulations below, the combined gross floor area for the uses identified in Sections 131.0623(a), (b), (d), (h), (k), (m), and (n) shall not exceed 35 percent of the allowable gross floor area of the premises.

(a) through (i) [No change in text]

(j) To encourage and facilitate living in closer proximity to employment opportunities, residential Residential uses in the IP-3-1 zone are permitted subject to the following regulations:

(1) Residential *development* is permitted in accordance with the Business Park - Residential Permitted CPIOZ of the applicable community plan; subject to the following:

(2A) Residential *development* ~~comprises no more than~~ shall not exceed a maximum of 49 percent of the total lot area within the Business Park - Residential Permitted CPIOZ or a maximum of 49 percent of the gross floor area of the

premises; and

(3B) Residential ~~development~~ development shall comply with the development regulations of the residential zone identified in the Business Park - Residential Permitted CPIOZ of the applicable community plan, except that the *lot area*, *lot dimensions*, *floor area ratio*, and *setback* requirements of the IP-3-1 zone shall apply.

(2) Residential development is permitted outside of the Business Park - Residential Permitted CPIOZ as follows:

(A) Live/work quarters in accordance with Section 141.0311;

(B) Shopkeeper units may include space for uses in accordance with Section 131.0623(j)(2)(C); and shall comply with the requirements in Section 141.0311.

(C) A maximum of 49 percent of the gross floor area on the premises may be used for residential uses. At least 51 percent of the gross floor area shall be used for Retail Sales, Commercial Services, Artisan Food and Beverage Producer, Offices, Research and Development, and Light Manufacturing.

(D) The residential area and the business area must be occupied by the same tenant, and no portion of the residential area

shall be rented or sold separately; and

(E) The residential area is permitted above the business area, to the adjacent or in the rear of the business area, provided that there is internal access between the residential area and business area;

141.0311 Live/Work Quarters

Live/work quarters are studio spaces designed to integrate living space into the workspace in buildings that were originally are primarily designed for industrial or commercial occupancy that have been converted to integrate living space into the work space. Live/work quarters are permitted as a limited use in the zones 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) A maximum of 49 percent of the floor area of each live/work quarters may be used or arranged for residential purposes such as sleeping, *kitchen*, bathroom, and closet. The minimum floor area used or arranged for non-residential purposes shall be 100 square feet.
- (c) through (h) [No change in text]

Affordable Housing in All Communities

§142.1305 Methods of Compliance

(a) The requirement to provide inclusionary *dwelling units* may be met in any of the following ways:

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

(4) On different premises from the development that does not meet the locational criteria in Section 142.1305(a)(2) but within the City of San Diego, if the receiver site is within a Transit Priority Area in an area identified as a High or Highest Resource California Tax Credit Allocation Committee (CTCAC) Opportunity Area and the community planning area has less than five percent of its existing housing units as covenant-restricted to very low income, low income, or moderate income households.

(45) By payment of an Inclusionary In Lieu Fee in accordance with Section 142.1306 in lieu of constructing all or a portion of the inclusionary *dwelling units* required in Section 142.1304(a) or Section 142.1304(b);

(5-6) By rehabilitation of existing *dwelling units* or SRO *hotel* rooms or conversion of *guest rooms* in a *motel* or *hotel* to inclusionary *dwelling units* in accordance with Section 142.1307; or

(67) By land donation in accordance with Section 142.1308.

(b) through (c) [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) [No change in text]
- (b) Off-site affordable *dwelling units* that do not meet the locational criteria in Section 143.0745(a), may be located in an area where the receiver site is within a *Transit Priority Area*, an area identified as a High or Highest Resource California Tax Credit Allocation Committee(CTCAC) Opportunity Area and the community planning area has less than five percent of its existing housing units as covenant-restricted very low, low, or moderate units.
- (~~b~~c) Off-site affordable *dwelling units* that do not meet the locational criteria in Section 143.0745(a) may be approved with a Process Four Planned Development Permit in accordance with Section 126.0604.
- (~~e~~d) At a minimum, the same number of affordable *dwelling units* required of the *development* must be provided, at the same affordability levels and the same total *bedroom* count as the *development*. The *applicant* may provide different *bedroom* mixes to meet the total *dwelling unit* and *bedroom* count minimums.
- (~~e~~) The *applicant*, prior to the issuance of the first building permit for the

development, shall secure the required number of off-site affordable *dwelling units* and enter into an agreement(s) with the President and Chief Executive Officer of the San Diego Housing Commission establishing the same terms and conditions set forth in Section 143.0720 for similar affordable *density bonus dwelling units*.

(ef) 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.

(fg) Prior to the issuance of the first building permit, the *applicant* shall record a deed restriction against the off-site *development* that:

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

Housing for Families

§143.0720 Density Bonus in Exchange for Affordable Housing Units

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

(i) A *density bonus* agreement for a *development* within a *transit priority*

area providing 100 percent of the total pre-*density* bonus and post-*density* bonus *dwelling units* as affordable to *very low income*, *low income*, and *moderate income* households shall utilize the following qualifying criteria:

(1) [No change in text.]

(2) Rents for all *dwelling units* in the *development* shall be established as follows:

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

(C) *Moderate income dwelling units* in the *development* shall be affordable, including an allowance for utilities, to *moderate income* households at a rent that does not exceed 30 percent of 110 percent of the area median income, as adjusted for household size, appropriate for the *dwelling unit*, except that: 20 percent of the *dwelling units* may be affordable up to 30 percent of 150 percent of the area median income, if those units contain at least three *bedrooms*, as adjusted for household size, appropriate for the *dwelling unit*.

(j) through (k) [No change in text.]

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

- (1) [No change in text.]
- (2) For *development* meeting the criteria for *very low income* households in Section 143.0720(c)(1), the *density* bonus shall be calculated as set forth in Table 143-07A. The increased *density* shall be in addition to any other increase in *density* allowed in this Division, ~~up to a maximum combined *density* increase of 75 percent.~~
- (3) For *development* meeting the criteria for *low income* households in Section 143.0720(c)(2), the *density* bonus shall be calculated as set forth in Table 143-07B. The increased *density* shall be in addition to any other increase in *density* allowed in this Division, ~~up to a maximum combined *density* increase of 75 percent.~~
- (4) For *development* meeting the criteria for *moderate income* households in Section 143.0720(c) and (d), the *density* bonus shall be calculated as set forth in Table 143-07C. The increased *density* shall be in addition to any other increase in *density* allowed in this Division, ~~up to a maximum combined *density* increase of 50 percent.~~
- (5) through (14) [No change in text.]
- (15) For *development* that meets the criteria in Sections 143.0720(c)(1),

143.0720(c)(2), 143.0720(d)(1), 143.0720(d)(2), 143.0720(d)(3), 143.0720(e), 143.0720(f), 143.0720(g), 143.0720(h), or 143.0720(i), where an *applicant* provides at least 20% of the total *dwelling units* as three *bedrooms* or greater, an additional density bonus of 20% shall be granted and an additional density bonus of 10% of the pre-density bonus units shall be granted if the density bonus units provided contain at least three *bedrooms*.

