

### Article 3: Supplemental Development Regulations

#### Division 7: Affordable Housing Density Bonus Regulations

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

#### §143.0710 Purpose of Affordable Housing Density Bonus Regulations

The purpose of these regulations is to provide increased residential density to developers who guarantee that a portion of their residential *development* will be available to *moderate income, low income, very low income*, or senior households. The regulations are intended to materially assist the housing industry in providing adequate and affordable housing for all economic segments of the community and to provide a balance of housing opportunities for *moderate income, 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 *development* of five or more units, using criteria and standards provided in the General Plan, and that requests be processed by the City of San Diego and be implemented by the President and Chief Executive Officer of the San Diego Housing Commission. It is also intended that these regulations implement the provisions of California Government Code Sections 65915 through 65918.

*(Added 12-9-1997 by O-18451 N.S.; amended 6-21-1999 by O-18654 N.S.; effective 1-1-2000.)*

*(Amended 12-5-07 by O-19689; effective 01-04-08.)*

**[Editors Note.** Amendments as adopted by O-19689 N. S. will not apply within the Coastal Overlay Zone until the California Coastal Commission unconditionally certifies it as a Local Coastal Program Amendment. The 2008 Ordinance O-19689 was withdrawn from the California Coastal Commission and Ordinance O-20518 was then submitted and subsequently certified by the Coastal Commission on May 11, 2016.]

*(Amended 7-28-2015 by O-20518 N.S.; effective 8-27-2015.)*

**§143.0715 When Affordable Housing Density Bonus Regulations Apply**

This Division applies to any residential *development* where current zoning allows for five or more *dwelling units*, not including *density* bonus units, where an *applicant* proposes *density* beyond that permitted by the base zone and *land use plan* at the time the application is *deemed complete*, in exchange for either of the following:

- (a) A portion of the total *dwelling units* in the *development* being reserved for *moderate, low, or very low income* households or for senior citizens through a written agreement with the San Diego Housing Commission; or
- (b) The donation of land, pursuant to the State Density Bonus Law.

*(Added 12-9-1997 by O-18451 N.S.; amended 6-21-1999 by O-18654 N.S.; effective 1-1-2000.)*

*(Amended 12-5-07 by O-19689; effective 01-04-08.)*

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*(Amended 7-28-2015 by O-20518 N.S.; effective 8-27-2015.)*

**§143.0717 Required Replacement of Affordable Units**

- (a) An *applicant* is ineligible for a *density* bonus or any incentive under this Division if the property on which the *development* is proposed contains, or during the five years preceding the application, contained, rental *dwelling units* that have had the rent restricted by law or covenant to persons and families of *low income* or *very low income*, or have been occupied by persons and families of *low income* or *very low income*, unless the proposed *development* replaces the affordable *dwelling units*, and either:
  - (1) Provides affordable *dwelling units* at the percentages set forth in Section 143.0725 (inclusive of the replacement *dwelling units*), or
  - (2) Provides all of the *dwelling units* as affordable to *low income* or *very low income* households, excluding any manager's unit(s).

- (b) The number and type of required replacement *dwelling units* shall be determined as follows:
- (1) For a *development* containing any occupied *dwelling units*, the *development* must contain at least the same number of replacement *dwelling units*, of equivalent size or type, or both, and must be made affordable to and occupied by persons and families in the same or a lower income category as the occupied *dwelling units*. If some of the *dwelling units* in the *development* are unoccupied, the replacement *dwelling units* shall be of the same proportion of affordability as those *dwelling units* that are occupied.
  - (2) If all the *dwelling units* are vacant or have been demolished within the five years preceding the application, the *development* must contain at least the same number of replacement *dwelling units*, of equivalent size or type, or both, as existed at the time of the greatest number of occupied affordable *dwelling units* in that *development*, and must be made affordable to and occupied by persons and families in the same or a lower income category as those in occupancy at that same time. If the income categories are unknown for the prior five year period, then one-half of the replacement *dwelling units* shall be made available for rent to or purchase by and occupied by persons and families in the *very low income* category, and one-half of the replacement *dwelling units* shall be made available for rent to and occupied by persons and families in the *low income* category.
  - (3) All replacement *dwelling unit* calculations resulting in fractional units shall be rounded up to the next whole number.
  - (4) All rental replacement *dwelling units* shall be affordable for at least 55 years.

(“Required Replacement of Affordable Units” added 7-28-2015 by O-20518 N.S.; effective 8-27-2015.)

