

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-20916 (NEW SERIES)

DATE OF FINAL PASSAGE MARCH 22, 2018

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 6, DIVISION 5 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 126.0502 AND 126.0505; AMENDING CHAPTER 12, ARTICLE 9, DIVISION 7 BY AMENDING SECTION 129.0710; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 4 BY AMENDING SECTIONS 131.0431 AND 131.0446; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 3 BY AMENDING SECTION 143.0340; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 4 BY AMENDING SECTIONS 143.0410 AND 143.0450; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 7 BY AMENDING SECTIONS 143.0710, 143.0715, 143.0717, 143.0720, 143.0740, 143.0745 AND 143.0750, BY REPEALING SECTION 143.0725, AND BY ADDING NEW SECTIONS 143.0741, 143.0742, 143.0743 AND 143.0744; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 8 BY AMENDING SECTION 143.0840; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 9 BY AMENDING SECTION 143.0920; AMENDING CHAPTER 15, ARTICLE 1, DIVISION 2 BY AMENDING SECTION 151.0201; AMENDING CHAPTER 15, ARTICLE 2, DIVISION 3 BY AMENDING SECTION 152.0318; AMENDING CHAPTER 15, ARTICLE 4, DIVISION 3 BY AMENDING SECTION 154.0301, ALL RELATING TO AFFORDABLE HOUSING REGULATIONS.

§126.0502 When a Site Development Permit is Required

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

(d) A Site Development Permit decided in accordance with Process Four is required for the following types of *development*.

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

~~(5) *Development* for which the *applicant*, using the Affordable Housing Density Bonus Regulations, seeks a deviation from the applicable development regulations that exceeds the allowable incentives provided for in Section 143.0740.~~

(5) *Development* for which the *applicant* seeks a deviation from the development regulations in Section 144.0507 for *condominium conversions*.

~~(7)~~(6) Any *encroachment* or object which is erected, placed, constructed, established or maintained in the *public right-of-way* when the *applicant* is not the *record owner* of the property on which the proposed *encroachment* will be located in accordance with Section 129.0710(b).

~~(8)~~(7) *Development of a large retail establishment* of 100,000 or more square feet *gross floor area* in all commercial and industrial zones, and in all planned districts.

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

§126.0505 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 126.0505(a) and the supplemental *findings* in Section 126.0505(b) through ~~(n)~~(m) that are applicable to the proposed *development* as specified in this section.

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

~~(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 126.0505(a):~~

~~(1) The proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City;~~

~~(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 a density bonus authorized for the development pursuant to Section 143.0725.~~

~~(m)~~(l) Supplemental Findings--Condominium Conversions

A Site Development Permit required in accordance with Section 144.0509, because of potential impacts to the surrounding neighborhood, may be approved or conditionally approved only if the decision maker makes either of the following supplemental *findings* in addition to the *findings* in Section 126.0405(a):

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

~~(n)~~(m) Supplemental Findings--Public Right-of-Way Encroachments.

A Site Development Permit in accordance with Section 126.0502(d)~~(7)~~(6) for any *encroachment* or object which is erected, placed, constructed, established or maintained in the *public right-of-way* when the *applicant* is not the *record owner* of the property on which the proposed *encroachment* will be located may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to

the *findings* in Section 126.0505(a):
(1) through (5) [No change in text.]

§129.0710 How to Apply for a Public Right-of-Way Permit

An application for a Public Right-of-Way Permit shall be submitted in accordance with Sections 112.0102 and 129.0105. The submittal requirements for Public Right-of-Way Permits are listed in the Land Development Manual. A *development permit* is required prior to issuance of a Public Right-of-Way Permit for the following:

- (a) [No change in text.]
- (b) If the proposed *encroachment* is erected, placed, constructed, established or maintained in the *public right-of-way* when the *applicant* is not the *record owner* of the property on which the *encroachment* will be located, a Site Development Permit is required in accordance with section 126.0502(d)(~~7~~)(6), except for the following:
 - (1) through (4) [No change in text.]
- (c) through (d) [No change in text.]

§131.0431 Development Regulations Table for Residential Zones

The following development regulations apply in the residential zones as shown in Tables 131-04C, 131-04D, 131-04E, 131-04F, and 131-04G.