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

Affordable Housing in All Communities and Housing at City Facilities

§143.0746 Affordable Housing Where Otherwise Not Allowed

(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 accordance with Process 1 on a *premises* located within a base zone that does not permit *multiple dwelling unit development*, subject to all of the following:

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

(A) A *multiple dwelling unit development* in which at least 100 percent of the total *dwelling units*, exclusive of a manager's unit or units, are covenant-restricted as affordable to *very low income, low income, or moderate income* households;

or

(B) Permanent supportive housing; or

(C) Transitional housing; or

(D) An emergency shelter.

(2) The premises is located:

(A) Within a Transit Priority Area; and

(B) Within an area identified as a High or Highest Resource CTCAC Opportunity Area according to the most recent California State Treasurer TCAC/HCD Opportunity Area Maps; and

(C) Within a community planning area that has less than 5 percent of its existing housing units as covenant-restricted to very low income, low income, or moderate income households; and

(B) Outside of an area identified as Industrial or Open Space in a land use plan.

(3) The residential density shall be determined by the Mobility Zone (as defined in Section 143.1103(a)) in which any portion of the premises is located, as follows:

- (A) Within Mobility Zone 1 (the Downtown Community Planning Area) the *density* and *floor area ratio* shall be unlimited.
- (B) Within Mobility Zone 3 *density* shall be limited by a maximum *floor area ratio* of 6.5.
- (C) Within Mobility Zone 4 *density* shall be limited by a maximum *floor area ratio* of 4.0.
- (4) *Development* consistent with the criteria in this Section shall be entitled to Incentives and Waivers in accordance with Sections 143.0740 through 143.0743.
- (5) The *development* shall comply with the regulations of the Airport Land Use Compatibility Zone.
- (6) *Dwelling units* shall remain available and affordable for a period of 55 years or longer, as may be required by other laws or covenants.
- (b) Affordable housing uses not otherwise allowed on a *premises* owned by a public agency or a qualified nonprofit corporation. Affordable housing may be permitted in accordance with Process 1 on a *premises* located within a base zone that does not permit *multiple dwelling unit development*, subject to all of the following:
- (1) The *premises* is owned by a public agency or a qualified nonprofit

corporation.

(2) The *development* proposes to construct one of the following:

(A) A *multiple dwelling unit development* in which at least 25 percent of the total *dwelling units*, exclusive of a manager's unit or units, are covenant-restricted as affordable to *very low income, low income, or moderate income* households;

or

(B) *Permanent supportive housing*; or

(C) *Transitional housing*; or

(D) *An emergency shelter.*

(3) The *premises* is located:

(A) Within *Mobility Zone 1, 2, or 3* as defined in Section 143.1103(a); and

(B) Outside of an area identified as *Industrial or Open Space* in a *land use plan.*

(4) The residential *density* shall be determined by the *Mobility Zone* (as defined in Section 143.1103(a)) in which any portion of the *premises* is located, as follows:

(A) Within *Mobility Zone 1 (the Downtown Community*

Planning Area) the *density* and *floor area ratio* shall be unlimited.

(B) Within Mobility Zone 3 *density* shall be limited by a maximum *floor area ratio* of 6.5.

(C) Within Mobility Zone 4 *density* shall be limited by a maximum *floor area ratio* of 4.0.

(5) *Development* consistent with the criteria in this Section shall be entitled to Incentives and Waivers in accordance with Sections 143.0740 through 143.0743.

(6) The *development* shall comply with the regulations of the Airport Land Use Compatibility Zone.

(7) *Dwelling units* shall remain available and affordable for a period of 55 years or longer, as may be required by other laws or covenants.

Housing Accessibility Program

§145.4001 — Purpose

~~The purpose of the Voluntary Accessibility Program is to encourage residential *development* that incorporates accessible design features including accessible routes of travel, accessible entrances, and accessible common use rooms to meet the needs of as many users as possible. The intent is to increase opportunities for persons with temporary, developing, or permanent~~

disabilities to “age in place” and thereby reduce the potential for occupants to be displaced from their homes due to a disability, to allow those persons to visit neighboring *dwelling units*, and to increase the number of accessible *dwelling units* in the local housing supply that meet long term housing needs by offering incentives that facilitate this type of accessible design.

§145.4002 — When Voluntary Accessibility Program Applies

(a) — The following proposed residential *development* is eligible for the Voluntary Accessibility Program:

(1) — *Development* that is exempt from the accessibility requirements of the California Building Code (Chapter 11A),

(2) — *Development* where only a portion of the residential *development* is subject to the accessibility requirements of the California Building Code (Chapter 11A), or

(3) — *Development* where the required accessibility is in accordance with the California Building Code (Chapter 11A) and would be less accessible than would be achieved through the Voluntary Accessibility Program.

(b) — *Development* with *dwelling units* that are voluntarily designed to be accessible may be granted incentives in accordance with Section 145.4003.

~~(e) — *Development* receiving deviations for reasonable accommodations in accordance with Section 131.0466 are not eligible for the Voluntary Accessibility Program.~~

~~§145.4003 — Voluntary Accessibility Program Regulations and Development Incentives~~

~~(a) — Incentives granted solely under the Voluntary Accessibility Program in accordance with Section 145.4003(c) and (d) shall not require a deviation from the underlying base zone.~~

~~(b) — The decision process for a *development* requesting an incentive shall be the same decision process that would be required if the incentive were not a part of the *development* proposal.~~

~~(c) — The incentives available to a *development* shall be determined by the number and type of *dwelling units* that would be voluntarily designed for accessibility.~~

~~(1) — Each *dwelling unit* voluntarily designed in accordance with Section 145.4004 (Tier I Accessible Dwelling Unit) shall be eligible for the following incentives:~~

~~(A) — A *floor area ratio* bonus up to a maximum of 5 percent,~~

~~and~~

~~(B) — A choice of one development incentive listed in Section 145.4003(d).~~

~~(2) — Each *dwelling unit* voluntarily designed in accordance with Section 145.4005 (Tier II Visitable Unit) shall be eligible for one of the following incentives:~~

~~(A) — A *floor area ratio* bonus up to a maximum of 5 percent, or~~

~~(B) — A choice of one development incentive listed in Section 145.4003(d).~~

~~(3) — *Development* with at least 50 percent of the eligible *dwelling units* voluntarily designed in accordance with either Section 145.4004 (Tier I Accessible Dwelling Unit) or Section 145.4005 (Tier II Visitable Unit) shall be eligible for the following incentives:~~

~~(A) — Incentives for each Tier I Accessible Dwelling Unit in accordance with Section 145.4003(c)(1),~~

~~(B) — An incentive for each Tier II Visitable Unit in accordance with Section 145.4003(c)(2), and~~

~~(C) — Expedite processing consistent with Council Policy.~~

~~(4) — *Development* with 100 percent of the eligible *dwelling units* voluntarily designed in accordance with Section~~

145.4004 (Tier I Accessible Dwelling Unit) shall be eligible for:

- (A) ~~Incentives for each Tier I Accessible Dwelling Unit in accordance with Section 145.4003(c)(1),~~
- (B) ~~Expedite processing consistent with Council Policy, and~~
- (C) ~~A *density* bonus up to 5 percent based on the pre-bonus number of *dwelling units* in the project voluntarily designed in accordance with Section 145.4004 (Tier I Accessible Dwelling Unit).~~
- (D) ~~*Development* providing a minimum of 10 Tier I Accessible Dwelling Units shall be eligible for a choice of 1 additional incentive listed in Section 145.4003(d).~~

~~(d) Incentives~~

~~An *applicant* for *development* eligible for one or more incentives pursuant to Section 145.4003, may select from the following incentives:~~

~~(1) — An applicant may request one of the following modifications of the applicable parking regulations in Section 142.0560 for Tier I Accessible Dwelling Units.~~

~~(A) — A reduction of the drive aisle width to a minimum of 22 feet if using standard parking space dimensions,~~

~~(B) — A reduction of the required motorcycle facilities up to 50 percent,~~

~~(C) — A reduction of the driveway width consistent with the minimum dimensions specified in Table 142.05N,~~

~~(D) — Encroachment of required off-street parking spaces into the required setback area of a private driveway (where parking spaces would not conflict with a required visibility area), or~~

~~(E) — Calculation of tandem parking spaces (designed in accordance with Section 142.0560) as two spaces to meet the applicable parking requirement.~~

~~(2) — The applicable setback regulations may be reduced up to 10 percent for proposed structures where necessary to fulfill the accessible design requirements.~~

(3) — The applicable *lot coverage* regulations may be exceeded up to 10 percent where necessary to fulfill the accessible design requirements.

(4) — The applicable maximum *structure height* regulations may be exceeded by up to 10 percent to accommodate an elevator or special access (wheelchair) lift system. The maximum *structure height* may not exceed height limits required within the Coastal Height Limit Overlay Zone or conflict with Federal Aviation Regulations Part 77 airspace protection surfaces within designated airport influence areas.

(5) — The applicable landscape requirements may be modified or reduced to the minimum extent necessary to accommodate an accessible route of travel.

(e) — The *floor area ratio* bonus and incentives applicable to a *development* in accordance with Section 145.4003(c) are limited to *dwelling units* that are voluntarily designed in accordance with the Voluntary Accessibility Program and may not be redistributed across the *development* as a whole.

(f) — A bonus or incentive shall not be granted where it would allow *development* that is inconsistent with the policies in the certified *Local Coastal Program land use plan* or the allowed uses and

development regulations of the Environmentally Sensitive Lands regulations.

§145.4004 — Tier I Accessible Dwelling Unit Design Standards

(a) — In order to meet the Tier I Accessible Dwelling Unit Design Standards, *dwelling units* shall comply with the California Building Code requirements for accessibility (Chapter 11A), except as otherwise indicated in Section 145.4004(b), (c), and (d).

(b) — For the purpose of this section, *dwelling units* developed with multiple *stories* shall provide a *kitchen* on the primary entry level in accordance with the California Building Code requirements for accessibility (Chapter 11A) in addition to other accessible design requirements required in accordance with Section 145.4004(a).

(c) — Accessible entrances designed for Tier I Accessible Dwelling Units shall be permitted up to a maximum of three quarters of an inch in height differential between the exterior and interior landings.

(1) — The change in elevation shall be beveled with a slope no greater than 50 percent (1 unit vertical in 2 units horizontal).

(2) — The threshold shall be no higher than 0.5 inches (12.7 mm).

(d) — Required accessible *off-street parking spaces*

(1) — *Single dwelling units* and duplexes

- ~~(A) — *Single dwelling units* shall provide *off-street parking spaces* per *dwelling unit* in accordance with Sections 142.0520 and 142.0560.~~
- ~~(B) — Duplexes shall provide *off-street parking spaces* per *dwelling unit* in accordance with Sections 142.0525 and 142.0560.~~
- ~~(C) — In addition to the required parking in Section 145.4004(d)(1)(A) or (B), an accessible off-street loading and unloading area shall be provided.~~
- ~~(i) — The minimum dimensions shall be 14 feet in width by 18 feet in depth with a maximum slope of one quarter inch per foot in any direction;~~
- ~~(ii) — The off-street loading area may be located within the private driveway and may encroach into the required setback area, and~~
- ~~(iii) — The loading area shall be connected to the *dwelling unit* via an accessible route of travel to an accessible entrance.~~
- ~~(2) — *Multiple dwelling unit development* with three or more *dwelling units* shall provide *off-street parking spaces* in~~

~~accordance with Sections 142.0525 and 142.0560 including required accessible *off-street parking spaces* in accordance with California Building Code Section 1109A as may be amended.~~

~~§145.4005 — Tier II Visitable Unit Design Standards~~

~~(a) — The Tier II Visitable Unit Design Standards are intended to create *dwelling units* that facilitate access to, and access within, the primary entry level of a *dwelling unit* for persons with temporary, developing, or permanent disabilities. The primary entry level of a Tier II Visitable Unit shall include accessible routes of travel, an accessible entrance, and accessible common usespaces including a *kitchen*, a bathroom or half bathroom, and at least one common use room.~~

~~(b) — At least one exterior accessible route of travel shall connect an accessibleentrance to either the sidewalk or driveway.~~

~~(1) — A minimum width shall be provided in compliance with CaliforniaBuilding Code Section 1113A.1.1 as may be amended.~~

~~(2) — A maximum slope less than 1 unit vertical and 12 units horizontalshall be provided with a maximum 2 percent cross slope.~~

~~(3) — A level landing area of 5 feet in length shall be provided for every 30 inches of rise in circumstances where the accessible route of travel would have a slope exceeding 5 percent.~~

~~(4) — Handrails are not required.~~

~~(c) — At least one accessible entrance to the primary entry level shall be provided that does not exceed three quarters of an inch in height differential between the exterior and interior landings.~~

~~(1) — The change in elevation shall be beveled with a slope no greater than 50 percent (1 unit vertical in 2 units horizontal).~~

~~(2) — The threshold shall be no higher than 0.5 inches (12.7 mm).~~

~~(d) — In lieu of the requirements of Section 145.4005(c), the entrance for up to 50 percent of the eligible *dwelling units* may be designed to be adaptable for accessibility.~~

~~(1) — A maximum of 4 inches in step height shall be provided between the exterior and interior landings.~~

~~(2) — A minimum clear space of 12 inches in length for every 1 inch in step height shall be provided on the exterior side of the door to accommodate a future ramp.~~

~~(3) — The ramp clear space shall not overlap the exterior landing.~~

(4) — Interior and exterior landings shall provide a minimum length of 48 inches to the accessible route of travel.

(5) — The entry door shall provide a minimum net clear opening width of 32 inches.

(e) — At least one interior accessible route of travel shall be provided in compliance with California Building Code Section 1119A as may be amended. The interior route of travel shall connect an accessible entrance to the following rooms located on the primary entry level:

(1) — At least one bathroom or half bathroom,

(2) — The *kitchen*, and

(3) — Any common use rooms such as a living room or family room.