**§143.0720 Density Bonus in Exchange for Affordable Housing Units**

- (a) A *development* shall be entitled to a *density* bonus and incentives as described in this division, for any residential *development* for which a written agreement, and a deed of trust securing the agreement, is entered into by the *applicant* and the President and Chief Executive Officer of the San Diego Housing Commission. The agreement and deed of trust in favor of the San Diego Housing Commission are to be recorded in the Office of the Recorder of the County of San Diego as an encumbrance against the *development*.
- (b) The *density* bonus units authorized by this Division shall be exempt from the Inclusionary Housing Regulations set forth in Chapter 14, Article 2, Division 13, provided that the affordability restrictions, term of affordability, occupancy, and rents charged under the *density* bonus regulations provide greater affordability than those within the Inclusionary Housing Regulations.
- (c) A rental affordable housing *density* bonus agreement shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:
  - (1) *Very low income* - At least 5 percent of the pre-*density* bonus units in the *development* shall be affordable, including an allowance for utilities, to *very low income* households at a rent that does not exceed 30 percent of 50 percent of the area median income, as adjusted for household size; or
  - (2) *Low income* - At least 10 percent of the pre-*density* bonus units in the *development* shall be affordable, including an allowance for utilities, to *low income* households at a rent that does not exceed 30 percent of 60 percent of the area median income, as adjusted for household size.
  - (3) The affordable units shall be designated units, be comparable in bedroom mix and amenities to the market-rate units in the *development*, and be dispersed throughout the *development*.
  - (4) The *dwelling units* shall remain available and affordable for a period of at least 55 years or longer, as may be required by other laws or covenants.
- (d) A for-sale affordable housing *density* bonus agreement shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:

- (1) *Very low income* - At least 5 percent of the pre-*density* bonus units in the *development* shall be affordable, including an allowance for utilities, to *very low income* households at a rent that does not exceed 30 percent of 50 percent of the area median income, as adjusted for household size.
  - (2) *Low income* - At least 10 percent of the pre-*density* bonus units in the *development* shall be affordable, including an allowance for utilities, to *low income* households at a rent that does not exceed 30 percent of 60 percent of the area median income, as adjusted for household size.
  - (3) *Moderate income* - At least 10 percent of the total *dwelling units* in a common interest development, as defined in California Civil Code Section 4100, shall be affordable, provided that all *dwelling units* in the *development* are offered to the public for purchase.
  - (4) The initial occupant of all for-sale affordable *dwelling units* shall be a *very low income*, *low income*, or *moderate income* household.
  - (5) Prior to, or concurrent with, the sale of each *density* bonus affordable unit, the *applicant* shall require the buyer to execute and deliver a promissory note in favor of the San Diego Housing Commission so that the repayment of any initial subsidy is ensured.
  - (6) Each for-sale unit shall be occupied by the initial owner at all times until the resale of the unit.
  - (7) Upon the first resale of a unit, the seller shall comply with all conditions regarding the sale of a unit, as applied by the San Diego Housing Commission, and as set forth in California Government Code Section 65915(c)(2).
  - (8) The affordable units shall be designated units, be comparable in bedroom mix and amenities to the market-rate units in the *development*, and be dispersed throughout the *development*.
- (e) A *density* bonus agreement for housing for senior citizens shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:

- (1) The *development* consists of housing for senior citizens or qualifying residents as defined under California Civil Code Section 51.3 and 51.12, where at least 35 *dwelling units* are provided; or a *mobilehome* park that limits residency based on age requirements for housing for older persons pursuant to California Civil Code Section 798.76 or 799.5.
- (2) Rental *dwelling units* shall remain available for a period of at least 55 years or longer as may be required by other laws.
- (f) The *density* bonus units shall have recorded against them a Declaration of Covenants, Conditions and Restrictions in favor of the San Diego Housing Commission that shall enjoy first lien position and shall be secured by a deed of trust that may be recorded against the project or unit, as applicable, prior to construction or permanent financing.
- (g) Provision shall be made by the San Diego Housing Commission for certification of eligible tenants and purchasers, annual certification of property owner compliance, payment of a monitoring fee to the San Diego Housing Commission, as adjusted from time to time, for monitoring of affordable unit requirements, and any other terms that the San Diego Housing Commission determines are needed to implement the provisions and intent of this division and State law.
- (h) A *condominium conversion* that provides at least 33 percent of the total *dwelling units* to *low income* and *moderate income* households, or 15 percent of the total *dwelling units* to *low income* households, shall be entitled to a *density* bonus of 25 percent or other incentives of equivalent financial value in accordance with State Density Bonus Law and this Division, unless the *development* previously received a *density* bonus or other incentives.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 12-5-07 by O-19689; effective 01-04-08.)

