

ORDINANCE NUMBER O- 18654 (NEW SERIES)

ADOPTED ON JUN 21 1999

AN ORDINANCE AMENDING THE SAN DIEGO MUNICIPAL CODE BY AMENDING CHAPTER 12, ARTICLE 6, DIVISION 5 OF THE LAND DEVELOPMENT CODE BY AMENDING SECTIONS 126.0502 AND 126.0504; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 3 BY AMENDING SECTION 141.0310; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 3 BY AMENDING SECTION 143.0302; AND AMENDING CHAPTER 14, ARTICLE 3, DIVISION 7 BY AMENDING SECTIONS 143.0710, 143.0715, 143.0720, AND 143.0730, BY REPEALING SECTIONS 143.0740 AND 143.0750, AND BY ADDING NEW SECTIONS 143.0740 AND 143.0750, ALL RELATING TO DENSITY BONUS REGULATIONS.

WHEREAS, on December 9, 1997, the Council, by Ordinance No. O-18451, adopted the Land Development Code for The City of San Diego as part of the San Diego Municipal Code, replacing existing zoning regulations, including regulations pertaining to the provision of density bonus to developments that provide affordable housing as part of development projects; and

WHEREAS, the City desires to amend the density bonus regulations to be more consistent with most recent changes in State density bonus legislation; NOW, THEREFORE,

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

Section 1. That Chapter 12, Article 6, Division 5 of the Land Development Code is amended by amending sections 126.0502 and 126.0504, to read as follows:

**SEC. 126.0502 When a Site Development Permit is Required**

- (a) [No change.]
- (b) A Site Development Permit decided in accordance with Process Three is

required for residential *development* that involves any of the following:

(1) *Development* with an affordable housing *density* bonus within the RE, RS, RX, RT, and AR zones.

(2) *Development of mobilehome parks* within the RS or RX zones, as described in Section 143.0302.

(3) Within the Mobilehome Park Overlay Zone, discontinuance of a *mobilehome park*, as described in Section 143.0630.

(4) Within any multiple unit residential zone, multiple unit residential *development* that exceeds the number of dwelling units indicated in Table 126-05A on *lots* which are consolidated or otherwise joined together for the purpose of accommodating the *development*.

[No change in Table 126-05A.]

(5) Multiple unit residential *development* that varies from minimum parking requirements, as described in Section 142.0525(a).

(c) [No change.]

(d) [No change in first sentence.]

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

(5) *Development* for which the *applicant* seeks a deviation from the applicable development regulations as an additional development incentive to a *density* bonus for affordable housing under Section 143.0750.

(e) [No change.]

**SEC. 126.0504 Findings for Site Development Permit Approval**

A Site Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0504(a) and the supplemental *findings* in Section 126.0504(b) through (l) that are applicable to the proposed *development* as specified in this section.

(a) through (k) [No change.]

(l) Supplemental Findings--Deviation for Affordable Housing

A *development* that requires a Site Development Permit in accordance with Section 143.0750 because the *applicant* has requested a deviation from the applicable development regulations as an additional incentive to a *density* bonus for providing affordable housing may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a):

(1) [No change.]

(2) The *development* will not be inconsistent with the purpose of the underlying zone.

(3) The deviation is necessary to make it economically feasible for the *applicant* to utilize any *density* bonus authorized for the *development* pursuant to Section 143.0730.

Section 2. That Chapter 14, Article 1, Division 3 of the Land Development Code is amended by amending section 141.0310, to read as follows:

**SEC. 141.0310 - Housing for Senior Citizens**

Housing for senior citizens 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.

(a) [No change.]

(b) Housing for senior citizens may be permitted an affordable housing density bonus and an additional development incentive as provided in Chapter 14, Article 3, Division 7 (Affordable Housing Density Bonus Regulations). All *density* bonus units in excess of 25 percent of the allowable *density* of the base zone shall be for occupancy by *very-low income* Senior Citizens or *very low-income* qualifying residents at a rent that does not exceed 30 percent of 50 percent of area median income, as adjusted for assumed household size. Proposed *developments* that provide daily meals in a common cooking and dining facility, and provide and maintain a common transportation service for residents, may be exempt from the affordability requirement of Chapter 14, Article 3, Division 7.

(c) through (e) [No change.]

Section 3. That Chapter 14, Article 3, Division 3 of the Land Development Code is amended by amending section 143.0302, to read as follows:

**SEC. 143.0302 When Supplemental Neighborhood Development Permit and Site Development Permit Regulations Apply**

[No change in first sentence.]