(f) — A *kitchen* shall be provided on the primary entry level.

(1) — The *kitchen* shall be accessible from the interior accessible route of travel.

(2) — A clear floor space at least 30 inches by 48 inches shall be provided to allow a parallel approach by a person in a wheelchair at a range or cook top, the *kitchen* sink, oven, dishwasher, and refrigerator/freezer.

(3) — In lieu of the requirements of Section 145.4005, a *kitchen* with a pass through design may provide a 39 inch wide or

~~greater accessible route of travel to a range or cook top,
kitchen sink, oven, dishwasher and refrigerator/freezer.~~

~~(4) Kitchen sink faucet controls shall use lever hardware or
other similar hardware.~~

~~(5) A minimum linear length of 30 inches of countertop space
shall be provided adjacent to the kitchen sink.~~

~~(g) At least one accessible bathroom or half bathroom, located along the
interior accessible route of travel on the primary entry level, shall be
provided.~~

~~(1) The bathroom entrance shall provide sufficient maneuvering
space in accordance with California Building Code Sections
1132A.5 and 1134A.4 as may be amended.~~

~~(2) Structural reinforcements for future grab bar installation
shall be provided in the walls adjacent to showers and
bathtubs, and in the walls or floor adjacent to toilets, in
accordance with California Building Code Chapter 11A.~~

~~(3) A minimum clear space of 30 inches by 48 inches shall be
provided for parallel approach at the lavatory. Maneuvering
spaces may include any knee space or toe space available
below bathroom fixtures.~~

(4) — A minimum clear space of 30 inches by 48 inches shall be provided for forward approach at the toilet.

(5) — When provided, a minimum clear space of 30 inches by 48 inches shall be provided for parallel approach at the shower or bathtub.

(6) — Faucet controls shall use lever hardware.

(7) — Clear spaces at the sink, toilet and shower or bathtub may overlap or coincide to meet the minimum requirements.

(h) — The accessible primary entry level shall include at least one common user room such as a living room or family room.

(i) — Accessible rooms located along the interior accessible route of travel and the accessible entrance to the primary entry level shall comply with the following requirements:

(1) — Doors

(A) — Doors shall have a minimum net clear opening width of 32 inches.

(B) — Lever hardware, or other similar hardware, centered between 30 inches and 44 inches above the floor is required for all doors, except for pocket doors or sliding doors.

~~(C) — Maximum effort to operate doors shall not exceed 8.5 pounds (38 N) for exterior doors and 5 pounds (22 N) for interior doors where applied at right angles to hinged doors, and at the center plane of sliding or folding doors. Compensating devices or automatic door operators may be utilized to meet these standards.~~

~~(D) — Pocket doors and sliding doors providing access to rooms required along the interior accessible route of travel shall be easily operated by persons with limited dexterity.~~

~~(2) — Electrical Outlets and Fixtures~~

~~(A) — Electrical switches and outlets shall be located no more than 48 inches measured from the top of the outlet box nor less than 15 inches measured from the bottom of the outlet box to the level of the finished floor.~~

~~(B) — Electrical outlets providing power to appliances such as ovens, refrigerators, microwave ovens, dishwashers, washing machines, dryers and other similar fixed appliances are exempt.~~

§145.4001 Purpose

The purpose of the Housing Accessibility Program is to encourage residential development above what is required per the California Building Code and to increase the number of accessible dwelling units in the local housing supply that meet long term housing needs by offering incentives that facilitate this type of accessible design for people of all abilities. The intent is to increase opportunities for persons with temporary, developing, or permanent disabilities to “age in place” and thereby reduce the potential for occupants to be displaced from their homes due to a disability as well as allowing those persons to visit neighboring dwelling units.

§145.4002 When Housing Accessibility Program Applies

(a) The following residential development is eligible for the Housing Accessibility Program:

(1) Development of a multiple dwelling unit structure up to five stories that provides an elevator to all stories.

(2) Development of multi-story townhomes or duplexes that exceeds the requirements for compliance with the accessibility requirements of the California Building Code.(Chapter 11A) and include a primary entrance; 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.

(3) Development that is exempt from the accessibility requirements of the California Building Code (Chapter 11A).

(b) Development receiving deviations for reasonable accommodations in accordance with Section 131.0466 are not eligible for the Housing Accessibility Program.

§145.4003 Housing Accessibility Program Regulations and Development Incentives

(a) The decision process for a development requesting an incentive shall be the same decision process that would be required if the incentive were not a part of the development proposal.

(b) Incentives granted solely under the Housing Accessibility Program in accordance with Section 145.4003(e) shall not require a deviation from the underlying base zone.

(c) An incentive shall not be granted where it would allow development that is inconsistent with the policies in the certified Local Coastal Program and development regulations of the Environmentally Sensitive Lands regulations.

(d) An incentive shall not be granted where it conflicts with State laws and regulations.

(e) The following projects may be granted incentives in accordance with this Section and Section 145.4003(f):

(1) A multiple dwelling unit development that provides an elevator to all floors in a multiple dwelling unit structure shall be entitled to three incentives.

(2) An accessible multi-story dwelling unit is that exceeds the housing accessibility requirements of the California Building Code (Chapter 11A) and Section 145.4002 (a)(2) by at least 25% of the total number of dwelling units shall be eligible for two incentives listed in Section 145.4003(f)(1-4) and 145.4003(f)(6).

(3) A development that exceeds the requirements for the number of accessible dwelling units under the California Building Code (Chapter 11A) by two accessible dwelling units shall be eligible for three incentives listed in Section 145.4003(f)(1-4) and 145.4003(f)(6).

(4) A development that exceeds the requirements for the number of accessible dwelling units under the California Building Code (Chapter 11A) and noted on 145.4002 (a)(2) by three or more accessible dwelling units shall be eligible for four incentives listed in Section 145.4003(f)(1-6).

(f) Incentives

An applicant for development eligible for one or more incentives pursuant to Section 145.4003(e), may select from the following incentives:

- (1) Any applicable *setback* regulations may be reduced up to 15 percent for the building where the elevator is constructed.
- (2) The applicable *lot coverage* regulations may be exceeded up to 15 percent for the building where the elevator is constructed.
- (3) Expedite processing for the *entire development* consistent with Council Policy.
- (4) A *floor area ratio* bonus up to a maximum of 25 percent for the building where the elevator is constructed.
- (5) A *density* bonus up to 10 percent based on the *pre-density* bonus *dwelling units* for the *entire development*. This *density* bonus can be added to any other *density* bonus regulations for which the *development* is eligible.
- (6) The applicable maximum *structure height* regulations may be exceeded by up to 15 feet only for the building where an elevator is constructed. The maximum *structure height* may not exceed height limits required within the Coastal Height Limit Overlay Zone or conflict with Federal Aviation Regulations Part 77 airspace protection surfaces within designated airport influence areas.