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(Amended 7-28-2015 by O-20518 N.S.; effective 8-27-2015.)

(Amended 7-19-2016 by O-20673 N.S.; effective 8-27-2016.)

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**§143.0725 Density Bonus Provisions**

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

- (a) For senior citizen housing meeting the criteria of Section 143.0720(e), the *density* bonus shall be 20 percent.
- (b) For *development* meeting the criteria for *very low income* 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 50 percent. For *development* meeting the same criteria within the Centre City Planned District, the bonus shall apply to the maximum allowable *floor area ratio* applicable to the *development* consistent with Section 156.0309(e).
- (c) For *development* meeting the criteria for *low income* 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 50 percent. For *development* meeting the same criteria within the Centre City Planned District, the bonus shall apply to the maximum allowable *floor area ratio* applicable to the *development* consistent with Section 156.0309(e).
- (d) For *development* meeting the criteria for *moderate income* in Section 143.0720(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. For *development* meeting the same criteria within the Centre City Planned District, the bonus shall apply to the maximum allowable *floor area ratio* applicable to the *development* consistent with Section 156.0309(e).
- (e) If the *premises* is located in two or more zones, the number of *dwelling units* permitted in the *development* is the sum of the *dwelling units* permitted in each of the zones. Within the *development*, the permitted number of *dwelling units* may be distributed without regard to the zone boundaries.

- (f) Where the *development* consists of two or more specifically identified parcels, whether contiguous or noncontiguous, the maximum number of *dwelling units* permitted on each parcel is calculated based on the area of that parcel.
- (g) 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 *moderate income*, *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*.

*(Renumbered from 143.0730 to 143.0725 and amended 12-5-07 by O-19689; effective 01-04-08.)*

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*(Readopted on 7-28-2015 by O-20518 N.S.; effective 8-27-2015.)  
(Amended 7-19-2016 by O-20673 N.S.; effective 8-27-2016.)*

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**§143.0730 Density Bonus in Exchange for Donation of Land**

An *applicant* for a *tentative map*, *parcel map*, or residential *development* permit, may donate and transfer land to the City for *development* with affordable *dwelling units*, in exchange for a *density* bonus, in accordance with this Division and pursuant to State Density Bonus Law.

*(Added 12-9-1997 by O-18451 N.S.; amended 6-21-1999 by O-18654 N.S.; effective 1-1-2000.)*

*(Retitled and Amended 12-5-07 by O-19689; effective 01-04-08.)*

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**§143.0740 Development Incentives for Affordable Housing Density Bonus Projects**

The City shall process an incentive requested by an *applicant*, consistent with State Density Bonus Law and as set forth in this Section.

(a) An incentive means any of the following:

(1) A deviation to a *development* regulation;

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

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

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

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

- (3) Any other incentive proposed by the *applicant*, other than those identified in Section 143.0740(c), that results in identifiable, financially sufficient, actual cost reductions.
- (b) Items not considered incentives by the City of San Diego include, but are not limited to the following:
- (1) A waiver of a required permit;
  - (2) A deviation from the requirements of the Coastal Height Limit Overlay Zone (Chapter 13, Article 2, Division 5);
  - (3) A waiver of fees or dedication requirements;
  - (4) A direct financial incentive;
  - (5) A deviation from the requirements of the City of San Diego Building Regulations;
  - (6) For projects required to notice the Federal Aviation Administration, an increase in height that has not received a determination of No Hazard to Air Navigation.
- (c) An incentive requested as part of a *development* meeting the requirements of Section 143.0720 shall be processed according to the following:
- (1) Upon an *applicant's* request, *development* that meets the applicable requirements of Sections 143.0720 and 143.0725 shall be entitled to incentives pursuant to Section 143.0740 unless the City makes a written *finding* of denial based upon substantial evidence, of any of the following:
    - (A) The incentive is not required in order to provide for affordable housing costs, as defined in California Health and Safety Code Sections 50052.5 and 50053;
    - (B) The incentive would have a specific adverse impact upon public health and safety as defined in Government Code section 65589.5, the physical environment, including *environmentally sensitive lands*, or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the *development* unaffordable to *low income* and *moderate income* households;