**Table 143-03A  
Supplemental Neighborhood Development Permit or Site Development Permit  
Regulations Applicability**

<b>Type of Development Proposal</b>	<b>Applicable Sections</b>	<b>Required Development Permit/Decision Process</b>
Site Containing <i>Environmentally Sensitive Lands</i>	143.0101-143.0160, 143.0303, 143.0305, 143.0350, 143.0375, 143.0380	NDP/Process Two or SDP/Process Three or Four
Site Containing <i>Historical Resources</i>	143.0201-143.0260, 143.0303, 143.0305, 143.0360, 143.0375, 143.0380	NDP/Process Two or SDP/Process Four
<i>Fences or Retaining Walls Exceeding the Permitted Height</i>	143.0303, 143.0305, 142.0350, 143.0375	NDP/Process Two
Relocated Building Onto a Site With an Existing Building	143.0303, 143.0305, 143.0345, 143.0375	NDP/Process Two
Site with <i>Previously Conforming Conditions</i>	127.0102, 143.0303, 143.0305, 143.0375	NDP/Process Two
Nonresidential <i>Development Exceeding the Maximum Permitted Parking</i>	142.0540(b), 143.0303, 143.0305, 143.0375	NDP/Process Two
Shared Parking for Uses Not Listed in Section 142.0545(c)	142.0545(b)(7), 143.0303, 143.0305, 143.0375	NDP/Process Two
Commercial <i>Development With Tandem Parking</i>	142.0555(b), 143.0303, 143.0305, 143.0375	NDP/Process Two
<i>Previously Conforming Parking for a discontinued use</i>	142.0510(d)(4), 143.0303, 143.0305, 143.0375	NDP/Process Two
<i>Mobilehome Parks in RM Zones</i>	143.0303, 143.0305, 143.0340, 143.0375	NDP/Process Two
<i>Mobilehome Parks in RS, RX Zones</i>	143.0303, 143.0305, 143.0340, 143.0375	SDP/Process Three
Discontinuance of <i>Mobilehome Park</i>	141.0410-141.0440, 132.0801-132.0804, 143.0303, 143.0305, 143.0375, 143.0380	SDP/Process Three
Multiple Dwelling Unit <i>Development that Varies from Minimum Parking Requirements</i>	142.0525(b), 143.0303, 143.0305, 143.0375, 143.0380	SDP/Process Three
Nonresidential <i>Development (With TDM Plan) that Varies from Minimum Parking Requirements</i>	142.0525(b), 143.0303, 143.0305, 143.0375, 143.0380	SDP/Process Three
Community Plan <i>Implementation Overlay Zone</i>	132.1401-132.1405, 143.0303, 143.0305, 143.0375, 143.0380	SDP/Process Three
Mission Trails Design District	132.1201-132.1205, 143.0303, 143.0305, 143.0375, 143.0380	SDP/Process Three
<i>Development Within the Urban Village Overlay Zone</i>	132.1101-132.1110, 143.0303, 143.0305, 143.0375, 143.0380	SDP/Process Three
<i>Public improvements on More Than 3,000 Feet of Frontage or Where City Standards Do Not Apply</i>	142.0601-142.0670, 143.0303, 143.0305, 143.0375, 143.0380	SDP/Process Three

Type of Development Proposal	Applicable Sections	Required Development Permit/Decision Process
Manufactured Slopes in Excess of 25% Gradient and 25 Feet in Height	142.0101-142.0149, 143.0303, 143.0305, 143.0375,143.0380	SDP/Process Three
Affordable Housing in RE, RS, RX, RT, AR Zones	143.0303, 143.0305, 143.0310, 143.0320, 143.0375,143.0380, 143.0710-143.0740	SDP/Process Three
Affordable Housing with Deviations from Development Regulations	143.0303, 143.0305, 143.0310, 143.0320, 143.0375,143.0380, 143.0750	SDP/Process Four
Multiple Dwelling Unit Development in RM Zones Involving Lot Consolidation and Exceeds Number of Units Indicated in Table 126-05A	143.0303, 143.0305, 143.0310, 143.0320, 143.0375,143.0380	SDP/Process Three
Clairemont Mesa Height Limit Overlay Zone	132.0401-132.0406, 143.0303, 143.0305, 143.0375,143.0380	SDP/Process Five

**Legend to Table 143-03A**

NDP	NDP means Neighborhood Development Permit
SDP	SDP means Site Development Permit

Section 4. That Chapter 14, Article 3, Division 7 of the Land Development Code is amended by amending sections 143.0710, 143.0715, 143.0720, and 143.0730, and by adding new sections 143.0740 and 143.0750, to read as follows:

**SEC. 143.0710 - Purpose of Affordable Housing Density Bonus Regulations**

The purpose of these regulations is to provide increased residential densities to developers who guarantee that a portion of their residential *development* will be available to *low income, very low-income*, or senior households. The regulations are intended to materially assist the housing industry in providing adequate and affordable shelter for all economic segments of the community and to provide a balance of housing opportunities

for *low income*, *very low-income*, and senior households throughout the City. It is intended that the affordable housing *density* bonus and any additional development incentive be available for use in all residential developments, using criteria and standards provided in the Progress Guide and General Plan, as defined by the San Diego Housing Commission. It is also intended that these regulations implement the provisions of California Government Code Sections 65915 through 65918.