Section 2: Implementing Regulations for SB 9

Chapter 14: General Regulations

Article 3: Supplemental Development Regulations

Division 13: Multi-Dwelling Unit and Urban Lot Split Regulations for Single Family Zones

143.1301 Purpose of the Multi-Dwelling Unit and Urban Lot Split Regulations for Single Family Zones

The purpose of these regulations is to specify when and how a *premises* located within a base zone that permits *single dwelling unit development* and not *multiple dwelling unit development* may construct *multiple dwelling unit development*. These regulations also specify when and how a *premises* located within a base zone that permits *single dwelling unit development* and not *multiple dwelling unit development* may split a single *premises* into two *premises* that can be developed and conveyed separately. These regulations are intended to implement California Senate Bill 9 (2021-2022) and California Government Code Sections 65852.21, 66411.7 and 66452.6 by allowing an urban *lot split* and/or the construction of *multiple dwelling units* in single-family zones as specified in this Division.

143.1303 When the Multi-Dwelling Unit and Urban Lot Split Regulations for Single Family Zones Apply

- (a) This Division applies to *premises* located within a base zone that permits *single dwelling unit development* and not *multiple dwelling unit development*, except as prohibited in Section 143.1303(b).

(b) This Division is not applicable in the following circumstances:

(1) When the *premises* is located within any of the following:

(A) Prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction;

(B) *Wetlands*;

(C) The Very High Fire Hazard Severity Zone;

(D) 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;

(E) A delineated earthquake fault zone as determined by the 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 any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2;

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

(i) The site 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 site 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.

(G) 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 a development proponent is
able to satisfy all applicable federal qualifying criteria in
order to provide that the site satisfies this subparagraph and
is otherwise eligible for streamlined approval under this
section, a local government shall not deny the application
on the basis that the development proponent did not comply
with any additional permit requirement, standard, or action
adopted by that local government that is applicable to that
site;

(H) The MHPA of the MSCP Subarea Plan;

(I) Environmentally Sensitive Lands conserved by dedication
in fee title, covenant of easement, or conservation
easement;

(J) A historical district that is a designated historical resource;

- (2) If the *development* requires demolition or alteration of any of the following:
- (A) 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, low, or very low income.
- (B) A *dwelling unit* that has been occupied by a tenant in the last three years.
- (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* requires the demolition of more than 25 percent of the existing exterior structural walls, unless the *premises* has not been occupied by a tenant in the last three years.
- (5) If the *premises* contains an *Accessory Dwelling Unit* or *Junior Accessory Dwelling Unit*. An *applicant* must choose whether to use the provisions of this Division or the provisions of the *Accessory Dwelling Unit* and *Junior Accessory Dwelling Unit* Regulations in Section 141.0302 and may not use both. However, an *applicant* with an existing *Accessory Dwelling Unit* or *Junior Accessory Dwelling Unit* may utilize the provisions of this

Division to convert the existing *ADUs* or *JADUs* to *dwelling units*
in compliance with this Division.

143.1305 Utilizing the Provisions of this Division

(a) An applicant seeking to utilize the provisions of this Division may use the multiple dwelling unit provisions of Section 143.1310, or the urban lot split provisions of Section 143.1315, or a combination of both in compliance with the applicable regulations.

(b) An application to utilize the provisions of this Division may be denied if the City makes a written *finding* of denial based upon a preponderance of the evidence that the *development* would have a specific, adverse impact upon public health and safety or the physical environment and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. The following shall not constitute a specific, adverse impact upon the public health or safety:

(1) Inconsistency with the zoning ordinance or general plan land use designation.

- (2) The eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code.

143.1307 Rental of Dwelling Units Constructed in Accordance with this Division

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

143.1310 Construction of Multiple Dwelling Units in a Single Dwelling Unit Zone

Up to two dwelling units may be permitted on a premises in a zone that allows single dwelling unit development and not multiple dwelling unit development, in accordance with the following regulations:

- (a) The development regulations of the base zone in which the premises is located shall apply, except as specified in this Section.

(1) Density Regulations. The maximum permitted density shall be two

(2) dwelling units per lot. The dwelling units may be attached to or detached from one another, provided that the structure(s) meet building code safety standards and are sufficient to allow separate conveyance.

(2) Setback Regulations:

(A) No setback is required for an existing structure that is converted to a dwelling unit. A dwelling unit that is constructed in the same location and to the same

dimensions as an existing *structure* may continue to observe the same *setbacks* as the *structure* it replaced.

(B) New *dwelling unit 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 *dwelling unit structures* shall be provided as follows:

(i) One-story *dwelling unit structures* that are 16 feet in height or less may encroach into the required interior side yard and rear yard *setbacks* up to the property line.

(ii) One-story *dwelling unit structures* that exceed 16 feet in height and multi-story *dwelling unit structures* may observe a 0-foot interior side yard and rear yard *setback* unless the side or rear property line abuts another *premises* that is that is residentially zoned or developed with exclusively residential uses, in which case a 4-foot *setback* shall be observed.

(3) Parking Regulations

(A) No off-street parking spaces shall be required within a Transit Priority Area.

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

(i) One (1) off-street parking space per dwelling unit shall be required for the third and fourth dwelling units constructed on the two new premises permitted by this Division. Off-street parking spaces are not required for the first two dwelling units.

(ii) Within the Beach Impact Area of the Parking Impact Overlay Zone, one (1) off-street parking space shall be required per dwelling unit unless there is typically access to a car share or other shared vehicle within one block of the premises.

(4) Landscape Regulations

(A) One tree shall be provided on the premises for every 5,000 square feet of lot area, with a minimum of one tree per premises. If planting of a new tree is required to comply with this Section, the tree shall be selected in accordance with the Landscape Standards of the Land Development Manual and the City's Street Tree Selection Guide.

(B) If the *development* would result in more than two *dwelling units* across the two *premises* permitted by this Division, then compliance with the street tree regulations per Section 142.0409 shall be required.

(5) Supplemental Regulations within Areas of Future Sea Level Rise

(A) Within the Coastal Overlay Zone, the following regulations apply to *dwelling units* constructed outside of *Special Flood Hazard Areas* and within an area of future sea level rise (within a 75-year horizon) as determined by the City Manager based on the most current sea level rise vulnerability maps:

(i) The *dwelling unit* shall comply with the regulations in Section 143.0146(c) and if applicable, Section 143.0146(g). The *base flood elevation* utilized, and the applicability of Section 143.0146(g), shall be based on the *FIRM Zone* of the *Special Flood Hazard Area* in closest proximity to the *premises* on which the *dwelling unit* is proposed. The permit requirements of 143.0110(b) and other regulations of Chapter 14, Article 3, Division 1 do not apply.

(ii) Hard shoreline armoring shall not be constructed to protect a *dwelling unit* from the effects of sea level rise.