- (C) The incentive would be contrary to state or federal law. Requested incentives shall be analyzed in compliance with the California Environmental Quality Act as set forth in Chapter 12, Article 8, and no incentive shall be granted without such compliance; or
  - (D) Within the Coastal Overlay Zone, the incentive would be inconsistent with the resource protection standards of the City's Local Coastal Program or the *environmentally sensitive lands* regulations, with the exception of *density*.
- (2) Granting an incentive shall not require a General Plan amendment, zoning change, or other discretionary approval.
  - (3) 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.
  - (4) The *development permit* requirement for a *development* requesting an incentive shall be the same *development permit* that would be required if the incentive were not a part of the *development* proposal.
  - (5) Notwithstanding Sections 143.0740(c)(3) and (4), when a *development permit* is required, the decision to deny a requested incentive shall be made by the decision maker for the *development permit*.
- (d) The number of incentives available are identified in Table 143-07A for *very low income* households, Table 143-07B for *low income* households, and Table 143-07C for *moderate income* households consistent with the percentage of *pre-density* bonus units identified in the first column of each table.

**Table 143-07A**  
**Very Low Income Density Bonus**  
**Households**

Percent <i>Very Low Income</i> Units	Percent <i>Density Bonus</i>	Number of Incentives
5	20	1
6	22.5	1
7	25	1
8	27.5	1
9	30	1
10	32.5	2
11	35	2
12	38.75	3
13	42.5	4
14	46.25	4
≥ 15	50	5

**Table 143-07B**  
**Low Income Density Bonus**  
**Households**

Percent <i>Low Income</i> Units	Percent <i>Density Bonus</i>	Number of Incentives
10	20	1
11	21.5	1
12	23	1
13	24.5	1
14	26	1
15	27.5	1
16	29	1
17	30.5	1
18	32	1
19	33.5	1
20	35	2
21	38.75	2
22	42.5	2
23	46.25	2
≥ 24 – 29	50	2
≥ 30	50	3
31 - 32	50	4
≥ 33	50	5

**Table 143-07C**  
**Moderate Income Density Bonus**  
**Households**

Percent <i>Moderate Income</i> Units	Percent <i>Density Bonus</i>	Number of Incentives
10	5	1
11	6	1
12	7	1
13	8	1
14	9	1
15	10	1
16	11	1
17	12	1
18	13	1
19	14	1
20	15	2
21	16	2
22	17	2
23	18	2
24	19	2
25	20	2
26	21	2
27	22	2
28	23	2
29	24	2
30	25	3
31	26	4
32	27	4
33	28	5
34	29	5
35	30	5
36	31	5
37	32	5
38	33	5
39	34	5
40	35	5
41	38.75	5
42	42.5	5
43	46.25	5
≥ 44	50	5

- (e) Child Care Center: *Development* that meets the criteria in Section 143.0720 and includes a child care center as defined in Section 141.0606(a)(2) as part of, or adjacent to, such *development* shall be entitled to an additional *density* bonus or incentive provided that:
  - (1) The child care center remains in operation for the greater of 30 years, or the period of time established by Section 143.0720(c)(4);
  - (2) The percentage of children from *low*, *very low*, or *moderate income* households attending the child care center is equal to or greater than the percentage of those same households required in the residential *development*;
  - (3) The additional *density* bonus or incentive requested is either:
    - (A) An additional *density* bonus in an amount equal to the amount of square feet in the child care center up to a maximum combined *density* increase of 35 percent; or
    - (B) An additional incentive that contributes significantly to the economic feasibility of the construction of the child care center; and
  - (4) The City finds, based upon substantial evidence, that the community is inadequately served by child care centers.
- (f) Parking. In addition to any other incentive, and upon the request of an *applicant*, the City shall apply the following regulations:
  - (1) For a *development* that meets the criteria for *moderate income* in Section 143.0720(d)(3), the vehicular parking ratios in Table 143-07D or those set forth below, inclusive of disabled and guest parking, whichever is lower, shall apply:
    - (A) Zero to one bedroom: one onsite parking space.
    - (B) Two to three bedrooms: two onsite parking spaces.
    - (C) Four and more bedrooms: two and one-half parking spaces.
    - (D) Additional reductions of 0.25 spaces per *dwelling unit* shall be granted for *development* that is at least partially within a *transit area* as described in Chapter 13, Article 2, Division 10 (Transit Area Overlay Zone), or that is subject to Chapter 13, Article 2, Division 11 (Urban Village Overlay Zone).