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

(e) RM Zones

**Table 131-04G
Development Regulations for RM Zones**

[No change in text.]

Footnotes for Table 131-04G

¹ [No change in text.]

² An exception to the maximum permitted *density* may be permitted in accordance with Chapter 14, Article 3, Division 7 (Affordable Housing Density Bonus Regulations).

³ through ³⁷ [No change in text.]

§131.0446 Maximum Floor Area Ratio in Residential Zones

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

(f) In the RM-3-7, RM-3-8, RM-3-9, RM-4-10, RM-4-11, and RM-5-12 zones, excluding development using the Affordable Housing Regulations in Chapter 14, Article 3, Division 7, a minimum of one-third of the permitted *floor area ratio* shall be reserved for required parking. The maximum *floor area ratio* for all *structures* on the *premises*, excluding underground parking *structures*, shall not exceed the maximum permitted *floor area ratio* for the zone as identified in Table 131-04G, except that a *floor area ratio* bonus shall be provided equal to the *gross floor area* of the underground parking *structure*.

(g) [No change in text.]

§143.0340 Supplemental Neighborhood Development Permit and Site Development Permit Regulations for Mobilehome Parks

The following supplemental regulations apply to Neighborhood Development Permits and Site Development Permits for *mobilehome parks*.

(a) Maximum *Density*

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

(3) The maximum permitted *density* may be exceeded in accordance with Chapter 14, Article 3, Division 7 (Affordable Housing ~~Density Bonus~~ Regulations).

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

§143.0410 General Development Regulations for Planned Development Permits

(a) Deviations

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

(3) A Planned Development Permit may not be used to request deviations from any of the following regulations:

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

(C) Residential *density* unless an affordable housing density bonus is obtained in accordance with Chapter 14, Article 3, Division 7 (Affordable Housing ~~Density Bonus~~ Regulations);

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

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

§143.0450 Supplemental Planned Development Permit Regulations for Residential Rural Cluster Development with Increased Density

In addition to the general regulations for all Planned Development Permits and supplemental regulations for residential *developments*, the following regulations apply to all residential rural cluster *developments* requesting increased *density* that are located in the AR-1-1 and OR-1-2 zones within *Proposition A Lands*.

Approval of a proposed *development* in accordance with this section shall require the *findings* in Section 126.0405(b) to be made.

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

(d) **Affordable Housing Requirement for Increased *Density* Rural Cluster *Development*:**

In the AR-1-1 and OR-1-2 zones within *Proposition A Lands* Planned Developments using the increased *density* rural cluster alternative are required to provide housing units within the *development*, that are affordable to *low income families*, as certified by the San Diego Housing Commission.

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

(3) *Development* incentives available through government programs, including a *density* bonus in accordance with Chapter 14, Article 3, Division 7 (Affordable Housing Density Bonus Regulations), where appropriate, may be used to meet all or a portion of this obligation.

(4) [No change in text.]

(e) [No change in text.]

Article 3: Supplemental Development Regulations

Division 7: Affordable Housing Density Bonus Regulations

§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.~~

The purpose of these regulations is to provide incentives for *development* that provides housing for *very low income, low income, moderate income, or senior households, or transitional foster youth, disabled veterans, or homeless persons.* Additionally, the purpose is to specify how compliance with California Government Code Section 65915 (State Density Bonus Law) will be implemented, as required by California Government Code Section 65915(a)(1). These regulations are intended to materially assist in providing adequate and affordable housing for all economic segments of the community and to provide a balance of housing opportunities throughout the City.

§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, low, or moderate income or senior households; or for senior citizens, or for transitional foster youth, disabled veterans, or homeless persons* in accordance with this Division through a written agreement with the San Diego Housing Commission; or~~
- (b) [No change in text.]