(iii) The *record owner* of the *dwelling unit* shall enter into an acknowledgement agreement with the City in a form that is approved by the City Attorney. The agreement shall include the following acknowledgements and provisions: 1) that the *dwelling unit* is located in an area of future sea level rise that may become hazardous in the future; 2) that sea level rise could render it difficult or impossible to provide services to the *premises*; 3) that the boundary between public land (tidelands) and private land may shift with rising seas and the *development* approval does not permit encroachment onto public trust land; 4) that additional adaptation strategies may be required in the future to address sea level rise consistent with the Coastal Act and certified LCP; 5) that the *record owner* waives any rights under Coastal Act Section 30235 and related LCP policies to hard shoreline armoring to protect the *dwelling unit*; and 6) that the *structure* may be required to be removed

or relocated and the site restored if it becomes unsafe.

(iv) The record owner of the dwelling unit shall provide notice to all occupants of the dwelling unit of the acknowledgements and provisions specified in Section 143.1310(a)(5)(A)(iii).

(6) Development Impact Fees for development constructed in accordance with this Division shall comply with Section 142.0640(b).

(b) Notwithstanding Section 143.1310(a), a second dwelling unit with a maximum gross floor area of 800 square feet shall be permitted on a premises with an existing or proposed dwelling unit regardless of non-compliance with one or more development regulations.

143.1315 Urban Lot Splits in a Single Dwelling Unit Zone

An urban lot split that divides an existing single premises into no more than two separately conveyable premises may be permitted in a zone that allows single dwelling unit development and not multiple dwelling unit development subject to the following regulations:

(a) The urban lot split shall be permitted in accordance with a Process 1 parcel map and shall comply with all applicable objective requirements of the Subdivision Map Act, except as provided by Government Code

Section 66411.7. As part of the approval of a *parcel map* for an urban *lot* split, the following shall be required as determined by the City Engineer:

(1) Easements for the provision of public services and facilities.

(2) Access to the *public right-of-way* for one or both *premises*.

(b) The expiration of the subdivision shall be in accordance with Government Code Section 66452.6

(c) A *premises* may not utilize the urban *lot* split provisions of this Section if any of the following apply:

(1) The *premises* was established through a prior urban *lot* split in accordance with this Section. A *premises* may only be split once in accordance with this Section.

(2) The *record owner* or any person acting in concert with the *record owner* has previously subdivided an adjacent *premises* using an urban *lot* split in accordance with this Section.

(d) The uses permitted on a *premises* that has utilized the urban *lot* split provisions of this Section shall be limited to residential uses only.

(e) Prior to the recordation of the *parcel map*, the *record owner* shall enter into an agreement with the City in a form that is approved by the City Attorney and shall be recorded in the Office of the County Recorder. The agreement shall require the *record owner* to reside in one of the *dwelling*

units on either of the premises created by the urban lot split as their primary residence for a minimum of three years from the date of the approval of the urban lot split. This requirement shall not apply to an applicant that is a “community land trust,” as defined in California Revenue and Taxation Code Section 402.1(a)(11)(C)(ii), or is a “qualified nonprofit corporation” as described in California Revenue and Taxation Code Section 214.15.

(f) The development regulations of the base zone in which the premises is located shall apply, except as specified in Section 143.1310(a) and this Section.

(1) The minimum lot area and minimum lot dimensions regulations of the base zone are waived and replaced with the following regulations:

(A) The two premises shall be approximately equal in size, provided that one premises shall not be smaller than 40 percent of the lot area of the original premises.

(B) The two premises shall be no smaller than 1,200 square feet in lot area for each premises.

(g) Notwithstanding Section 143.1315(e), an urban lot split and construction of a second dwelling unit with a maximum gross floor area of 800 square feet shall be permitted on each of the premises created by an urban lot split

regardless of non-compliance with one or more *development* regulations,
with the exception of the *lot* requirements in Section 143.1315(e)(1)(A)
and 143.1315(e)(1)(B) which shall apply.

DRAFT

Section 3: Amendments to ADU & JADU Regulations

§141.0302 *Accessory Dwelling Units and Junior Accessory Dwelling Units*

This section provides for the construction of *ADUs* and *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 encroachment into the interior side *yard* and rear *yard setbacks* up to the *property line*, the elimination of parking requirements for *ADUs* and *JADUs*, and an affordable housing bonus that provides 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~~ Single Dwelling Unit Zones by-right as a limited use in accordance with a Process One, indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) The following definitions apply to this Section.

(1) Single Dwelling Unit Zone means a zone that permits *single dwelling units* and does not permit *multiple dwelling units*.

(2) Multiple Dwelling Unit Zone means a zone that permits *multiple dwelling units*.

(ab) The following regulations are applicable to *ADUs* and *JADUs*:

(1) Use Regulations

(A) One *ADU* and one *JADU* are permitted on a *premises* located within a ~~*single dwelling unit zone*~~ Single Dwelling Unit Zone with an existing or proposed *single dwelling unit*.

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

~~(D) A *premises* that has utilized any of the provisions of Chapter 14, Article 3, Division 13 shall not construct an *Accessory Dwelling Unit* or *Junior Accessory Dwelling Unit* on the *premises*.~~

(2) *Development Regulations*

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

~~(D) The following *setback* allowances are applicable:~~

~~(i) Conversion of existing *structure* to an *ADU* or *JADU*. No *setback* is required for an existing *dwelling unit* or *accessory structure* that is converted to an *ADU* or *JADU*, or to a portion of an *ADU* or *JADU*. An *ADU* or *JADU* that is constructed in the same location and to the same dimensions as an existing *structure* may continue to~~

observe the same *setbacks* as the *structure* it replaced.

(ii) ~~New *ADU* and *JADU* structures. New *ADU* and *JADU* structures must comply with the front yard and street side yard setbacks of the zone. New *ADU* and *JADU* structures may encroach into the required interior side yard and rear yard setbacks up to the property line to accommodate construction of the *ADU* or *JADU*.~~

(D) No setback is required for an existing dwelling unit or accessory structure that is converted to an *ADU* or *JADU*, or to a portion of an *ADU* or *JADU*. An *ADU* or *JADU* that is constructed in the same location and to the same dimensions as an existing structure may continue to observe the same setbacks as the structure it replaced.

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

(i) One-story *ADU* or *JADU* structures that are 16 feet in height or less may encroach into the required

interior side yard and rear yard setbacks up to the property line.

(ii) One-story ADU or JADU structures that exceed 16 feet in height and multi-story ADU or JADU structures may observe a 0-foot interior side yard and rear yard setback 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 be observed.

(F) The following landscape regulations shall apply to the construction of an ADU or JADU:

(i) If a premises contains three or more existing or proposed ADUs, one tree shall be provided on the premises for every 5,000 square feet of lot area, with a minimum of one tree per premises. If planting of a new tree is required to comply with this Section, the tree shall be selected in accordance with the Landscape Standards of the Land Development Manual and the City's Street Tree Selection Guide.

(ii) ADUs constructed in accordance with Section 141.0302(c)(2)(C) shall comply with the street tree requirements in Section 142.0409(a).

(EG) ADUs and JADUs shall not be required to provide fire sprinklers if they are not required for the primary *dwelling unit*. When located on a *premises* where the primary *dwelling unit* is protected with an automatic fire sprinkler system in accordance with Section R313 of the California Residential Code, a *ADU* or *JADU* shall be protected with an automatic fire sprinkler system.