- (2) For a *development* that meets the criteria of Sections 143.0720(c) or (e), the vehicular parking ratios in Table 143-07D or those set forth in Section 142.0527(a)(3), inclusive of disabled and guest parking, whichever is lower, shall apply.
- (3) For purposes of this Division, a *development* may provide onsite parking through tandem parking or uncovered parking, but not through on-street parking or parking within a required front *yard* setback.
- (4) Parking reductions for a *development* providing rental and for-sale affordable housing for *very low income* and *low income* households in accordance with Sections 142.0720(c) and 142.0720(d), or rental housing for senior citizens in accordance with Section 142.0720(e) that meet transit proximity requirements are set forth in Table 143-07D.

**Table 143-07D  
Parking Reduction for Proximity to Transit**

Type of <i>Development</i>	Percent Affordable	Transit Requirement	Parking Ratio for <i>Development</i> <sup>1</sup>
Rental or for-sale <i>development</i> containing market rate and <i>low income</i> and/or <i>very low income dwelling units</i> <ul style="list-style-type: none"> <li>• <i>Very low income</i></li> <li>• <i>Low income</i></li> </ul>	11% 20%	The <i>development</i> shall be located within ½ mile of unobstructed access to a rail station, a ferry terminal served by bus or rail service, or the intersection of two or more bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods, or a major transit stop included in the applicable regional transportation plan.	0.5 spaces per <i>bedroom</i>
Rental housing <ul style="list-style-type: none"> <li>• <i>Low &amp; very low income</i></li> </ul>	100% <sup>2</sup>		0.5 spaces per <i>dwelling unit</i>
Rental housing with an affordable housing cost to lower income senior citizens in accordance with California Civil Code Sections 51.3 and 51.12	100% <sup>2</sup>	The <i>development</i> shall have either paratransit service, or be located within ½ mile of unobstructed access to a fixed bus route service that operates at least eight times per day.	0.5 spaces per <i>dwelling unit</i>

**Footnotes for Table 143-07D**

- <sup>1</sup> Parking reductions shall not be subject to the parking regulations of the Transit Overlay Zone and shall not be entitled to parking reductions provided in Section 142.0550 (Parking Assessment District Calculation Exception).
- <sup>2</sup> Exclusive of manager’s unit.

*(“Affordable Housing Provisions” added 12-9-1997 by O-18451 N.S.; repealed and “Additional Development Incentive for Affordable Housing” added 6-21-1999 by O-18654 N.S.; effective 1-1-2000.)*  
*(Amended 12-5-07 by O-19689; effective 01-04-08.)*

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### §143.0745 Locating Required Affordable Dwelling Units Off-site

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

- (a) Off-site affordable *dwelling units* shall be located in the same community planning area and City Council District, or within one mile of the *premises* of the *development*. The distance shall be measured in a straight line from the *property lines* of the proposed housing *developments*.
- (b) 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.
- (c) At a minimum, the same number of affordable *dwelling units* required of the *development* must be provided, at the same affordability levels and bedroom mix as the *development*.
- (d) 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*.
- (e) The *applicant*, prior to the issuance of the first building permit, shall record a deed restriction against the *development* that:
  - (1) Documents the required number of affordable *dwelling units* to be provided; and
  - (2) Assigns foreclosure rights of the *development premises* to the San Diego Housing Commission as follows:

- (A) For new *development*, if the affordable *dwelling unit(s)* has not received a certificate of occupancy within 54 months of the issuance of the first building permit.
- (B) For redevelopment of an existing *structure(s)*, if the affordable *dwelling unit(s)* has not received a certificate of occupancy within 36 months of the issuance of the first building permit.

*(“Locating Required Affordable Dwelling Units Off-site” added 7-19-2016 by O-20673 N.S.; effective 8-27-2016.)*

**[Editors Note:** Amendments as adopted by O-20673 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

Click the link to view the Strikeout Ordinance highlighting changes to prior language [http://docs.sandiego.gov/municode\\_strikeout\\_ord/O-20673-SO.pdf](http://docs.sandiego.gov/municode_strikeout_ord/O-20673-SO.pdf) ]

**§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(1) are made.

*(“Transfer of Bonus Density Units” added 12-9-1997 by O-18451 N.S.; repealed and “Deviation to Allow for Additional Development Incentive” added 6-21-1999 by O-18654 N.S.; effective 1-1-2000.)*

*(Readopted on 7-28-2015 by O-20518 N.S.; effective 8-27-2015.)*