**SEC. 143.0715 - When Affordable Housing Density Bonus Regulations Apply**

(a) This division applies to any residential *development* of five or more dwelling units where an *applicant* proposes *density* beyond that permitted by the applicable zone in exchange for a portion of the total dwelling units in the *development* being reserved for *low or very low-income* households or for senior citizens or qualified residents through a written agreement.

(b) An *applicant* proposing *development* as provided in Section 143.0715(a) shall be entitled to a density bonus as provided in Sections 143.0720 and 143.0730 and may be granted an additional development incentive as provided in Section 143.0740.

**SEC. 143.0720 - Affordable Housing Density Bonus Agreement**

(a) An *applicant* shall be entitled to a *density* bonus for any residential *development* for which an agreement is entered into by the *applicant* and the Chief Executive Officer of the San Diego Housing Commission as provided in Section 143.0720(b).

(b) The density bonus agreement shall include the following provisions:

(1) With respect to rental housing affordable units:

(A) at least 20 percent of the pre-bonus units in the *development* will be affordable, including an allowance for utilities, to *low-income* households at a rent that does not exceed 30 percent of 60 percent of area median income, as adjusted for assumed household size; or

(B) at least 10 percent of the pre-bonus units in the *development* will be affordable, including an allowance for utilities, to *very low-income* households at a rent that does not exceed 30 percent of 50 percent of area median income, as adjusted for assumed household size; or

(C) at least 50 percent of the total units will be available to senior citizens or qualifying residents as defined under California Civil Code section 51.3.

(2) With respect to "for sale" housing affordability shall be determined based on prevailing underwriting standards of mortgage financing available for the *development*, which shall include a forgivable second, silent mortgage, as administered by the Housing Commission. At least 20 percent of the pre-bonus units in the development shall be available to *low-income* purchasers or 10 percent of the pre-bonus units shall be available to *very low-income* purchasers or at least 50 percent of the pre-bonus units in the *development* shall be available to senior citizens or qualifying residents as defined under California Civil Code section 51.3.

(3) The affordable units will remain available and affordable as provided in Section 143.0720 for a period of at least 30 years if an additional development incentive is granted to the *applicant* as provided in Section 143.0740 or 10



years if an additional development incentive is not granted. If an *applicant* does not request an additional development incentive, the *applicant* shall submit a pro forma analysis for the Chief Executive Officer of the Housing Commission to document project feasibility.

(4) The affordable units shall be designated units which are comparable in bedroom mix and amenities to the market-rate units in the *development* and are dispersed throughout the *development*.

(5) Provision shall be made for certification of eligible tenants and purchasers, annual certification of property owner compliance, and payment of a monitoring fee, as adjusted from time to time, for monitoring of affordable unit requirements.

#### **SEC. 143.0730 - Density Bonus Provisions**

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

(a) The *development* shall be permitted a density bonus of the amount of units requested by the *applicant*, up to a total project dwelling unit count of 125 percent of the units permitted by the *density* regulations of the applicable base zone.

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

(e) Where the *development* consists of two or more noncontiguous parcels lying within two or more community planning areas, the dwelling units reserved at levels affordable by *low-income* or *very low-income* households shall be distributed among community planning areas in the same proportion as the total number of dwelling units

constructed within the *development*.

**SEC. 143.0740 - Additional Development Incentive for Affordable Housing**

In accordance with the provisions of Government Code Section 65915, the City may grant a development incentive in addition to the 25 percent density bonus. The additional development incentive may consist of the following:

(a) a density bonus of more than 25 percent;

(b) a financial incentive consisting of:

(1) fee reductions or deferrals as authorized for affordable housing in the Municipal Code; or

(2) direct financing assistance from the Housing Commission, Redevelopment Agency, or other public funds, if authorized by the applicable agency on a case-by-case basis, or

(c) a deviation from applicable *development* regulations pursuant to Section 143.0750.

**SEC. 143.0750 Deviation to Allow for Additional Development Incentive**

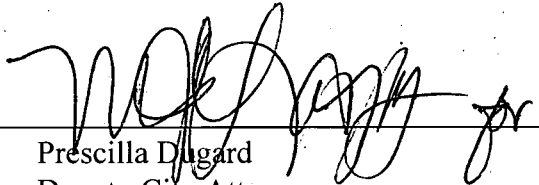
An applicant may request a deviation from the applicable development regulations as an additional development incentive for affordable housing pursuant to a Site Development Permit decided in accordance with Process Four provided that the *findings* in Section 126.0504(a) and the supplemental *findings* in Section 126.0504(l) are made.

Section 6. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 7. Except in the Coastal Overlay Zone, this ordinance will take effect and be in force on the date the Land Development Code, adopted by the City Council on December 9, 1997, by Ordinance No. O-18451, becomes effective. Within the Coastal Overlay Zone, this ordinance shall be in force and effect on the date it is effectively certified by the California Coastal Commission as a City of San Diego Local Coastal Program amendment.

APPROVED: CASEY GWINN, City Attorney

By



Prescilla Dugard  
Deputy City Attorney

PD:cdk

05/12/99

Or.Dept:Plan.&Dev.Rev.

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