(H) The construction of an ADU or JADU shall not require the correction of previously conforming conditions on the premises.

(3) Parking Regulations

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

(C) Notwithstanding 141.0302(b)(2)(F), if, as a result of creating an ADU or JADU, an existing driveway curb cut will no longer lead to a safe and efficient off-street parking space that complies with the dimensions required in Table 142-05K of Section 142.0560, the driveway curb cut shall be closed to the satisfaction of the City Engineer.

(4) [No change in text]

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

(1) Use Regulations

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

(2) *Development* Regulations

(A) [No change in text]

(B) ~~No more than one~~ One *ADU* shall be permitted in a Single Dwelling Unit Zone on a *premises* with an existing or proposed *single dwelling unit*.

(C) ~~*ADUs* located on~~ On a *premises* located in a Single Dwelling Unit Zone with an existing *multiple dwelling unit*, or a premises located in a Multiple Dwelling Unit Zone with an existing or proposed ~~*multiple dwelling unit*~~, *ADUs* shall be permitted as follows:

(i) ~~The number of *ADUs* permitted within the habitable area of an existing *multiple dwelling unit structure* is limited to 25 percent of the total number of existing *dwelling units* in the *structure*, but in no case shall be less than 1 *ADU*; and~~

~~(ii) Two ADUs that are detached from an existing structure are permitted; and~~

(i) Two ADUs that are attached to and/or detached from an existing or proposed structure are permitted; and

(ii) The number of ADUs permitted within the habitable area of an existing dwelling unit structure is limited to 25 percent of the total number of existing dwelling units in the structure, but in no case shall be less than 1 ADU; and

(iii) There is no limit on the number of ADUs permitted within the portions of existing *multiple-dwelling unit structures* and associated accessory structures that are not used as livable space, including, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each ADU complies with state building standards for *dwelling units*.

(D) through (G) [No change in text]

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

(1) Use Regulations

(A) though (C) [No change in text]

(2) *Development* Regulations

(A) One *JADU* is permitted on a *premises* located within a ~~*single dwelling unit zone*~~ Single Dwelling Unit Zone with an existing or proposed primary *single dwelling unit*.

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

§142.0640 Impact Fees for Financing Public Facilities

(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 at the time required building permit fees are paid and no later than the first inspection of the *development* performed by the City in areas where Development Impact Fees have been established by City Council resolution or ordinance. Notwithstanding the above, the City Manager may also require the payment of Development Impact Fees for *development* that would increase demand for public facilities and/or result in the need for new public facilities. Development Impact Fees 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 Development Impact Fee required by the City Manager shall be paid at the time required building permit fees are paid and no later than the first inspection of the *development* performed by the City.

Exemptions:

(1) *Accessory Dwelling Units, Junior Accessory Dwelling Units, movable tiny houses*, and guest quarters are exempt from DIFs, except as follows:

(A) The first two *Accessory Dwelling Units* on a *premises* are exempt from the requirement to pay DIF, regardless of the *gross floor area* of the *Accessory Dwelling Unit*. *Accessory Dwelling Units* in excess of two *Accessory Dwelling Units* are also exempt from the requirement to pay DIF if the *gross floor area* of the *Accessory Dwelling Unit* is 750 square feet or less. All other *Accessory Dwelling Units* on a *premises* that exceed 750 square feet in *gross floor area* shall be required to pay DIF at the *multiple dwelling unit* rate, which shall be scaled in accordance with Resolution No. 313688 adopting the Citywide Park Development Impact Fee, and with Table 142-06A based upon the *Accessory Dwelling Unit* size, or shall be proportionate in

relation to the square footage of the primary *dwelling unit* on the *premises* at the *multiple dwelling unit* rate, whichever results in the lower DIF. In no case shall the DIF for the *Accessory Dwelling Unit* exceed the DIF for the *primary dwelling unit(s)*.

(2) – (5) [No change in text.]

(6) 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 second and third *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 Resolution No. 313688 adopting the Citywide Park Development Impact Fee, and Table 142-06A based upon the *dwelling unit size*.

**Table 142-06A
Scaled Development Impact Fee Rate for Specified Residential Development
Utilizing the Housing Solutions Program**

1,251	>	Full Fee
1,201	- 1,250	99%
1,151	- 1,200	97%
1,101	- 1,150	95%
1,051	- 1,100	92%
1,001	- 1,050	90%

951	- 1,000	87%
901	- 950	85%
851	- 900	83%
801	- 850	80%
751	- 800	78%
701	- 750	76%
651	- 700	73%
601	- 650	71%
551	- 600	68%
501	- 550	66%

(c) – (g) [No change in text.]

§151.0401 Uses Permitted in the Planned Districts

(a) The uses identified in Chapter 14, Article 1 (Separately Regulated Uses) may be permitted in planned districts as limited uses subject to supplemental regulations, or conditional uses requiring a Neighborhood Use Permit or Conditional Use Permit in accordance with the rules and procedures in Chapter 14, Article 1.

(b) The permit process for a separately regulated use shall be determined in accordance with applicable planned district use regulations, with the exception of ~~transitional housing facilities and permanent supportive housing, which shall be permitted in accordance with Section 141.0313 and Section 141.0315 in all planned district zones that permit transitional housing facilities as a conditional use.~~ the following uses, which shall be

permitted as a Process 1 *construction permit* in all planned district zones that permit the use as either a limited or conditional use:

(1) *Accessory Dwelling Units and Junior Accessory Dwelling Units* shall be permitted in accordance with the regulations in Section 141.0302.

(2) *Transitional housing facilities* shall be permitted in accordance with the regulations in Section 141.0313.

(3) *Permanent supportive housing* shall be permitted in accordance with the regulations in Section 141.0315.

(c) Where the use and accompanying permit process for a separately regulated use is not provided for within a planned district, but upon request of the applicant, the City Manager determines a separately regulated use, identified in Chapter 14, Article 1, meets the purpose and intent of the applicable planned district zone, that separately regulated use may be processed in accordance with the zone in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) that most closely meets the purpose and intent of the applicable planned district zone in terms of permitted uses within the zone and the allowable intensity of those uses.

(d) In case of conflict between Section 151.0401 and regulations for a planned district, the planned district regulations shall apply, with the exception of

Accessory Dwelling Units, Junior Accessory Dwelling Units, transitional housing facilities and *permanent supportive housing*, which shall be permitted in accordance with Section 151.0401.

§155.0238 Use Regulations Table of CU Zones

The uses allowed in the CU zones are shown in Table 155-02C:

**Table 155-02C
Use Regulations Table for CU Zones**

Use Categories/Subcategories [See Land Development Code Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones							
	1st & 2nd >>	CU-							
	3rd >>	1- (1)		2-			3-		
	4th >>	1	2	3	4	5	3(2)(1 2)	6	7
Open Space through Residential – <i>Single Dwelling Units</i> [No change in text.]									
Separately Regulated Residential Uses									
<u><i>Accessory Dwelling Units</i></u>	<u>L</u>	<u>L</u>	<u>L</u>						
<i>Boarder & Lodger Accommodations</i> [No change in text.]	[No change in text.]								
<i>Companion Units</i>	L	-	-						
Continuing Care Retirement Communities through Home Occupations [No change in text.]	[No change in text.]								
<u><i>Junior Accessory Dwelling Units</i></u>	<u>L</u>	-	-						
Residential – Separately Regulated Uses – Live/Work Quarters through Signs - Separately Regulated Signs Uses – Theater Marquee [No change in text.]	[No change in text.]								