§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 ~~145.0720(i)~~ 143.0720(i) (inclusive of the replacement *dwelling units*), or
 - (2) [No change in text.]
- (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 *bedrooms*, 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~~ For unoccupied *dwelling units* in the *development* ~~are unoccupied~~, the replacement *dwelling units* shall

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

- (2) If all of 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 and bedrooms, as existed at the time of the greatest number of occupied affordable *dwelling units* in that *development*, highpoint of those units in the five year period preceding the application, and must be made affordable to and occupied by persons and families in the same or a lower income category as those in occupancy at that same time. If the income categories are unknown for the highpoint, 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. ~~it is rebuttably presumed that the *dwelling units* were occupied by *very low income* and *low income* renter households in the same proportion of *very low income* and *low income* renter households to all renter households within the City of San Diego, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database, and replacement *dwelling units* shall be provided in that same percentage.~~

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

- (5) All for-sale replacement *dwelling units* shall be subject to the provisions of Section 143.0720(d)(4)-(8).

§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 ~~d~~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 *dwelling 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. *Development* providing at least 10 percent of the total pre-density bonus *dwelling units* as affordable to rental households at or below 65% area median income for not less than 55 years is exempt from the payment of Inclusionary Affordable Housing Fees. Notwithstanding Section 142.1303(f), *development* providing less than 10 percent of the pre-density bonus *dwelling units* as affordable to rental households at or below 65% area median income for not less than 55 years shall pay pro-rated Inclusionary Affordable Housing Fees as determined by the Housing Commission, so that the inclusionary requirement may be satisfied by a combination of providing affordable rental *dwelling units* and paying a pro-rated Inclusionary Affordable Housing Fee.~~
- (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 *dwelling units* in the *development* shall be affordable, including an allowance for utilities, to *very low income* households at a rent that does not exceed 30 percent of 50 percent of the area median income, as adjusted for household size; or
 - (2) *Low income* - At least 10 percent of the pre-density bonus units *dwelling units* in the *development* shall be affordable, including an allowance for utilities, to *low income* households at a rent that does not exceed 30 percent of 60 percent of the area median income, as adjusted for household size.
 - (3) The affordable units *very low and low income dwelling units* shall be designated units, be comparable in bedroom mix and amenities to the market-rate units *dwelling units* in the *development*; and be dispersed throughout the *development*.
 - (4) The *very low and low income 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 *dwelling units* in the *development* shall be affordable, including an allowance for utilities, to *very low income* households at a rent that does not exceed 30 percent of 50 percent of the area median income, as adjusted for household size.

- (2) *Low income* - At least 10 percent of the pre-*density* bonus ~~units~~ dwelling units in the *development* shall be affordable, including an allowance for utilities, to *low income* households at a rent that does not exceed 30 percent of 60 percent of the area median income, as adjusted for household size.
 - (3) through (4) [No change in text.]
 - (5) Prior to, or concurrent with, the sale of each *density* bonus affordable ~~unit~~ dwelling unit, the *applicant* shall require the buyer to execute and deliver a promissory note in favor of the San Diego Housing Commission so that the repayment of any initial subsidy is ensured.
 - (6) Each for-sale ~~unit~~ dwelling unit shall be occupied by the initial owner at all times until the resale of the ~~unit~~ dwelling unit.
 - (7) Upon the first resale of a ~~unit~~ dwelling unit, the seller shall comply with all conditions regarding the sale of a ~~unit~~ dwelling unit, as applied by the San Diego Housing Commission, and as set forth in California Government Code Section 65915(c)(2).
 - (8) The affordable ~~unit~~ dwelling units shall be designated ~~units~~, be comparable in bedroom mix and amenities to the market-rate ~~units~~ dwelling 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) [No change in text.]
 - (2) Rental *dwelling units* shall remain available for a period of at least 55 years or longer as may be required by other laws or covenants.
- (f) A *density* bonus agreement for transitional foster youth, as defined in Section 66025 of the California Education Code, disabled veterans as defined in Section 18541 of the California Government Code, or homeless persons as defined in the California McKinley-Vento Homeless Assistance Act shall utilize the following qualifying criteria:
- (1) At least 10 percent of the pre-*density* bonus *dwelling units* in the *development* shall be affordable, including an allowance for utilities, to transitional foster youth, disabled veterans, or homeless persons at a rent that does not exceed 30 percent of 50 percent of the area median income, as adjusted for household size.
 - (2) Rental *dwelling units* shall remain available for a period of 55 years or longer, as may be required by other laws or covenants.
- (f)(g) The *density* bonus ~~units~~ dwelling 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) [No change in text.]