Footnotes for Table 155-02C

(1) through (13) [No change in text.]

§1516.0107 Administration and Permits

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

**Table 1516-01A
Type of Development Proposal and Applicable Regulations**

	Type of Development Proposal	Applicable Sections	Required Permit /Decision Process
1.	<ul style="list-style-type: none"> • Interior building modifications or interior repairs • Interior alterations that do not require any building permit 	Exempt from this Division	No permit required by this Division
2.	<ul style="list-style-type: none"> • Renewal of roof coverings of any building permitted by the California Building Code and the California Residential Code, where the existing roofing material, roof structure, or roof diaphragm is not altered • Repair, renewal, or replacement of any exterior wall finish or material where the existing material type or color is not altered • Repair, renewal, or replacement of any building windows where the existing window type, material, or color is not altered 	Exempt from this Division	No permit required by this Division

	Type of Development Proposal	Applicable Sections	Required Permit /Decision Process
3.	<ul style="list-style-type: none"> • Re-roofing (where the existing roofing material, roof structure, or roof diaphragm is altered) • Repainting or recoloring of exterior surfaces where the existing exterior building color is altered • Any addition to or alteration of any non-historical structure which is <i>minor in scope</i>. • New construction of any non-habitable accessory structure that does not exceed 100 square feet in gross floor area and that would not be visible from the public right-of-way. • <u>Conversion of existing habitable or non-habitable areas to an <i>Accessory Dwelling Unit</i> or <i>Junior Accessory Dwelling Unit</i>, or the construction of an attached or detached <i>Accessory Dwelling Unit</i> or <i>Junior Accessory Dwelling Unit</i>, in accordance with Section 141.0302 and the applicable Sections of this Division.</u> 	1516.0124, 1516.0125, 1516.0126, 1516.0131, 1516.0132, Appendix A, Appendix B, Appendix C, Appendix D, and Appendix F	Ministerial Permit/Process One
4.	<ul style="list-style-type: none"> • New construction of any building or primary structure • New construction of any habitable accessory structure • New construction of any non-habitable accessory structure that exceeds 100 square feet in gross floor area • New construction of any non-habitable accessory structure that would be visible from the public right-of-way • Signs • Walls or fences • Any addition to or alteration of any non-historical structure which is <i>major in scope</i>. 	1516.0124, 1516.0125, 1516.0126, 1516.0127, 1516.0128, 1516.0130-1516.0140, Appendix A, Appendix B, Appendix C, Appendix D, Appendix E, and Appendix F	Neighborhood Development Permit (NDP)/Process Two

	Type of Development Proposal	Applicable Sections	Required Permit /Decision Process
5.	<ul style="list-style-type: none"> Development projects on locations where an archaeological site has been identified 	1516.0108	Site Development Permit (SDP)/Process Three
6.	<ul style="list-style-type: none"> Grading or any improvement which could directly affect an archaeological resource, tribal cultural resource, or early San Diego descendant resource. 	143.0201-143.0280, 1516.0108	Varies

§1516.0112 Use Regulations for Old Town San Diego Residential Zones

The uses allowed in the Old Town San Diego Residential zones are shown in Table 1516-01B:

**Table 1516-01B
Use Regulations for Old Town 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 >>	OTRS-	OTRM-		
3rd >>	1-	1-	2-		
4th >>	1	1	1	2	
Open Space through Residential – Single Dwelling Units [No change in text.]	[No change in text]				
Separately Regulated Residential Uses					

<i>Accessory Dwelling Units</i>	<u>L</u>	<u>L</u>	<u>L</u>
<i>Boarder & Lodger Accommodations</i> [No change in text.]	[No change in text]		
<i>Companion Units</i>	-	-	-
Continuing Care Retirement Communities through Home Occupations [No change in text.]	[No change in text]		
<i>Junior Accessory Dwelling Units</i>	<u>-L</u>	-	-
Residential – Separately Regulated Uses – Live/Work Quarters through Signs - Separately Regulated Signs Uses – Theater Marquee [No change in text.]	[No change in text]		

Footnotes for Table 1516-01B

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

§1516.0117 Use Regulations for Old Town San Diego Commercial Zones

The uses allowed in the Old Town San Diego Commercial zones are shown in Table 1516-01D:

**Table 1516-01D
Use Regulations for Old Town 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								
		OTCC-						OTMCR-		
		1-		2-		3-		1		
		1	1	2	3	1	2	1	2	3
Open Space through Residential – Single Dwelling Units [No change in text.]		[No change in text]								
Separately Regulated Residential Uses										
<i>Accessory Dwelling Units</i>		<u>=</u>	<u>L</u>							
Boarder & Lodger Accommodations										
<i>Companion Units</i>		-	-	-	-	-	-	-	-	-
Employee Housing through Housing for Senior Citizens:		[No change in text.]								
<i>Junior Units Junior Accessory Dwelling Units</i>		-	-	-	-	-	-	-	-	-
Residential – Separately Regulated Uses –		[No change in text.]								

Live/Work Quarters through Signs - Separately Regulated Signs Uses – Theater Marquee [No change in text.]	
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Footnotes for Table 1516-01D

⁽¹⁾ through ⁽⁷⁾ [No change in text.]

§1516.0122 Use Regulations for Old Town San Diego Open Space-Park Zones

The uses allowed in the Old Town San Diego Open Space-Park zones are shown in Table 1516-01F:

**Table 1516-01F
Use Regulations for Old Town Open Space-Park Zones**

Use Categories/ Subcategories	Zone Designator	Zones	
	[See Section 131.0112 for Use Categories, Subcategories, and Separately Regulated Uses]	1st & 2nd >>	OTOP-
3rd >>		1-	2-
4th >>		1	1
Open Space through Residential – <i>Single Dwelling Units</i> [No change in text.]		[No change in text]	
Separately Regulated Residential Uses			
<u><i>Accessory Dwelling Units</i></u>		=	=
Boarder & Lodger Accommodations		[No change in text]	
Companion Units		-	-
Employee Housing through Housing for Senior Citizens:		[No change in text]	
<u><i>Junior Units Junior Accessory Dwelling Units</i></u>		-	-
Residential – Separately Regulated Uses – Live/Work Quarters through Signs - Separately Regulated Signs Uses – Theater Marquee [No change in text.]		[No change in text]	

§ 1516.0131 Accessory Buildings for Old Town San Diego Residential Zones

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

(e) Habitable accessory buildings may be permitted:

(1) to a single dwelling unit in accordance with
Sections ~~141.0302~~ or 141.0307, or

(2) [No change in text.]

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