§143.0725 Density Bonus Provisions

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

~~(a)~~(1) For ~~senior citizen housing~~ *development* meeting the criteria of ~~for senior citizen housing in~~ Section 143.0720(e), the *density* bonus shall be 20 percent. ~~For a senior citizen housing development that includes senior citizen housing for very low income and low income households, a density bonus shall be calculated as set forth in Tables 143-07A and 143-07B respectively.~~

~~(b)~~(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 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)~~(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 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)~~(4) For *development* meeting the criteria for *moderate income households* 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).

(5) For *development* meeting the criteria for transitional foster youth, disabled veterans, or homeless persons in Section 143.0720(f), the *density* bonus shall be 20 percent of the total pre-*density* bonus

- dwelling units*. A *density* bonus for transitional foster youth, disabled veterans, or homeless persons for *very low income* shall be calculated as set forth in Table 143-07A. 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).
- (6) For *development* meeting the criteria in Sections 143.0720(c)(1), 143.0720(c)(2), 143.0720(d)(2), or 143.0720(f), where an *applicant* has not requested an incentive or waiver to exceed the maximum *structure height* or *setbacks* of the base zone, an additional *density* bonus of 10 percent of the pre-*density* bonus *dwelling units* shall be granted, provided that *development* of the additional *density* does not cause the need for an incentive, waiver, or deviation to exceed the maximum *structure height* or *setbacks* of the base zone.
- (7) For *development* that provides five or more *dwelling units*; meets the criteria in Sections 143.0720(c)(1), 143.0720(c)(2), 143.0720(d)(2), or 143.0720(f); provides an average of no more than 600 square feet per *dwelling unit* with no *dwelling unit* exceeding 800 square feet; with a portion of the *lot* located within a *Transit Priority Area*; where an *applicant* has not requested an incentive or waiver to exceed the maximum *structure height* or *setbacks* of the base zone; and where the *premises* can be serviced by all required utilities, a *density* bonus of up to 100 percent of the pre-*density* bonus *dwelling units* shall be granted, provided that *development* of the additional *density* does not cause the need for an incentive, waiver, or deviation to exceed the maximum *structure height* or *setbacks* of the base zone.
- (e)(8) 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)(9) 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)(10) 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 to *very low*, *low*, or *moderate income* households shall be distributed among these community planning areas in the same proportion as the total number of *dwelling units* constructed within the *development*.

§143.0740 **Development Incentives for Affordable Housing Density Bonus Projects in Exchange for Affordable Housing Dwelling Units**

An applicant proposing density bonus shall be entitled to incentives as described in this Division for any development for which a written agreement and a deed of trust securing the agreement is entered into by the applicant and the President and Chief Executive Officer of the San Diego Housing Commission. The City shall process an incentive requested by an applicant, consistent with State Density Bonus Law and as set forth in this Section.

- (a) An incentive means any of the following:
 - (1) through (2) [No change in text.]
 - (3) Any other incentive proposed by the *applicant*, other than those identified in Section 143.0740(e)(b), 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) [No change in text.]
 - (2) A deviation from the requirements of the Coastal Height Limit Overlay Zone (Chapter 13, Article 2, Division 5);
 - ~~(3)~~(2) A waiver of fees or dedication requirements;
 - ~~(4)~~(3) 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) through (D) [No change in text.]
 - (2) ~~The Granting of~~ an incentive shall not require a General Plan amendment, zoning change, a *development permit*, 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)(3) Notwithstanding Sections 143.0740(e)(3) and (4), ~~w~~When a *development permit* is otherwise required, the decision to deny a requested incentive shall be made by the decision maker for the *development permit*.
- (d) [No change in text.]

Table 143-07A
Very Low Income Density Bonus
Households

[No change in text.]

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

[No change in text.]

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

[No change in text.]

- (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 Development	Percent Affordable	Transit Requirement	Parking Ratio for Development[†]
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"> • <i>Very low income</i> • <i>Low income</i> 	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"> • <i>Low & very low income</i> 	100% ²		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% ²	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

[†]—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).

²—Exclusive of manager's unit.

§143.0741 Density Bonus and Incentives in Exchange for Child Care

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:

- (a) 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);
- (b) 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;
- (c) The additional density bonus or incentive requested is either:
 - (1) 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
 - (2) An additional incentive that contributes significantly to the economic feasibility of the construction of the child care center.
- (d) The City finds, based upon substantial evidence, that the community is inadequately served by child care centers.

§143.0742 Incentives for Commercial 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.

§143.0743 Waivers in Exchange for Affordable Housing Units

An applicant proposing density bonus shall be entitled to a waiver 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.

- (a) A waiver means a request by an applicant to waive or reduce a development standard that physically precludes construction of

development meeting the criteria of Sections 143.0720(c), 143.0720(d), 143.0720(e), 143.0720(f), or 143.0720(h).

- (b) Upon an applicant's request, development that meets the applicable requirements of Section 143.0720 shall be entitled to waivers unless the City makes a written finding of denial based upon substantial evidence, of any of the following:
- (1) The waiver would have a significant, quantifiable, direct, and unavoidable impact upon health, safety, or the physical environment for which there is no feasible method to mitigate or avoid the impact;
 - (2) The waiver would have an adverse impact on any real property that is listed in the California Register of Historical Resources; or
 - (3) The waiver would be contrary to state or federal law. Requested waiver(s) shall be analyzed in compliance with the California Environmental Quality Act as set forth in Chapter 12, Article 8, and no waiver shall be granted without such compliance.
 - (4) Within the Coastal Overlay Zone, the waiver would be inconsistent with the resource protection standards of the City's Local Coastal Program or the environmentally sensitive lands regulations, with the exception of density.
- (c) The granting of a waiver shall not require a General Plan amendment, zoning change, development permit, or other discretionary approval.
- (d) When a development permit is otherwise required, the decision to deny a requested waiver shall be made by the decision maker for the development permit.
- (e) There is no limit on the number of waivers an applicant may request.

§143.0744

Parking Ratios for Affordable Housing

Upon the request of an applicant for a development meeting the criteria in Sections 143.0720(c), 143.0720(d), 143.0720(e), 143.0720(f), or 143.0720(h), the City shall apply the following regulations:

- (a) For a development that meets the criteria for moderate income households in Section 143.0720(d)(3), the vehicular parking ratios set forth below shall apply, inclusive of disabled and guest parking:
- (1) Zero to one bedroom: one onsite parking space.
 - (2) Two to three bedrooms: two onsite parking spaces.
 - (3) Four and more bedrooms: two and one-half parking spaces.
 - (4) 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).
- (b) For a development that meets the criteria for very low and low income rental dwelling units in Section 143.0720(c) or senior housing in Section 143.0720(e), the vehicular parking ratios in Table 143-07D, as may be applicable, or those set forth in Section 142.0527(a)(3), inclusive of disabled and guest parking, whichever is lower, shall apply.

- (c) 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*.
- (d) Parking reductions for a *development* providing rental and for-sale affordable housing for *very low income* and *low income* households in accordance with Sections 143.0720(c) and 143.0720(d), rental housing for senior citizens in accordance with Section 143.0720(e), or housing for transitional foster youth, disabled veterans, or homeless persons in accordance with Section 143.0720(f), that meet transit proximity requirements are set forth in Table 143-07D.

Table 143-07D
Parking Reduction for Proximity to Transit

<u>Type of Development</u>	<u>Percent Affordable</u>	<u>Transit Requirement</u>	<u>Parking Ratio for Development</u> <u>¹</u>
<u>Rental or for-sale development containing market rate and low income and/or very low income dwelling units</u> <ul style="list-style-type: none"> • <u>Very low income</u> • <u>Low income</u> 	11% 20%	<u>The development is located within a Transit Priority Area</u>	<u>0.5 spaces per bedroom</u>
<u>Rental housing</u> <ul style="list-style-type: none"> • <u>Low & very low income</u> 	100% ²		<u>0.5 spaces per dwelling unit</u>
<u>Rental housing with an affordable housing cost to lower income senior citizens in accordance with California Civil Code Sections 51.3 and 51.12</u>	100% ²	<u>The development 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.</u>	<u>0.5 spaces per dwelling unit</u>

Footnotes for Table 143-07D

- ¹ 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).
- ² Exclusive of a manager's unit.

§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) [No change in text.]

- (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 126.06054.
- (c) 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 mix bedroom count as the *development*. *The applicant may provide different bedroom mixes to meet the total dwelling unit and bedroom count minimums.*
- (d) [No change in text.]
- (e) 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.
- (e)(f) The applicant, prior to the issuance of the first building permit, the applicant shall record a deed restriction against the off-site development that:
 - (1) [No change in text.]
 - (2) Assigns foreclosure rights of the *development premises* to the San Diego Housing Commission as follows:
 - (A) [No change in text.]
 - (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.

§143.0750 Deviation to Allow for Additional Development Incentive Affordable Housing Incentives and Waivers Report

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.

An applicant requesting a *density* bonus, incentive(s), waiver(s), or parking reduction(s) provided under this Division shall submit, at the time of application, an Affordable Housing Incentives and Waivers Report to the satisfaction of the City Manager. The report shall document the basis for the requested incentive(s), waiver(s), or parking reductions.

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

- (a) [No change in text.]

- (b) The provisions of Chapter 14, Article 3, Division 7 (Affordable Housing ~~Density Bonus~~ Regulations) shall be made available to projects described in this division. If existing ~~dwelling units~~ *dwelling units* are to remain on the project site, those units shall be subtracted from the total number of units permitted under the terms of the affordable housing density bonus to determine the number of units that may be transferred to another site.
- (c) through (d) [No change in text.]

§143.0920 Affordable Housing, In-Fill Projects, and Sustainable Buildings Deviations

Development identified in Section 143.0915 may be permitted with a Neighborhood Development Permit decided in accordance with Process Two, except as provided in Section 143.0920(d), for the following:

- (a) *Development* that proposes deviations from applicable Land Development Code regulations, provided that the *findings* in Section 126.0505(a) and the supplemental *findings* in Section 126.0505(b) through ~~(n)~~(m) are made.
- (b) through (d) [No change in text.]

§151.0201 Processing of Planned District Permits

Planned district permits will be processed in accordance with the Land Development Code as follows:

- (a) through (c) [No change in text.]
- (d) A development consistent with Chapter 14, Article 3, Division 7 (Affordable Housing ~~Density Bonus~~ Regulations) located in a planned district that requires a Process Three planned district permit shall be processed in accordance with Process Two as a Neighborhood Development Permit. The findings required for approval shall be the general findings for Site Development Permits in Land Development Code Section 126.0504(a), any applicable supplemental findings in Section 126.0504, and any additional findings required in the planned district.
- (e) through (f) [No change in text.]

§152.0318 Redevelopment District Intensity of Development

- (a) Maximum Density for Residential Development

Maximum residential density within the Redevelopment Subdistrict shall be one dwelling unit per 1,000 square feet, or 43 units per gross acre, plus an optional 25 percent bonus density for very low, low and moderate income dwelling units (in compliance with Land Development Code Chapter 14, Article 3, Division 7 (Affordable Housing ~~Density Bonus~~ Regulations)) up to a maximum density of 53 dwelling units per gross acre, as shown in Figure 3 of Section 152.0318.

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

§154.0301 Permitted Uses

In the Cass Street Commercial Planned District, no building or improvement, or portion thereof, shall be altered, constructed, converted, demolished, erected, established, or enlarged, nor shall any premises be used except for one or more of the following purposes; provided, however, that no premises shall contain a single establishment exceeding a total of 5,000 square feet in gross floor area; and further provided, that no premises shall contain auto repair services, live entertainment or funeral parlors unless approved pursuant to a Special Use Permit. Business and professional offices may be permitted on the ground floor in accordance with the provisions of Section 154.0301(f). Building occupancy shall be limited to those uses identified in Sections 154.0301(a) through 154.0301(k) in accordance with the provisions of those paragraphs.

- (a) [No change in text.]
- (b) Residential and apartment development to a maximum density of one dwelling unit per 1,500 square feet of lot area, except that this density may be exceeded in conjunction with a density bonus for the provision of affordable housing pursuant to Land Development Code Chapter 14, Article 3, Division 7 (Affordable Housing ~~Density Bonus~~ Regulations)

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

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